

<b>Report to Cabinet</b> <b>Meeting to be held on 10 December 2025</b>	<b>Electoral Ward Affected</b> ALL
<b>Report submitted by: Director of Development and Housing</b>	
<b>Portfolio Holder: Cabinet Member for Planning and Regulation</b>	
<b>INTRODUCTION OF ARTICLE 4 DIRECTION FOR HMOS</b> Appendix A refers to Report to Cabinet dated 13 August 2025	

## 1. Summary

- 1.1 In August this year, the Cabinet resolved to approve the making of a non-immediate Article 4 Direction. Subject to legal advice, Cabinet requested that consideration be given for shortening the time period on the Notice, setting out when the Direction will come into force (so that it aligns with the implementation of the emerging local plan policy on HMOs).
- 1.2 This report seeks to inform why it is not proposed to shorten the notice period for the proposed Article 4 Direction from a 12-month notice period and to provide clarification regarding the specific circumstances in which planning permission will be required. In particular, it outlines the implications of the proposed Article 4 Direction, which removes permitted development rights for material changes of use from dwellinghouses (Use Class C3) to small Houses in Multiple Occupation (Use Class C4). This legal clarification has arisen as a result of recent case law, where a Council seeking to introduce an Article 4 Direction was successfully challenged in the Courts.

## 2. Decision Required

- 2.1 The Cabinet is requested to:
  - (i) Note the legal clarifications provided in this report regarding the implications of the proposed Article 4 Direction; and
  - (ii) Note the proposal to retain the 12-month notice period for the proposed Direction.

## 3. Information

- 3.1 Following the Cabinet's resolution on 13 August 2025 (Appendix A) to approve the making of a non-immediate Article 4 Direction, further legal advice was provided by the Council's Senior Legal Officer, as a result of recent case-law. This advice highlighted the need to ensure that Members are fully informed of the legal implications of the Direction, particularly in relation to the scope of development it restricts. Concerns were raised that the original report may have led Members to believe that *any* change of use would require planning permission under the Article 4 Direction.

- 3.2 This report therefore provides further clarification to the Cabinet to ensure that the legal basis of the Direction is sound and not open to challenge on the grounds of misinterpretation. It sets out the precise circumstances in which planning permission will be required and reinforces the importance of accurate understanding among decision-makers prior to confirmation of the Direction.
- 3.3 Article 4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 Order ("2015 Order") (GDPO) allows local planning authorities to remove permitted development rights that would otherwise apply by virtue of the 2015 Order. This is done through an Article 4 Direction. When an Article 4 Direction is in place, planning permission must be obtained before carrying out the specific types of development or material change of use that the Direction restricts. This means that works which would usually not require permission, cannot proceed without formal approval from the Local Planning Authority.
- 3.4 In December 2010, the Planning Authority determined to make an Article 4(1) Direction in relation to the restriction on the permitted change of use from Class C3 dwelling houses to Class C4 house in multiple occupation (HMOs) under The Town and Country Planning (General Permitted Development) (England) Order 1995. The extant Article 4(1) Direction covers, namely seven Wards within the inner parts of Preston. The Article 4(1) Direction was confirmed following public consultation and came into force on 18 February 2012.
- 3.5 In February 2025, the Council consulted for 7 weeks on a review of the existing Article 4 Direction alongside the Central Lancashire Local Plan Regulation 19 Consultation. This consultation sought views on a proposed expansion of the existing Directions to encompass the Main Urban Area as identified in the draft Central Lancashire Local Plan.
- 3.6 The review was informed by a detailed background paper, which considered the impact and challenges associated with the increasing number of HMOs in the city. The background paper evidenced the need for the Council to take a stronger planning policy stance through the emerging Local Plan and the need to bring an expanded Article 4 Direction Area into effect as to cover the entirety of Preston's main urban area as described in para 3.11. The proposed policy has recently been submitted to the Secretary of State as part of the Examination of the Central Lancashire Local Plan.
- 3.7 The review is part of a wider Council approach to managing existing and future HMO properties, in liaison with other departments, including Housing Standards, and the introduction of a new policy in the emerging Central Lancashire Local Plan.
- 3.8 Through this exploration, evidence has been gathered and interrogated to understand the different challenges that can be presented by HMOs, these include:
- Deprivation, housing quality and overcrowding
  - Visual and environmental health impacts on conservation areas
  - Pressures on and challenges to Council services
  - Quality of support and services given by providers
  - Rough sleepers and homelessness
  - Crime rates and fear of safety

