

This is an open report

Report to: Cabinet

Date of Meeting(s): Thursday, 3 July 2025

Subject: Planning for Houses in Multiple Occupation (HMO) - Article 4 Direction

Report of: David Proctor, Assistant Director - Planning and Regeneration

Contact Officer: Nick Metcalfe (01942 489206)

Cabinet Portfolio Holder and area: Councillor Paul Prescott, Portfolio Holder for Planning, Environmental Services and Transport

Summary:

The purpose of the report is to give Cabinet the background into the current issues and position with small Houses in Multiple Occupation (HMOs) in the borough and to authorise the making of an Article 4(1) Direction for the removal of permitted development rights for the change of use from Use Class C3 (dwelling houses) to C4 (Small HMOs), on a borough wide basis.

This will mean that all HMOs proposed within the Borough, upon the Direction being confirmed, will be required to apply for planning permission.

‘Progress with Unity’ Missions:

As residents, businesses, public services and community organisations of this borough we have come together to deliver two key missions:

Mission 1: Create fair opportunities for all children, families, residents & businesses.

“Together, we will break down the barriers that create financial, health, education and environmental inequalities in our borough.”

Mission 2: Make all our towns and neighbourhoods flourish for those who live and work in them.

“Together, in genuine partnership with our residents and businesses, who know our community best, we will help each town and neighbourhood in the borough celebrate and maintain their identity whilst understanding and helping to achieve what is needed to thrive.”

Outline how this report supports our ‘Progress with Unity’ missions.

This report supports both missions as the implementation of an Article 4 Direction will bring proposals for small HMOs within the remit of the statutory planning process.

HMOs form an important part of any local authority area's housing stock, providing cheaper, more flexible accommodation often for people whose housing options are limited.

At present conversions of residential premises to create small HMOs is permitted development and does not require planning consent.

Requiring the submission of a planning application for such proposals will allow the effects of a proposed HMO on an area's amenity and local community to be taken into consideration as quality can be monitored and influenced through the planning process.

Therefore, the ability to exert greater control over the number, distribution and management of HMOs will help us to meet the diverse housing needs of our residents, creating fair opportunities and reducing housing related inequalities (Mission 1).

Furthermore, an extension of the Article 4 Direction in the borough will help to promote community wellbeing and flourishing neighbourhoods (Mission 2) as the cohesiveness of communities will not be undermined by unregulated conversions.

Wards Affected:

All Wards

Recommendation(s):

The Cabinet is requested to:-

- (1) make a Non-Immediate Article 4 Direction to remove permitted development rights for the change of use from Use Class C3 (dwelling houses) to Use Class C4 (small houses in multiple occupation) on a Borough-wide basis, in line with the details set out in the report;
- (2) delegate authority to the Portfolio Holder for Planning, Environmental Services and Transport to consider the outcome of the consultation and thereafter to determine if the said Direction should be confirmed; and
- (3) upon the said Direction coming into force, to cancel the Article 4 Direction made on 16 July 2019 in respect of the areas of Swinley and Central Leigh.

Implications:

What are the financial implications?

There would be additional planning fee income associated with the HMOs requiring planning permission should an Article 4 direction be confirmed. This should offset the resource implications of determining the additional applications.

With the aim to bring the Article 4 Direction in to force as soon as practically possible, there is a risk of compensation claims being brought against the Council however this will need to be managed as any claims emerge. Further detail on this is referenced in the body of the report.

The revenue costs of publishing and advertising the Article 4 Direction in local press and notices around the borough pursuant to consultation will need to be met by existing budgets.

Is budget release necessary (Capital Expenditure Only)?

No

What are the legal implications?

The Article 4 Direction is prepared in accordance with Article 4 of the Town and Country Planning (General Permitted Development) Order 2015.

The making of an Article 4(1) Direction is also informed by the requirements of the Town and Country Planning Act 1990, and the Regulations set out in Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

In accordance with Sections 107 and 108 of the Town and Country Planning Act 1990 and The Town and Country Planning (Compensation) (England) Regulations 2015 (as amended) property owners may be eligible for compensation if they are affected by the introduction of an Article 4(1) direction within in a 12-month period of it coming into effect.

