

# Public Document Pack

## Planning and Highways Committee

Thursday, 16th June, 2022

6.30 pm

Meeting Room A

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### AGENDA

1. **Welcome and Apologies**
2. **Minutes of the Previous Meeting**  
**Minutes of Previous Meeting** **3 - 13**
3. **Declaration of Interest**  
**Declaration of Interest Form** **14**
- Material Considerations** **15 - 16**
4. **Planning Applications for Determination**  
**Agenda 16/06/2022** **17**
- 4.1 **Planning Application 10/22/0266**  
**33 Coronation Avenue, Feniscowles, Blackburn** **18 - 26**
- 4.2 **Planning Application 10/22/0370**  
**Ashworth Nursery School, Addison Close, Blackburn** **27 - 34**
- 4.3 **Planning Application 10/22/0428**  
**Former Sappi Mills, Plot 1, Phase 1 A (Watermills Development) Livesey Branch Road, Blackburn** **35 - 52**
5. **Proposed Introduction of an Article 4 Direction - Removal of permitted development rights for the change of use from Use Class C3 (dwelling-houses) to C4 (HMOs)**  
To brief the Planning and Highways Committee on current issues relating to Houses of Multiple Occupation (HMOs) and set out the justification for making a new Article 4 Direction to control the change of use from a dwellinghouse to a HMO and to set out the new designated area which that

Direction will apply to. (The new Article 4 Direction designation is proposed to cover the whole urban area of Blackburn with Darwen and will replace the existing Article 4 Direction.)

**Proposed Introduction of an Article 4 Direction - Removal of permitted development rights for the change of use from Use Class C3 (dwelling-houses) to C4 (HMOs)** **53 - 98**  
**Appendix 1 - Article 4 Direction plan.pdf**  
**Appendix 2 - Article 4 Direction Justification Paper (002).pdf**

**6. Enforcement**

**ENFORCEMENT – 63 Oozehead Lane, Blackburn, BB2 6NH** **99 - 106**  
**Location Plan 63 Oozehead Lane.jpg**  
**63 Oozehead Lane - Photo 1.jpg**  
**63 Oozehead Lane - Photo 2.jpg**  
**63 Oozehead Lane - Photo 3.jpg**  
**63 Oozehead Lane - Photo 4.jpg**

Date Published: Wednesday, 08 June 2022  
Denise Park, Chief Executive

## PLANNING AND HIGHWAYS COMMITTEE Thursday, 26 May 2022

**PRESENT** – Councillors, David Smith (Chair), Akhtar, Casey, Khan, Slater, Browne, Marrow, Baldwin, Desai, Liddle, Imtiaz, Mahmood and McCaughran.

**OFFICERS** – Gavin Prescott, Saf Alam, Rabia Sagir, Shannon Gardiner & Tayyab Mulla

### RESOLUTIONS

#### 1 **Welcome and Apologies**

The Chair welcomed everyone to the first Committee of the Municipal Year and welcomed newly Elected Members.

There were no apologies received.

#### 2 **Minutes of the Previous Meeting**

**RESOLVED** – That the minutes of the previous meeting held on 21<sup>st</sup> April 2022 be confirmed and signed as a correct record.

#### 3 **Declaration of Interest**

**RESOLVED** – There were no Declaration of Interest received

#### 4 **Planning Applications for Determination**

The Committee considered reports of the Strategic Director of Place detailing the planning applications.

In considering the applications, the Committee took into account representations or submissions provided by individuals with the Officers answering points raised during discussion thereon.

##### 4.1 **Planning Application 21/0428**

**Applicant** – Roundhouse Properties

**Location and Proposed Development** – Land at Haslingden Road, Blackburn

Full Planning Application for Erection of 68 commercial units (use class E (g), B2 and B8) with associated car parking

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the amended condition in the Update Report.

##### 4.2 **Planning Application 21/1263**

*Speakers – Mr Critchton (objector)  
Mr Hoerty (Agent)*

**Applicant** – Mr & Mrs T Spooner

**Location and Proposed Development** – Jennet House Farm, Radfield Road, Darwen, BB3 2PH

Full Planning Application for Demolition of a range of equestrian buildings and the erection of three detached dwellings and garages

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the additional condition in the Update Report:

Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment No.2) (England) Order 2008, no development of the type specified in Classes A-E of Part 1 of that Schedule shall be carried out unless planning permission has been granted first.

**REASON:** Due to the restricted nature of the site, whilst the dwelling as approved is acceptable, any further extensions or alterations normally permitted under the above provisions may in this case conflict with the interests of adjacent properties or the amenity of the area generally in accordance with Policy H8 of the Blackburn With Darwen Borough Local Plan.

#### **4.3 Planning Applications 21/1301 & 21/1306**

**Applicant** – Assura Medical Properties Ltd.

**Location and Proposed Development** – Griffin Lodge, Cavendish Place, Blackburn, BB2 2PN

Restoration, refurbishment and extensions to Griffin Lodge for use as a primary care centre – Use Class E(e), including associated external works, car parking and vehicular and pedestrian access – Full Planning Application (10/21/1301) and Listed Building Consent (10/21/1306)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and amended conditions in the Update Report.

#### **4.4 Planning Application 21/1312**

*Speakers – Mr Hussain (Objector)  
Ms Hussain & Dr Shah (Applicants)*

**Applicant** – Unity Education Trust (UET)



**Location and Proposed Development** – First Floor 49-51 Preston New Road, Blackburn, BB2 6AE

Full Planning Application for: Change of use of first floor from E(G)(i) Offices To F1(a) Educational Class Rooms (retrospective)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the two additional conditions:

*The use hereby permitted shall be discontinued on or before 26th May 2024.*

**REASON:** In order that highway and amenity impacts arising from the development can be assessed during this period, and that any future application can be decided on the basis of this assessment, in accordance with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

*The use hereby permitted shall take place between the hours of 16:30 and 19:30.*

**REASON:** In the interests of highway safety and efficiency and to safeguard residential amenity, in accordance with Policies 8 and 10 of the Blackburn with Darwen Borough Local Plan Part 2.

**4.5 Planning Application 21/1345**

**Applicant** – Pets Choice Ltd.

**Location and Proposed Development** – Land to South East Lower Phillips Road, Whitebirk Industrial Estate, Blackburn, BB1 5UD

Full Planning Application (Regulation 4) for: Construction of new 120,000 sq ft B2 / B8 warehouse unit with associated external works, car parking and service yards; construction of new dock leveller extension bays to existing warehouse building; change of use of existing 10,550 sq ft production building to form retail unit; construction of access road; and reconfiguration of existing access road.

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report.

**4.6 Planning Application 21/1404**

**Applicant** – Mr MD Patel

**Location and Proposed Development** – 8 The Hedgerow, Blackburn, BB2 7QU

Erection of retaining wall and decorative railing, raising of garden levels to rear and creation of hardstanding within garden (Part-Retrospective).

The Committee were made aware of a further representation and concerns received from Mr & Mrs Kirkpatrick.

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report.

**4.7 Planning Application 21/1426 Supplemental Committee Report**

**Applicant** – Keepmoat Homes

**Location and Proposed Development** – Land Bounded by Haslingden Road and Fishmoor Reservoir, Haslingden Road, Blackburn

Hybrid planning application comprising - Full permission for the erection of 160 dwellings and 50 affordable, key hospital worker apartments in two blocks together with access roads and landscape treatment (Phase 1); and outline permission for the erection of 100 affordable, key hospital worker apartments in four blocks, with all matters reserved except for access (Phase 2)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to:

Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of £1,219,272 including a monitoring fee of 12,072.

Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Strategic Director of Place (Growth and Development) Department will have delegated powers to refuse the application.

**4.8 Planning Application 22/0067**

**Applicant** – Inceptum2 Management Limited

**Location and Proposed Development** – Land on Corner of Carl Fogarty Way and Thornley Avenue, Blackburn

Full Planning Application (Regulation 4) for Construction of industrial units, use class B2, B8, E(g) iii including trade counter.

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the additional conditions in the Update Report:

*Land Contamination:*

Prior to the commencement of development hereby approved, the developer must:

**A.** submit proposals for additional gas monitoring, according with the gas generational potential of the site and end use, to the Local Planning Authority for written approval;

**B.** once the proposals described at (a) have been approved by the Local Planning Authority, the additional gas monitoring shall be implemented and the findings submitted to the Local Planning Authority for approval, including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas); and

**C.** if unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the Local Planning Authority.

**REASON:** To ensure that all reasonable steps have been taken to identify contamination at the site in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

Prior to the occupation of the development hereby approved, two copies of a comprehensive Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The Validation Report shall demonstrate effective remediation in accordance with the agreed remediation scheme and updated CSM. All the installed remediation must be retained for the duration of the approved use, and where necessary, the Local Planning Authority should be periodically informed in writing of any ongoing monitoring and decisions based thereon.

**REASON:** To ensure that all reasonable steps have been taken to identify contamination at the site, that the risks it presents have been appropriately assessed, and that the site can be made 'suitable for use', as such, does not pose a risk to future users of the site or the wider environment in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

Following assessment of the applicant's latest drainage strategy, received 29th April 2022, United Utilities consider that two conditions are deemed necessary to ensure the proposal remains consistent with the requirements of Policy 9 of the Development Plan:

Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority.

The drainage schemes must include:

**(i)** An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;

**(ii)** A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the

investigations). In the event of surface water discharging to the public surface water sewer, the rate of discharge shall be restricted to 5 l/s;  
(iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;(iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and  
(v) Foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

**REASON:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing.

The sustainable drainage management and maintenance plan shall include as a minimum:

- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
- b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

**REASON:** To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

*Highways:*

The applicant provided an amended site plan that addresses the elements set out within suggested Condition 9 of the main report (changes to access arrangements and parking for PTW). The revised details have been assessed by the Highway team and are considered to be acceptable. On that basis condition 9 is no longer necessary and should be omitted, whilst condition 2 should be revised to reflect the latest submission. Condition 2 shall now read as:

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Amended Site Plan, 2297\_2001 revision B, received 18th May 2022 Proposed Elevations, 2297\_2003, received 19th January 2022 Landscape Plan,

PWP.579.001 revision 02, received 19th January 2022 Fencing and Gates, 2297\_2004, received 19th January 2022 Bin Store, 2027\_2005, received 19th January 2022

**REASON:** For the avoidance of doubt and to clarify which plans are relevant to the consent.

#### **4.9 Planning Application 22/0223**

**Applicant** – Cawder Construction

**Location and Proposed Development** – Land at Borrowdale Avenue, Blackburn, BB1 1PZ

Erection of 13 no. bungalows.

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved subject to the conditions highlighted in the Directors Report and the amended condition in the Update Report.

#### **4.10 Planning Application 22/0354**

**Applicant** – Blackburn with Darwen Borough Council

**Location and Proposed Development** – Davy Field Stores, Davy Field Road, Blackburn, BB1 2LX.

Prior Approval - Solar Panels Non-domestic Buildings for Installation of Solar Photo Voltaic (SPV) arrays to roof areas as highlighted within the supporting documentation as part of the Public Sector Decarbonisation Scheme (PSDS)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved

#### **4.11 Planning Application 22/0355**

**Applicant** – Blackburn with Darwen Borough Council

**Location and Proposed Development** – Pleasington Cemetery & Crematorium, Tower Road, Blackburn, BB2 5LE.

Prior Approval - Solar Panels Non-domestic Buildings for Installation of Solar Photo Voltaic (SPV) arrays to roof areas as highlighted within the supporting documentation as part of the Public Sector Decarbonisation Scheme (PSDS)

**Decision under Town and Country Planning Acts and Regulations –**

**RESOLVED** – Approved

## **5 Confirmation of Tree Preservation Order – 15 Lammack Road Blackburn (C12)**

*Speaker – Mr Mahmood (Objector)*

The Committee were requested to endorse the actions of the Council's Arboricultural Officer/Planning Manager (Development Management) in making and serving the 15 Lammack Road Blackburn Tree Preservation Order 2022.

On 29th October 2021, the local planning authority received a formal full planning application (ref: 10/21/1223) to remove the wall at the front of the property in order to create a new access and car parking space in the front garden of No.15 Lammack Road, Blackburn. The proposals were to impact upon three existing mature trees on the eastern boundary of the application site. During the assessment of this enquiry, the Council's Arboricultural Officer, considered the trees in question, were worthy of protection

The Arboricultural Officer subsequently carried out a Tree Evaluation Method for Preservation Orders (TEMPO), which was undertaken on the 13th January 2022. The assessment gave the tree a high score as illustrated in image 2 in the main report, which fully warrants a TPO. Members are advised that the planning application for the new access and car parking space at No.15 Lammack Road, is still under consideration, and a site meeting was scheduled for the 12th May, with the applicant, and the Council's Arboricultural and Highways Officer, to discuss revisions that would satisfy both concerns relating to the impact on the protected trees, and highway safety.

The trees are situated on the eastern boundary of the property and are all mature in age. A high visual amenity for the area, the trees are approximately 13m in height and average a 'Diameter at Breast Height' of 400mm and a Crown Spread of approximately 8m. The trees are a typical size and age for planting in this area and an integral part of the character of this part of Lammack Road.

The current property owners, where the trees are located, and the ward councillors were informed of the proposed TPO on the 26th January 2022.

An objection was received from the trees' owner, Mr Mahmood, stating a number of issues including: blocked drains, impact upon a gas pipe, trees removed at No.17, and confusion as to the original TPO. Although not formal, an objection in the form of an email from the residents at No.13 Lammack Road was also received on the 10th February 2022, where they simply said; "You will not make this TPO because the leaves make the path slippy". A summary of the representations received are detailed in section 6 of the main report.

In terms of the objections, drains and pipes are not a material consideration when looking to protect trees. All modern drains and pipes are made of a plastic non penetrable material and are usually not compromised by tree roots. With regards to the issues at the neighbouring property No.17, all these issues are being addressed through the appropriate enforcement channels, together with the proposed development approved under application reference 10/21/0885. Members are also advised this is not a material consideration for this site, the subject of the TPO. The confusion with the TPO, as referenced, is

relating to the fact that the trees are already subject to a TPO dated 1991, where the tree species were listed as Elm and not Lime. This is the reason for re-making the order.

The trees are of considerable amenity value and are under threat of removal if the planning proposals, submitted at the time under application reference 10/21/1223, were approved. The emergency Tree Preservation Order was made on the 26th January 2022, and the Council has six months in which to confirm this order. As such, the deadline for confirmation is 26th July 2022, and if the TPO is not confirmed by this date the trees would potentially not be protected due to the issue with the 1991 Order.

The Members of the Committee discussed the report with the officers and heard representations from Mr Mahmood, 15 Lammack Road.

#### **RESOLVED –**

1. That the Tree Preservation Order 2022 be endorsed;
2. That the 15 Lammack Road Blackburn 2022 Tree Preservation Order (C12) is confirmed without modification.

#### **6 Davey Field Road Stopping Up Order**

The report was submitted to Committee to inform Members of the receipt of a request by the Highways Team for the Council to progress an Order for the Stopping Up of a small section of highway which leads off Davy Field Road. This is used as a private car park and belongs to Accrol Papers and we ask Members to authorise the Deputy Director of Legal & Governance to apply to the Magistrates' Court for the necessary Order.

