

Classification	Item No.
Open	

Meeting:	Planning Control Committee.
Meeting date:	16 December 2025
Title of report:	Article 4 Direction proposal – Houses in Multiple Occupation
Report by:	Chief Planning Officer
Decision Type:	Non Key Decision
Ward(s) to which report relates	Boroughwide

Executive Summary:

This Report seeks authorisation for the making of an immediate Article 4 Direction to give greater planning controls over proposals for change of use from Use Class C3 (dwellinghouse) to Use Class C4 (HMO).

The effect of an Article 4 Direction is that planning permission would be required for conversion from a Use Class C3 (dwellinghouse) to a Use Class C4 (small HMO) if there is a material change of use. This change would not otherwise require planning permission as a result of being classed as permitted development. Proposals for HMOs for 7 or more people already require planning permission and will continue to do so and therefore would be unaffected by this Direction.

Recommendation(s)

That: Planning Control Committee is recommended to:

1. Authorise the making of an immediate direction under Article 4 of the Town and Country (General Permitted Development) (England) Order 2015 to remove the permitted development rights for the change of use from Use Class C3 dwellinghouses to Use Class C4 small Houses in Multiple Occupation for the entire Borough of Bury as identified within the Direction.
2. Authorise the Director of Legal and Governance to issue the relevant Direction and Notices to support the immediate Article 4 Direction.

3. To note the content of the Houses in Multiple Occupation report: Background Evidence report, as appended to this report, that has been prepared to support the proposed making of the Direction.
4. Authorise the Executive Director (Place) to consider comments received in relation to the Notice and to confirm the Direction.

1. Key considerations

- 1.1 The effect of introducing an Article 4 Direction would be to remove permitted development rights to convert a Use Class C3 dwellinghouse to a Use Class C4 House in Multiple Occupation for between 3 and 6 occupants. The Article 4 Direction would not prevent the conversion of dwellings to small HMOs but would mean that property owners / landlords proposing to convert a dwelling to a Class C4 HMO would need to apply for planning permission where such development constitutes a material change of use.
- 1.2 The proposal is to introduce an immediate Boroughwide Article 4 Direction. The implication of an immediate Article 4 Direction is that the Council would be liable to claims for compensation. The alternative would be to have a 12 month run in period before the Article would come into effect and this would avoid compensation claims.

2. Background

- 2.1 Houses in Multiple Occupation (HMOs) are properties that are rented out by at least three unrelated individuals who are not from one household (such as a family) but share facilities such as a kitchen or bathroom.
- 2.2 HMOs form part of the Borough's housing supply and contribute to meeting housing needs. They can provide a cost-effective form of accommodation for younger people and those on low incomes. They also provide flexible accommodation for people with short-term housing requirements, and a social environment for those seeking to live with other people. They can be home to young professionals, people on low incomes, students and those on short-term contracts.
- 2.3 HMOs can be purpose-built, but most in the Metropolitan Borough of Bury have been created through the conversion of existing properties that were previously in residential or other uses. Most HMOs in the Borough are well managed and provide decent homes, but poorly managed or poorly located properties and over concentrations of such properties have the potential to lead to issues for both occupants and neighbours.

- 2.4 Under current legislation, dwelling houses (Use Class C3) can be converted to small HMOs with between three and six residents (Class C4) without the need for planning permission. This means that the council, as Local Planning Authority (LPA), has no control over the numbers or locations where these occur. HMOs for three or four occupants also fall below the threshold for mandatory HMO licensing, so the location and accommodation standards of such properties is unknown unless complaints are received by the Council.
- 2.5 Local Planning Authorities have the ability to remove permitted development rights where they can provide evidence to justify such a restriction. This is done through the introduction of an Article 4 Direction. This has been done by an increasing number of neighbouring councils, including Bolton, Rossendale, Blackburn with Darwen, Manchester and Salford in recent times. The effect of introducing an Article 4 Direction is that within the area in which the Direction applies, conversions to small HMOs require full planning permission, where such development constitutes a material change of use.
- 2.6 The number of HMOs in the Borough has been increasing. When an area has a high concentration of HMOs, this can negatively impact the amenity of the area and lead to a lack of available properties for families, couples and individual occupiers. Introducing an Article 4 Direction would help manage the concentration of HMOs and support the delivery of homes that are better regulated and controlled by the planning process, therefore issues such as space standards, amenity, management and quality can be assessed and considered by planning officers.
- 2.7 If an Article 4 Direction is considered appropriate, it can be implemented as an immediate Direction or a non-immediate Direction. The implications of these options are set out below. However, an Article 4 Direction cannot apply retrospectively. It would have no effect on any existing HMOs and would not require landlords of existing HMOs to do anything. They could, however, choose to apply for a Lawful Development Certificate to confirm that the use as an existing HMO is lawful. If the works to create a new HMO are substantially complete by the date the Article 4 Direction comes into effect, these would be accepted as permitted. There would be a number of ways of proving this, including building control applications, tenant rental agreements or a HMO licence (for properties of 5 or more people).

