

**REPORT TO CABINET/ COUNCIL**

**15 JANUARY 2026**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

**COUNCIL DECISION**

**Regeneration and Housing – Lead Cabinet Member – Councillor Richard Eglington**

## **Article 4 Direction – Houses in Multiple Occupation (HMO's)**

### **Summary**

In view of growing demands for small HMOs, implications on the boroughs housing stock and our communities, there is a need to consider the introduction of measures to restrict the use of permitted development rights for change of use from dwelling houses (Class C3) to small HMOs (Class C4).

In view of all the associated considerations, it is therefore recommended that the introduction of a borough wide, non-immediate Article 4 direction to remove permitted development rights that allow of the change from a residential dwelling (use class C3) to small House of Multiple Occupation (Use class C4) to pursued, along with associated guidance in line with the recommendations set out below.

### **Reasons for Recommendation(s)/Decision(s)**

There is a need to consider the introduction of measures to restrict the use of permitted development rights for change of use from dwelling houses (Class C3) to small HMOs (Class C4).

### **Recommendations**

1. Agree that the Local Planning Authority is satisfied that it is expedient to make the article 4 Direction and the Director of Regeneration and Inclusive Growth be authorised to make a Borough wide, non-immediate Article 4 direction to remove permitted development rights allowing conversion from a dwelling to small HMO.
2. That the Director of Regeneration and Inclusive Growth be authorised to undertake all necessary notifications and consultation in association with Schedule 3 of the General Permitted Development Order, 2015.

3. That the Director of Regeneration and Inclusive Growth be authorised to consider all representations made during the consultation period and, subject to remaining satisfied that it remains expedient to make the Direction after considering the representations, to confirm the Article 4 Direction and take all necessary action following the confirmation

In addition, Cabinet recommends to Council;

4. That delegated authority be given to the Director of Regeneration and Inclusive Growth and Cabinet Member, in consultation with the Planning Committee to produce a draft interim policy or Supplementary Planning Document (SPD) to inform the determination of future applications for HMOs
5. That delegated authority be given to the Director of Regeneration and Inclusive Growth to undertake all necessary consultation in association with recommendation 4 above.

## Background

1. In recent years Officers have seen an increasing number of concerns being raised by neighbouring residents and Elected Members on a Borough-wide basis about the presence of HMOs across the Borough.
2. Particular focus has been given to HMOs providing poor-quality housing which is not managed effectively. Consequently it is seen as attracting persons experiencing social and/or economic instability and those living a more transient lifestyle. Complaints also often include reference to crime and anti-social behaviour.
3. The Housing Act (2004) defines a 'House in Multiple Occupation' (HMO) as living accommodation occupied by persons who do not form a single household and share one or more basic amenities.
4. The Planning system currently categorises HMOs as either;
  - Use class C4 for between three and six persons with basic shared facilities.
  - Sui Generis classification (meaning a 'class of its own') for seven or more residents.
5. The General Permitted Development Order (GPDO) allows certain forms of development to take place without the need for planning permission, which is known as 'permitted development'.
6. Residential dwellings (Use class C3) have permitted development rights to change use to small Houses in Multiple Occupation (Use Class C4). Where a change to Sui Generis classification, automatically requires planning permission.
7. For clarity, the introduction of an Article 4 direction would affect only those elements which currently do not require planning permission, i.e class HMOs falling in use class C4 and mean that planning permission would be required as they are for larger HMO's.

## Article 4 direction

8. An Article 4 direction provides a mechanism for removing permitted development rights. Planning guidance states that these should be based on robust evidence and apply to the smallest geographical area possible in order to protect local amenity or the well-being of the area.
9. The associated statutory process for introducing an Article 4 direction is laid out within Schedule 3 of the General Permitted Development Order, 2015.
10. Article 4 directions can be made either as a 'Directions without immediate effect' or 'Directions with immediate effect'. With the regulations setting out a definitive process which includes justification for the direction and notice/consultation. Once confirmed the Council must give notice in a similar manner to the steps taken when the direction was originally made.
11. The Secretary of State also has the power to amend and withdraw an Article 4 direction, it is therefore important to produce evidence to justify any Article 4 Direction. The introduction of an Article 4 direction may also be subject to judicial review.
12. The Council may be liable for compensation over a 12-month period if an article 4 direction is introduced immediately and development is refused or conditioned due to the Direction. Compensation can be claimed for
  - a) abortive expenditure or
  - b) other loss or damage directly attributable to the withdrawal of permitted development rights.
13. However, no compensation is payable if the Direction was made after a 12-month notification period.

