



REPORT OF: Chair of the Planning and Highways Committee

TO: Council Forum

ON: 01 November 2012

SUBJECT

Confirmation of Article 4 Direction to control the change of use from a family dwelling to a house in multiple occupation (HMO).

1. PURPOSE OF THE REPORT

To seek Council approval to the:-

- Confirmation of an Article 4 Direction to control the change of use of a small family dwelling to a house in multiple occupation (HMO) within the area defined on the attached plan in Appendix 1. This includes 5 wards within Blackburn (Shear Brow, Corporation Park, Wensley Fold, Mill Hill and Ewood) and 2 in Darwen (Sunnyhurst and Sudell).

Subject to Council approval the Article 4 direction will become effective on 23 February 2013.

2. OPTIONS

The Planning and Highways Committee have endorsed confirmation of the Article 4 Direction.

At an early stage in the process of making the direction a number of options for dealing with the change of use of family homes to an HMO were assessed and presented to the Planning and Highways Committee at their meeting on 15 December 2011. Following consideration of these the Committee confirmed that the preferred option was to make an Article 4 Direction. This was approved at Council Forum in January 2012. At the same time approval was given to carry out local consultation as required by planning legislation.

It was accepted that if at a later date similar issues relating to HMO development are identified in other parts of the borough which would justify the making of a direction a separate Article 4 Direction would be brought forward for Members' consideration.

3. RECOMMENDATION

To note the recommendation of the Planning and Highways Committee to approve the confirmation of a Direction under Article 4 of the Town and Country Planning (General

Permitted Development) Order 1995 as amended, with a 12 month lead in period, removing the permitted development right granted by Schedule 2 Part 3 Class 1 of that Order, which allows a change of use from a dwelling to a house in multiple occupation with between 3 and 6 occupants.

4. BACKGROUND

At its meeting on 26 January 2012 Council Forum approved the recommendation of the Chair of the Planning and Highways Committee that a non-immediate direction i.e. requiring a 12 month lead in time, should be put in place subject to local consultation. The consultation was carried out in accordance with national guidance for 6 weeks between 23 February and 10 April 2012. No comments were received. This means that the direction can proceed to be confirmed as originally proposed without amendment.

Once confirmed the Article 4 Direction will enable the Council to take local action to control the unregulated spread of HMO conversions within the identified area. Further detail on the background to and justification for the making of the direction is contained in the Planning and Highways Committee report dated 15 December 2011.

5. RATIONALE

The rationale and key issues relating to the confirmation of the direction are detailed in the attached Planning and Highways Committee report dated 20 September 2012.

Once in place the Article 4 Direction will offer an additional planning tool that will enable the Council to be proactive in balancing the housing market. The direction will give the Council local powers to manage the development of new HMOs and greater control over the detrimental change in neighbourhoods that is often associated with high concentrations of HMOs. This will contribute to the long term establishment of attractive and sustainable neighbourhoods, an enhanced image and in turn an improved willingness to invest both in established properties and new development. Altogether this will assist in delivering the housing growth agenda.

6. POLICY IMPLICATIONS

Detailed in the attached Planning and Highways Committee report.

7. FINANCIAL IMPLICATIONS

Detailed in the attached Planning and Highways Committee report.

8. LEGAL IMPLICATIONS

Detailed in the attached Planning and Highways Committee report.

9. RESOURCE IMPLICATIONS

Detailed in the attached Planning and Highways Committee report.

10. EQUALITY IMPLICATIONS

Detailed in the attached Planning and Highways Committee report.

11. CONSULTATIONS

Detailed in the attached Planning and Highways Committee report.

