

Report to: Cabinet

Date of Meeting(s): Thursday, 4 July 2019

Subject: Article 4 direction to remove permitted development rights for changes of use from individual dwelling houses to small houses in multiple occupation, Swinley and Central Leigh

Report of: Director - Economy and Skills

Contact Officer: Marie Bintley 01942 489104 / x89104

Cabinet Portfolio Holder and area: Councillor Carl Sweeney, Portfolio Holder for Planning and Environment

Summary: The report proposes the introduction of an article 4 direction to remove permitted development rights allowing conversion of a single dwelling house into a small house in multiple occupation (HMO) in Swinley and central Leigh

Link to Corporate Priorities: Our Place: Together we are proud of our towns and look after our environment.

The article 4 direction will allow better management of HMOs in Swinley and central Leigh, protecting the character and amenity of the areas by ensuring a mix of tenures whilst supporting residential growth in our town centres.

Wards Affected: Wigan Central, Leigh East, Leigh South, Leigh West

Recommendation(s): The Cabinet is recommended to:-

1. Make an article 4 direction to remove permitted development rights for changes of use from individual dwelling houses to smaller Houses in Multiple Occupation, in Swinley and central Leigh, in line with the details set out in the report
2. Delegate authority to the Portfolio Holder for

Planning and Environment to consider the outcome of the consultation and to determine whether the direction should be confirmed.

Implications:

*What are the **financial** implications?*

Within existing financial resources. A non-immediate article 4 direction is proposed to allow notice to be given to affected parties, 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.

Is budget release necessary (Capital Expenditure Only)?

No

*What are the **legal** implications?*

The article 4 direction is being prepared in accordance with article 4(5) of the Town and Country Planning (General Permitted Development) Order 2015.

*What are the **staffing** implications?*

None

Equality and Diversity Impact Assessment attached or not required because (please give reason). If not required, then a relevance check needs to be completed.

See attached

*What are the **property** implications in terms of reduction, addition or change to the council's asset base or its occupation?*

The article 4 direction will apply to existing homes regardless of ownership.

Risks:

The main risk is that new HMOs are displaced to other areas of the borough where they remain permitted development. If that becomes evident the council may need to introduce a new article 4 direction to these areas. This is not proposed now due to a lack of evidence that it is required.

Sustainability:

The article 4 direction will allow better management of HMOs in Swinley and central Leigh, protecting the character and amenity of the areas by ensuring a mix of tenures whilst supporting residential growth in our town centres.

Has the Assistant Director - Legal (Monitoring Officer) (Brendan Whitworth) confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?

Yes

Has the Director Resources and Contracts (Deputy Chief Executive)(Paul McKeivitt) confirmed that any expenditure referred to within this report is consistent with the Council's budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council? No

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

Alternative options would be to not introduce an article 4 direction, in which case conversions to small HMOs would remain permitted development across the borough or to apply the article 4 direction to more of the borough.

It was considered appropriate to introduce the article 4 direction to Swinley and central Leigh as these are the areas with the main concentrations of HMOs.

Is this a Key Decision and, if so, under which definition? Yes

(2) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the area of the local authority.

The Key decision made as a result of this report will be published within **two working days** and cannot be actioned until **five working days** have elapsed, i.e. before 16 July, unless exempt from call-in. This item is included on the Forward Plan.

There are no background papers for this report

Directorate Sign-off:	Rebecca Heron
Date:	12 June 2019

Please list any appendices:-

Appendix number or letter	Description
A	Maps of Swinley and central Leigh showing the proposed boundaries that the article 4 direction would apply to.

1. Background

- 1.1 The report outlines the extent of houses in multiple occupation (HMOs) in the borough; the current policy position for HMOs; the justification for introducing an article 4 direction to remove the permitted development rights allowing conversion of a single dwelling house into a small house in multiple occupation in two parts of the borough; and the process for doing so.
- 1.2 A house in multiple occupation (HMO) is a property rented out by at least 3 people who are not from one household (such as a family) but share facilities such as a bathroom and kitchen. Such properties are commonly known as house shares or bedsits.
- 1.3 At present, change of use from a house (which is in planning use class C3) to a large HMO of more than 6 people (which does not fall into any of the planning use classes) requires planning permission. However, change of use from a house to a small HMO of between 3 and 6 people (which is in planning use class C4), is classed a permitted development and does not require planning permission. An article 4 direction would remove permitted development rights for conversion of a dwelling house to a small HMO and require them to be considered through the planning system in the same manner as large HMOs. This would give the council greater opportunity to manage the overall number of HMOs in the areas that it applies and mitigate some of the issues attributed to their concentration. An article 4 direction would not ban development of HMOs; it would simply mean that, regardless of size, they would require planning permission.
- 1.4 Since 1 October 2018 all HMOs of five or more people have also been subject to mandatory licensing. Licenses are valid for five years and properties are subject to an inspection during this period. If the council receives complaints regarding a property this will prompt a further inspection and enforcement action may be taken.
- 1.5 HMOs must be free of significant hazards under the Housing Health and Safety Rating System (HHSRS) and adhere to the council's Houses in Multiple Occupation (HMO) Guidance, Space and Amenity Standards, which covers things such as minimum room sizes, amenity standards and fire safety requirements. HMOs must also adhere to statutory regulations on management from 2006 and additional regulations from 2007. The licensing process is managed by the council's Environmental Health Service.