- 3.9 The consultation considered whether the evidence provided is sufficient to introduce the following stronger measures:
- (i) A new Article 4(1) Direction to remove the permitted development rights for the material change of use from dwelling houses to HMOs in the Main Urban Area of the City and;
  - (ii) A policy approach in the emerging Central Lancashire Local Plan to enable a more effective planning response.
- 3.10 The response to the consultation identified that the majority of respondents (79%) supported the introduction of a new article 4 Direction encompassing the Main Urban Areas of the City. 4% objected, with 17% neither supporting nor objecting. Evidence suggests there is public consensus to bring a new Article 4 Direction into force and public support to allow greater planning controls over proposals seeking to develop HMOs as to ensure consideration of planning matters by the Planning Authority.
- 3.11 The boundary of the Main Urban Area is defined as the areas of the City: south of the M55 motorway, west of the M6, north of the River Ribble and east of the A582 (Edith Rigby Way) as well as including the areas of the approved 'Bartle Garden Village' in which the red-edge boundary extends to the West of the A582.

#### **Process for introducing the Article 4 Direction**

- 3.12 At its meeting on 13 August 2025, Cabinet resolved to approve the making of a non-immediate Article 4 Direction to remove permitted development rights for material changes of use from Use Class C3 (dwellinghouses) to Use Class C4 (small HMOs). This approval was subject to legal advice, and Cabinet requested that officers explore the possibility of shortening the statutory notice period from 12 months to 9 months, provided this would not compromise the legality of the Direction.
- 3.13 The intention behind this request was to ensure that the Article 4 Direction could be brought into force in alignment with the implementation of the emerging HMO policy in the Central Lancashire Local Plan, thereby ensuring a coordinated and effective planning response.
- 3.14 Subsequent legal advice from the Council's Senior Legal Officer has confirmed that a 9-month notice period is legally permissible, provided that the Direction is made and publicised in accordance with the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015, but that may have financial implications for the Council in that it might expose the Council to the risk of paying compensation for removing the permitted rights.
- 3.15 However, Section 108(2A) of the TCPA 1990 provides that compensation is only payable if an application for planning permission for certain development formerly permitted by the GPDO 2015 is made within 12 months of the Article 4 direction taking effect. No compensation for the withdrawal of certain permitted development rights is payable if an LPA gives notice of the withdrawal between 12 months and 24 months in advance. Where permission is withdrawn, compensation becomes payable only if an application is made for planning permission for development formerly permitted by the development order, and this is refused, or granted on conditions different from those in the development order. Interest may be payable on compensation awarded under this section. The Council's

Senior Legal Officer has outlined various cases in law which highlight where authorities have had to pay compensation claims after introducing Article 4 Directions. They exceed £100k and have been justified on depreciation of the potential value of a property and recouperation of investment made by property owners. The advice recommends that if Members are mindful to allow the Direction to come into force less than 12 months from the Notice being published, then Cabinet needs to be made aware of the financial risk. It is therefore recommended that 12 months notice is given in this case.

- 3.16 At the same time as notice is served (as mentioned above) the Council will invite representations. These representations will be considered by officers and then a further report will be presented to Cabinet making a recommendation as to whether or not the Direction should be confirmed. If the decision is to confirm the Direction, then the Council has to give notice locally (following the same procedures as outlined above) and notify the Secretary of State as soon as practicable.
- 3.17 The Direction comes into force on the date specified when notice was given of the making of the Direction (i.e. not less than 12 months after the date notice was given). On and following this date, planning permission will be required for a material change of use from Use Class C3 to Use Class C4 in the designated area.
- 3.18 Cabinet approved delegation of the cancelling of the existing Article Direction as shown in Appendix A to the Director of Development and Housing, following consultation with the Executive Member for Planning and Regulation.