3. HMO evidence base

- 3.1 A separate background evidence document has been prepared and is provided as a background paper alongside this report. Given that planning permission is not currently required for conversion of a dwellinghouse to a small HMOs occupied by up to six residents, and licences are not required for HMOs housing less than five

residents it is not possible to determine the exact number of existing small HMOs and their distribution within the Borough.

- 3.2 In order to establish as good an understanding as possible of the number and distribution of HMOs, data has been collected from various sources, including data on licensed HMOs, knowledge of the Private Rented Sector enforcement team, Council Tax data, planning application data and Local Land and Property Gazetteer data. The evidence shows that there has been a significant increase in the number of new HMOs in recent years.
- 3.3 Small HMOs for fewer than seven people represent 69% of all licensed HMOs, and it is reasonable to assume that if three and four person HMOs (that fall below the threshold for licensing) were included, this proportion would be considerably higher.
- 3.4 In terms of the location of HMOs, whilst there are concentrations in parts of the Borough (particularly around Bury and Radcliffe town centres), HMOs are not restricted to specific areas. The HMO Background Evidence report illustrates a broad spread of HMOs across many parts of the Borough. In those parts of the Borough where concentrations are lower, the importance of ensuring the quality of HMOs, preventing future over concentration, protecting the amenity of neighbours and character of the area remains.

4. Proposal

- 4.1 The proposal is to introduce an immediate Boroughwide Article 4 Direction to remove permitted development rights to convert a Use Class C3 dwellinghouse to a Use Class C4 House in Multiple Occupation for between 3 and 6 occupants. The Article 4 Direction would not prevent the conversion of dwellings to small HMOs but would mean that property owners / landlords proposing to convert a dwelling to a Class C4 HMO would need to apply for planning permission where such development constitutes a material change of use.
- 4.2 It is important to note that proposals that do not amount to a *material* change of use, would remain outside of the local authority's control. There is no statutory definition of 'material change of use', however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a change of use from a dwelling house to use as a Use Class C4 House in Multiple Occupation amounts to a material change of use is a matter of fact and degree and this will be determined on the individual merits of the particular case.
- 4.3 The key advantage of an immediate Article 4 Direction is that following the making of the Article 4 Direction, new conversions from dwellings to small HMOs would immediately require planning permission, bringing more control over the location

and quality of HMOs in the Borough. The Council is also bringing forward an updated supplementary planning document which, on adoption, would apply to all planning applications for HMOs. Together with the Article 4 Direction this would enable the LPA to ensure that proposals provide a good standard of accommodation for their occupants, as well as seeking to avoid unacceptable impacts on the amenity of neighbours or the character of the area. Bringing forward the Article 4 Direction on an immediate basis would avoid the risk of property owners rushing to bring forward potentially sub-standard HMOs ahead of the requirement for planning permission.

- 4.4 A key risk of introducing an immediate Article 4 Direction is that within the first 12 months after the direction is introduced, property owners may be potentially eligible for compensation if they have planning permission refused for a conversion which would otherwise be permitted development or if conditions are attached to a planning permission which make the conversion more onerous than it would have been were it to have been undertaken under permitted development rights. Claims for compensation would be limited to applications submitted within 12 months of the direction coming into force. The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.
- 4.5 It is unknown how many planning applications will be received and the outcome of these planning applications. It is therefore not possible to accurately quantify the potential liability resulting from this decision. Any claim would divert resources. No budget has been identified to cover the cost of any subsequent potential compensation claims. It is equally to be noted that of the two Local Planning Authorities who introduced immediate Article 4 Directions relating to HMOs more than 12 months ago (Trafford and the London Borough of Merton) Trafford received no compensation claims, and the London Borough of Merton received one compensation claim outside of the claim period.
- 4.6 The Article 4 Direction would also generate planning fees, with a planning fee of £568 currently being payable for a change of use application. For illustration purposes, in the past 12 months 40 new licences have been issued for small HMOs for 5 or 6 people. If 40 change of use applications were submitted, this would amount to planning fee income of £22,720.
- 4.7 Immediate Article 4 Directions have recently been introduced for Bolton, Rossendale and Tameside, and Wigan have given less than 12-months notice for their new direction. At this stage it is too early to tell whether these areas will have to make any compensation payments. Bolton's immediate Article 4 Direction took effect on 13 June 2025, and to date no claims for compensation have been received.