Land which included adopted highway land was sold by the Council to Phoenix Court Blackburn Limited on 11th July 2017 to allow for Accrol Papers to be further developed with an alternative through road and ancillary car parking for their business, utilising this section of highway. It was intended for the new landowner to take forward a stopping up order under Section 247 of the Town and Country Planning Act 1990 (as amended) in concert with the build works. To the best of the Council's knowledge issues arose relating to this closure process and their application was stalled. As the development was completed without the highway being stopped up under Section 247, the Department of Transport formed the view that this legislation no longer applied and they therefore discontinued the application.

The Council has now been approached by the new property owners of the site to formally close the highway under Section 116 of the Highways Act 1980 as this section of land falls within the car park boundary of the site.

It is reasonable to take the view that as this section of land has no role as public highways and has not done so for a number of years already, it therefore qualifies to be Stopped Up under the terms of Section 116 of the Highways Act 1980 on the grounds that it is unnecessary.

The power to make a Stopping Up Order under the Highways Act is vested in the Magistrates' Court, and only the Highway Authority for the road to be stopped up may make the application, although it has the discretion to apply

its powers on the request of third parties as is the case here (Section 117 of Highways Act 1980). Section 116 allows the Magistrates' to make this order if they are satisfied that the Highway is no longer "necessary" or it "can be diverted so as to make it nearer or more commodious to the public", In this instance the applicable reasoning for the proposed closure is on the grounds of lack of necessity. The Court will require evidence that the road is unnecessary and that notices and consultations with all affected and interested parties, in accordance with the requirements of the Act, have been made, and that there are no outstanding objections to the making of the Order.

**RESOLVED** – That the Deputy Director of Legal & Governance is authorised to progress with the closure of that part of the highway and to apply to the Magistrates' Court for the necessary Order.

## **7**      **Enforcement**

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land at 63 Oozehead Lane, Blackburn.

**RESOLVED** – That the Enforcement Report be deferred for further Legal clarification

## **8**      **Enforcement**

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land to the South of Kingsley Close, Feniscowles, Blackburn.

Background information including grounds for the request were outlined in the report.

**RESOLVED** - Authorisation was given to the proposed enforcement action at Land to the South of Kingsley Close, Feniscowles.

## **9**      **Enforcement**

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land at Crowthorn (south of Moorside Road and north of Broadhead Road, Edgworth) BL7 0JR

Background information including grounds for the request were outlined in the report.

**RESOLVED** - Authorisation was given to the proposed enforcement action at land at Crowthorn (south of Moorside Road and north of Broadhead Road, Edgworth) BL7 0JR



Signed: .....

Date: .....

Chair of the meeting  
at which the minutes were confirmed

## DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

**Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.**

**Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.**

MEETING: **PLANNING AND HIGHWAYS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)

## Material Consideration

“**Material Considerations**” are not limited to matters relating to amenity and can cover a range of considerations, in regard to public or private interests, provided that there is some relationship to the use and development of land.

Where it is decided that a consideration is material to the determination of a planning application the courts have held that the assessment of weight is a matter for planning judgement by the planning authority, rather than the court. Materiality is a matter of law for the Court, weight is for the decision maker. Accordingly it is for the Committee to assess the weight to be attached to each material consideration, but if a Council does not take account of a material consideration or takes account of an immaterial consideration then the decision is vulnerable to challenge in the courts.

By section 38(6) of the Planning & Compensation Act 2004 Act every planning decision must be taken in accordance with the development plan (taken as a whole) **unless material considerations indicate otherwise**. The policies and guidance contained in the hierarchy of planning documents are important material considerations and the starting point for the Committee in its assessment of development proposals and most decisions are usually taken in line with them.

However, the Committee is legally obliged to consider all material matters in determining a planning application and this means that some decisions will not follow published policy or guidance. In other words, the Committee may occasionally depart from published policy when it considers this is outweighed by other factors and can be justified in the circumstances of the particular case. Similarly, in making a decision where there are competing priorities and policies the Committee must exercise its judgement in determining the balance of considerations

The following provides a broad guide of what may and may not be material, though as with any broad guidance there will on occasions be exceptions

<b><u>MATERIAL:</u></b>	<b><u>NOT MATERIAL:</u></b>
Policy (national, regional & local)	The identity of the applicant
development plans in course of preparation	Superceded development plans and withdrawn guidance
Views of consultees	Land ownership
Design	Private Rights (e.g. access)
Visual impact	Restrictive covenants
Privacy/overbearing/amenity impacts	Property value
Daylight/sunlight	Competition (save where it promotes a vital and viable town centre)
Noise, smell, pollution	Loss of a private view
Access/traffic/accessibility	“moral issues”
Health and safety	“Better” site or use”
Ecology, landscape	Change from previous scheme
Fear of Crime	Enforcement issues
Economic impact & general economic conditions	The need for the development (in most circumstances)
Planning history/related decisions	

Cumulative impact	
Need (in some circumstances – e.g. green belt)	
Impacts upon and provision of open/amenity space	
existing use/permitted development rights/fall back	
retention of existing use/heritage issues	
fear of setting a precedent	
composite or related developments	
Off-site benefits which are related to or are connected with the development	
In exceptional circumstances the availability of alternative sites	
Human Rights Act 1998 & Equality	

Before deciding a planning application members need to carefully consider an application against the provisions of the Human Rights Act 1998.

Protocol 1 of Article 1, and Article 8 confer(s) a right of respect for a person's private and family life, their possessions, home, other land; and business assets. Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their representation, and comments,

In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of Growth & Development has concluded that some rights conferred by these Articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is proportionate, in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. Furthermore he believes that any restriction on these rights posed by the approval of an application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Other duties have to be taken into account in determining planning applications for example the promotion of measures to reduce crime, the obligation not to act in a discriminatory manner and promote equality etc.

**NB: Members should also be aware that each proposal is treated on its own merits!**

#### Reasons for Decision

If members decide to go against officer recommendations then it is their responsibility to clearly set out their reasons for doing so, otherwise members should ask for the application to be deferred in order that a further report is presented setting out the background to the report, clarifying the reasons put forward in the debate for overriding the officer recommendation; the implications of the decision and the effect on policy; what conditions or agreements may be needed; or just to seek further information.

If Members move a motion contrary to the recommendations then members must give reasons before voting upon the motion. Alternatively members may seek to defer the application for a further report. However, if Members move a motion to follow the recommendation but the motion is lost. In these circumstances then members should be asked to state clearly their reasons for not following the recommendations or ask that a further report be presented to the next meeting



## BwD Council - Development Control

General Reporting

REPORT NAME: *Committee Agenda.*

### REPORT OF THE STRATEGIC DIRECTOR OF PLACE

#### LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS

There is a file for each planning application containing application forms, consultations, representations, Case Officer notes and other supporting information.  
Gavin Prescott, Planning Manager (Development Management) – Ext 5694.

**NEIGHBOUR NOTIFICATION:** The extent of neighbour notification is shown on the location plans which accompany each report. Where neighbours are notified by individual letter, their properties are marked with a dot. Where a site notice has been posted, its position is shown with a cross.

#### PLANNING APPLICATIONS FOR DETERMINATION Date: 16/06/2022

Application No	Applicant	Site Address	Ward
10/22/0266	Mr S. Close & Miss B. Leek 33 Coronation Avenue Feniscowles Blackburn BB2 5EL	33 Coronation Avenue Feniscowles Blackburn BB2 5EL	Livesey With Pleasington
Full Planning Application for Erection of two storey side extension, single storey rear extension, flat roof dormer to rear, insertion of roof lights and roof canopy to front			
<b>RECOMMENDATION: Permits</b>			
10/22/0370	Ashworth Nursery School Mrs Victoria Burnside Addison Close Blackburn BB2 1QU	Ashworth Nursery School Addison Close Blackburn BB2 1QU	Wensley Fold
Full Planning Application (Regulation 4) for Installation of 2.4m high anti-climb green mesh fencing and passenger gates to replace the existing fencing			
<b>RECOMMENDATION: Permits</b>			
10/22/0428	Blackburn Waterside Regeneration Ltd Hammerain House Hookstone Ave Harrogate HG2 8ER	Former Sappi Mills Plot 1 Phase 1 A (Watermills Development) Livesey Branch Road Blackburn	Livesey With Pleasington
Full Planning Application (Retrospective) for Erection of a detached 3 bedroom bungalow (retrospective)			
<b>RECOMMENDATION: Permits</b>			

**REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/22/0266**

**Proposed development: Full Planning Application for Erection of two storey side extension, single storey rear extension, flat roof dormer to rear, insertion of roof lights and roof canopy to front**

**Site address:  
33 Coronation Avenue  
Feniscowles  
Blackburn  
BB2 5EL**

**Applicant: Mr S. Close & Miss B. Leek**

**Ward: Livesey With Pleasington**

**Councillor Derek Hardman  
Councillor Mark Russell  
Councillor Paul Marrow**



## 1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – subject to the conditions set out within section 4.1 of this report

## 2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1 This application is before the Planning & Highways Committee in accordance with the Scheme of Delegation, due to the receipt of an objection from Livesey Parish Council.

2.2 Assessment of the application finds that the proposal is acceptable and complies with the relevant policies. It is acknowledged that there would be some impact on the amenity of adjoining residents. However, these impacts are not considered to be excessive or unacceptable. Therefore, in accordance with the presumption in favour of sustainable development as set out in the NPPF, the proposal is considered acceptable.

## 3.0 RATIONALE

### 3.1 Site and Surroundings

3.1.1 The application site relates to a residential property positioned within the Blackburn urban boundary. The host building is semi-detached, constructed with red facing brick and a true pitched roof covered with concrete tile. The unit has an existing outrigger to the side, which is an original element and a consistent feature with other dwellings in the area. The immediate street scene is characterised by a mix of similar units and bungalows. The rear garden of the application site is bounded by the former Sappi site and the ongoing residential development.

#### Site Photographs:





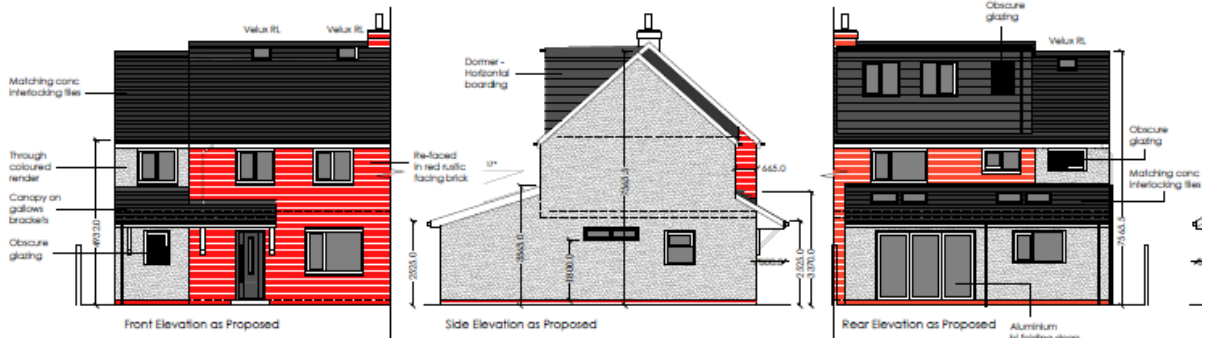


- Similar form of development in locality

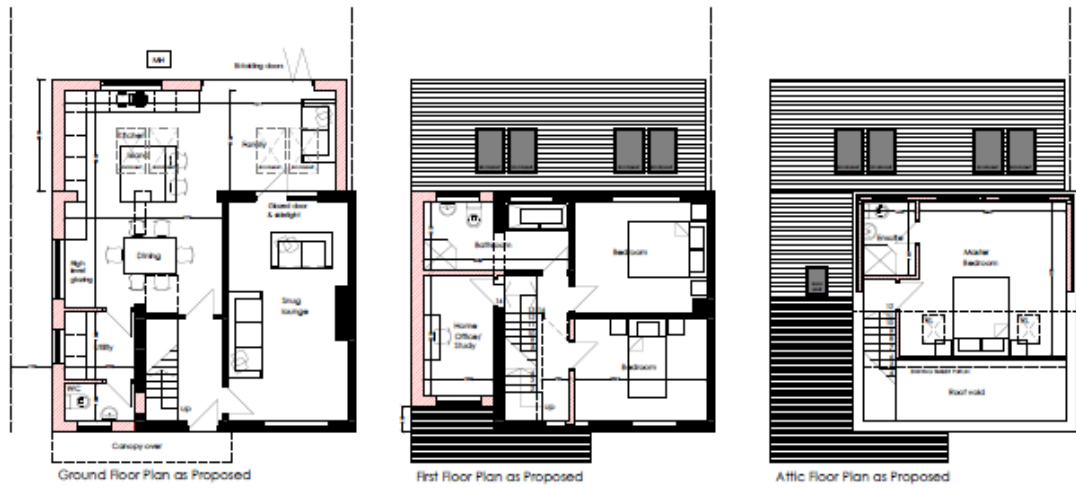
## 3.2 Proposed Development

3.2.1 Following the receipt of amended drawings received 18<sup>th</sup> May 2022, planning approval is sought for the addition of a two-storey side extension; single storey rear extension; and rear flat roofed dormer. The proposed side extension will be flush with the host building's front elevation at ground floor level, whilst the first floor will have a 665mm set back. A canopy detail extends from the side extension and offers rain protection above the property's front door. The proposed rear extension will project 3m and extend across both the original property and the proposed side addition. The proposed extensions are detailed to harmonise with the host building, including the use of matching materials.





Proposed Elevations



Proposed Floor Plans



Proposed Site Layout

### **3.3 Development Plan**

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises of the Core Strategy (2011) and Local Plan Part 2 – Site Allocations and Development Management Policies (2015). In determining the current proposal the following are considered to be the most relevant policies.

#### **3.3.3 Core Strategy**

- Policy CS16: Form and Design of New Development

#### **3.3.4 Local Plan Part 2**

- Policy 1: The Urban Boundary
- Policy 8: Development & People
- Policy 10: Accessibility & Transport
- Policy 11: Design

### **3.4 Other Material Planning Considerations**

#### **3.4.1 National Planning Policy Framework (NPPF)**

#### **3.4.2 Residential Design Guide Supplementary Planning Document (SPD):**

- Policy RES E1: Materials
- Policy RES E2: 45 Degree Rule
- Policy RES E3: Separation distances
- Policy RES E4: Detailing your extension
- Policy RES E5: Over Development
- Policy RES E7: Rear extensions
- Policy RES E9: Two storey side extensions
- Policy RES E10: The terracing effect.
- Policy RES E19: Extensions and parking

### **3.5 Assessment**

3.5.1 In assessing this full application the following important material considerations are taken into account:

- Residential Amenity
- Visual Amenity / Design
- Highways / Parking

### 3.5.2 Residential Amenity:

Policy 8 of the Local Plan Part 2 (LLP2) (2015) requires development to secure a satisfactory level of amenity and safety for surrounding uses with reference to issues including; noise, loss of light, privacy/overlooking and the relationship between buildings. Those requirements are expanded upon within the policies of the adopted SPD: Residential Design Guide.