Cllr Jim Smith
Chair of the Planning and Highways Committee



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Team, ext. 5418

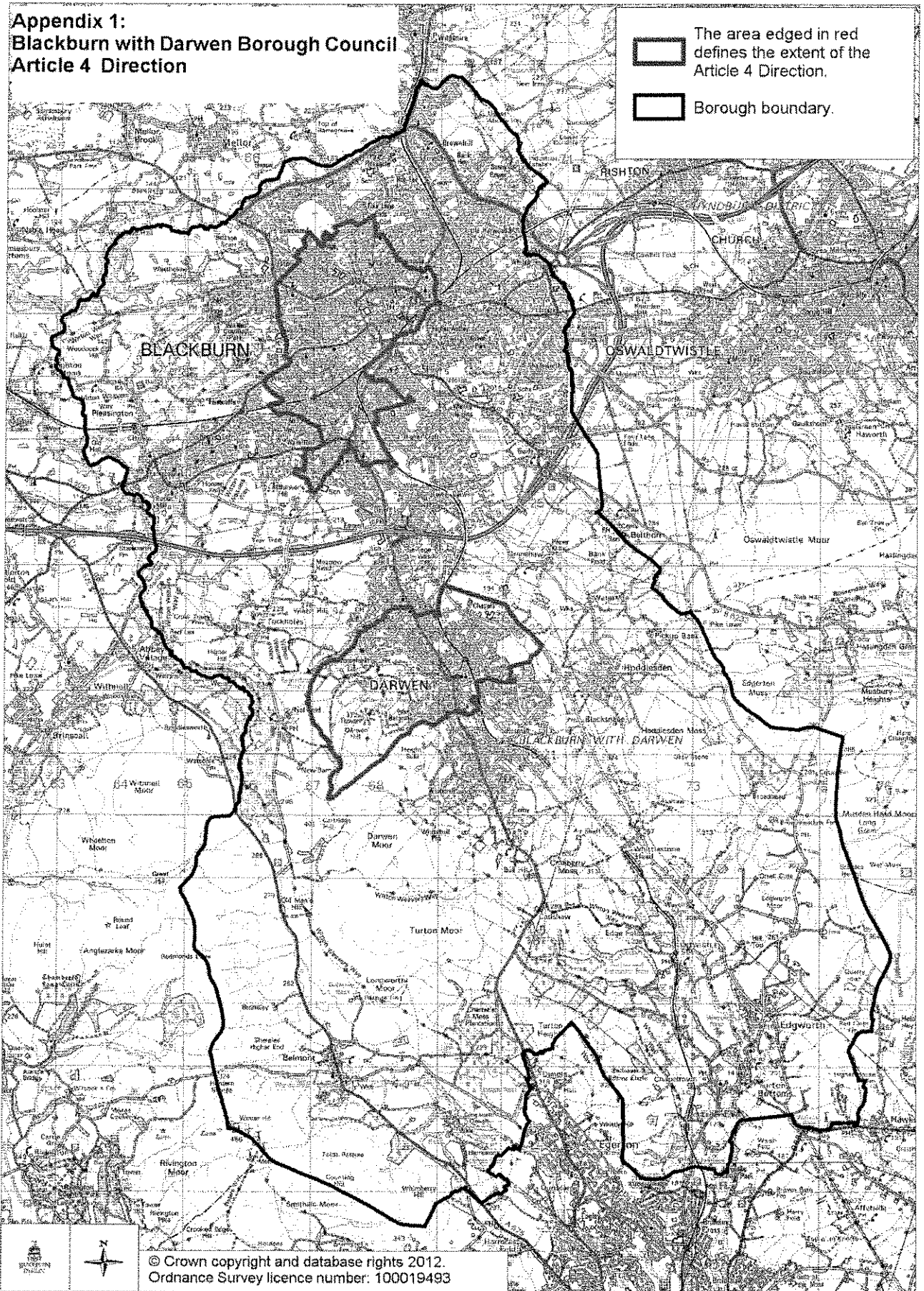
DATE: 05 September 2012

BACKGROUND PAPERS: -

- Planning and Highways Committee report dated 20 September 2012 – ‘Confirmation of Article 4 Direction to control the change of use from a family dwelling to a house in multiple occupation (HMO)’;
- Council Forum report dated 26 January 2012 – ‘Proposed Article 4 Direction to control the change of use from a family dwelling to a house in multiple occupation (HMO)’;
- Planning and Highways Committee report dated 15 December 2011 – “Proposed Article 4 Direction to control the change of use from a family dwelling to a house in multiple occupation (HMO)’.

**Appendix 1:
Blackburn with Darwen Borough Council
Article 4 Direction**

 The area edged in red defines the extent of the Article 4 Direction.
 Borough boundary.



Departments of Regeneration and Environment, Housing and Neighbourhoods

ORIGINATING SECTION: Planning (Planning Policy Team)

REPORT TO: Planning and Highways Committee

DATE: 20 September 2012

TITLE: Confirmation of Article 4 direction to control the change of use from a family dwelling to a house in multiple occupation (HMO).

