

ARTICLE 4 DIRECTION: HOUSES IN MULTIPLE OCCUPATION (HMOs)

REPORT TO THE EXECUTIVE



DATE	4th April 2024
PORTFOLIO	Sustainable Development and Growth
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PURPOSE

- The purpose of this report is to:
 - Update the Executive with the results of the consultation on the proposed Article 4 Direction, undertaken in October/November 2023; and
 - Seek Executive approval to confirm the Article 4 Direction which will remove the permitted development rights for the change of use from Use Class C3 (dwellinghouses) to Use Class C4 (Houses of Multiple Occupation (HMO) in the nine wards of the Borough, as illustrated on the plan accompanying the Direction. If confirmed, the Direction will become effective on 14 October 2024.

RECOMMENDATION

- It is recommended that the Executive:
 - approve the confirming of a non-immediate Article 4 direction to remove permitted development rights for changes of use from individual dwellinghouses to smaller houses in multiple occupation in line with the procedure set out in paragraph 16.
 - authorise the Director of Economy and Development to prepare the necessary documentation and carry out the notification of the confirmation as required by the Regulations and set out in paragraph 16.

REASONS FOR RECOMMENDATION

- The Houses in Multiple Occupation and Small Flats SPD (2022) highlighted that, should the need arise, the Council could consider an Article 4 direction to better manage the creation of small HMOs and their impacts on the amenity of certain areas. The background report appended to the previous Executive report on 20 September 2023¹ demonstrated the need to introduce an Article 4 direction.

¹ Executive meeting 20th September 2023. Minute 40
<https://burnley.moderngov.co.uk/documents/g3405/Printed%20minutes%2020th-Sep-2023%2018.30%20Executive.pdf?T=1>

SUMMARY OF KEY POINTS

Background

4. The [background report](#) appended to the Executive Report on 20 September 2023 outlined the extent of current houses in multiple occupation (HMOs) in the borough; the current legislative and policy position in respect of HMOs; the justification for introducing a non-immediate Article 4 direction to remove the permitted development rights that allow the conversion of a single dwellinghouse into a small house in multiple occupation; and the process for doing so.

Making of, and Consultation on, the Article 4 Direction

5. On 20 September 2023, the Executive approved the making of the Article 4 Direction and the accompanying public consultation. The Direction was 'made' on 13th October 2023, triggering the commencement of the 12-month lead in period required to introduce non-immediate Directions. A copy of the ['made' direction and accompanying map](#) is available on the Council's Website.
6. A 6-week public consultation subsequently took place between Friday 13 October and Friday 24 November 2023. Consultation and publicity were undertaken in accordance with the requirements of Schedule 3 of the GPDO 2015, and included:
 - Notification to the Secretary of State
 - Press notice in Burnley Express
 - Approximately 20 Site Notices displayed across the wards included within the Article 4 boundary
 - Information on the Council website
 - Information 'on deposit' at the Contact Centre and Burnley and Padiham Libraries
 - Press release
 - Email and postal notification to statutory undertakers and selected consultees from the Local Plan consultation database

Results of Consultation

7. The Council received 21 comments, which are presented in the accompanying Consultation Report at Appendix A The Consultation Report details how the Council have considered each of the comments received, and what action, if any, is recommended as a result.
8. Of the 21 comments received, 18 either raised no comment or gave support for the introduction of the direction, 1 supported the direction but considered that the area covered by the direction should be enlarged, and 2 objected to the introduction of the direction.
9. It is considered that no changes are required to the Direction and it can proceed to be confirmed as originally proposed, without amendment.

Confirmation of the Direction

10. It is therefore recommended, as at paragraph 2, that the Executive approve the confirmation of a non-immediate Direction under Article 4 of the Town and Country

Planning (General Permitted Development) Order (GPDO) 2015 (as amended) to remove the permitted development rights granted by Schedule 2 Part 3 Class L(b) of that Order, which allows a change of use from a dwellinghouse (C3) to a house in multiple occupation with between 3 and 6 occupants (C4), and which will apply to the wards of the borough as listed below:

- Trinity ward;
- Bank Hall ward;
- Daneshouse with Stoneyholme ward;
- Rosegrove with Lowerhouse;
- Gannow ward;
- Gawthorpe ward;
- Queensgate ward;
- Brunshaw ward; and
- Rosehill with Burnley Wood ward

11. The full rationale and key issues to support the confirmation of the direction are as presented and detailed in the earlier Background Report and summarised in Executive Report, dated 20 September 2023.
12. Based on the above and the consideration of the comments received, it is considered that the introduction of a new Article 4 Direction, to cover the wards identified, will give the Council more effective planning control to restrict the otherwise unregulated conversion of dwellinghouses to HMOs. It is expected that such interventions can seek to help rebalance communities and address the cumulative and detrimental impacts of HMOs on the Borough and local amenity.

Procedure and Powers for Making an Article 4 Direction

13. Whilst the Council can confirm all Article 4 Directions, the Secretary of State (SoS) must be notified at both the preliminary ('making the notice') and final ('confirming the notice') stages.
14. The SoS was notified of the making of the Direction on 13 October 2023, with the intent that the non-immediate Direction should then take effect 12 months later (from 14 October 2024). The response received was as follows: *"We will only contact you if any additional information is required and you should continue with any processes associated with introducing the Article 4 direction. An Article 4 direction does not require the approval of the Secretary of State in order to come into force, however, please note that the Secretary of State has the power to modify or cancel an Article 4 direction at any time before or after it is confirmed. The Secretary of State will only intervene when there are clear reasons for doing so."* No additional information has been requested to date.
15. It is therefore considered appropriate to continue to progress with the confirmation of the direction. However, continuation does carry a minor risk of modification or cancellation of the direction, should the SoS subsequently decide to intervene. Recent interventions elsewhere by the SoS has resulted in modifications of Directions, rather than cancellations.

Next Steps

16. Should Executive approve the confirming of a non-immediate Article 4 direction, the timeline thereafter would be as follows:
- April 2024: The Article 4 will be confirmed. The Council then must, as soon as practicable after a direction has been confirmed:
 - (a) give notice of such confirmation and the date on which the direction will come into force; and
 - (b) send a copy of the direction as confirmed to the Secretary of State.
 - 14 October 2024: The Article 4 direction comes into force.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

17. The limited costs associated with making, consulting on, confirming and monitoring, if approved, the Article 4 direction will be met within existing budgets. A non-immediate Article 4 direction as recommended giving 12 months' notice, avoids the potential for compensation claims from owners and developers as a result of abortive works.
18. When the Article 4 Direction comes into force, the Council is likely to receive an increased number of Change of Use applications which in turn may lead to planning appeals; and there may be an increase in enforcement activity. The Council will receive income from planning application fees towards meeting these additional costs.

POLICY IMPLICATIONS

19. When in force, the Article 4 Direction will require planning applications to be submitted which will then be considered with regard to Burnley's Local Plan and the Houses in Multiple Occupation and Small Flats Supplementary Planning Document; and any other material planning considerations.

DETAILS OF CONSULTATION

20. None

BACKGROUND PAPERS

21. [Article 4 Direction: Houses in Multiple Occupation \(HMOs\): Report to Executive, 20 September 2023](#)
[Background Document: Article 4 Direction for the removal of permitted development rights for the change of use from Use Class C3 \(dwellinghouses\) to C4 Houses in Multiple Occupation \(HMOs\) October 2023](#)
[Burnley-Council-HMO-Article-4-Direction-Made-October-2023.pdf](#)

FURTHER INFORMATION

PLEASE CONTACT:	Pete Milward
ALSO:	Elizabeth Murphy