### **Recent Case-Law**

- 3.19 Legal advice has also been received which recommends that this matter is referred back to the Cabinet to clarify a point that was decided by the High Court in September. The case challenged the introduction of an Article 4 Direction, on the grounds that the Council report was not clear in that there may be instances where the Direction may not apply, if there is no **material** change of use.
- 3.20 The Judges concluded that the report was potentially misleading as there may be situations where a change of use may not constitute a material change of use and therefore would not be development requiring planning permission. Not every change of use requires planning permission. To require planning permission the change of use must be a material change of use having land use implications. In the light of this court case, it is important for Cabinet to be aware that there may be circumstances where the Article 4 Direction wouldn't apply, namely where there is no **material** change of use - (for example from a family dwellinghouse to a small HMO where the land use implications of the change would not be material). That will be a matter for the local planning authority to determine on a case-by-case basis.

## **4. Implications**

### **4.1 Financial**

- 4.1.1 The cost of advertising the Article 4 Direction will come from existing budget provision within planning policy.

4.1.2 A non-immediate Article 4 Direction is proposed to allow consultation to take place informing of the changes being introduced, avoiding the potential for compensation claims from owners and developers as a result of abortive works, whilst still bringing the direction into force in good time.

4.1.3 The Article 4 Direction may result in an increase in the number of full planning applications for conversions of dwellings to HMOs. The increased staff cost of processing these will be contained within existing resources, with an increase in planning application fees also expected.

## 4.2 Legal

4.2.1 The implications of making an Article 4 Direction are set out within the body of the report.

4.2.2 If the Article 4 Direction is duly confirmed, given it would also cover the area under the existing Article 4(1) Direction, authority would need to be sought for the making of a Direction to cancel the existing Article 4(1) Direction.

## 4.3 HR

4.3.1 There are no HR implications, work will be undertaken within existing resources.

# 5. **Impact Statement**

## 5.1 Service Users

5.1.1 Property owners in the areas where the new Article 4 Direction is proposed would subsequently be required to seek planning permission for the material change of use of a Use Class C3 dwelling house into a Use Class C4 small HMO. A HMO containing 6 or more occupants already requires planning permission, as such there is no change to anyone seeking that option.

## 5.2 Council Plan and Services

5.2.1 As noted above, this may result in an increase in planning applications. This is not expected to adversely impact on the delivery of planning services.

## 5.3 Fair Employment/ Living Wage

5.3.1 N/A

## 5.4 Equality Impacts of service changes/ new services

5.4.1 The Central Lancashire Local Plan has undergone an Integrated Assessment (IA) which includes an assessment on equality impacts. The plan includes Policy HS10: Houses in Multiple Occupation. The IA looked at the introduction of the new Article 4 Direction alongside the wider policy response discussed in paragraph 3.7 above as such, the equality impacts were assessed through that process. The impacts were neutral.

5.4.2 Any property owners seeking a material change of use from a Use Class C3 property to a Use Class C4 HMO, this will result in additional charges as part of that process.

5.5 Climate Impact Statement

5.5.1 N/A

**6. Reasons For Decision**

6.1 The decision is required as to remove permitted development rights for material changes of use from dwellinghouses (Class C3) to small HMOs (Class C4), enabling the Council to manage such development through the planning application process. This aligns with the emerging Central Lancashire Local Plan, which proposes to restrict HMO development in certain areas. Without the Direction, such changes could still occur under national permitted development rights, undermining the planning policy intent. Therefore, both the Article 4 Direction and the Local Plan policy are required to ensure a consistent and enforceable approach to controlling HMO development across the majority of the district.

**7. Alternative Options Considered And Rejected**

7.1 Alternative options would be (i) to not introduce a new Article 4 Direction, or (ii) to apply a district-wide Article 4 Direction.

7.2 Evidence was prepared to identify where HMOs exist within the borough to understand the extent of coverage and to determine if existing measures had been effective in controlling increasing numbers of HMOs. This evidence identified that the HMOs were concentrated within the existing urban area, and it was considered appropriate to introduce the Article 4 Direction to that defined area only, as this is where the main concentrations of HMOs are found. Rural areas did not show the same concentration, and a district wide Article 4 Direction was not deemed necessary.