- 4.8 Immediate Directions require evidence that the permitted development presents an immediate threat to local amenity or prejudices the proper planning of an area. This is a higher threshold to cross than the evidence base needed for a non-immediate Direction, where the Council only need prove that the Article 4 Direction is necessary to protect local amenity or the well-being of the area. In view of the continuing growth in the number of HMOs, public concerns about the impact on amenity and local character, and the need to ensure that new HMOs provide suitable living standards for future occupants, the Council considers that there is sufficient evidence to justify an immediate Article 4 Direction.
- 4.9 In accordance with NPPF, any Direction must be based on robust evidence and apply to the smallest geographical area possible. A Boroughwide Article 4 Direction is considered necessary in the interests of protecting against the spread of HMOs beyond those areas where they are currently concentrated. This has been seen in a number of areas, where localised Article 4 Directions have subsequently been broadened to include a wider area / Boroughwide. The risk of introducing the direction Boroughwide rather than in a geographically focused area is that it increases the potential number of compensation claims, as well as the risk of challenge.

5. Procedure

- 5.1 The process of introducing an immediate Article 4 Direction is as follows:
- The Local Planning Authority (Bury Council) makes the Direction and notifies the Secretary of State.
 - The Article 4 Direction is publicised by placing a notice in the Bury Times, displaying Article 4 Direction site notices in at least two locations in the Borough and placing a notice on the Council's website.
 - The Article 4 Direction comes into effect on the date on which the notice is first published or displayed as above.
 - The notice must specify a period of at least 21 days within which any representations concerning the direction may be made to the LPA (which must be considered before formal confirmation).
 - After the representation period has ended and at least 28 days after all notices have been published or such longer period as may be specified by the Secretary of State, and within six months of the date on which it comes into force, the Direction needs to be formally confirmed, otherwise it will expire.
- 5.2 The legislation requires notice to be served on the owner and occupier of every part of the land within the area, unless the local planning authority consider that -

(a) individual service on that owner or occupier is impracticable because it is difficult to identify or locate that person or

(b) the number of owners or occupiers within the area to which the direction relates makes individual service impracticable.

- 5.3 It is considered impracticable to serve individual notices on every owner or occupier in the Borough, due to both the difficulty of identifying or locating those people and the number of owners or occupiers.

6. Other alternative options considered

Option 1: Not to authorise the making of an Article 4 Direction

- 6.1 The decision not to authorise the making of an Article 4 Direction would allow conversion of C3 dwellings to C4 HMOs to continue without the need for planning permission. The Council would be unable to restrict the concentration of HMOs or ensure that they meet appropriate standards. HMOs for five or more occupants would continue to be subject to mandatory licensing, and smaller HMOs are duty bound to adhere to the requirements laid out by the Management of Houses in Multiple Occupations (England) Regulations 2006. However, the Council would not be aware of most small HMOs for 3 or 4 occupants unless they receive complaints from either tenants (for example regarding housing standards) or the local community. Concentration of HMOs in certain areas could continue.

Option 2: Non-immediate Boroughwide Article 4 Direction

- 6.2 For non-immediate directions, the Council must publicise the direction as soon as possible and give a period of at least 21 days for representations to be made on the direction. They must also specify the proposed date for bring the Direction into force, which can be up to two years after notice has been given.
- 6.3 A non-immediate Article 4 Direction that gives 12 months' notice before it comes into effect would remove the risk of compensation claims. If less than 12 months' notice is giving, claims for compensation could still be made for whatever remains of the 12-month period.
- 6.4 A non-immediate direction would reduce the risk of challenge on whether the evidence base is sufficient. Immediate Article 4 Directions require evidence that the permitted development presents an immediate threat to local amenity or prejudices the proper planning of an area. This is a higher threshold to cross than the evidence base needed for a non-immediate direction, where the Council only need prove that the Article 4 direction is necessary to protect local amenity or the well-being of the area.

- 6.5 Taking a non-immediate approach means that in the period before the Direction takes effect, property owners could continue to exercise their permitted development rights to change the use of dwellings to small HMOs without the need for planning permission, and may be incentivised to do so at an increased rate ahead of the Direction taking effect. This could have potential negative impacts on local areas and a lack of oversight of housing standards for those that fall below the requirement for a mandatory HMO licence. That is not to say that if an immediate Article 4 Direction was pursued that these properties would not be converted to HMOs, but they would require planning approval, so the Council would be aware of their location and have the ability to assess their impact and ensure appropriate standards are met.

Option 3: Immediate Article 4 Direction for parts of the Borough, non-immediate Article 4 Direction for the rest of the Borough and variations thereof.