The Secretary of State has the power to cancel or modify an Article 4 direction at any time before or after it is confirmed.

What are the staffing implications?

None – promotion of the Direction and determination of planning applications alongside enforcement ramifications and dealing with reports/enquiries connected to unlicensed/unapproved HMOs will be absorbed within existing staff resources.

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

EDIA is not required: The proposed Direction will be subject to a public consultation which will allow any concerns to be identified and dealt with through a subsequent decision on the confirmation (or otherwise) of the Direction. Relevance Check is attached.

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

N/A

What are the Corporate Parenting Implications?

The focus on bringing forward and working towards the Progress with Unity missions aligns strongly with The Council ambitions as a corporate parent to support high aspirations and the best outcomes for all children in care and care leavers.

There are no direct implications but introducing an Article 4 Direction will help support the delivery of homes that are better regulated and controlled by the planning process, therefore issues like space standards, amenity, management and quality can be assessed and considered by planning officers.

Risks:

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 (further details contained within the report)

The level and nature of compensation is broadly unknown and will likely remain broadly unknown due to the nature of permitted development for small HMOs and the current high levels of HMO that the borough is experiencing.

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.

There could be other unintended risks related to an Article 4 Direction coming into effect in terms of the potential restriction on the delivery of smaller properties that are used by groups such as single homeless or low-income people.

Sustainability/Environmental/Climate implications:

Social issues are addressed in the report.

Has the Assistant Director - Legal Governance and Elections (Janet Davies) confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?

Yes

Has the Director – Finance and Legal (Sarah Johnston) 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):

An alternative option would be to not introduce an Article 4(1) Direction on a boroughwide basis, in which case conversions to small HMOs would remain permitted development across the borough (apart from the two areas that already have an Article 4 Direction).



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

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 15 July 2025, unless exempt from call-in.

This item is included on the Forward Plan.

There are no background papers for this report.

Directorate Sign-off:	Aidan Thatcher
Date:	23 June 2025

1. Background:

- 1.1. Houses in Multiple Occupation (HMOs) form part of the housing supply in Wigan Borough and contribute to housing choice. They provide low-cost, flexible housing for people whose housing options may be limited. They can be home to people on low-incomes, single people, young professionals, students and those on short-term work contracts.
- 1.2. HMOs can be purpose-built, but most in Wigan Borough have been created through the conversion of existing properties that were in residential or other uses. The larger older housing stock in the borough is seen by developers as well suited for conversion to smaller HMOs. This type of stock is predominantly found around our main town centres and within the central east/west core of the borough.
- 1.3. Many HMOs in the borough are well managed and provide good homes for our residents, but poorly managed or badly designed or located properties, or a high concentration of HMOs in a neighbourhood, have the potential to lead to issues for both occupants and neighbours. Some of the most common concerns expressed in the borough in relation to HMOs relate to:
 - a. Negative changes to the character of the area and the cohesion and resilience of the local community
 - b. Negative impacts on the amenity of neighbours through the greater intensity of use of HMOs
 - c. Pressure on parking provision
 - d. Waste storage and litter
 - e. Anti-social behaviour and crime
 - f. Negative impacts on the physical environment and streetscape
 - g. The provision of inadequate living accommodation for occupiers
- 1.4. While HMOs can offer popular affordable housing options, they also raise significant equalities concerns:
 - Disproportionate impact on vulnerable groups: People from minority ethnic backgrounds, disabled individuals, and those with mental health conditions are more likely to live in HMOs due to affordability constraints.
 - Quality and safety issues: Many HMOs are older properties with poor insulation, damp, overcrowding, and inadequate fire safety. These conditions disproportionately affect tenants who already face health inequalities.
 - Stigma and exclusion: HMO tenants may face social stigma and exclusion from community life, especially in areas with high concentrations of such properties.
- 1.5. Research also consistently shows that inadequate housing is linked to:
 - Worse physical and mental health outcomes, including respiratory issues, stress, and depression.
 - Reduced employment prospects, as housing insecurity can lead to frequent moves and instability.