WARDS AFFECTED:

Shear Brow, Corporation Park, Wensley Fold, Mill Hill, Ewood, Sudell and Sunnyhurst

COUNCILLORS:

Shear Brow – Cllrs H Khonat, S Khonat and Solkar

Corporation Park – Cllrs Mahmood, Rehman and Wright

Wensley Fold – Cllrs Harling, Hollern and Khan

Mill Hill – Cllrs Smith, Talbot and Walsh

Ewood – Cllrs Bateson, Groves and Oldfield

Sudell – Cllrs Browne, Davies and Entwistle

Sunnyhurst – Cllrs Hollings, Smith and Taylor

1. PURPOSE OF REPORT

- 1.1 To brief the Planning and Highways Committee on the outcome of the local consultation, which completed in April 2012, on the proposed Article 4 direction to control the change of use from a small family dwelling to a house in multiple occupation (HMO).
- 1.2 To recommend to Committee the actions that are required to put the Article 4 direction in place.
- 1.3 To invite Committee to endorse the proposed actions and recommend that Full Council approve the confirmation of the direction.

2. BACKGROUND

- 2.1 At the Planning and Highways Committee (PHC) meeting on 15 December 2011 members endorsed the making of a non-immediate direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 as amended, removing the permitted development right which allows a change of use from a dwelling to a house in multiple occupation i.e. a shared house or flat occupied by 3- 6 unrelated occupants.
- 2.2 The area included in the direction covered the following 7 wards – Shear Brow, Corporation Park, Wensley Fold, Mill Hill, Ewood, Sunnyhurst and Sudell. Refer to the plan in Appendix 1.
- 2.3 On the PHC's recommendation Council Forum, on 26 January 2012, approved the making of the direction and that local consultation be carried out over a 6 week

period. The consultation was completed on 10 April 2012.

- 2.4 There is now a need to report back to Members on the outcome of the consultation and progress the required actions to confirm the direction and enable it to become effective on 23 February 2013.

3. RATIONALE

- 3.1 In October 2010 the government introduced amended planning legislation which removed the requirement to obtain planning permission for the change of use of a small family dwelling to an HMO. This form of conversion is now permitted development which means planning no longer has any powers to control the development.
- 3.2 The previous report – 'Proposed Article 4 direction to control the change of use from a family dwelling to a house in multiple occupation (HMO) - presented to the PHC on 15 December 2011, outlined the detrimental impact of HMOs in many of the borough's neighbourhoods and the justification for taking local action to control the unregulated spread of future HMO conversions within the identified area.
- 3.3 The Planning and Highways Committee endorsed the proposal that a non – immediate direction i.e. requiring a 12 month lead in time, should be put in place subject to the outcome of local consultation.
- 3.4 Local consultation was carried out for 6 weeks from 27 February – 10 April 2012 in accordance with national guidance. No comments were received and therefore there is no reason why the Council cannot now proceed to confirm the direction as originally proposed.

4. KEY ISSUES

- 4.1 An assessment of the potential risks associated with both the making and confirmation of the direction was included in the previous report to the PHC referred to above. A copy of the risk assessment is included in Appendix 2 for reference with regard to the risks and actions to reduce the impacts that are applicable to the confirmation of the direction. It was accepted that the risks were manageable and were outweighed by the benefits to be gained from having the direction in place.
- 4.2 The Article 4 will not prevent the conversion to an HMO. It will trigger the need for planning consent within the identified area before the development can take place. This will enable the Council to fully consider the implications of each proposal on merit and against policy and where appropriate include conditions on the decision.
- 4.3 Once the direction is confirmed it will remain permanently in place unless cancelled or amended by the Council or the Secretary of State.
- 4.4 The need for planning permission for all other types of HMO remains unchanged.
- 4.5 There will not be any operational implications relating to having an Article 4 Direction in place. All planning applications that are required as a consequence of the direction will be processed in line with established working procedures.

5. POLICY IMPLICATIONS

- 5.1 Confirmation of the Article 4 Direction will be carried out in accordance with national planning guidance from the Department for Communities and Local Government.
- 5.2 All planning applications received in response to the requirements of the Article 4 Direction will be considered with reference to saved policies in the Blackburn with Darwen Borough Local Plan (April 2002). These principally include saved Local Plan policies H9: Conversion of buildings into flats and houses in multiple occupation and HD5 'Crime Prevention'.

6. FINANCIAL IMPLICATIONS

- 6.1 All costs associated with the confirmation of the Article 4 Direction including press notices and once in place, staff time to administer any planning application submitted as a consequence of the direction will be met from existing resources.

7. LEGAL IMPLICATIONS

- 7.1 The Council's constitution states that certain changes shall be by the Planning and Highways Committee making a recommendation to the Executive. In this instance it is considered that confirmation of the direction which will remove permitted development rights in 7 wards is sufficient to warrant the matter being brought to Council Forum in order to reduce the risk of challenge.
- 7.2 The Direction was made under the provisions of Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, as amended. Confirmation of the direction will be carried out in line with the procedure set out in Article 5 of that Order. Once the direction becomes effective, on 23 February 2013, it will permanently remove the permitted development right granted by Schedule 2 Part 3 Class I of that Order, which allows a change of use from a dwelling to a house in multiple occupation i.e. a shared house or flat occupied by 3-6 unrelated occupants.