## Considerations

14. In recent years Officers have seen an increasing number of concerns being raised in relation to HMOs and the impact they are having in the community. The situation is not unique to Stockton and many authorities across the north-east have either implemented or indicated an intention to introduce Article 4 direction's to try to combat the rise of uncontrolled small HMOs within their areas.
15. Planning guidance (paragraph 54 of the NPPF) states that Article 4 directions should be based on robust evidence and apply to the smallest geographical area possible in order to protect local amenity or the well-being of the area.
16. Whilst acknowledging the perception HMOs have in relation to crime and antisocial behaviour, small HMOs also provide an important housing need for some residents of the Borough preventing homelessness and offer an important short term housing solution.
17. The associated evidence highlights that the main issues which can be considered through the planning system in relation to all HMOs relate to;

- a) Over concentration and subsequent implications on the wider amenity and cohesion of our communities
  - b) The quality of accommodation offered.
- 18. Any restrictions on small HMOs through an Article 4 direction is therefore not solely justified through the location of this housing product but is about the available evidence on the quality of the accommodation provided. Ensuring that residents of HMOs benefit from acceptable levels of amenity.
- 19. Evidence suggests that the conversion of properties often poses many problems with the associated accommodation often suffering from small room sizes, particularly for single occupants which fall below those outlined in the Nationally Described Space Standard (NDSS). Also the internal layouts are often unsatisfactory with bedrooms being situated in close proximity to areas which may generate noise and disturbance such as kitchens and bathrooms, again affecting levels of amenity.
- 20. Older housing stock which are most commonly converted into HMOs often lack energy efficiency in comparison to modern housing having implications for affordable warmth and energy consumption.

### **Scope**

- 21. Paragraph 54 of the NPPF states that Article 4 directions should apply to the smallest geographical area, and as detailed above current evidence shows that the central core around Stockton Town Centre is the primary focus for new small HMOs, whilst in other areas of the Borough small HMOs are present, currently the harm arising from them may be more limited.
- 22. The introduction of a more central ward-based Article 4 Direction is considered to have unintended consequence of HMOs creeping into other adjacent wards across the Borough, particularly where low property prices make conversion attractive. However, issues over quality of accommodation could remain across the Borough.
- 23. The introduction of a Borough wide approach to an Article 4 direction would be both 'proactive' at addressing implications arising from small HMOs and be the simplest approach to administer. Importantly it would also ensure a consistent approach for all areas of our communities ensuring residents amenity and community implications are assessed through the planning application process.

### **Policy Approach**

- 24. The current Local Plan has policies which control and influence development, with Policies SD8 and H4 being those most relevant to applications for HMOs and some of the concerns which are raised in relation to them. Policy SD8 (criterion 1, 2 &3) relate to amenity considerations, place creation and public safety/crime. While Policy H4 (criterion 1) considers housing mix with aim of achieving sustainable residential communities.

25. Requiring planning permission for small HMOs allows for increased control as it goes through the decision-making process which will consider relevant planning policies and other associated material planning considerations.
26. The new Local Plan will provide the most robust approach to achieving a coherent, strong and positive approach to trying to address the issues surrounding all HMOs. In the short term the introduction of an Article 4 direction alongside an interim policy or supplementary planning document (SPD) offers a similar basis and would be a material planning consideration in any such application.
27. It is considered that an interim policy or SPD would assist in providing advice to those looking to convert properties to HMOs so they are aware of the Council's expectations and have a positive policy approach to addressing such matters. As above Policies SD8 and H4 being those most relevant to applications for all HMOs and would apply to such guidance allowing for sufficient weight to be attributed in the decision-making process.
28. This also offers a more balanced approach to positively influence future proposals and offers an opportunities to look introduce a variety of considerations which may include (subject to evidence and consultation) measures such as;
  - Concentration and overall proximity of HMOs to one another.
  - The standard of accommodation to improve the living conditions for those requiring this type of housing provision
  - Requirement to meet (as a minimum) Nationally Described Space Standards
  - Measures to improve energy efficiency

### **Resource implications**

29. There are resource implications in making and taking forward an Article 4 Direction and introducing the accompanying policy/SPD requiring staff resources in both the planning and legal teams. There is a statutory process to follow with regards to making an Article 4 directions which must be followed. However it is considered that existing resources and budgets can adequately cover these matters.
30. Once in force, the requirement for planning permission, has the potential to increase the number of applications received and any defence of appeals could add to the workload for Development Management Officers. However, following changes to the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017, following the removal of permitted development rights, applicants are required to pay the require planning application fee for its determination.
31. During the implementation stage there is likely to some breaches of planning control which will require investigation. Although this may continue, it is anticipated that this may be greatest in the initial stages of the Article 4 direction being introduced.
32. Nevertheless, any additional workload pressures will be monitored and addressed through current budgets wherever possible