- Higher healthcare costs and increased pressure on public services.
- 1.6. There is evidence from both data acquired for the evidence base, members and the wider public that these issues are being encountered at an accelerating rate in several areas of Wigan Borough.
 - 1.7. Our understanding is that this is due to a combination of an increasing overall level of demand from developers to bring forward this type of accommodation, and a displacement effect from other areas (including parts of Wigan Borough) where Article 4 Direction and tighter controls already exist (overspilling).
 - 1.8. In seeking to address problematical HMOs and to get better quality housing in our communities, we are working towards the Council's two Progress with Unity Missions - "Create Fair Opportunities for All" and "Make all Towns and Neighbourhoods Flourish". The missions place community wellbeing and equality at the heart of local policy creation. A critical component underpinning both missions is access to good quality, affordable housing, which is increasingly recognised as a fundamental equality issue. Improving the regulation and quality of HMOs is therefore essential to tackling housing-related inequalities.
 - 1.9. Safe, secure, and high-quality housing is not just a basic need, it is a key determinant of health, education, and economic opportunity. Poor housing conditions, overcrowding, and housing insecurity disproportionately affect disadvantaged groups and are prevalent in HMOs and areas with HMOs, reinforcing cycles of poverty and limiting life chances. In Wigan Borough, addressing these disparities and securing better quality homes aligns directly with Mission 1's goal of breaking down barriers to opportunity.
 - 1.10. Mission 2 emphasises the importance of local identity and community-led regeneration. Addressing proliferation of poor-quality housing and investing in housing is central to this vision. Well-designed, up to standard, energy-efficient homes contribute to: Stronger, more resilient communities and pride in place.
 - 1.11. By improving standards and the quality of homes being brought forward in Wigan Borough, we can help level the playing field, giving all residents, regardless of background, a fairer chance to flourish.

2. Data and Insight: HMOs in Wigan Borough

- 2.1. In Wigan Borough the greatest concentrations of HMOs are in Swinley and central Leigh. Based upon evidence about the impact of HMOs in these areas, the Council introduced an Article 4 Direction in January 2020 that removed permitted development rights for changes of use from a single house to a small HMO in both locations.
- 2.2. A Supplementary Planning Document (SPD) was also prepared and published in March 2022 to give a policy background context to better manage the provision of

HMOs throughout the borough, improve the standards of the accommodation that is provided and reduce detrimental impacts on neighbours.

2.3. A review of the data relating to this issue evidences the following key themes, which are also reported on an increasingly regular basis by residents and elected members:

- All but five of the 25 wards in Wigan Borough have documented HMOs within them, and they are present in all of the HNA housing sub-areas; and it is believed likely that more HMOs exist than are revealed through the data sources typically used (licensing and planning), realistically there will be an HMO in every ward.
- Rising number of large and licensed (known) HMO across the borough. An estimated total of 285 HMOs across the Borough, up from 107 in 2021.
- Steep increase in planning applications received over the last 18 months for HMOs.
- HMO development now across the borough including concentrations around Tyldesley, Pemberton and Atherton town centres.
- Some evidence that the small area-based Article 4 Direction in Swinley and central Leigh are resulting in increases in HMOs in the immediate surrounding areas, such as Beech Hill, this is called over spilling.
- Wigan Borough is attractive for HMO developers/investors due to prevalent low property values, attractive yields and stock suitable for conversion. The key factor being that over recent years rental values have risen faster than property values in the Borough, although in 2025 prices and rents are now broadly rising at the same rate.
- Emerging evidence demonstrating a correlation, all be it non-causal, between areas with high rates of HMOs and areas with high incidence of crime and ASB.

2.4. A detailed evidence base has been produced that covers the points above.

3. Planning Context

3.1. Under planning legislation, HMOs are divided into two Use Classes, which are “Smaller” and “Larger” HMOs:

- a. Smaller HMOs are houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities; and,
- b. Larger HMOs comprise houses or flats occupied by more than 6 unrelated individuals who share basic amenities.