3.5.3 The proposed additions provide for a two storey element adjacent to the party boundary within no. 34. No.34 has no habitable windows within its side elevation and thus the side extension is not considered to harm the living standards of adjacent residents.

3.5.4 The proposal also includes a single storey extension that projects 3m from the rear wall of the host building, across the full width of both the existing property and the proposed two storey side extension. As a consequence there is a 3m projection on the party boundary with no.32 Coronation Avenue.

3.5.5 Policy RES E2: 45 Degree Rule sets a minimum requirement to ensure that the siting, form and massing of extensions do not represent an overbearing presence to neighbouring properties. The proposed 3m projection would marginally fail the 45 degree assessment. However, the proposed 3m element would, in isolation, ordinarily constitute permitted development. As such given these factors it would be unreasonable to resist this element.

3.5.6 The proposed rear dormer will introduce an additional floor and thus the potential for overlooking towards the nearest units to be constructed within the neighbouring Sappi site's redevelopment. However, following review of planning approval 10/18/0290 (Phase 1A), it is noted that the closest plot (no.19) is angled away from the application site, and thus there is no prospect of conflict between the dormer and the ongoing development – refer to extract below from the approved site layout to Phase 1A.



Extract from approved site plan pursuant to application 10/18/0290 (Phase 1) – showing relationship of No.33 Coronation Avenue with the proposed dwellings, including Plot 19.

3.5.7 In summary, the proposals are consistent with Policy 8 of the Local Plan and the SPD: Residential Design Guide.

3.5.8 Design/Appearance:

Policy 11 requires new development to present a good standard of design, demonstrating an understanding of the wider context and making a positive contribution to the locality. Those requirements are further set out within the adopted SPD: Residential Design Guide.

3.5.9 The parish council objection states; “Parish Councillors raised concerns at the size of the extensions on this property in relation to the current size and the impact on the houses in the area”.

3.5.10 SPD Policy RES E5: Overdevelopment, advises that proposals that result in over development of a plot will not be supported. No specific proportion of the plot to be retained is highlighted within the Policy, though the following issues need to be considered (1) proposal should not impact on neighbouring properties and (2) Properties must meet their own servicing needs with reference to matters including bin storage, parking and general use of outdoor space.

3.5.11 Consideration of point (1) has already been set out in the previous section. With regard to point (2); the development retains a 1m gap to the party boundary with no.34, which ensures access for servicing and bin storage is

retained. The proposed side extension will, however, result in the loss of an existing driveway space. This element is compensated by the provision of a new parking space within the front garden area. Thus the proposal provides none of the indicators that 'over development' will occur.

3.5.12 The proposed additions amount to sympathetic additions to the host building, with the two storey side addition being a common feature to other neighbouring properties in close proximity to the site, most notably the addition to no.3 Coronation Avenue.

3.5.13 The proposed roof form and general detailing aid assimilation and compliance with RES E9's requirements. The proposal does not provide for a 1.5m set back of the first floor side element, as required within Policy RES E10. Adequate mitigation is provided with the relationship to the adjacent property, no.34, which is a bungalow. This relationship serves to prevent any degree of terracing and thus the set-back requirement within Policy RES E10 can be offset.

3.5.14 In summary, the parish council's objection (see Section 6) cannot be substantiated given the key requirements within Policy RES E5 are being met. Further, the overall form of the additions are considered to harmonise effectively with the host building and wider street scene. On that basis compliance with Policy 8 and the SPD is achieved.

## **4.0 RECOMMENDATION**

### **4.1 APPROVE subject to the following conditions;**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Drawing No. SK.0.2B\_Revision A, received 18<sup>th</sup> May 2022

Drawing No. SK.32.2A, received 18<sup>th</sup> May 2022

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. Notwithstanding the submitted details, the external materials to be used in the construction of the development hereby permitted shall match those used in the existing building.

REASON: To ensure that the external appearance of the development is satisfactory in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

## **5.0 PLANNING HISTORY**

There is no planning history affecting the application site

## **6.0 CONSULTATIONS**

Public Consultation: 5 neighbouring properties were individually consulted by letter. The exercise was repeated following the receipt of amended plans 18<sup>th</sup> May 2022. No representations to either consultation have been received.

Livesey Parish Council, received 10<sup>th</sup> May 2022:

“Parish Councillors raised concerns at the size of the extensions on this property in relation to the current size and the impact on the houses in the area”.

**7.0 CONTACT OFFICER: Martin Kenny, Principal Planner**

**8.0 DATE PREPARED: 30<sup>th</sup> May 2022**

## **REPORT OF THE STRATEGIC DIRECTOR**

**Plan No: 10/22/0370**

**Proposed development: Full Planning Application (Regulation 4) for Installation of 2.4m high anti-climb green mesh fencing and passenger gates to replace the existing fencing**

**Site address:  
Ashworth Nursery School  
Addison Close  
Blackburn  
BB2 1QU**

**Applicant: Ashworth Nursery School**

**Ward: Wensley Fold**

**Councillor David Harling  
Councillor Sabahat Imtiaz  
Councillor Qesir Mahmood**



## **1.0 SUMMARY OF RECOMMENDATION**

1.1 APPROVE, subject to the conditions recommended within Paragraph 5.1.

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Scheme of Delegation, as the submission is from an employee of Blackburn with Darwen Borough Council. The planning application has been submitted under Regulation 4 of the Town & Country Planning Regulations 1992.
- 2.2 The proposal seeks to replace the existing varied boundary treatment along the buildings frontage with a new 2.4m high green mesh fencing with passenger gates. The rationale behind the proposal is to create a more secure environment for children and staff, and an improved security following instances of anti-social behaviour during non-operational hours.
- 2.3 In summary, assessment of the application finds the proposal is acceptable and beneficial, with all material planning considerations and issues having been addressed throughout section 4 of this report.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

- 3.1.1 The application site relates to Ashworth Nursery School which is positioned at the end of the residential cul-de-sac, Addison Close, within the Blackburn Inner urban Area. The proposal site comprises of a single storey detached building with associated playground areas to the east and south elevations. Two entrance/exit points are sited along western boundary.
- 3.1.2 To the east and adjoining the site is St Barnabas and St Pauls Church of England Primary School. The wider area is characterised by residential and a mix of commercial uses. Figure 1 presents an aerial view of the application site and its surroundings.



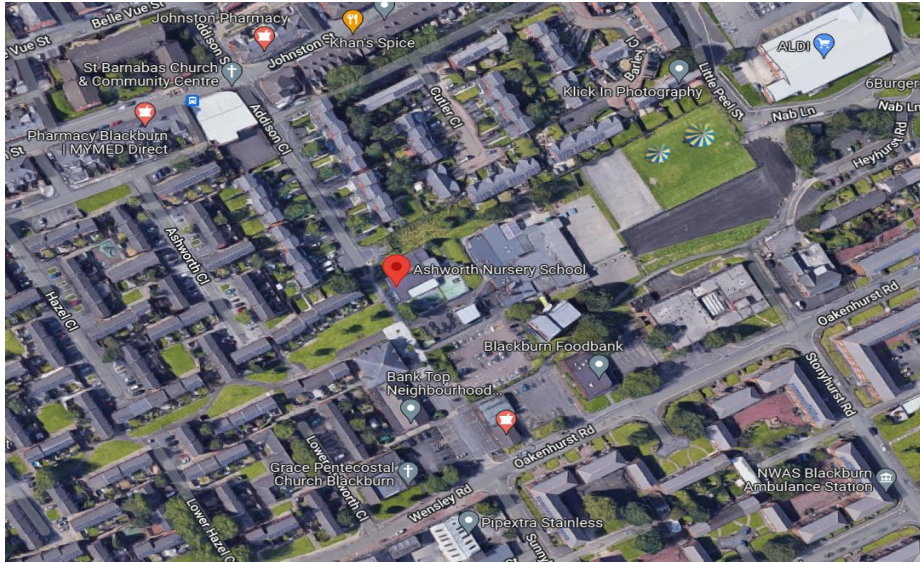


Figure 1: Google aerial view of the application site

### 3.2 Proposed Development

3.2.1 Planning permission is sought to replace the existing fencing along the north and west boundaries of the site. As noted in the submitted D & A statement the existing arrangement to the front of the building consists 'of a mixture of blue mesh panel fencing/posts including 2 no passenger gates, blue railings including 1 no passenger gate and green railings currently situated between brick piers, all at differing heights.

3.2.2 The proposed fencing would have a green weld-mesh construction with an overall height of 2.4m above ground level. The proposal also includes the installation of 3No. pedestrian gates clad with matching green mesh to the fence in the existing gate locations.

3.2.3 Figure 2 shows the proposed site plan highlighting in green the extent and siting of the replacement fencing. Figure 3 demonstrates the submitted elevation drawings for the fence panels and pedestrian gates.

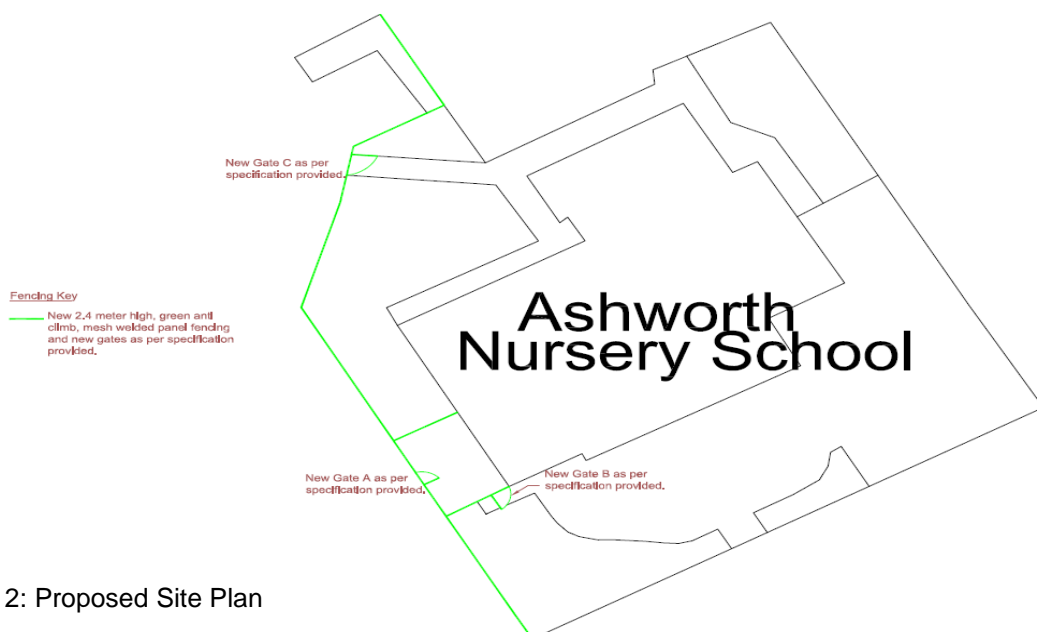
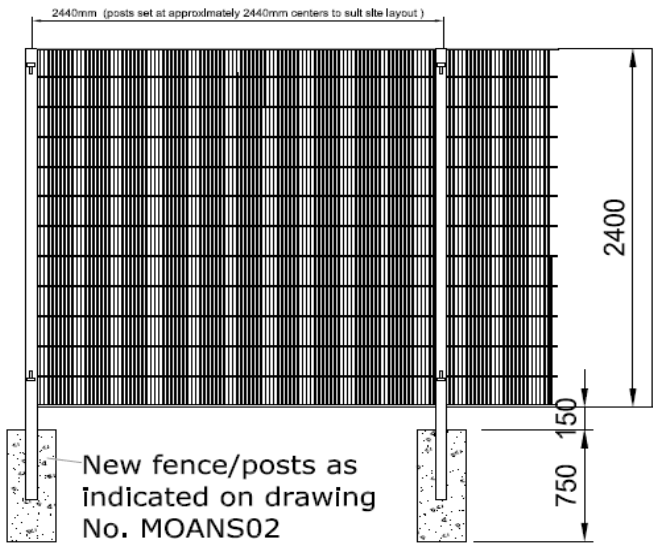


Figure 2: Proposed Site Plan

**SIDE ELEVATION (2.4m FENCE)**



**PEDESTRIAN GATE ELEVATION 1.2M**

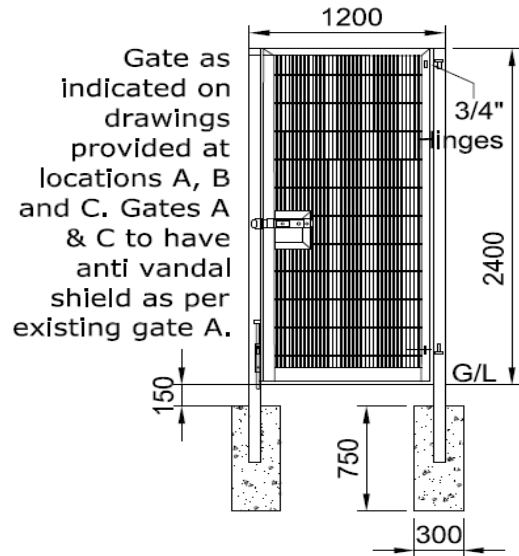


Figure 3: Proposed Fence and Pedestrian Gate Elevations

**3.3 Case Officer Photos**



### 3.4 **Development Plan**

3.4.1 Section 38 (6) of the Planning and Compulsory Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.4.2 The 'Development Plan' comprises the adopted Core Strategy DPD (2011) and adopted Local Plan Part 2 – Site Allocations and the Development Management Policies (2015). The following policies are considered relevant in assessment of the proposed development;

#### 3.4.3 Core Strategy

- Policy CS16 – Form and Design of New Development

#### 3.4.4 Local Plan Part 2

- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 10 – Accessibility and Transport
- Policy 11 – Design

### 3.5 **Other Material Planning Considerations**

#### 3.5.1 National Planning Policy Framework (NPPF)

## 4.0 **ASSESSMENT**

4.1 When assessing this application there are a number of important material considerations that need to be taken into account. They are as follows:

- Principle of Development
- Residential Amenity
- Design/Visual Amenity
- Highways

#### 4.2 Principle of Development

4.2.1 The principle of the development is accepted, in accordance with the presumption in favour of sustainable development detailed in the NPPF and LPP2, Policy 7, which proposals should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified; subject to assessment of the following matters:

#### 4.3 Residential Amenity

4.3.1 Policy 8 requires development to contribute positively to the character of the area and to secure a satisfactory level of amenity and safety for occupants or users of the development itself and for surrounding uses; with reference to



loss of light, privacy/overlooking, noise, nuisance, pollution, contamination, and the relationship between buildings.

4.3.2 Surrounding residential properties are not unduly affected by the proposal. This is due to the siting of the proposed boundary treatment and ample distance to those adjacent dwellings on Addison Close and Ashworth Close.

4.3.3 The proposed replacement fencing would therefore not unacceptably impact upon the amenity of nearby occupants, in accordance with part ii) of Policy 8.

4.3.4 The proposal will also be beneficial in reducing anti-social behaviour and improving community safety, thus according with point v) of Policy 8.

#### 4.4 Design / Visual Amenity

4.4.1 Policies CS16 and 11 requires development to present a good standard of design and will be expected to enhance and reinforce the established character of the locality and demonstrate an understanding of the wider context towards making a positive contribution to the local area.