8. RESOURCE IMPLICATIONS

- 8.1 Confirmation of the Article 4 direction will be managed by the Strategic Planning Group's Planning Policy Team in close collaboration with colleagues in Legal Services.
- 8.2 Once the direction becomes effective any planning application received for the conversion of a small family dwelling to an HMO within the defined areas will be processed by the Council's Development Management Team.

9. EQUALITY IMPLICATIONS

- 9.1 An equality analysis and assessment (EIA) was completed on the original draft direction.
- 9.2 The EIA did not highlight the need for any modifications to the direction as originally drafted or to the proposed consultation. As there have not been any amendments made to the direction following consultation there is not considered to be any need to revisit the EIA.

10. CONSULTATION/NOTIFICATION

- 10.1 National guidance provided by the Department for Communities and Local Government confirms the notification procedure that is required after the direction has been confirmed by the Council. This indicates that as soon as practicable after the direction has been confirmed that notice is given via a local advertisement in the press and on site.
- 10.2 The Council is also required to notify the Secretary of State that the direction has been confirmed.

Monitoring and review

- 10.3 Once the Direction takes effect there is a responsibility on the Council to regularly monitor and review the appropriateness of the direction including consideration of whether the original rationale and/or the extent of the direction remains valid.

11. RECOMMENDATIONS

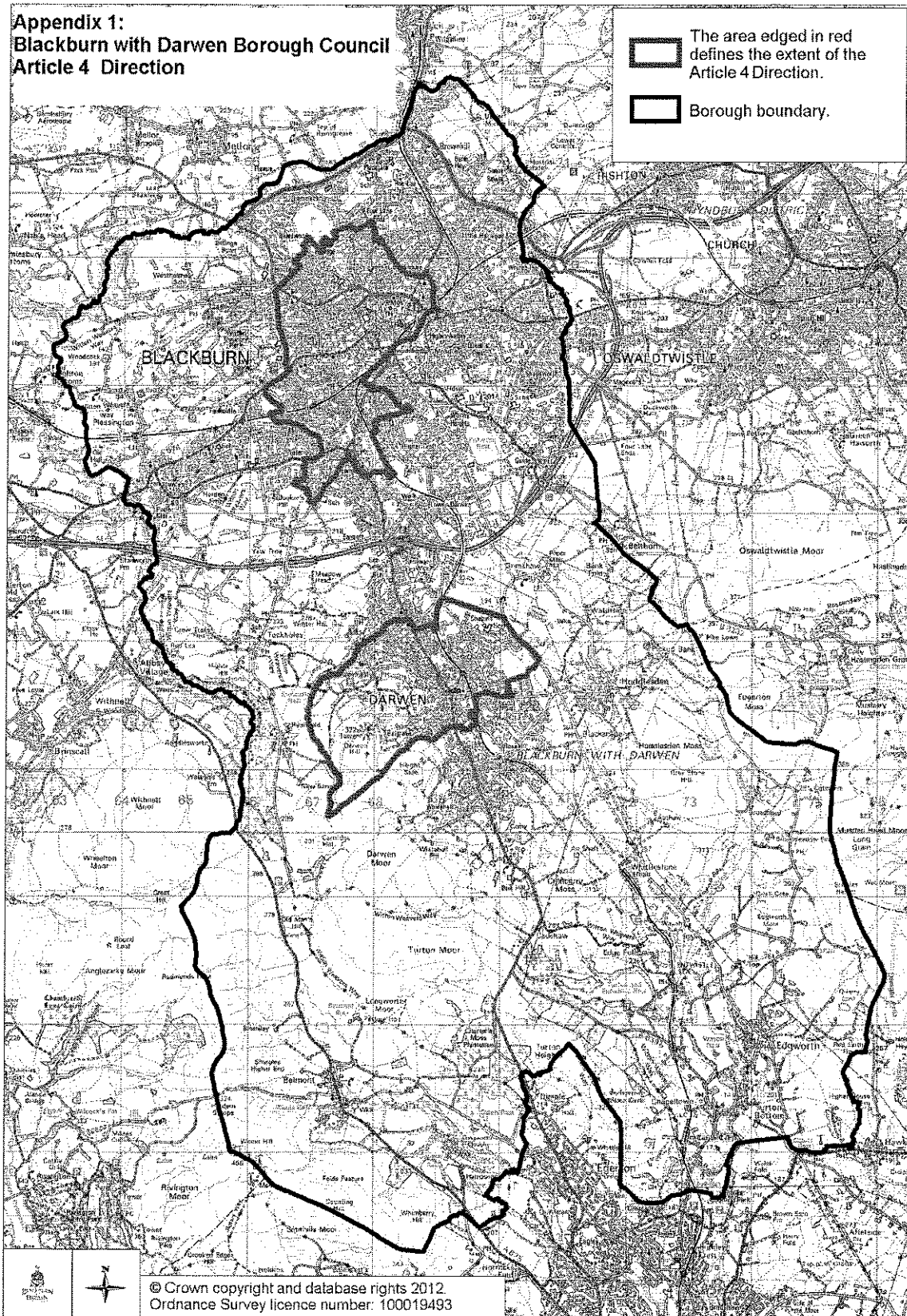
1. That Committee note the outcome of local consultation;
2. That Committee endorse the confirmation of a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 as amended removing the permitted development right granted by Schedule 2 Part 3 Class I of that Order, which allows a change of use from a dwelling to a house in multiple occupation.
3. That Committee recommend that Council Forum approve the confirmation of the Article 4 Direction, with an effective start date of 23 February 2013.