- 6.6 Introducing an immediate Article 4 Direction for parts of the Borough and a non-immediate Article 4 Direction for the rest of the Borough would reduce the potential number of properties eligible to make compensation claims. However, it would leave those parts of the Borough where the non-immediate Direction applies vulnerable to the proliferation of new HMOs without any LPA control over their location or standard for a longer period.
- 6.7 A non-immediate Direction for parts of the Borough and no Article 4 Direction in some areas would also leave areas at risk of displacement of new HMO development from areas where the Article 4 Direction applies to other parts of the Borough, without any Local Planning Authority control over locations and standards. An area specific Article 4 Direction could lead to a concentration of HMOs in excluded areas and the Council potentially having to consider a further Article 4 Direction at that time, as opposed to dealing with the matter on a proactive basis and addressing HMO standards and concentrations Boroughwide.

7. Community impact/links with Community Strategy

- 7.1 The Let's Do It Strategy sets out the Council's corporate priorities. This Article 4 Direction will support the Local element of the strategy: Ensuring future proposals for HMOs provide suitable living standards for future occupants and the potential for detrimental impacts on local communities is reduced will help to ensure sustainable communities and support community cohesion.

8. Equality Impact and considerations:

- 8.1 A full Equality Impact Analysis has been completed. The analysis has identified several potential impacts across multiple characteristics however these impacts are

not anticipated to cause disadvantage or detriment directly or indirectly due to a protected characteristic or circumstance but instead drive up accommodation standards for dwellings some characteristics are proportionately more likely to live in.

9. Environmental Impact and Considerations:

- 9.1 The Article 4 Direction is not expected to give rise to any significant environmental effects.

10. Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
<p>If the Council proceeds with an Article 4(1) Direction without allowing a 12-month lead in period, then there is a risk of compensation claims from property owners and / or developers who have incurred abortive expenditure or losses due to the withdrawal of permitted development rights.</p> <p>The level and nature of compensation is broadly unknown due to the lack of data on current levels of conversion from C3 to C4 through permitted development rights.</p>	<p>The only way to mitigate this risk is for the Council to opt for a non-immediate Article 4 direction with a lead-in time of 12 months before it comes into effect. There is no recourse to compensation after 12 months.</p> <p>However, a non-immediate Article 4 Direction comes with a risk of an acceleration in HMO development ahead of the Article 4 Direction coming into force, with the associated risk that properties may not meet appropriate standards.</p>
<p>There could be other unintended risks related to an Article 4 Direction coming into effect in terms of an increase in the cost of HMO rents or potential reduction in the delivery of HMO properties that are used by groups such as single homeless or low-income people, or by key workers in sectors such as health care.</p>	<p>The effect of the Article 4 Direction is to bring such properties into planning control and ensure they meet appropriate standards, not to prevent their development.</p>
<p>As with any decision of a public body, there is a risk of Judicial Review. A successful Judicial Review challenge would result in the quashing of the decision and a requirement for a new decision to be taken, addressing the</p>	<p>The Council's Monitoring Officer has provided comments below.</p> <p>All legal requirements will be complied with.</p>

Risk / opportunity	Mitigation
grounds on which the initial decision had been found to be unlawful.	
Risk of increase in planning appeals where applications for HMOs are refused.	The Council cannot avoid the risk of planning appeals, however all decisions are made in accordance with adopted planning policies and other material considerations.
Risk of increase in enforcement enquiries regarding new and existing HMOs. Potential for enforcement officers to be diverted from other areas of work.	Planning enforcement enquiries will be investigated in line with the Council's customer charter for planning enforcement.
Reputational risk if residents think that an Article 4 Direction will prevent all HMOs, however it will only remove permitted development rights. Applications for small HMOs may generate significant neighbour concern.	The Article 4 Direction gives the Council a greater degree of control over the development of HMOs, reducing the risk of negative impacts on local communities.

11. Consultation:

- 11.1 The Article 4 Direction will be subject to a statutory representation period for a minimum of 21 days. The Article 4 Direction will be publicised by placing a notice in the Bury Times, displaying Article 4 Direction site notices in at least two locations in the Borough and placing a notice on the Council's website.

12. Legal Implications:

- 12.1 The recommendation in the report is within the legal powers of the Council.
- 12.2 The statutory process in making and bringing into effect the Article 4 Direction will be followed.
- 12.3 It is to be noted that the boroughwide and immediate nature of the proposed Article 4 Direction introduces a right to compensation and although officers are satisfied that the evidence base is sound, it is at least possible that could be subject to legal challenge.
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13. Financial Implications:

13.1 There is a potential risk with regard to the receipt of compensation claims from purchasers of properties in the 12 months following the Direction. This is limited to directly attributable losses where an application is refused or conditions applied under the Direction, e.g. the abortive costs of preparing plans. This risk is anticipated to be low in regard to both number of claims and their financial value in the 12 month period.

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14. Background papers:

Houses in Multiple Occupation Background Evidence – December 2025

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
HMO	House in Multiple Occupation
LPA	Local Planning Authority