4.4.2 The replacement fencing will comprise of a 2.4m high weld mesh fence finished in green which will be positioned along the northern and western perimeter of the site. The proposal will continue to enclose the nursery grounds, thus safeguarding the children within the nursery area. However, it is also considered essential to provide increased security by virtue of raising the height of the existing boundary treatment to help solve the ongoing issue of trespassers and vandalism outside the nursery's opening hours.

4.4.3 The existing boundary treatment is varied in style / design with blue mesh fencing, blue railings and green railings between brick piers. As such, the proposal which seeks the installation of a consistent fence/gate type is considered to enhance the overall appearance of the proposal site and street scene.

4.4.4 It is also recognised this particular design of fencing is commonly used throughout nursery and schools within the borough. This point is emphasised by a recent planning approval (ref.10/21/0226) at the adjoining St Barnabas and St Pauls C of E Primary School for the exact same fencing under assessment in this application. On that basis, the proposed fencing at Ashworth Nursery School will integrate well with its setting, and thus would not harm visual amenity.

4.4.5 The proposal is considered acceptable from a design/visual perspective, in accordance with Policies CS16 and 11 of the Development Plan.

#### 4.5 Highways

4.5.1 Point 3 i) of Policy 10 indicates that development will be permitted providing that road safety and the safe, efficient, and convenient movement of all highways users (which includes pedestrians) is not prejudiced.

4.5.2 The positioning and design of the fence (meshed nature) ensures the proposal does not conflict with users of surrounding footpaths.

4.5.3 Compliance with Policy 10 is therefore achieved.

## **5.0 RECOMMENDATION**

### **5.1 Approve subject to the following conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this permission, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

- Drawing No. MOANSF00 – Location Plan – Received 28<sup>th</sup> April 2022
- Drawing No. MOANSF02 – Proposed Fencing Works; and
- Drawing No. MOANSF03 – Details Fencing Works – Received - Received 22<sup>nd</sup> April 2022

REASON: For the avoidance of doubt and to clarify, which plans are relevant to the permission.

3. The fencing and gates hereby approved shall be installed powder coated in 'Green RAL6005' unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the external appearance of the development is acceptable, in the interests of good design and safeguarding visual amenity, in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2.

## **6.0 PLANNING HISTORY**

- 10/12/0462 - Proposed single storey extension. Approved, 16/07/2012. Delegated decision.
- 1012/0835 – Replacement fencing to front elevation. Approved, 12/10/2012. Delegated decision.

## **7.0 CONSULTATIONS**

### **7.1 Statutory Consultation**

7.2 BwD Property

Property management do not have any objections to the planning application.

7.3 Public Consultation

Neighbourhood consultation letters were sent out on 29<sup>th</sup> April 2022, to 10 properties surrounding the application site. In addition, a Site Notice was displayed on 12<sup>th</sup> May 202 positioned on Addison Close. In response to the public consultation, no comments or objections have been received.

**8.0 CONTACT OFFICER: Jamie Edwards, Planning Officer**

**9.0 DATE PREPARED: 27 May 2022**

**Proposed development: Full Planning Application (Retrospective) for Erection of a detached 3 bedroom bungalow (retrospective)**

**Site address:  
Former Sappi Mills  
Plot 1  
Phase 1 A (Watermills Development)  
Livesey Branch Road  
Blackburn**

**Applicant: Blackburn Waterside Regeneration Ltd**

**Ward: Livesey With Pleasington**

**Councillor Derek Hardman  
Councillor Mark Russell  
Councillor Paul Marrow**



## **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 APPROVE – subject to the conditions set out within section 4.1 of this report

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Scheme of Delegation, as the application is, in-part, retrospective. The proposal has also raised public interest and has led to the receipt of 19 letters of objection, which are set out within Section 9 of this report.
- 2.2 The proposal will help to deliver a high quality housing scheme that will widen the choice of family housing in the Borough, whilst also bringing a brownfield industrial site back in to use. It supports the Borough's planning strategy for housing growth as set out in the Core Strategy. The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through planning conditions.

## **3.0 RATIONALE**

### **3.1 Site and Surroundings**

- 3.1.1 The proposal relates to plot 1 within the first phase of the redevelopment of the area commonly referred to as the 'SAPPI site' given the last occupant of the majority of the site. The area has the benefit of both outline (10/15/0496) and reserved matters (10/18/0290) approvals for the delivery of housing.
- 3.1.2 Plot 1 holds a prominent position on the north side of the main estate road, Star Drive, which links to Livesey Branch Road. The plot also bounds the rear garden areas of existing residential dwellings on Princess Gardens.

### **3.2 Proposed Development**

#### Background:

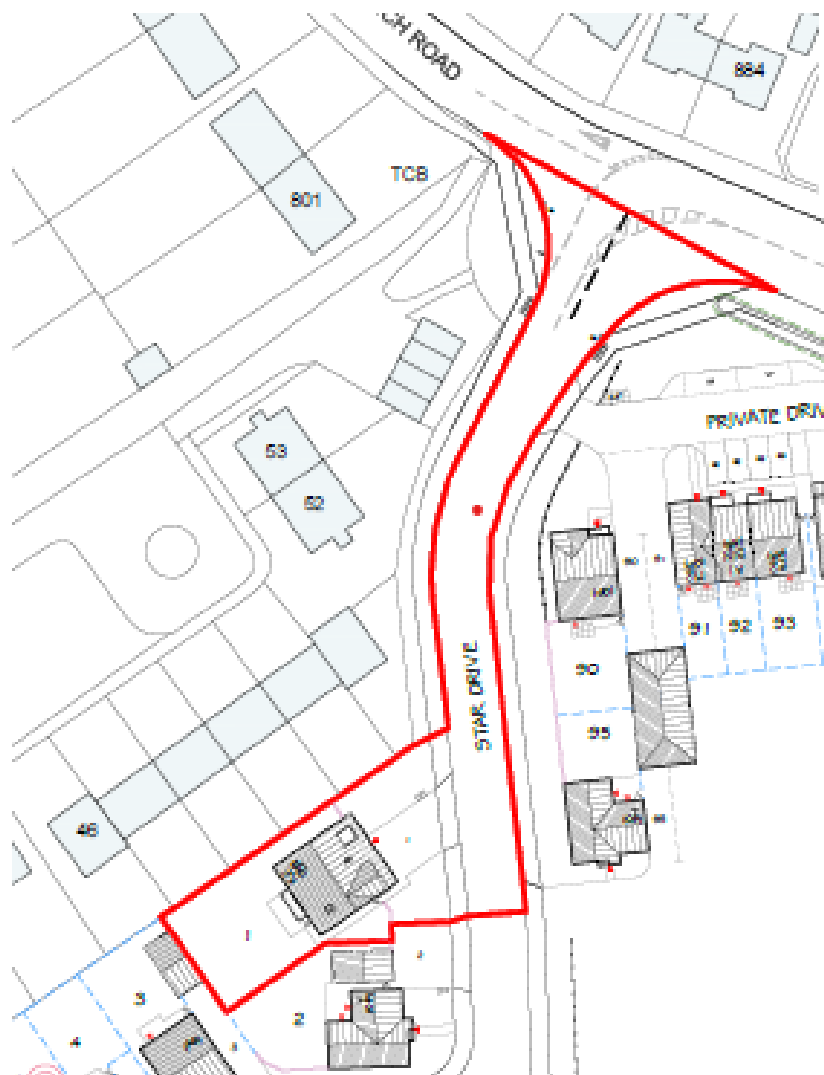
- 3.2.1 Members have previously approved outline and reserved matters applications for Phase 1a of the Sappi redevelopment. However, the subsequent development of Plot 1 has been undertaken with incorrect plans. The impact of which is that the unit approved within Plot 1 has been constructed in an incorrect position; this results in it being set 12.2m from the rear wall of nos 48 and 49 Princess Gardens, rather than the authorised 13.5m. Members will recall that at the meeting in March, it was reported that the local planning authority had issued an Enforcement Notice relating to the above site on the 18th March 2022, to Blackburn Waterside Regeneration Ltd (applicants/developers). The dwelling as constructed "house type K1" on Plot 1 has been partly constructed to the rear of the properties at Nos 48/49 Princess Gardens 1.2m closer than the approved scheme pursuant to



planning application 10/18/0290. The Notice took effect on the 22nd April 2022. A subsequent meeting was held on the 29<sup>th</sup> March 2022, between the developer, Planning Manager and case officer to discuss the options to remedy the situation.

3.2.2 Full planning approval is sought for the construction of a bungalow to occupy Plot 1. The new unit will replace the current unauthorised building that is in-situ. The bungalow will have a maximum ridge height of 6.3m and incorporate dormer features within the front roof plain. The general form and appearance will be consistent with the other properties within the Sappi redevelopment, including the use of red brick and concrete roof tile to harmonise.

Proposed Layout:



Proposed Appearance:



Site Photograph (taken from the rear garden of No.49 Princess Gardens):



### **3.3 Development Plan**

3.3.2 In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan, unless material considerations indicate otherwise.

3.3.3 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the current proposal, the following are considered to be the most relevant policies:

#### **3.3.3 Core Strategy- January 2011**

CS1 – A Targeted Growth Strategy

CS5 – Locations for New Housing

CS6 - Housing Targets

CS7 – Types of Houses

CS15 - Protection and Enhancement of Ecological Assets

CS16 – Form and Design of New Development

#### **3.3.4 Local Plan Part 2 (LPP2) – December 2015**

Policy 1: The Urban Boundary

Policy 7: Sustainable and Viable Development

Policy 8: Development and People

Policy 9: Development and the Environment

Policy 18: Housing Mix

Policy 28: Development Opportunities

Policy 36: Climate Change

Policy 40: Integrating Green Infrastructure & Ecological Networks

### **3.4 Other Material Planning Considerations**

#### **3.4.2.1 National Planning Policy Framework (The Framework) (2021).**

3.4.3 At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. For decision taking, this means approving development proposals that accord with the development plan without delay.

### **3.5 Assessment**

3.5.1 Background: The application site falls within a wider development area that covers the former Sappi industrial site. The area has the benefit of both outline (10/15/0496) and reserved matters (10/18/0290) approvals for the delivery of housing.

3.5.2 However, the subsequent construction of Plot 1 has been undertaken with incorrect plans. The impact of which is that the unit approved within plot 1 has been constructed in an incorrect position; this results in it being set 12.2m from the rear wall of no's 48 and 49 Princess Gardens, rather than the

authorised 13.5m separation. This application seeks to address the issue by amending the design of the unit within plot.

3.5.3 Procedural Matters: A high proportion of the public objections raise concerns with the current application being brought, in-part, retrospectively. Members are advised that this point of objection is without merit given that section 73A of the 1990 Town & Country Planning Act, amongst other matters, provides for retrospective planning applications to be made in respect of development that has been carried out without planning permission. On that basis it would be unreasonable for the Council to resist the current application due to it being submitted part retrospectively.

3.5.4 Notwithstanding the above, the following matters are considered to be important to the assessment of the current application;

- Principle
- Amenity Impact
- Design and Appearance

3.5.5 Principle of Development:

The principle of residential development within the application site has already been considered and accepted through the assessment and subsequent approval of outline application 10/15/0496 and reserved matters application 10/18/0290

3.5.6 Core Strategy Policy CS1 explains that the overall planning strategy for the Borough is one of 'Targeted Growth' and identifies a need for '*a limited number of small scale urban extensions*'. Policy CS5 directs that the preferred location for new housing, where market conditions permit its delivery, will be the inner urban areas of Blackburn and Darwen. Policy CS7 encourages the development of a full range of new housing over the life of the Core Strategy in order to widen the choice available in the local market. Policy 1 of the Local Plan states that the defined Urban Area is to be the preferred location for new development. Development in the Urban Area will be granted planning permission where it complies with the other policies of this Local Plan and the Core Strategy. The site is located within the urban area boundary defined on the proposals map.

3.5.7 Amenity:

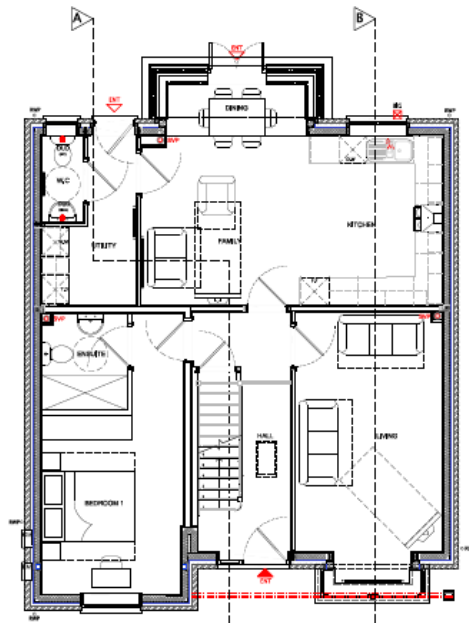
Policy 8 requires development to contribute positively to the overall physical, social, environmental and economic character of the area. It is also required to secure a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking, and the relationship between buildings.

3.5.8 Additional requirements for separation between buildings are set out within Policy RES 2G: *Space Standards* of the Council's adopted residential design guide. Pertinent to the assessment of the current application is the direction

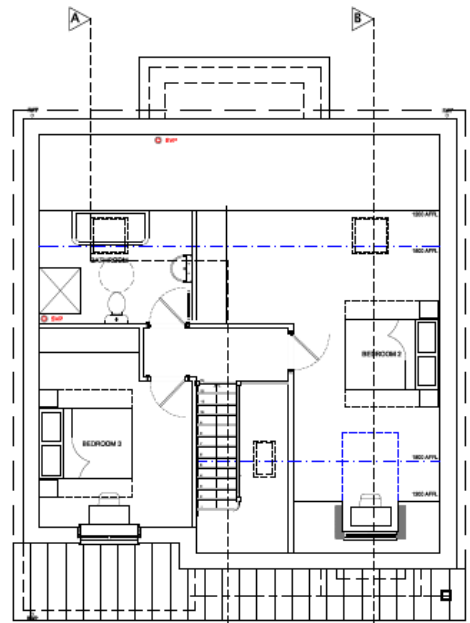




Proposed K2 bungalow house type relating to Plot 1:



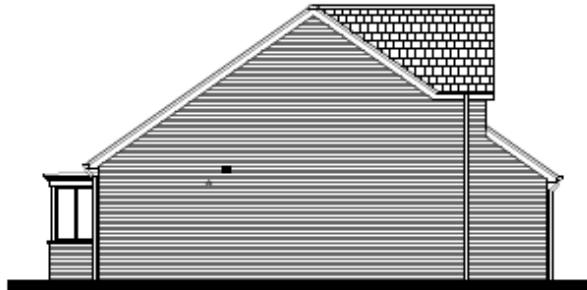
House Type K2  
(AS) Plot 1  
Ground Floor Plan



House Type K2  
(AS) Plot 1  
First Floor Plan



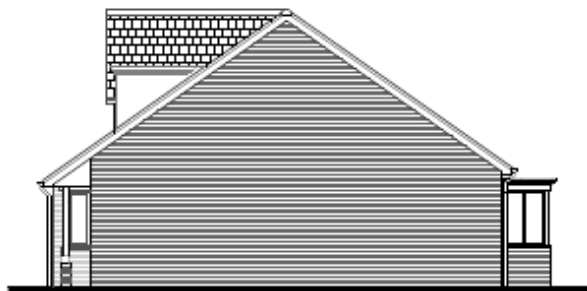
FRONT ELEVATION  
ENTRANCE



SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION

1:100 SCALE

3.5.18 Policy 18 of the Local Plan Part 2 illustrates that the Council requires a detached and semi-detached housing offer to be the principal element of the dwelling mix on any site that is capable of accommodating such housing. The current proposal remains compliant with this requirement.