CONTACT OFFICER: Gill Finlay, Principal Planning Officer, Planning Policy Team, ext 5418
DATE PREPARED: 02 May 2012

BACKGROUND PAPERS:

1. Planning and Highways Committee report dated 15 December 2011 – 'Proposed Article 4 direction to control the change of use from a family dwelling to a house in multiple occupation (HMO);
2. Council Forum report dated 26 January 2012 – 'Proposed Article 4 direction to control the change of use from a family dwelling to a house in multiple occupation (HMO).

Appendix 1: Article 4 Direction plan



Appendix 2:
Risk assessment

Risk	Mitigating actions
<p>The current situation will remain in place until February 2013. Over this time there is a possibility of a 'rush' of conversions to establish the use and avoid the future requirement for planning consent. This could potentially have a damaging impact on already problematic neighbourhoods.</p>	<p>The planning system is only one part of the regulatory process available to the Council to manage the conversion of properties to multiple occupation. The Council's building control services, housing, environmental health and trading standards as well as the Fire Service, all have a part to play in ensuring accommodation is of an acceptable and safe standard.</p> <p>In addition a number of complementary items of work have been completed to improve the standard, quality and management of HMOs. The Planning Policy Team has prepared a Supplementary Planning Document: Houses in multiple occupation and residential conversions and sub-divisions (adopted April 2012). This provides additional guidance on residential conversions, space standards and a more detailed interpretation of the saved Local Plan policies dealing with the conversion of buildings to an HMO: – Policy H9 – Conversion of buildings into flats and houses in multiple occupation, and Policy HD5: Crime prevention.</p> <p>The Environment, Housing and Neighbourhoods Department are carrying out a review of the scope to introduce more selective landlord licensing areas in both Darwen and Blackburn over future years.</p>
<p>Any planning application that is required for conversion to an HMO in areas covered by an Article 4 Direction is exempt from the usual planning fee.</p>	<p>The costs of processing related planning applications will be met through the Regeneration Department's existing budget</p>
<p>The introduction of an Article 4 Direction could indirectly result in a reduction in the supply of HMOs which in turn may impact on those groups who typically occupy this type of low cost accommodation.</p>	<p>The Council's Strategic Housing Market Assessment (SHMA) does not identify a need for this type of accommodation</p>
<p>Transfer or displacement of problems to other areas not covered by an Article 4 Direction</p>	<p>This was considered in the preparation of the evidence base, which included a mapping of known HMOs, to justify the</p>

Risk	Mitigating actions
	<p data-bbox="799 232 1315 456">making of the direction. The areas outside the proposal do not have high concentrations of HMOs and it was considered this use would be managed out by the relatively higher value housing market in the surrounding neighbourhoods.</p> <p data-bbox="799 495 1315 815">The guidance advises that the Council should regularly monitor and review the appropriateness of their Article 4 Directions, considering whether the original rationale for the direction remains valid. A key part of this process will be to identify trends and consider that the extent of the direction is fit for purpose; feedback may suggest the area included is reduced or possibly extended.</p>
<p data-bbox="248 853 772 996">Article 4 Direction cannot be applied retrospectively to development carried out before the Direction is confirmed or to development that has started before the Direction takes effect.</p>	