2. HMOs in Wigan Borough and the extent to which the direction will apply

- 2.1 The Local Land and Property Gazetteer is the council's master address database of all properties. It records all residential property types including HMOs, where known. HMOs are identified by intelligence from licensing, planning approvals, building regulations, council tax and through analysis of electoral registration. It is estimated that there are currently 106 HMOs in the borough. The main concentrations are in the Swinley area of Wigan and in central Leigh, with an estimated 31 and 20 respectively.
- 2.2 Swinley in particular has been subject to a large number of applications for HMOs in recent years. In 2017/18 the council received 7 planning applications for conversion to HMOs in Swinley, more than in the previous five years combined. Overall, between 2012/13 and 2018/19 the council received 34 planning

applications for conversions to HMOs, with 15 of these in Swinley (44%) and 8 in central Leigh (24%).

- 2.3 A search for HMO properties in Swinley and central Leigh on the room letting website SpareRoom has given a more detailed understanding of HMO properties and the markets for them in these areas. Thirteen listings have been analysed.
- 2.4 The adverts suggest that the marketing is often targeted towards young professionals. Advertised rents average around £350 per calendar month, with some as high as £475. By comparison, for a 'top-end' private rented apartment in Wigan, rent is circa £550, whilst £440 a month can be considered an affordable rent. Most require a six-month minimum tenancy, which is typical in the private rented sector, and most do not accept tenants claiming housing benefit. Listings tend to highlight proximity to town centres and public transport links, with many listings in Swinley stating the properties would suit doctors working at the nearby hospital. Photographs of properties as part of online listings show that they are generally furnished to a high, modern standard.
- 2.5 It is considered appropriate to apply the article 4 direction to these two areas. Not only do these areas have high concentrations of HMOs, they are also characterised by terraced housing stock and townhouses, as well as their proximity to town centres. These attributes make properties in these areas more susceptible to conversion to HMOs by developers and landlords. An article 4 direction would allow the council to manage the number and quality of HMOs in Swinley and central Leigh more effectively.

3. Justification for introducing an article 4 direction in Swinley and central Leigh

- 3.1 HMOs provide a form of low-cost housing, particularly for younger people and people on low-incomes. They also provide flexible accommodation for people with short-term housing requirements. This includes people in-between properties, people employed on short-term contracts and people who are saving to purchase a home. They also provide housing for people that simply prefer to live with large numbers of other people, such as friendship groups. Given the limited number of purpose-built private rented property in the borough, the sector will be reliant on conversion of existing properties.
- 3.2 However, there are several concerns associated with HMOs, specifically when there is a high concentration of them within an area. The Government undertook an evidence gathering exercise to review the problems caused by high concentrations of houses in multiple occupation in 2008.
- 3.3 It summarised the problems associated with a high concentration of HMOs as:
 - anti-social behaviour
 - noise and nuisance
 - imbalanced and unsustainable communities
 - negative impacts on the physical environment and streetscape
 - pressures upon parking provision
 - increased crime
 - growth in the private rented sector at the expenses of owner-occupation
 - pressure upon local community facilities
 - restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population.