3.5.19 In summary, the proposed replacement unit will not undermine the overall design ethos of the wider redevelopment of the Sappi site, and will safeguard the amenities of the occupants of the adjoining properties on Princess Gardens. The submitted details remain consistent with the wider layout, which show dwellings, infrastructure and landscaping that accord with the provisions of the relevant policies of the development plan.

## **4 RECOMMENDATION**

### **4.1 APPROVE subject to the following conditions;**

1. The development hereby permitted shall commence within 3 months of the date of this permission.

REASON: Required to be pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Drawing No. 17 5150\_1A - SK K2A, received 31<sup>st</sup> May 2022  
Drawing No. 17 5150 212A\_revision A, received 31<sup>st</sup> May 2022

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

## **5 PLANNING HISTORY**

10/18/0290 - Reserved Matters application (access within the site, landscape, layout, appearance, scale) pursuant to outline application 10/15/0496 for Phase 1a comprising of 95 dwellings and associated infrastructure

10/15/0496 – Outline application for a maximum of the following: 500 dwellings, 3,224m<sup>2</sup> of office employment (use class B1a), 9,192m<sup>2</sup> of light industrial employment (use class B1c), 333m<sup>2</sup> of retail floor space (use class A1) and a 1,110m<sup>2</sup> community building (use class D1). (Approved November 2015)



## **6 CONSULTATIONS**

Public Consultation: 11 neighbouring properties have been individually consulted by letter and a site notice displayed. 19 letters of objection have been received (see section 9.0 of this report)

Drainage: No objection.

Highways: No objection

Livesey Parish Council: See update report

**7 CONTACT OFFICER: Martin Kenny, Principal Planner**

**8 DATE PREPARED: 1<sup>st</sup> June 2022**

## 9 SUMMARY OF REPRESENTATIONS

### **Objection – Maria Fogarty. Received: 12/05/2022**

Good morning,

I have been made aware that the builders at Watermills have applied for retrospective planning after they built a house far too close to properties on Princess Gardens.

I would urge you to please decline this. I spend a lot of time working on our community page in Feniscowles & Cherry Tree and there are a lot of objections. Mostly I feel for those poor people who live in those houses.

Being a mortgage advisor I fully support new build homes. I've tried explaining to people that before the feniscowles developments were built, an extremely large part of the community at this side of town were leaving Blackburn and heading for Chorley, Bamber Bridge & Preston. There simply were not enough desirable locations for people to buy. I witnessed this first hand as a mortgage advisor.

However, I also really feel that a show of sticking to the rules & planning that was originally approved would show the people in our area that the council does listen and doesn't just bend at will to New Home builders. It could really make a positive out of this situation.

After all, the new builders will soon leave our town once they've made enough money but we will still be here.

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### **Objection – Mrs Annette Shaw, 66 Coverdale Drive, Blackburn, BB2 5ED. Received: 12/05/2022.**

I am a resident of Feniscowles of many years and write to object to the application by the developer of Watermills Development, Feniscowles.

I have seen evidence of the house in question built too close to an existing residence. I also note the developers are now seeking retrospective planning permission to 'build' a bungalow.

I have a number of reasons for my objection to the developers' application:

1. The developer intentionally built the existing house in blatant contravention of planning permission.
2. The developer by seeking to 'build' a bungalow in place of the house in question will still be in contravention of the planning permission in place.
3. The developer is demonstrating a complete disregard for residents directly affected as the bungalow will still be as close to their boundary. The height of the bungalow will still directly impact on the affected residents because of its close proximity.
4. The decision by the developer to "squeeze" another house in notwithstanding the clear planning permission previously granted can only be construed as a financial decision on the part of the developer.

5. The question has to be asked, what kind of message and precedence would you be setting if you allow the developer's application? This is particularly relevant in view of the number of housing developments being constructed in this area.

I truly hope you can stand firm and not allow the developer to make a mockery of your planning processes and decisions and refuse their application.

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**Objection – Denise Brogden, 44 Princess Gardens, Blackburn, BB2 5EJ. Received: 12/05/2022.**

I am emailing to lodge a formal objection to the retrospective planning application at Plot 1, Phase 1A of the Watermills Development.

The reduction in height would be welcome if that was the issue that had initially been raised, but the lowering of the roofline does not alter the proximity of this property to the existing properties at 47, 48, 49 and 50 Princess Gardens. I have spoken to some of these residents and they feel the new property will still adversely affect their quality of life.

I feel strongly the removal order should be enforced in its original form, as this would not only reduce the adverse effects on the residents quality of life and possibly property values, but it would also send out a firm message to these, and other developers, that Blackburn with Darwen is not a borough, nor a planning department to be "trifled with", and that they must stick to permitted development plans.

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**Objection – David Jeal, 80 Horden View, Blackburn. Received: 13/05/2022.**

Watermills Development Following the issuing of a removal notice on plot 1, which has been built much too close to the adjoining properties on Princess Gardens, the developer has applied for retrospective planning permission for a three bedroom bungalow on the same plot. I'm assuming they won't be moving the footprint of the building, merely lowering the existing roofline. This doesn't solve the initial complaint that it has deliberately and cynically been built otherwise than in accordance with the granted planning permission.

I object to the above in the strongest possible terms. It is an indication of corruption at a planning level, it erodes my faith in the system and a good friend is heartbroken by this as it infringes upon her property and has created a 'prison' like environment for her.

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**Objection – Donna Kelly, 10 Kingsley Close, Blackburn, BB2 5FB. Received: 13/05/2022.**

I have never proposed to object about anything so apologies if this is not up to standard however Plot 1 on Watermills Development has been a shameful example of a developer not caring about its neighbours.

Every time I walk passed I am horrified for the residents of Princess Gardens who now get to stare up at the gable end of a large house almost directly on their garden boundary. Have you stood in their garden? It would make you cry and be happy that wasn't your home.

I understand they have built this in the wrong place and now propose to admit the “mistake” and request permission to make it a bungalow.

If it's footings are in the wrong place it doesn't matter what you build on it unless it isn't visible beyond the garden fence.

These developers know what they're doing and now they've been challenged they look to stick a random bungalow in its place ? Apart from how Aesthetically ugly that will look, it's time to say “no”. You made the mistake. Pull it down.

I'd like this objection to be registered

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**Objection – Mr & Mrs Staffa, 738 Livesey Branch Road, Blackburn. BB2 5NP. Received: 13/05/2022.**

To whom it may concern,

Following the removal notice on plot 1 which has been built much too close to adjoining properties. I have been advised that rather than removal of the building the builders have applied for retrospective permission for a 3 bed bungalow on the same plot.

I don't feel this solves the problem and as they went against the initial plans I would like to raise my objections to this and feel the house should be demolished and removed. After all if we had done this that would have been the outcome.

---

**Objection – Mrs J Lewis, 598 Preston Old Road, Blackburn, BB2 5NP. Received: 13/05/2022.**

Dear Mr Kenny,

I am writing to raise the strongest objection to the proposed retrospective application of the developers on the Water Mills Development, Feniscowles, to reduce the level of the current two storey structure to a one storey.

The objection is based upon the following:

- 1) The original plans passed *did not* site the original house where it is currently situated so planning was contravened in this respect in the very first instance
- 2) The proposed reduction of height of the property does a) not serve to mitigate, in any significant manner, the impact upon the houses directly affected and b) should not be considered given point 1 above

If this is passed then it will reflect poorly upon the planning department and the council as a whole because those with domestic planning applications look to adhere strictly to the proposed plans for fear of the financial consequences of not doing so resulting, quite rightly, in structures being taken down and rebuilt at a cost to that individual. To allow the developers to gain retrospective permission on such an impactful structure that was positioned in a place that contravened the plans in the first instance, would highlight a dangerous lack of parity on the part of the planning department would surely call into question the integrity of the whole planning process.

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**Objection – Lyndon Morris, Resident of Feniscowles. Received: 13/05/2022.**

I am a resident of the Feniscowles area and would like to state my objection to the property plot 1 on the Watermills Development at Feniscowles Blackburn.

The proximity of this house to the house of the existing residents property is so ridiculously close and unacceptable it's difficult to believe that anyone would think that was acceptable.

Those poor people have had their space, light and , privacy invaded and they must be heartbroken and desperate.

I would like to formally object to this property being built in this position and the lack of reasonable distance between the existing property. It should be removed and the developers fined heavily.

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**Objection – Taryn Baker, 4 Sunnymere Drive, Darwen, BB3 1RH. Received: 13/05/2022.**

I am appalled at the developers disregard for planning relating to the building work off Brokenstone Road and the Watermills development site in Feniscowles.

1. Driving on Brokenstone Road is an accident waiting to happen. The volume of heavy vehicle traffic and the narrow roads is terrifying. On Gib Lane, Brokenstone Road and Livesy Branch Road the number of stones on the road is shocking and the place is constantly caked in mud. I'm really worried about the poor air quality my little boy is exposed to now on a day to day basis.

2. When is the new school behind built? It is needed already.

3. Regarding the Watermills development specifically I hope you will reject the retrospective planning application for a bungalow almost built inside someone's garden on Princess Gardens. It is a disgrace that the building work has been allowed to progress this far and developers cannot be allowed to vary from plans.

Please please get the confidence to start enforcing rules and planning permission in place and DO NOT let developer build as they please and fail to adequately respect and clean the public roads.

---

**Objection – Hazel Flanagan, 10 Harebell Close, Blackburn. Received: 13/05/2022.**

Following the issuing of a removal notice on Watermills Development, Plot 1, which has been built much too close to the adjoining properties on Princess Gardens, the developer has now applied for retrospective planning permission for a three bedroom bungalow on the same plot. This doesn't solve the initial complaint that they deliberately went against their initial plans, without being granted planning permission. It still is an invasion of privacy and light should a bungalow be put in its place. I therefore wish to object to this appeal from the builder and feel the building needs to be removed.

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**Objection – Ray Bromley. Received: 13/05/2022.**

Just thought I'd place on record my objection to the new build in feniscowles. Really feel for the person on Princess Gardens having to look out on that.

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**Objection – David Finch. Received: 13/05/2022.**

Please register my objection to the proposed amendment to planning permission to lower the high of adjoining properties being built next to princess gardens. The buildings must be removed and moved away from the adjoining borders not just reduced in height.

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**Objection – Hayleigh. Received: 13/05/2022.**

I am writing to object to the planning request to lower Plot 1 of The Watermills development to a bungalow. All of the houses on this development are much closer to the existing houses than they appear on the plan, the existing residents now have overbearing properties that tower over their gardens leading to a large reduction in the light to both their gardens and homes. It has also caused the existing houses on Princess Gardens to have no privacy in their own gardens or living rooms (which are at the back of most of the homes) due to windows on the development overlooking them. An extension to a existing house would be rejected if it were to tower over neighbouring properties in the manner that the new houses do, what is the difference between this and the new builds?!

The developers have not stuck to the original plans submitted and a retrospective amendment to these plans to allow the building in Plot 1 to be reduced to a bungalow should not be allowed. The trees have also been removed from the borders which the residents were advised would stay, this has left them looking at an awful building site, with churned up land and part built houses.

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**Objection – Mrs Heidi Pugh, 31 Old Gates Drive, Blackburn. Received: 13/05/2022.**

Following the issuing of a removal notice on plot 1, which has been built much too close to the adjoining properties on Princess Gardens, the developer has now applied for retrospective planning permission for a three bedroom bungalow on the same plot. This doesn't solve the initial complaint that they deliberately & went against their initial plans, without being granting planning permission. It still is an invasion of privacy & light should a bungalow be put in its place! I therefore wish to object to this appeal from the builder & that the building needs to be removed.

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**Objection – Hayleigh Jones, 8 Princess Gardens, Blackburn, BB2 5EJ. Received: 16/05/2022.**

I am writing to object to the planning request to lower Plot 1 of The Watermills development to a bungalow. All of the houses on this development are much closer to the existing houses than they appear on the plan, the existing residents now have overbearing properties that tower over their gardens leading to a large reduction in the light to both their gardens and homes. It has also caused the existing houses on Princess Gardens to have no privacy in their own gardens or living rooms (which are at the back of most of the homes) due to windows on the development overlooking them. An extension to a existing house would be rejected if it were to tower over neighbouring properties in the manner that the new houses do, what is the difference between this and the new builds?!

The developers have not stuck to the original plans submitted and a retrospective amendment to these plans to allow the building in Plot 1 to be reduced to a bungalow should not be allowed. The trees have also been removed from the borders which the residents were advised would stay, this has left them looking at an awful building site, with churned up land and part built houses.

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**Objection – Catherine Carbine, 36 Linden Lea, Blackburn, BB2 5AG. Received: 16/05/2022.**

I am writing to strongly object to the building of the property built without the permission and far too close to the existing houses. The builder should have to remove the property and fined

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**Objection – Elaine Casson. Received: 16/05/2022.**

With reference to the issuing of a removal notice on Plot 1 of the Watermills development site and the developer's retrospective application to build a bungalow, I hereby submit my objection to this application. This potential new build would still be too close to the adjoining house on Princess Gardens.

I would also ask that serious consideration be given to applying further scrutiny to this development to ensure there are no further breaches.

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**Objection – Charlotte Hayes. Received: 16/05/2022.**

We'll need I say more the houses on this development are way too close to the existing houses.

How would you feel if you had invested in a home for you and your family then the council agreed to this monstrosity being built at the very bottom of your garden towering above your garden and property!

The developers have not followed the approved plans and have shown such disregard for the existing residents and area. Please do not let them get away with this. Unless the council make them take down the property then you are setting a dangerous precedent.

I walk past this route most days and am so sad to see the wild doe running around this building site looking terrified. This was their habitat and they should be at the very least moved to safety.

I hope you take my concerns into consideration when you consider the retrospective application and also consider our wildlife who don't have a voice

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**Objection – Nicola Brown, 46 Princess Gardens, Blackburn. Received: 23/05/2022.**

We'll need I say more the houses on this development are way too close to the existing houses.

How would you feel if you had invested in a home for you and your family then the council agreed to this monstrosity being built at the very bottom of your garden towering above your garden and property!

The developers have not followed the approved plans and have shown such disregard for the existing residents and area. Please do not let them get away with this. Unless the council make them take down the property then you are setting a dangerous precedent.

I walk past this route most days and am so sad to see the wild doe running around this building site looking terrified. This was their habitat and they should be at the very least moved to safety.