**8. Reason for Inclusion in Part B, if appropriate**

8.1 N/A

**Background Documents:**

Background documents open to inspection in accordance with Section 100D of the Local Government Act 1972:

Paper

Date

Contact/Directorate/Ext

Preston City Council

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Development and Housing

<b>Report to Cabinet Meeting to be held on 13 August 2025</b>	<b>Electoral Ward Affected</b> All Wards
<b>Report submitted by: Director of Development and Housing</b>	
<b>Portfolio Holder: Cabinet Member for Planning and Regulation</b>	
<b>Introduction of Article 4 Direction for HMOs</b> Appendix A refers to the area of existing Article 4 Direction Appendix B refers to the proposed area of new Article 4 Direction Appendix C Central Lancashire Article 4 Direction: Houses in Multiple Occupation (HMOs) Evidence Document Appendix D HMO Article 4 Direction Consultation Outcomes Report	

## 1. Summary

- 1.1 The report proposes the introduction of a non-immediate Article 4 Direction to remove permitted development rights within a defined area. Permitted development rights currently allow the conversion of a single dwelling house (use Class C3) into a small house of multiple occupation (HMO) for up to 6 residents (Class C4). Once the Direction comes into effect, then planning permission will be required.

## 2. Decision Required

2.1 Cabinet is requested to:

- (i) Note the evidence to justify the making of an Article 4 Direction, as set out in Appendix C to the report.
- (ii) Approve the making of an Article 4 Direction to remove permitted development rights for change of use from individual dwellinghouses (Use Class C3) to small Houses in Multiple Occupation up to 6 persons (Use Class C4), in the Main Urban Area of Preston, as identified in Appendix B to the report.
- (iii) Delegate confirmation of the Direction to the Executive Member for Planning and Regulation; and
- (iv) Delegate approval to the Director of Development and Housing, following consultation with the Executive Member for Planning and Regulation, for cancellation of the existing Article Direction, which this will replace, if the new Direction is confirmed from the date it comes into effect.

## 3. Background

- 3.1 Article 4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 Order ("2015 Order") (GDPO) allows local planning authorities to remove

permitted development rights that would otherwise apply by virtue of the 2015 Order. The removal of permitted development rights using an Article 4 Direction means that planning permission must be obtained by the submission of a planning application before alterations can be made or change of use can be carried out.

- 3.2 In December 2010, the Planning Authority determined to make an Article 4(1) Direction in relation to the restriction on the permitted change of use from Class C3 dwellinghouses to Class C4 house in multiple occupation (HMOs) under The Town and Country Planning (General Permitted Development) (England) Order 1995. Appendix A identifies the extent of the area that the Article 4(1) Direction covers, namely seven Wards within the inner parts of Preston. The Article 4(1) Direction was confirmed following public consultation, on the grounds that a high concentration of HMOs can lead to issues relating to parking, noise and disturbance and impacts on amenity, which can cause concern to local communities, and further control by the Planning Authority over such conversions was considered necessary. The Article 4(1) Direction came into force on 18 February 2012.
- 3.3 In February 2025, the Council consulted for 7 weeks on a review of the existing Article 4 Direction alongside the Central Lancashire Local Plan Regulation 19 Consultation (Appendix A). This consultation sought views on a proposed expansion of the existing directions to encompass the Main Urban Area as identified in the draft Central Lancashire Local Plan (Appendix B).
- 3.4 The review was informed by a detailed background paper (Appendix C), which considered the impact and challenges associated with the increasing number of HMOs in the city. This paper identified a need for a stronger policy response, restricting development of HMOs in the urban area, coupled with an expanded Article 4 Direction removing the ability to bring such development forward through the GDPO route. The proposed policy has recently been submitted to the Secretary of State as part of the Examination of the Central Lancashire Local Plan.
- 3.5 The review is part of a wider Council approach to managing existing and future HMO properties, in liaison with other departments, including Housing Standards, and the introduction of a new policy in the emerging Central Lancashire Local Plan.
- 3.6 Through this exploration, evidence has been gathered and interrogated to understand the different challenges that can be presented by HMOs, these include:
  - Deprivation, housing quality and overcrowding
  - Visual and environmental health impacts on conservation areas
  - Pressures on and challenges to Council services
  - Quality of support and services given by providers
  - Rough sleepers and homelessness
  - Crime rates and fear of safety
- 3.7 The consultation considered whether the evidence provided is sufficient to introduce the following stronger measures:
  - (i) A new Article 4(1) Direction to remove the permitted development rights for the change of use from dwelling houses to HMOs in the Main Urban Area of the City and;