- 3.4 Planning applications for HMOs determined through the planning system are subject to public consultation in which members of the public can make written representations supporting or objecting to proposed development. Since January 2006, Wigan Council has received 36 planning applications for HMOs. These applications have received 93 formal representations between them. Of these only one was in favour of an application and even this only gave caveated support. On average, each application received less than three representations. 16 applications received no representations, whilst two applications received over 20.
- 3.5 Each representation has been reviewed, and the various concerns expressed grouped by theme. The most common concerns were:
- anti-social behaviour and crime (51 references)
 - pressure on parking provision and increased traffic congestion (50 references)
 - changes to the character of the area (32 references)
 - litter and waste collection (25 references)
 - the impact on the physical environment and conservation areas (21 references)
- 3.6 Other concerns were expressed on the impact of HMOs on drainage; their impact on property values; poor quality design, over-crowding and poor living conditions; and their impact on privacy.
- 3.7 Within Wigan, the Swinley Resident's Working Group has been particularly active in voicing concerns as to what they consider to be a large increase in the number of recent conversions to HMOs in the area. The group is not against HMOs in general and recognise the need for them but are concerned about the overall number of them within Swinley. Amongst their concerns are anti-social behaviour; changes to the character of the area and a declining feeling of neighbourliness; inappropriate alterations to properties not in keeping with conservation rules; problems with parking; and drug taking and selling.
- 3.8 Not all applications were approved and not all the concerns or complaints expressed in representations were evidenced. Likewise, not all claims made in local newspapers can be substantiated. They do though give a strong indication of the concerns of residents over the increasing number of HMOs in the borough. Moreover, the most frequent concerns or complaints mirror the problems associated with a high concentration of HMOs identified in the Government's review in 2008.
- 3.9 Furthermore, data from Greater Manchester Police and the council's Environmental Health Service shows that the identified concentrations of HMOs are within areas that have above-average rates of anti-social behaviour, fly-tipping and noise complaints. Increasing concentrations of HMOs within these areas will likely further exacerbate these problems.
- 3.10 The high concentrations of HMOs within Swinley and central Leigh also run contrary to the strategic objectives of growing the residential market within Wigan and Leigh town centres. The council is working to achieve a step-change in the residential offer of Wigan town centre. The Wigan Town Centre Strategic Regeneration Framework proposes a range of measures to make the town centre an attractive place for young professionals, growing families and the elderly. Likewise, Leigh is the nominated town centre in the borough for the Greater Manchester Mayor's Town Centre Challenge, which aims to create a viable housing market in town centres across the city-region. Preparation is also now underway on a masterplan for Leigh to guide quality regeneration and development. In both areas it is

important to ensure that there is a mix of property types and tenures in the town centre and that there is not an over-concentration of HMOs at the expense of other tenures, notably owner-occupied property and family housing.

3.11 The proposed boundaries that the article 4 direction will apply to are shown in Appendix A.

4. The planning policy position on HMOs in the borough

4.1 The council does not currently have a specific planning policy on HMOs. If the council is to introduce an article 4 direction, applications for small HMOs would be assessed in the same way as applications for large HMOs. Such applications are determined against policies within the Local Plan Core Strategy, namely:

- Policy SD1 – Presumption in favour of sustainable development.
- Policy CP 6, Clause 6 – Ensuring that provision is made for an appropriate mix of house types, sizes, tenures and affordability, specialist extra care housing and 'lifetime' homes.
- Policy CP10, Clause 9 – Provision for waste storage and collection
- Policy CP17, Clause 7 – Ensuring the new development does not have an adverse impact on amenity and quality of life

4.2 There are Conservation Areas in both Swinley and central Leigh, so where applicable the following policies also apply:

- Policy CP11 – Conserving and enhancing our heritage assets
- Saved Policy EV4A – Development and Design in Conservation Areas, clause (a) in the Wigan Replacement Unitary Development Plan: The council will ensure that any proposal for development within a Conservation Area will preserve or enhance and will not harm the character or appearance of that area.

4.3 This position leaves the council vulnerable to challenges and appeals when refusing applications. A stronger policy position could be achieved through a supplementary planning document (SPD), which would provide a clearer interpretation of existing policies in the Local Plan Core Strategy in relation to HMOs. This would enable the impact of concentrations of HMOs on character and amenity to be assessed more effectively and provide greater certainty for applicants when submitting applications for HMOs. Therefore, it is proposed to prepare a supplementary planning document to support the article 4 direction.

5. The article 4 direction

5.1 There are two types of article 4 direction:

- Non-immediate directions in which permitted development rights are only removed upon confirmation of the direction by the local planning authority following local consultation and;
- Immediate directions, in which permitted development rights are removed with immediate effect but must be confirmed by the local planning authority following local consultation within six months, or else the direction will lapse.

- 5.2 A non-immediate direction would be most appropriate as it allows notice to be given to affected parties, 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. It also allows time for an accompanying SPD to be produced.
- 5.3 Consultation will need to be undertaken in line with legislation. Notice of the making of the article 4 direction will need to specify a period of at least 21 days, stating the date on which that period begins, within which any representations concerning the direction may be made to the council. The Secretary of State for Housing, Communities and Local Government must also be notified that the direction has been made.
- 5.4 Any representations received must be considered in determining whether to confirm the direction. Any material changes resulting from consultation will require re-consultation. The council would not be able to confirm the direction until after the expiration of a period of at least 28 days following the latest date on which the direction is served or published.
- 5.5 If confirmed, the direction will come into force on the date specified in the notice. Notice must again be served locally, and again the Secretary of State must also be notified.