I hope you take my concerns into consideration when you consider the retrospective application and also consider our wildlife who don't have a voice

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Department of Place, Growth and Development

**ORIGINATING SECTION:** Strategic Planning

**REPORT TO:** Planning and Highways Committee

**DATE:** 16 June 2022

**TITLE: Proposed Introduction of an Article 4 Direction - Removal of permitted development rights for the change of use from Use Class C3 (dwelling-houses) to C4 (HMOs)**

**WARDS AFFECTED: All**

**COUNCILLORS: All**

## 1. PURPOSE OF REPORT

- 1.1 To brief the Planning and Highways Committee on current issues relating to Houses of Multiple Occupation (HMOs) and set out the justification for making a new Article 4 Direction to control the change of use from a dwellinghouse to a HMO and to set out the new designated area which that Direction will apply to. (The new Article 4 Direction designation is proposed to cover the whole urban area of Blackburn with Darwen and will replace the existing Article 4 Direction.)
- 1.2 To recommend to Committee an approach to making the Direction, namely a non-immediate Direction that will come into effect in 12 months, covering the urban areas of the Borough (and so affecting all wards). A map of the proposed Article 4 Direction area is provided as Appendix 1.
- 1.3 To invite Committee to endorse the proposed approach and recommend that Council Forum approve the making of the Direction (at the July Forum) and the commencement of consultation.
- 1.4 To recommend that Council Forum agree the cancellation of the existing Article 4 Direction, but only on the condition that the new direction is confirmed at a later date, at which point it will be cancelled on the date that the new Direction takes legal effect.

## 2. BACKGROUND

- 2.1 In April 2010, the Government introduced a new Use Class C4 (C4) to the Use Classes Order, relating to Houses of Multiple Occupation (HMOs) covering small shared houses or flats; defined as being occupied by 3 to 6 unrelated individuals who share basic amenities. In October 2010, the Government then introduced legislation, under 'permitted development rights' to allow the change of use of a dwellinghouse to a C4 use without the need to apply for planning permission. Whilst introduced through previous legal Orders, these 'permitted development' rights are now legislated through The Town and Country Planning (General Permitted Development) (England)

Order 2015 (as amended)<sup>1</sup>, or GPDO for short, which gives permission to carry out certain 'permitted development' subject to certain conditions.

2.2 The GPDO (2015) (Part 3, Class L (part b)) grants permitted development rights to allow the conversion from a use falling within Use Class C3 (dwelling houses) to a use falling within Class C4 (HMOs), and relate only to dwelling houses of not more than 6 residents. Proposals for HMOs containing 7 or more residents already require planning permission to be sought.

2.3 In usual circumstances, the conversion of a dwelling house to a HMO (for 3 to 6 persons) does not therefore require planning permission to be sought. However, the Government recognises that sometimes local circumstances will mean greater control needs to be given to local powers to manage such types of development. Consequently, Article 4 of the GPDO (2015) allows Local Planning Authorities (LPAs) to remove permitted development rights from specified areas under their management, thereby requiring applicants to apply for planning permission and enabling the LPA the opportunity to consider a proposal in more detail. These are called Article 4 Directions.

2.4 In 2012, Blackburn with Darwen Council agreed to introduce a (non-immediate) Article 4 Direction to remove permitted development rights for the conversion of C3 to C4 uses within the wards then known as Shear Brow, Corporation Park, Wensley Fold, Mill Hill, Ewood, Sudell and Sunnyhurst. The Direction was introduced in response to concerns from elected members, residents, businesses and other stakeholder agencies, at the detrimental impact that high numbers and localised concentrations of HMOs were having on the physical, economic and social fabric of communities and neighbourhoods across the borough.

2.5 Later in 2012, a Supplementary Planning Document (SPD) relating to planning applications for HMOs was consulted upon and adopted, producing clear and detailed local policy guidance to set out how and why HMOs were affecting the sustainability of communities and neighbourhoods in the borough, and the very limited circumstances where they may be supported.

2.6 In February 2013, the Article 4 Direction (agreed in January 2012) came into force requiring all changes to C4 uses within the defined Article 4 areas to seek planning permission. Small HMOs outside of the defined areas, where issues of concentration had not been identified, still retained their permitted development rights.

2.7 In accordance with national planning guidance (para 49)<sup>2</sup>, the Council report accompanying the original Article 4 Direction (2012) set out its intent to monitor the appropriateness of the Direction, including review and consideration of whether the original rationale and/or extend of the Direction continues to be valid.

2.8 Whilst the planning actions taken so far to resist additional HMO approvals in those designated areas are considered to have been successful, there have been increasing concerns, from a variety of Council services, that the number of HMO beds in the borough is growing and, with it, concerns regarding the amenity harm and associated impact on public services and communities. Despite the Article 4 Direction, over recent years the borough has seen a considerable increase in the

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<sup>1</sup> [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>2</sup> [When is permission required? - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

provision of HMO accommodation, and the Council now consider there to be an over-provision of such accommodation, which includes providing for needs imported from outside of the Borough. The consequence of this proliferation of HMOs are multiple and varied, including impacting on amenity and well-being, limiting opportunities for investment and regeneration, reducing the Council's ability to address the housing supply imbalance, and increasing the demand for frontline services.

2.9 The growth in HMOs and the increase in associated issues, alongside the progression of the Council's emerging Local Plan (2021-2037) means this is now an opportune time to review the Article 4 restrictions and their designated geographic areas. Whilst acknowledging that planning is only one part of a number of preventative actions to be implemented by the Council as a whole, Planning continues to be a key tool in the management of HMOs in the Borough.

### **3. RATIONALE**

3.1 The emerging Local Plan (2021-2037) contains a new policy (Policy DM6: HMOs) which states planning permission will not be granted for any new HMOs in any part of the borough during the Plan period. However, this relates only to those HMO developments requiring planning permission and so Article 4 Directions are a necessary tool to 'catch' HMO developments that could otherwise be carried out under permitted development rights.

3.2 Therefore, it is the Council's intent to extend the use of an Article 4 Direction to other appropriate areas of the borough to fulfil the intended policy aims of DM6. Under this approach, planning applications will be required for HMO conversions in the areas the Article 4 Direction will cover, and then the policy will guide the assessment of those planning applications [to refuse them]. Whilst the policy wording does remain subject to Government examination in 2022/23, and may ultimately not be supported or adopted in this form, the principle of evidencing, reviewing and establishing changes to the Article 4 Direction areas remains relevant for the Council to facilitate stronger management of HMO conversions in those areas. The new Article 4 Direction designation is proposed to cover the whole urban area of Blackburn with Darwen. Once in effect, it will replace (modify and supercede) the existing 2012 Direction.

3.3 Through the emerging Local Plan, the Council have an ambition for balanced growth in the Borough, which includes a focus on the provision of jobs and economic growth, regenerating the town centres of Blackburn and Darwen, and addressing inequalities in health and deprivation. Aside this, the Council's corporate priorities include a focus on reducing health inequalities, supporting connected communities, safeguarding the most vulnerable people and supporting town centres and businesses. Based on the available data, it is likely that this work will be significantly undermined unless tighter management of HMO accommodation is introduced, and with it greater protection of the amenity of local neighbourhoods, strengthening communities, improving housing and working to address deprivation and health inequalities.

3.4 The National Planning Policy Framework (NPPF)<sup>3</sup> (Paragraph 53) states that the use of Article 4 Directions to remove national permitted development rights should be limited to situations where a Direction is necessary to protect local amenity or the well-being of the area, and must be based on robust evidence and apply to the smallest geographical area possible. According to the accompanying national planning guidance, this means that the potential harm that the Direction is intended to address must be clearly identified, and a strong justification set out for the withdrawal of permitted development rights set relating to a wide area (e.g. that covering a large proportion of the LPA area).

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<sup>3</sup> [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/432424/NPPF-2019.pdf)

3.5 Under the legislation, Article 4 Directions can be introduced either with immediate effect, or with non-immediate effect involving a 12 month lead-in time. If a Direction is made with immediate effect, the Council becomes liable to pay compensation to any property owner who is refused planning permission, or granted permission with restrictive conditions, for development which would not have required consent prior to the Direction being made. This liability applies for a period of 12 months, and can relate to a range of losses potentially suffered by the unsuccessful applicant including loss of property value. If a Direction is introduced with a 12-month lead-in time there is no liability for compensation. In 2012, the Article 4 Direction was introduced as a non-immediate Direction as Members felt the potential financial risk to the Council was unacceptable. As the difficulties in quantifying the potential scale of compensation remain, due to the number of variables involved, it is again proposed to introduce this Article 4 Direction through a non-immediate route.

3.6 The Council have prepared a Justification document (Appendix 2), to summarise the relevant national and local policy context and to set out the evidence to support the introduction of a new Article 4 Direction. An overview is provided in the following section.

## **4. KEY ISSUES**

4.1 It is considered that the available evidence provides an acceptable justification for the extended withdrawal of permitted development rights via an Article 4 Direction.

### **Current evidence relating to HMOs**

4.2 There are a number of issues that make it difficult to historically compare the number of HMOs in the Blackburn with Darwen borough, including changes to the ward boundaries following the Governments boundary review in 2018; differences in the definitions of HMOs between planning, housing and licensing; and differences in how data is collected. However, all of the available data shows a significant increase in the number of HMOs since 2011.

- In 2011, there were 129 HMOs/hostels in the borough, representing 0.22% of the total number of properties.
- In 2022, using LLPG data, there were 390 HMOs in the borough, representing 0.61% of the total number of properties and a growth of over 200% since 2011.
- Acknowledging differences in counting and reporting, the Council's housing team recorded 506 HMO bed spaces in 2015, and 1169 in 2021, representing a 131% increase in the number of bed spaces over that period.

The evidence shows that, since 2012, the numbers of HMOs have grown significantly, and spatial analysis of the locations of those HMOs show they have dispersed to parts of the borough that fall outside those areas currently managed under the existing Article 4 planning powers. It is expected that this is as a result of the existing Article 4 Direction restrictions.

4.3 The evidence has also shown that the wide variety of inter-related issues pertaining to HMOs are not confined solely to the boundaries of the few wards contained under the existing Direction, but stretch across the urban areas. As a general summary:

- The borough has high proportions of poor quality housing stock, which can be bought cheaply, and is located in the most deprived and urban areas of the borough.
- This type of cheap and low standard accommodation is generally bought by landlords and converted to HMOs in the anticipation of generating high levels of revenue as HMOs operate within a private market and attract an enhanced rate of housing benefit.
- This type of HMO accommodation generally attracts and houses vulnerable persons with multiple and complex needs, who, once resident in the borough, require intense

support from the Council, including benefit claims, and from across the public sector, including the emergency and support services.

- High proportions of the borough's benefit claims are made in relation to mental and behavioural problems, and claimants commonly originate from outside of the Blackburn with Darwen area meaning the borough involuntarily imports a high percentage of adults with complex needs. Demand for HMOs is not generated from a local need.
- Vulnerable persons are largely those with the most challenging and complex behaviours, resulting in increases of incidences of rough sleeping, street-begging, anti-social behaviour, violence, street-working, street drug and alcohol use and general criminality within the borough. Significant proportions of criminal and anti-social behaviour relate to HMO residents, particularly in Blackburn and Darwen town centres.
- Benefit payments, responding to crime, anti-social behaviour and environmental damage also drains the Council of revenue, and, in turn, opportunities to invest in improving areas of the borough and regenerating the town centres (which are a key focus of the Council). The top priority for town centre businesses is for the Council and its partners to address issues stemming from vulnerable persons associated with HMOs.

4.4 Whilst it is not possible to say categorically that all of the incidents and issues identified above and in Appendix 2 have been generated directly by the presence of HMOs and/or HMO residents it is clear from the analysis that there is a recurring high occurrence of these problems in those areas where high concentrations of HMOs have become established. And so the dispersed growth of HMOs to wider areas of the borough will likely serve the growth of such associated issues across the borough.

#### **Justification/evidence for making an Article 4 Direction**

4.5 The ability for HMOs to appear without more effective planning management perpetuates the above issues. The resulting effects are to create detrimental impacts on the amenity and wellbeing of local areas, with increased levels of crime, anti-social behaviour and environmental issues. It fosters a vicious cycle of amenity deterioration, depressed house prices and poor quality stock, damaging local character, worsening deprivation rates and creating a perpetuating negative spiral that then encourages further HMOs to continue the cycle. Clusters of unmanaged HMOs have a detrimental impact on the growth, regeneration, image, investment and sustainability of communities and neighbourhoods. The transient nature of tenants in such accommodation, many of whom have no connection to BwD, undermines community cohesion, neighbourhood sustainability and 'civic pride'. It also has the potential to fundamentally change the character of an area, created imbalanced communities, and for an area's housing choice to be skewed away from family accommodation. Any continued increase in the number of HMOs will further add to the detrimental and cumulative impact of this activity on communities and neighbourhoods which will harm local amenity.

4.6 Based on the collated evidence, the Council consider the introduction of a new Article 4 Direction, to cover all urban areas of the borough, will grant the Council more effective control to restrict the otherwise unregulated conversion of dwelling houses to HMOs. It is expected that such interventions can seek to help rebalance communities and address the cumulative and detrimental impacts of HMOs on the borough and local amenity.

#### **Proposed Article 4 Direction**

4.7 The evidence has demonstrated that HMO numbers have grown considerably and been dispersed beyond those areas covered by the original Article 4 Direction, and that i) the

factors contributing to a continuing growth in HMOs and ii) the consequential harm arising from HMOs both extend to a wider urban areas than those original seven wards. Without Council intervention, there is a risk that these factors will see a continued growth in HMOs and the vicious circles described through this report will continue.

4.8 To protect local amenity and the well-being of the area from further harm, the Council therefore propose to introduce a new Article 4 Direction to cover the urban areas of the borough. A map of the proposed Direction area is contained at Appendix 1. The boundary of those urban areas will be set by Policy CP2 of the emerging Local Plan (2021-2037). The new Article 4 Direction, once in effect, will serve to modify (and in doing so replace) the 2012 Direction and its designated areas.

4.9 It is considered that this is the smallest, appropriate geographic level to apply for the reasons evidenced. The remaining non-urban areas of the borough are considered to be self-regulating due to higher house prices and better quality housing stock dissuading their conversion to HMOs by potential landlords. However, as before, the proposed Article 4 Direction, once in effect, will be subject to future monitoring and review. Should issues disperse into those areas to create negative impacts on amenity, then the boundaries can again be re-considered.

### Risk assessment

4.10 There are a number of potential risks associated with both the making and confirmation of a Direction. Risks and actions to reduce the impact include:-

Risk	Mitigation
The current situation will remain in place for a further 12 months whilst the non-immediate direction is introduced. In this time, there could be a 'rush' of conversions to avoid the future requirement for planning application.	Planning is just one part of the regulatory process available to the Council to manage the conversion of properties to HMOs. The only alternative to a non-immediate direction would be to introduce an immediate direction, but this would leave the Council open to the risk of financial compensation for a 12 month period.
Planning applications for the conversion to an HMO in an Article 4 Direction area are exempt from a planning fee.	Under the emerging policy DM6, it is expected that all applications will result in a refusal, which may deter applicants. The cost of processing applications will be met through the existing budget for the Growth department.
The extended Article 4 Direction could result in a reduction in the supply of HMOs.	The Council's Housing and Economic Needs Assessment (2018) and Update (2021) identified no need for any type of this accommodation (HMOs).
Transfer of displacement of problems to other areas not covered by an Article 4 Direction.	The evidence shows a growth of HMOs dispersed into areas not covered by the existing Article 4 Direction, but this is understood to be because of the similar conditions across the wider urban area, including deprivation and low-cost housing. Rural areas are considered to be self-regulating due to higher house prices and better quality housing stock dissuading conversion to HMOs.