3.2. Currently the legislation allows the change of use of a single family dwellinghouse (Use Class C3) to a smaller HMO (C4) without the need for planning permission as this constitutes “permitted development”. A change of use from any other use to a larger HMO always requires planning permission. The permitted development regime means that the Council has no scope to regulate the quality, spread or location of these smaller HMOs.

- 3.3. Councils can remove permitted development rights by making an Article 4 Direction, provided they can demonstrate a clear need for such a measure. It is important to emphasise that an Article 4 Direction does not constitute an outright ban on new HMOs. Rather, it ensures that proposals for HMO conversions are subject to the statutory planning process, giving greater control over the number, distribution and management of HMOs.
- 3.4. Within areas covered by an Article 4 Direction, planning permission becomes mandatory for any new small HMO (C4) conversions.
- 3.5. A key positive of an Article 4 Direction, is the potential to control overall quality and space standards of the HMOs, meaning that HMOs that do come forward and are subsequently minded to be approved, are of a much improved quality, providing appropriate accommodation that meets the needs of our population and supports Mission 2 of our Progress With Unity plan, in making our towns and neighbourhoods flourish for those who live and work in them.
- 3.6. National planning policy advises that Article 4 Direction should only be used when absolutely necessary, and that they must be supported by strong evidence, aim to protect local amenity or community well-being, and should cover the smallest area possible.
- 3.7. The Council introduced an Article 4 Direction in Swinley and in central Leigh in 2020. These have been broadly successful, however there is now evidence of a displacement effect, and there is strong justification to expand the areas covered.
- 3.8. Bolton Council has just been through the process of bringing in a boroughwide Article 4 Direction, and it also should be noted that Salford is increasing the footprint of its current Article 4 direction on HMOs to cover a much broader area, in response to a similar displacement effect.
- 3.9. To prevent a potential further displacement effect, to avoid a potential need to revisit this issue again in the future and to support our Progress with Unity Missions, it is therefore proposed to establish a Borough-wide Article 4 Direction for Wigan Borough.

4. Proposals and Procedure

- 4.1. There are two types of Article 4 Direction:
 - Non-immediate Article 4 Direction: This type requires a minimum 21-day period of public consultation before it can be introduced. It must then be confirmed after the consultation period, and the Secretary of State must be notified once it is confirmed.
 - Immediate Article 4 Direction: This can take effect as soon as it is issued, removing permitted development rights immediately before consultation.

However, it must be confirmed by the local authority within six months, and the Secretary of State must also be informed.

- 4.2. While acknowledging the benefit of an immediate Direction in gaining control over the issue and responding to members and communities' concerns on day one of the Direction, the proposal is to promote a Non-Immediate Article 4 Direction, but for this to be confirmed directly at the end of a mandatory minimum 21-day public consultation period.
- 4.3. This allows for a period of consultation and awareness raising that the implementation of the Direction is forthcoming, this can help with regards to minimising potential exposure to compensation claims as it will be public knowledge that the Article 4 Direction will be coming into effect, as opposed to using an immediate Article 4 Direction, where on day one, with no notice, the Direction is in effect.
- 4.4. In addition, a further justification for implementing a Non-Immediate Article 4 Direction is that an Immediate Article 4 Direction requires a significantly robust evidentiary basis demonstrating that the exercise of permitted development rights would result in an immediate and significant detriment to local amenity or would materially compromise the sound planning and spatial strategy of the area. This evidentiary threshold is substantially higher than that required for Non-Immediate Article 4 Direction.
- 4.5. In accordance with paragraph 54 of the National Planning Policy Framework (NPPF), non-immediate Article 4 Direction require only that the local planning authority outline the necessity of the direction to safeguard local amenity or to support the well-being and sustainable development of the area.
- 4.6. The key point to note is that a Non-Immediate Article 4 Direction can still be brought in almost straight away after the mandatory consultation period has taken place and the Direction being confirmed. It is anticipated that the Direction could be in effect in around 6 weeks from the initial Cabinet decision.
- 4.7. It should be noted that if Cabinet wish to support a boroughwide Article 4 Direction, then this would mean that the existing Article 4 Direction made on 16th July 2019, in respect of the areas of Swinley and central Leigh, would be cancelled, and superseded by the new boroughwide Direction.
- 4.8. The chance to undertake consultation supports our six ways of working in that we will be able to – “Do the right thing” and see the person, listen deeply and know this place. Having the evidence that the Direction is supported through a statutory consultation process supports the evidential reasons for bringing a boroughwide Direction into force.
- 4.9. **Process of Making the Article 4 Direction**
Article 4 Direction are made through a two-stage process:-