## Risks

33. The introduction of an immediate Article 4 direction will come with increased risk for compensation claims. Unfortunately there is no evidence currently available to quantify or estimate what the extent of any such claims, such claims would also have no current budget allocation.
34. In addition to any claims for compensation, planning applicants can make claims for an award of costs to the Planning Inspectorate for unreasonable behaviour. Any such claims can be met from existing budgets and be minimised through the additional policy/guidance being recommended.
35. With the introduction of any non-immediate Article 4 direction, there is always an element of risk as to whether property owners will seek to make investment decisions / property alterations before the direction comes into force. However, property owners would need to ensure that all works are completed with the 12 month period and in line with any other regulatory controls. Commencement of works would not be sufficient to avoid the requirement for planning permission after the date of the Article 4 direction taking effect.
36. For the avoidance of any doubt, the removal of permitted development rights through an Article 4 direction do not apply retrospectively, meaning those already in situ will not be required to apply for permission. They would however have the opportunity to seek a certificate of lawful use, to establish their lawful position.
37. Colleagues in Housing Services may well continue to experience challenges in relation to the lack of single person accommodation. The risk of homelessness and rough sleeping may well therefore increase financial pressures in securing temporary accommodation in specific circumstances although at this stage the full implications remain unknown.
38. As above (para 9) the Secretary of State has the power to amend or remove an Article 4 Direction, should that occur there is a risk of abortive work being undertaken.

## Conclusions

39. Whilst there is a clearer case for a smaller geographical area to restrict small HMOs, given the current circumstances and matters considered above, it is considered that there is sufficient merit in introducing a Borough wide Article 4 direction to remove permitted development rights for the conversion of dwelling houses to small HMOs in order to protect the amenity and cohesion of our communities.
40. In recognising that HMOs do play an important role in providing a source of affordable housing, particularly those in acute housing need, the aspiration of future planning policies and associated guidance should therefore look to ensure that small HMOs are of the right quality, the right need and in the right area, to ensure our Borough maintains balanced, inclusive and cohesive communities.

41. The introduction a non-immediate Article 4 direction allows for time to manage any associated risks arising from legal challenge and compensation. Crucially it would also enable the development of an interim policy/SPD, ensuring decisions on HMO applications are based on a robust framework and giving the greatest chance of success in defending any associated appeals.
42. In view of all the associated considerations, it is therefore recommended that the introduction of a borough wide, non-immediate Article 4 direction to remove permitted development rights for small HMOs be introduced along with interim policy/SPD, in line with the recommendations set out earlier within this report.

### **Community Impact and Equality and Poverty Impact Assessment**

43. An equality impact assessment has been undertaken and due regard has been given to Section 149 of the Equality Act.

### **Corporate Parenting Implications**

44. The report does not contain any corporate parenting implications.

### **Financial Implications**

45. The production of a non-immediate Article 4 direction and associated policy guidance can be met from existing budgets. This recommendation mitigates the financial risk of potential claims for compensation that could come with an immediate introduction of an Article 4 direction.

### **Legal Implications**

46. The Town and Country Planning (General Permitted Development) Order 2015 currently grants deemed planning permission for residential properties to be converted to small HMO's without the need for an application. The introduction of an Article 4 Direction will remove this right and all such proposed conversions after the date the Direction will come into force will require a planning application to be submitted, with an associated fee. This affects the property rights of owners of residential properties which needs to be justified and proportionate.
47. Applicants whose applications are subsequently refused have the right to appeal against that decision.
48. An Article 4 Direction can only be made if the Local Planning Authority is satisfied that it is expedient to make it. It is subject to a 21 day consultation period and must then be confirmed by the LPA before it comes into force.

The making of the Article 4 Direction is subject to challenge by way of Judicial Review. The Secretary of State must be notified of the making of the Direction and has the power to cancel it before or after its confirmation.

49. The interim policy or SPD will provide guidance on how applications will be considered or the conditions that HMO's must comply with to be approved. That guidance should be followed or risk a costs award against the authority.

50. The making of an interim planning policy or SPD is subject to a statutory procedure and also open to challenge.

### **Risk Assessment**

51. The introduction of an Article 4 direction is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

### **Wards Affected and Consultation with Ward/Councillors**

52. As detailed in the report, the Article 4 direction has the potential to affect all wards in the Borough

### **Background Papers**

- National Planning Policy Framework
- National Planning Practice Guidance
- General Permitted Development Order 2015
- Nationally Described Space Standard (NDSS)

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