4.11 There are no 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.

### **Procedure and powers for making an Article 4 Direction**

4.12 The LPA is able to confirm all Article 4 Directions. The Secretary of State (SoS) must be notified at both the preliminary ('making the notice') and final ('confirming the notice') stages. The SoS does not have to approve article 4 directions and will only intervene where there are clear reasons for doing so.

### **Next steps**

4.13 It is proposed that the Council implements a new, non-immediate Article 4. This option requires a 12 month lead in period before the Direction becomes effective. On this basis, if confirmed, it is expected that the new Direction would become operational by August 2023, subject to Council Forum approvals in that time period.

4.14 The process of making an Article 4 Direction requires local consultation. It is proposed that the consultation will be carried out in August/September 2022 for a 6 week period.

4.15 The Council is obliged to take account of all comments made during the consultation period and consider whether these are material to the Direction as originally proposed. If significant amendments are needed this may trigger the requirement for further consultation. In this case the date for confirming the Direction will need to be reviewed.

4.16 Once the consultation is complete the outcome will be reported to Members along with recommendations to confirm the Direction, modify it or not pursue it as appropriate.

## **5. POLICY IMPLICATIONS**

5.1 The making of the Article 4 Direction will be carried out in accordance with relevant legislation and national planning guidance from the Department for Levelling-up, Housing and Communities.

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 adopted Blackburn with Darwen Borough Local Plan Part 2 (2015) and the emerging Local Plan 2021-2037.

## **6. FINANCIAL IMPLICATIONS**

6.1 The costs for making the Article 4 Direction including local consultation 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 removal of permitted development rights in the urban areas of the borough (all wards) is sufficient to warrant the matter being brought to Council Forum in order to reduce the risk of challenge.

7.2 The Direction will be made under the provisions of Article 4 of the Town and Country Planning (General Permitted Development) Order 2015, as amended, in line with the procedure set out in Schedule 3 of that Order.

7.3 Consultation is discussed below and must be meaningful and considered in order to be effective and not potentially subject to judicial review.

## **8. RESOURCE IMPLICATIONS**

8.1 The making of the Article 4 Direction will be managed by the Strategic Planning Team in close collaboration with colleagues in Legal Services.

8.2 Once the Direction has been confirmed and takes effect any planning application received for the conversion of a dwelling house (Use C3) to an HMO (Use C4) within the defined urban area will be processed by the Council's Development Management Team.

## **9. EQUALITY IMPLICATIONS**

9.1 An equality analysis and assessment will be carried out.

## **10. CONSULTATIONS**

10.1 A wide variety of evidence has been collated to justify the making of the Direction; including both its purpose and extent.

10.2 A draft version of the Justification paper was circulated amongst Council officers, including those from housing, health, supporting people services, environmental crime, benefits, planning, development and economic regeneration.

10.3 National guidance provided by the Department for Levelling-up, Housing and Communities requires that local consultation is carried out before the Direction is confirmed by the local authority.

10.4 The making of the Article 4 Direction is a two-stage process. The first stage involves the Council making the Direction and carrying out local consultation within the areas where it is proposed the Direction will take effect. The guidance confirms the notification procedure which requires the Council to publish and display local advertisements and site notices and other media. This will provide an opportunity for local residents, property owners, property agents and stakeholder groups to make comments on the proposal.

10.5 The Council is also required to notify the Secretary of State of the proposal.

10.6 It is proposed that the consultation period will extend over 6 weeks during August/September 2022. A notice will be published in the local newspaper and on the Council's website and in addition to the requirements noted above copies of the information will be available in both town halls, the Central Library, Darwen Library and local libraries in the areas where the Direction is proposed. Site notices will also be displayed across the borough.

10.7 Any representations received during the consultation period must be taken into account in determining whether to confirm the Direction. If this involves any material change to the Direction there will be a need to re-consult.



10.8 The Council will need to take account of all comments. If there are no issues with the original proposal then there is no reason why the Council cannot proceed to confirm the Direction and the date on which it will become effective. However if any of the comments require a material change to the proposed Direction there may be a need to repeat the consultation.

### **Monitoring and review**

10.9 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 rationale and/or the extent of the Direction remains valid.

## **11. RECOMMENDATIONS**

1. That Committee note the issues described in the report and the rationale behind the proposed approach;
2. That Committee endorse the making of a non-immediate Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), with a 12-month lead-in period, to remove the permitted development right granted by Schedule 2 Part 3 Class L(b) of that Order, which allows a change of use from a dwelling house (C3) to a house in multiple occupation with between 3 and 6 occupants (C4) and which will apply to all urban areas of the borough as shown on the accompanying plan.
3. That Committee recommend that Council Forum approve the making of such Article 4 Direction, with the required consultation to take place over a 6 week period over August/September 2022.

CONTACT OFFICER: Darren Tweed, Strategic Planning and Transport Manager,  
Strategic Planning.

DATE PREPARED: 30 May 2022

BACKGROUND PAPER: Article 4 Direction Justification paper

### **Appendices**

Appendix 1: Article 4 Direction plan

Appendix 2: Article 4 Direction Justification Paper

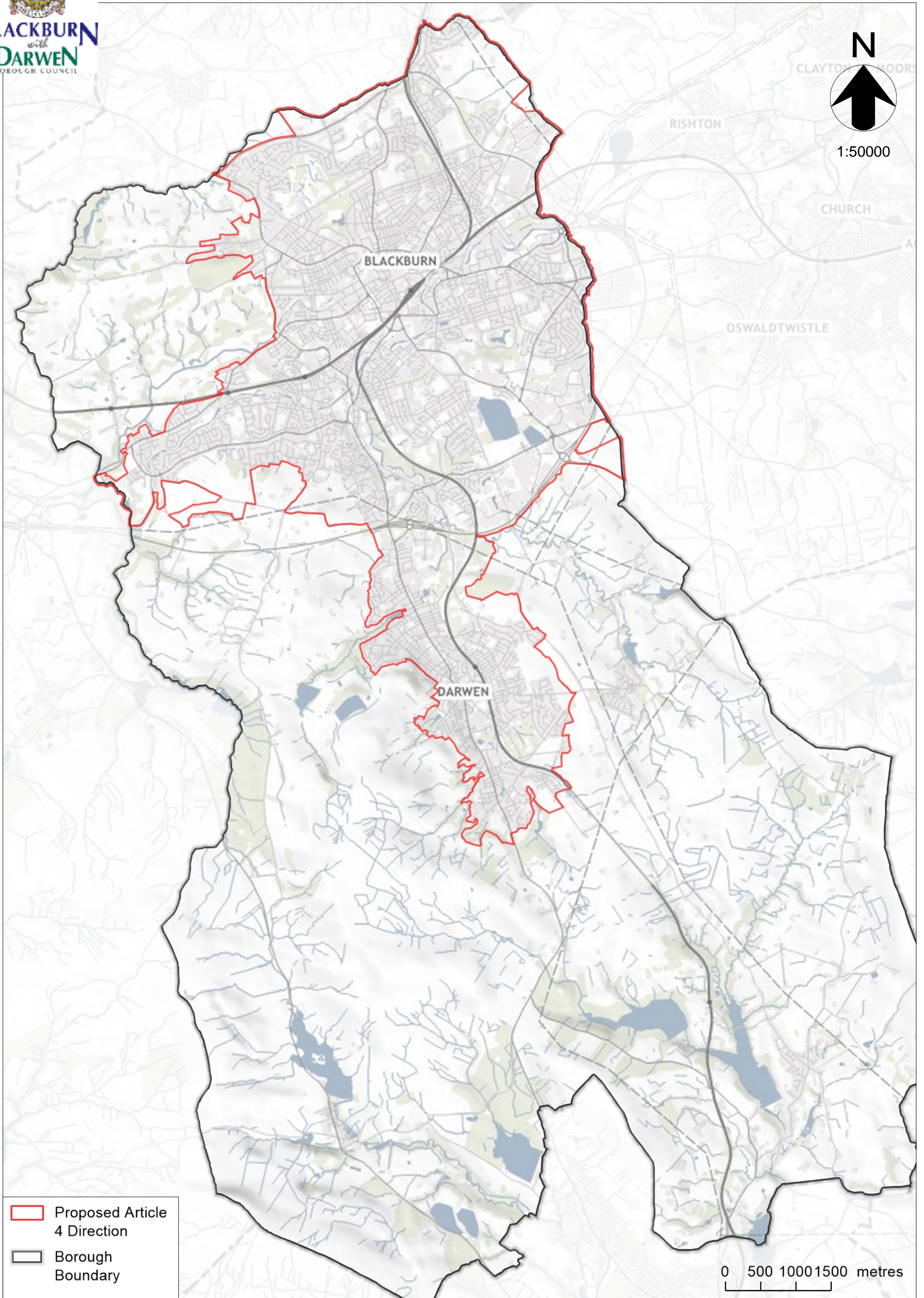




# Blackburn with Darwen Borough Council Proposed Article 4 Direction

August 2022



**BLACKBURN**  
with  
**DARWEN**  
BOROUGH COUNCIL



-  Proposed Article 4 Direction
-  Borough Boundary

0 500 1000 1500 metres





## **ARTICLE 4 DIRECTION (2022 Update)**

**Removal of permitted development rights for the change of use from Use Class C3 (dwelling-houses) to C4 (HMOs)**

**BACKGROUND DOCUMENT**

**Context, Evidence and Justification Paper**

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## 1. INTRODUCTION

1.1 This document sets out the policy context and supporting evidence to justify the introduction of a new Article 4 Direction under the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The Article 4 Direction will remove permitted development rights for the change of use from dwelling-houses (Use Class C3) to small houses in multiple occupancy (HMOs) (Use Class C4) in all urban areas of the Blackburn with Darwen borough. This will grant the Council greater control in the management of HMO conversions.

## 2. LEGISLATIVE AND NATIONAL POLICY CONTEXT

2.1 In April 2010, the Government introduced a new Use Class C4 (C4) to the Use Classes Order, relating to Houses of Multiple Occupation (HMOs) covering small shared houses or flats; defined as being occupied by 3 to 6 unrelated individuals who share basic amenities.

2.2 In October 2010, the Government then introduced legislation, under 'permitted development rights' to allow the change of use of a dwellinghouse to a C4 use without the need to apply for planning permission. This legislation was *The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010*<sup>1</sup>, which has since been both amended and then superseded by orders in 2013 and 2015. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)<sup>2</sup>, or GPDO for short, now takes precedent, and gives permission to carry out certain works under 'permitted development rights', subject to certain conditions.

2.3 The GPDO (2015) (Part 3, Class L, (part b)) grants permitted development rights to allow the conversion from a use falling within Use Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation). (*Conversely, Part (a) allows the change of use from C4 (HMO) to C3 (dwellinghouses).*) In both cases, this relates only to dwellinghouses of not more than 6 residents.

2.4 Proposals for houses of multiple occupation containing 7 or more residents already require planning permission to be sought.

2.5 In usual circumstances, the conversion of a dwellinghouse to a HMO, for 3 to 6 persons, does not therefore require planning permission to be sought. However, the Government recognise that sometimes local circumstances will mean that greater control needs to be given to local powers to manage such types of development. Consequently, Article 4 of the GPDO (2015) allows Local Planning Authorities (LPAs) to remove permitted development rights from specified areas under their management, thereby requiring

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<sup>1</sup> [The Town and Country Planning \(General Permitted Development\) \(Amendment\) \(England\) Order 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>2</sup> [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

applicants to apply for planning permission and enabling the LPA the opportunity to consider a proposal in more detail. These are called Article 4 Directions.

- 2.6 The National Planning Policy Framework (NPPF)<sup>3</sup> (Paragraph 53) states that the use of Article 4 Directions to remove national permitted development rights should be limited to situations where a Direction is necessary to protect local amenity or the well-being of the area, and must be based on robust evidence and apply to the smallest geographical area possible.
- 2.7 Amenity relates to those elements which contribute to a person's or business' overall well-being, and include visual attractiveness of a place, community safety, personal safety, balanced social/demographic mix, social inclusion and community cohesion, ownership and pride of place, access to services and facilities, satisfaction with the area as a place to live or work. The cumulative impact of HMOs on amenity, particularly in Blackburn with Darwen, includes concerns relating to housing standards and market, social cohesion, crime and anti-social behaviour, growth, investment and regeneration.
- 2.8 According to the accompanying National Planning Guidance<sup>4</sup>, this means that the potential harm that the Direction is intended to address must be clearly identified, and a strong justification set out for the withdrawal of permitted development rights set relating to a wide area (e.g. that covering a large proportion of the LPA area).
- 2.9 The re-introduction of planning powers can then help provide safeguards to better manage HMO conversions and the impacts they have on local communities and the standards of development.

### ***Immediate and non-immediate directions***

- 2.10 When introducing an Article 4 Direction, there are two types of Direction under the GPDO: non-immediate directions and directions with immediate effect. In accordance with Sections 107 and 108 of the Town and Country Planning Act 1990<sup>5</sup> and The Town and Country Planning (Compensation) (England) Regulations 2015<sup>6</sup> (as amended), compensation provisions apply to directions with immediate effect, whereas non-immediate directions may be served, giving 12 months' notice of the intent to enforce a direction, without the need to grant any subsequent compensation.
- 2.11 Schedule 3 of the GPDO sets out the procedures and requirements relating to how Article 4 Directions must be prepared, consulted and confirmed. These are explained in Section 6 and 7 of this paper.

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<sup>3</sup> [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/publishing/service/gov-uk)

<sup>4</sup> [When is permission required? - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

<sup>5</sup> [Town and Country Planning Act 1990 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>6</sup> [The Town and Country Planning \(Compensation\) \(England\) Regulations 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

### **3. LOCAL POLICY CONTEXT**

#### ***Introduction of an Article 4 Direction (2012)***

- 3.1 In January 2012, Blackburn with Darwen (BwD) Council Forum agreed to introduce a (non-immediate) Article 4 Direction to remove permitted development rights for the conversion of C3 to C4 uses within the wards then known as Shear Brow, Corporation Park, Wensley Fold, Mill Hill, Ewood, Sudell and Sunnyhurst.
- 3.2 Later that year, a Supplementary Planning Document (SPD), relating to Planning Applications for HMOs, was consulted upon and adopted. The SPD introduced clear and detailed local policy guidance to set out how and why HMOs were affecting the sustainability of communities and neighbourhoods in Blackburn with Darwen, and the very limited circumstances where they may be supported.
- 3.3 In February 2013, the Article 4 Direction (agreed in January 2012) came into force requiring all changes to C4 uses within the defined Article 4 areas to seek planning permission. Small HMOs outside of the defined areas, where issues of concentration had not been identified, still retained their permitted development rights.