4.10. **Stage 1:** The Local Planning Authority (Wigan Council) makes the Direction.

- The Direction will come from a “key” Cabinet decision to be taken on the 3rd July 2025. The mandatory 5-day call in period then commences.
- The Council then notifies the Secretary of State and carries out consultation within the whole borough. Under current legislation, the local planning authority must send a copy of the direction and the notice, including a copy of a map defining the area to which it relates, to the Secretary of State on the same day that notice of the direction is first published or displayed.

4.11. **Consultation:**

Schedule 3 of the GPDO 2015 (Procedure for article 4(1) direction without immediate effect) sets out the procedures for publicity and consultation of an Article 4 Direction. In accordance with those requirements, the following consultation will be undertaken:

- Advertisement of notice in the local press: Wigan Observer and Leigh Journal (may have a lead in time), for a period of not less than 21 days.
- Display of Article 4 Direction site notice at all public libraries in the borough, for a period of not less than 21 days.
- Notice published on the Council’s website, for a period of not less than 21 days.
- Site notices displayed around the borough (every ward), for a period of not less than 21 days.
- Correspondence to members, statutory consultees and other bodies

4.12. **Stage 2:** The Direction is then confirmed (after consultation) and the Secretary of State is further notified. It is then in effect.

- When confirming the Direction, the Council must consider the consultation responses received from stage 1.
- Practically, this means being considered by a Portfolio Holder decision. The Direction, therefore, must be confirmed and then comes into effect no earlier than 28 days from the Direction being made (the initial Cabinet decision), as per the legislation.

5. Conclusions:

- 5.1. While it is not a comprehensive solution to all issues associated with HMOs, the use of Article 4 Direction can contribute meaningfully to improving housing quality, space standards and amenity across the borough by requiring the submission of a planning application.
- 5.2. It is clear there is a strong evidential reason for bringing in an Article 4 Direction on a boroughwide basis.

- 5.3. Bringing in the Direction also supports efforts to address social and environmental challenges in on a boroughwide basis and helps to meet our Progress with Unity missions in terms of making all our towns and neighbourhoods flourish for those who live and work in them.
- 5.4. Therefore, Cabinet are invited to consider the report and endorse that the making of a Non-Immediate Direction pursuant to Article 4(1), on a Boroughwide basis, to withdraw the permitted development rights to convert a dwellinghouse (C3) to a House in Multiple Occupation (C4) is suitable and justified, in order to prevent harm to local amenity and the wellbeing of Wigan Borough and its communities.
- 5.5. If Cabinet are minded to approve the recommendations in this report, and the timescales set out, then an Article 4 Direction, on a borough wide basis, could be in place by the end of August 2025, subject to confirmation by the required further key decision.



Wigan
Council

Relevance Check

Budget Reduction/Service Area: Planning and Regeneration

Service Lead: David Proctor

Date: 12th June 2025

In what ways does this Budget reduction have an impact on an outward facing service? How will the service feel different to your customers or potential customers?

No reduction noted – therefore not applicable

If not, how does it impact on staff e.g. redundancies, pay grades, working conditions? Why are you confident that these staff changes will not affect the service you provide?

No changes noted – therefore not applicable

Is a Customer Impact Assessment needed?

No