6. Next steps

- 6.1 Should Cabinet approve the making of a non-immediate article 4 direction, the broad timeline thereafter is as follows:
- Serve notice locally and to the Secretary of State in July 2019 with a consultation period of at least 21 days.
 - Consideration of consultee comments and determination of whether to confirm the non-immediate direction, August 2019.
 - If confirmed, Article 4 direction comes into force, January 2020.

Equality Impact Assessment of a Strategy

Service: Growth and Housing	Section: Economy and Skills
Responsible Officer: Nick Clarke, Planning and Transport Policy Service Manage	Name of strategy assessed: Article 4 direction to remove permitted development rights for changes of use from individual dwelling houses to small houses in multiple occupation, Swinley and Central Leigh
Date of Assessment: 06/06/2019	
Officers Involved: Peter Skalski	
1. What is the purpose of the strategy? <i>(Briefly describe the aims, objectives and purposes of the strategy)</i>	
<p>An article 4 direction would remove permitted development rights allowing conversion of a single dwelling house into a small house in multiple occupation (HMO).</p> <p>It is estimated that there are currently 106 HMOs in the borough with notable concentrations are in Swinley and central Leigh. It is considered appropriate to apply the article 4 direction to these two areas.</p> <p>An article 4 direction would give the council greater opportunity to manage the overall number of HMOs in those areas and mitigate some of the issues attributed to their concentration. It would not ban new HMOs but would mean that, regardless of size, they would require planning permission.</p>	
2. Who are the key stakeholders?	
<p>Within the council, the Planning Services, Environmental Health, Safer Communities, Housing</p> <p>Outside the council, residents of Swinley and central Leigh; HMO landlords/developers operating on those two areas; and prospective HMO landlords/developers; and prospective tenants</p>	
3. Are there any other documents/strategies linked to this strategy?	
<p>The Wigan Town Centre Strategic Regeneration Framework</p> <p>The Greater Manchester Mayor's Town Centre Challenge</p>	

4. Which need/s is the strategy designed to meet?
The approach is designed to balance the needs of people for whom HMOs meet their housing needs with the needs and requirements of the wider community in Swinley and Central Leigh and allow these to be properly considered.
5. Has a needs analysis been undertaken?
No, but an article 4 direction requiring planning permission will enable all needs to be taken into account rather than one need over others.
6. Who is affected by the strategy?
Residents of Swinley and central Leigh; HMO landlords/developers operating on those two areas; and prospective HMO landlords/developers; and prospective tenants.
7. Who has been involved in the development of the strategy and who has been consulted? State your consultation/involvement methodology.
Consultation will be undertaken in line with legislation. Notice of the making of the article 4 direction will need to specify a period of at least 21 days, stating the date on which that period begins, within which any representations concerning the direction may be made to the council.
8. What data have you considered for this assessment and have any gaps in the data been identified. What action will be taken to close any data gaps?
Data on the estimated number and location of HMOs in the borough through the local land and property gazetteer, data from Greater Manchester Police and the council's Environmental Health Service on anti-social behaviour, noise and fly-tipping rates.
9. What impact will the strategy have on all the protected groups?
Race Equality
None
Disabled People
None
Carers
None
Sex
None

Age
The article 4 direction will result in planning applications being required for small HMOs, a form of housing tenure more commonly used by younger people than older persons and families, in order to manage the housing mix.
Armed Forces Personnel
None as the council is proactive about helping armed forces personnel access suitable accommodation.
Religion or Belief
None
Sexual Orientation
None
Gender Reassignment
None
Pregnant Women or Those on Maternity Leave
None
Marriage or Civil Partnership
None
10. What are your main conclusions from this analysis?
The article 4 direction would not have an adverse impact on any protected groups, although it may reduce the availability of an affordable tenure favoured by young people. This can be mitigated by ensuring a balance between HMOs and other tenure types as opposed to an outright ban.
11. What are your recommendations?
Cabinet should approve the making of an article 4 direction applying to the areas of Swinley and central Leigh.
12. What equality targets and actions have you set based on the findings of this assessment? Please attach an action plan including details of designated officers responsible for completing these actions.
None

Signed (Completing Officer)



Date: 6 June 2019

Signed (Assistant Director):

Marie Bintley

Date: 12 June 2019