(ii) A policy approach in the emerging Central Lancashire Local Plan to enable a more effective planning response.

3.8 The response to the consultation (Appendix D) identified that the majority of respondents (79%) supported the introduction of a new article 4 Direction encompassing the Main Urban Area of the city. 4% objected, with 17% neither supporting nor objecting. Overall, the consensus was that a new Article 4 Direction expanding on the area currently covered by the existing Article 4 Direction would assist in controlling the increase of HMOs and ensure proper consideration of planning matters for any proposals brought forward for consideration by the Planning Authority.

3.9 The boundary of the Main Urban Area is defined as the areas of the City: south of the M55 motorway, west of the M6, north of the River Ribble and east of the A582 (Edith Rigby Way) as well as including the areas of the approved 'Bartle Garden Village' in which the red-edge boundary extends to the West of the A582. This is shown in Appendix B

### **Process for introducing the Article 4 Direction**

3.10 There are two types of Article 4 Directions: non-immediate or immediate.

3.11 Immediate Direction: An immediate Direction can withdraw permitted development rights straight away. The circumstances where immediate Directions can be made are limited to where permitted development rights present an immediate threat to local amenity or prejudice the proper planning of an area. Under the immediate route, compensation may be payable where development rights under the GDPO have been limited.

3.12 Non-immediate Direction: A non-immediate Article 4 Direction, unlike an immediate one, does not take effect immediately. It allows for a period of time, often 12 months, between the Direction being made and when it comes into force. In the case of a non-immediate Direction, the Council must first make the Direction and then give notice of its making. The Direction must contain a date upon which it is to come into force. On the making of a Direction the Council will consult with the public before deciding on whether to confirm the Direction.

3.12 A non-immediate Direction can help avoid or limit any potential compensation payments to those whose permitted development rights are removed, as unlike an immediate one, it does not take effect right away. In essence, a non-immediate Article 4 Direction provides a buffer period for consultation, confirmation, and potentially, compensation mitigation, before the restrictions on permitted development rights take effect. For this reason, the non-immediate route is considered the appropriate mechanism for introducing the new Article 4 Direction in Preston.

### **The process of introducing the non-immediate Article 4 Direction**

3.14 Cabinet is being recommended at paragraph 2.2 above to authorise the making of the Article 4 Direction. Should the authorisation be given, the Council will need to follow statutory procedure set out in the 2015 Order. This includes giving notice as soon as practicable following the making of a Direction, of the intention to introduce a non-immediate Article 4 Direction by: -

- public advertisement in at least one newspaper circulating in the locality.

- displaying notices at no fewer than 2 locations in the area to be covered by the Direction for a period of less than 6 weeks.
  - displaying a notice on the Council's website (not legally required but considered good practice).
- 3.15 The Council is also required to serve notice on every owner and occupier of land to which the Direction relates, unless it considers it impracticable due to the numbers of people involved. The size of Main Urban Area means that notifying all landowners and occupiers would be impracticable.
- 3.16 The Council will also be required to serve a notice on any Statutory Undertakers affected by the proposals and on Lancashire County Council.
- 3.17 In addition, the Council must notify the Secretary of State on the same day that the notice of the Article 4 Direction is first published or displayed. The Secretary of State has the power to modify or cancel an Article 4 Direction at any time before or after its confirmation. Planning Practice Guidance states however that the Secretary of State will only intervene in where there are clear reasons for doing so.
- 3.18 At the same time as notice is served (as mentioned above) the Council will invite representations. These representations will be considered by officers and then a further report will be presented to Cabinet making a recommendation as to whether or not the Direction should be confirmed. If the decision is to confirm the Direction, then the Council has to give notice locally (following the same procedures as outlined above) and notify the Secretary of State as soon as practicable.
- 3.19 The Direction comes into force on the date specified when notice was given of the making of the Direction (i.e. not less than 12 months after the date notice was given). On and following this date, planning permission will be required for a change of use from Use Class C3 to Use Class C4 in the designated area.
- 3.20 On confirming this Direction, the Council will also need to cancel the existing Article Direction as shown in Appendix A. Cabinet is recommended to delegate approval for cancellation under paragraph 2.4 to the Executive Member for Planning and Regulation.

## **4. Implications**

### **4.1 Financial**

- 4.1.1 The cost of advertising the Article 4 Direction will come from existing budget provision within planning policy.
- 4.1.2 A non-immediate Article 4 Direction is proposed to allow consultation to take place informing of the changes being introduced, avoiding the potential for compensation claims from owners and developers as a result of abortive works, whilst still bringing the direction into force in good time.
- 4.1.3 The Article 4 Direction may result in an increase in the number of full planning applications for conversions of dwellings to HMOs. The increased staff cost of processing these will be

contained within existing resources, with an increase in planning application fees also expected.

## 4.2 Legal

- 4.2.1 The implications of making an Article 4 Direction are set out within the body of the report.
- 4.2.2 If the Article 4 Direction is duly confirmed, given it would also cover the area under the existing Article 4(1) Direction authority would need to be sought for the making of a Direction to cancel the existing Article 4(1) Direction.

## 4.3 HR

- 4.3.1 There are no HR implications, work will be undertaken within existing resources.

## **5. Impact Statement**

### 5.1 Service Users

- 5.1.1 All property owners in the areas where the new Article 4 Direction is proposed would subsequently be required to apply for planning permission to convert a property to a HMO for up to 6 people. Six or above already requires planning permission, as such there is no change to anyone seeking that option.

### 5.2 Council Plan and Services

- 5.2.1 As noted above, this may result in an increase in planning applications. This is not expected to adversely impact on the delivery of planning services.

### 5.3 Fair Employment/ Living Wage

- 5.3.1 N/A

### 5.4 Equality Impacts of service changes/ new services

- 5.4.1 The Central Lancashire Local Plan has undergone an Integrated Assessment (IA) which includes an assessment on equality impacts. The plan includes Policy HS10: Houses in Multiple Occupation. The IA looked at the introduction of the new article 4 alongside the wider policy response discussed in paragraph 3.7 above as such, the equality impacts were assessed through that process. The impacts were neutral.
- 5.4.2 Anyone seeking to convert their property up to a 6 person HMO would now need to apply for planning permission, this will result in additional charges as part of that process.

### 5.5 Climate Impact Statement

- 5.5.1 N/A

## **6. Reasons For Decision**

- 6.1 The decision is required to enable greater control over the development of HMOs across the district. The approach is also being introduced to align with the updated policy response in the emerging Central Lancashire Local Plan where such development would not be permitted. The policy approach without the Article 4 Direction on HMOs would enable such development to still come forward under permitted development, as such to ensure a full policy response, both the Article 4 Direction removing permitted development, along with the policy response, are both required.

## **7. Alternative Options Considered And Rejected**

- 7.1 Alternative options would be i) to not introduce a new Article 4 Direction, in which case conversions to HMOs would remain permitted development across the city in areas where no Article 4 Direction is in place currently, or ii) to apply a district wide Article 4 Direction.
- 7.2 Evidence was prepared to identify where HMOs exist within the borough to understand the extent of coverage and to determine if existing measures had been effective in controlling increasing numbers of HMOs. This evidence identified that the HMOs were concentrated within the existing urban area, and it was considered appropriate to introduce the Article 4 Direction to that defined area only, as this is where the main concentrations of HMOs are found. Rural areas did not show the same concentration, and a district wide Article 4 Direction was not deemed necessary.

### **Background Documents:**

Background documents open to inspection in accordance with Section 100D of the Local Government Act 1972:

Paper	Date	Contact/Directorate/Ext
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### **Contact for further information:**

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