#### ***Local Plan Part 2 (2015)***

- 3.4 In December 2015, Part 2 of the Local Plan was adopted, with a strong HMO development plan policy (Policy 19), confirming that HMOs will “only exceptionally” be supported. Such developments are only considered acceptable where the proposal does not erode amenity or character, does not necessitate substantial extensions, can accommodate necessary parking and where adequate waste/recycling facilities are provided. The policy was to complement the existing Article 4 Direction which removed permitted development rights relating to conversions of smaller family dwellings to HMOs.

#### ***Houses in Multiple Occupation and Residential Conversions and Sub-divisions SPD (2012)***

- 3.5 This supplementary planning document (SPD) was to provide additional detail explaining how the Council were to operate saved policies from the Blackburn with Darwen Local Plan, principally Policies H9 and HD5, and set out good practice which the Council expects to see adopted by developers. It is intended that this SPD will be deleted with the adoption of the new Local Plan (2021-2037) due to the policy approach set out in DM6. Information on the Local Plan 2021-2037 is provided as this section continues.

#### ***Review of the Article 4 Direction***

- 3.6 In accordance with national planning guidance (para 49)<sup>7</sup>, the Council report accompanying the original Article 4 Direction (2012) set out its intent to monitor the

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<sup>7</sup> [When is permission required? - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

appropriateness of the Direction, including review and consideration of whether the original rationale and/or extent of the Article 4 Direction continues to be valid.

- 3.7 Whilst the planning actions taken so far to resist additional HMO approvals in those designated areas are considered to have been successful, there have been increasing concerns, from a variety of Council services, that the number of HMO beds in the borough is growing and, with it, concerns regarding the amenity harm and associated impact on public services and communities. Despite the existing Article 4 Direction, over recent years the BwD borough has seen a considerable increase in the provision of HMO accommodation, and the Council now consider there to be an over-provision of such accommodation, which includes providing for needs imported from outside of the Borough. Concentrations of HMOs (including hostel provision) have significant impacts on the Council's ability to address the housing supply imbalance and are associated with significant increases in the demand for frontline services.
- 3.8 Whilst acknowledging that planning is only one part of a number of preventative actions to be implemented by the Council as a whole, Planning continues to be a key tool in the management of HMOs in the Borough.

#### ***Local Plan 2021-2037***

- 3.9 The emerging Local Plan (2021-2037) contains a new policy (DM6: HMOs) which states planning permission will not be granted for any new HMOs in any part of the borough during the Plan period. However, this relates only to those HMO developments requiring planning permission and so Article 4 Directions are a necessary tool to 'catch' HMO developments that could otherwise be carried out under permitted development rights.
- 3.10 Therefore, it is the Council's intent to extend the use of Article 4 Directions to other appropriate areas of the borough to fulfil the intended policy aims of DM6. Under this approach, planning applications will be required for all HMO conversions in areas the Article 4 Direction will cover, and then the policy will guide the assessment of those planning applications [to refuse them].
- 3.11 It is worth noting that the policy wording remains subject to Government examination in 2022/2023 and may, ultimately, not be supported or adopted in this form. In line with the NPPF (para 48), LPAs may give varying weight to relevant policies in emerging plans according to criteria. However, the principle of evidencing, reviewing and establishing changes to the Article 4 Direction areas remain relevant for the Council to facilitate stronger management of HMO conversions in those areas.

#### ***Boundary review (2018)***

- 3.12 Alongside the policy context, there have been additional changes relating to ward boundaries, which the original Article 4 Direction areas were based upon. Under the original Article 4 Direction the designated areas were based on the boundaries of seven ward areas as they applied in 2012. In 2018, BwD Council went through a boundary review by the Local Government Boundary Commission for England



(LGBCE), under the Local Democracy, Economic Development and Construction Act (2009). The review resulted in the number of electoral wards in the borough changing from 23 to 17, with the effect of subsequently changing the delineations of ward boundaries<sup>8</sup>.

- 3.13 There has therefore been a 'shift' in the boundaries for some, or all, of those wards that were originally covered by the 2012 Article 4 Direction. For example, the 'Sunnyhurst' ward was removed in 2018 and replaced by 'Darwen West' which covers a much larger geographical area including a significantly greater amount of rural area. Consequently, the Article 4 boundaries no longer relate to the seven wards they were originally drawn against.
- 3.14 The 2012 Direction made clear that, whilst the plans were intended to mirror the stated Council's electoral wards as close as possible as the date of the Direction, it is the Plans that defined the land subject to the Direction and not the electoral boundaries which may change from time to time. The area covered by the 2012 Direction remains as it was, until such time the Article 4 is modified, irrespective of the 2018 boundary revisions.
- 3.15 However, aside all new available evidence, the Council are now able to consider revisions to the boundaries of a new Direction and determine the most appropriate geography. Though it should be noted here that, in considering the evidence, the boundary changes have had some inevitable impacts on the ability for some ward data to be compared historically, which is explained further in the following section.
- 3.16 This report will set out the evidence justifying the introduction of a new Article 4 Direction, including identifying its new boundaries, which will, once in effect, cancel the 2012 Direction.

### ***Council plan objectives***

- 3.17 In addition to the planning context, the Council also has a series of corporate objectives to support the Council in being the best it can be. The Council's Corporate Plan (2019-2023) sets out the Council's eight priorities, of which seven relate closely to the appropriate management of HMOs. They are:
- Safeguarding and supporting the most vulnerable people
  - Reducing health inequalities and improving health outcomes
  - Connected communities
  - Safe and clear environment
  - Strong economy to support social mobility
  - Supporting our town centres and businesses
  - Transparent and effective organisation

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<sup>8</sup> [Review of Polling Districts Polling Places and Polling Stations.pdf \(blackburn.gov.uk\)](#)

### *Local Plan 2021-2037*

Similarly, the emerging Local Plan 2021-2037 establishes 12 strategic objectives, of which 3 closely link to the appropriate management of HMOs. They are:

- SO1: Health and wellbeing
- SO3: Housing needs
- SO5: Built and historic environment.

## 4. EVIDENCE

### HOUSES OF MULTIPLE OCCUPATION

#### *Definitions of HMOs*

- 4.1 Definitions of HMOs vary slightly across Planning and Housing<sup>9</sup>.
- 4.2 Under the GPDO 2015, permitted development rights apply to the change of use of a dwellinghouse to a HMO with 3 to 6 unrelated occupants, as their only or main residence, who share basic amenities such as a kitchen or bathroom, unless those rights have been removed under an Article 4 Direction. Proposals for houses of multiple occupation containing 7 or more unrelated occupants, as their only or main residence, who share basic amenities such as a kitchen or bathroom, already require planning permission to be sought under ‘Sui Generis’.
- 4.3 Definitions of HMOs under the Housing Act include self-contained accommodation but they are otherwise broadly similar in character to those of Planning. Under Part 3 of the Housing Act 2004 (as amended), from October 2018, mandatory licensing applies to all rented properties with 5 or more unrelated people occupying it, who share facilities like a kitchen, toilet or bathroom. This licensing enables Councils to prescribe standards of safety and amenity and the suitability for occupation. Unlicensed HMOs therefore relate to those smaller HMOs of 3 to 4 unrelated people.
- 4.4 Councils can also use the powers under the Housing Act 2004 Part 3, to bring in Selective Licensing Scheme (SLS) areas requiring owners of *all* rented properties (not just HMOs) to apply for a selective licence. Under Part 2 of the same Act, a Council is also able to designate an ‘Additional HMO licensing scheme’ which requires owners of all smaller HMOs (3 and 4 bedroom HMOs) within the designated area to be licensed as HMOs by the authority, just like the larger (5 bedroom or more) mandatory HMO licensed properties.
- 4.5 The effect of this is to create slight disparities between HMOs recorded by planning (PD/permission) and Housing (licensed/unlicensed) but the broad patterns remain the same.

#### *Growth in the number of HMOs*

- 4.6 There are a number of issues that make it difficult to historically compare the number of HMOs in the BwD borough. These include: differences in the ward area boundaries resulting from the Government’s 2018 boundary review; differences in the definitions of HMOs that occur between planning, housing and licensing; and differences in how the data is collected - i.e. whether counting properties, bed-spaces or individual flats. Housing, for example, count HMO bed spaces irrespective of the size of the parent property, whereas, in terms of HMO management, planning may be more focused on just those HMOs that contain 6 or fewer occupants.

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<sup>9</sup> [Housing Act 2004 \(as amended\)](#) – See Section 254 and 259 for definition of HMO

4.7 In 2011, prior to the introduction of the Article 4 Directions, there were **129 HMOs/hostels** in the borough, representing 0.22% of the total number of properties. This comprised 82 HMOs in Blackburn and 47 HMOs in Darwen, with the majority located in the inner urban areas and within seven wards. All seven wards were in the top ranked groups for high numbers of environmental reports, high incidences of crime and anti-social behaviour, high deprivation, low house prices and high proportions of vacant properties.

Table 1: HMOs by Ward July 2011 (Source: BwD Planning Report 2011)

Ward	Total no of properties	No of HMOs	HMOs as % of total properties
Audley	3241	6	0.19%
Bastwell	2250	0	0.00%
Beardwood with Lammack	2258	0	0.00%
Corporation Park	2471	25	1.01%
Earcroft	2087	2	0.10%
East Rural	831	0	0.00%
Ewood	3106	11	0.35%
Fernhurst	2223	2	0.09%
Higher Croft	3168	0	0.00%
Little Harwood	2498	5	0.20%
Livesey with Pleasington	2876	0	0.00%
Marsh House	2887	3	0.10%
Meadowhead	2583	0	0.00%
Mill Hill	3153	10	0.32%
North Turton with Tockholes	1851	0	0.00%
Queens Park	2587	6	0.23%
Roe Lee	2655	1	0.04%
Shadsworth	3474	3	0.09%
Shear Brow	2457	10	0.41%
Sudell	3256	9	0.28%
Sunnyhurst	2980	9	0.30%
Wensley Fold	2963	24	0.81%
Whitehall	1782	3	0.17%
<b>TOTAL</b>	<b>59637</b>	<b>129</b>	<b>0.22%</b>

4.8 Using data from the Council's Local Land and Property Gazetteer (LLPG), in 2022 there were **390 HMOs** in BwD, representing 0.61% of the total number of properties. Direct comparison needs to be avoided between 2021 and 2011 data, due to the likely differences in data source and counting methodology. However, it is clear that the number and proportion of HMOs has significantly increased in the ten year period, with an indicative 200% growth.

4.9 The revisions to ward boundaries also make it difficult to compare HMO numbers by area, with a reduction from 23 wards in 2011 to 17 wards by 2021. (For example, Corporation Park now falls largely within the Central Blackburn ward but maintains its position as the ward with the highest proportion of HMOs.) As the Article 4 Direction areas aligned with the ward boundaries at that time, it is also difficult to identify changes in those wards that fell within, and outside, of the restricted areas. Nevertheless, it is apparent that numbers, and proportions, of HMOs have increased significantly, and, again, predominately fall within urban areas and areas of high deprivation, low house prices and high proportions of vacant properties. The number of HMOs has notably grown outside of the central areas of Blackburn and Darwen,

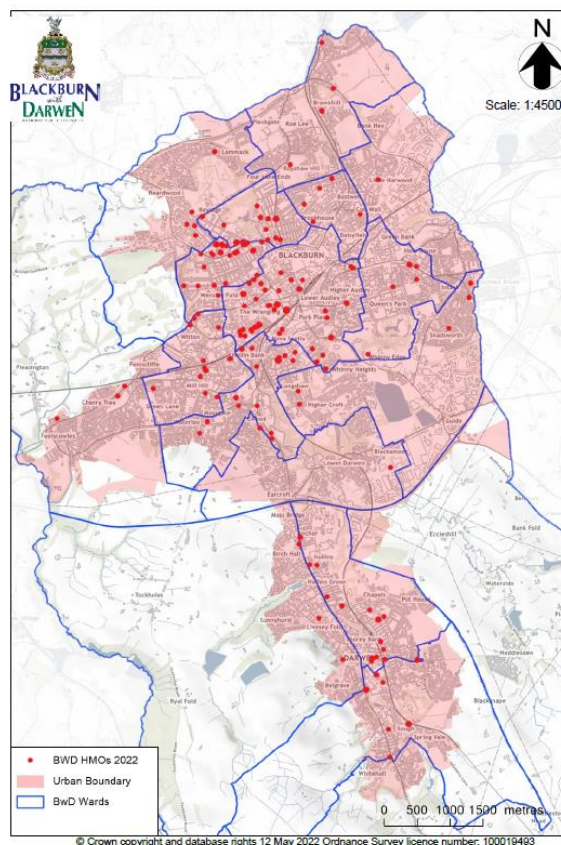
indicating a dispersed growth of HMOs in areas not covered by the restrictions of the 2012 Directions.

4.10 Acknowledging differences in counting and reporting, the Council’s housing team recorded 506 HMO *bed spaces* in 2015, and 1169 in 2021, representing a 131% increase in the number of bed spaces over that period. Given the slightly shorter time-period, this is a broadly similar increase to that reported through analysis of the LLPG.

Table 2: HMOs by Ward April 2022 (Source: BwD LLPG)

WARD	No of Properties	No of HMOs	%
Audley & Queen's Park	3297	11	0.33%
Bastwell & Daisyfield	2681	5	0.19%
Billinge & Beardwood	3333	5	0.15%
Blackburn Central	4433	131	2.96%
Blackburn South & Lower Darwen	3225	1	0.03%
Blackburn South East	4328	5	0.12%
Darwen East	5145	33	0.64%
Darwen South	4365	30	0.69%
Darwen West	3950	3	0.08%
Ewood	4387	32	0.73%
Little Harwood & Whitebirk	3349	2	0.06%
Livesey with Pleasington	3992	3	0.08%
Mill Hill & Moorgate	4146	15	0.36%
Roe Lee	3862	5	0.13%
Shear Brow & Corporation Park	2753	45	1.63%
Wensley Fold	3384	63	1.86%
West Pennine	3526	1	0.03%
<b>Grand Total</b>	<b>64156</b>	<b>390</b>	<b>0.61%</b>

Figure 1: Distribution of HMOs, showing urban area and wards (April 2022) (Source: BwDBC May 2022)







### **Planning applications**

4.11 In terms of the borough-wide HMO growth, the significant majority appears to have occurred through permitted development. Between May 2012 and May 2022, just 11 planning applications were received for the conversion of C3 dwelling houses to C4 small HMOs (3-6 persons) alongside 2 Certificate of Lawfulness applications. Each of those 13 applications related to proposed development in areas covered by the existing Article 4 Direction, which mandates the submission of a planning application for a change of use from C3 to C4. Both Lawfulness Certificates were granted. Of the 11 planning applications (for change of use), just 2 were permitted and the remainder were all refused or withdrawn showing the Article 4 Direction has been successful in allowing the Council to manage the conversion of HMOs within the designated boundaries of the Direction. When considering this data in conjunction with the above data, which shows the temporal growth in HMOs, it illustrates that much of the HMO expansion across the borough since 2012 has been through permitted development rights in those areas outside of the Direction area.

Table 3: Planning applications for the change of use from C3 to C4 (May 2012-May 2022)

Appl No	Decision	WARD 2022	PRE 2018 WARD
10/12/0320	GRANT	MILL HILL & MOORGATE	MIL HILL
10/14/0106	PERMIT	DARWEN EAST	SUDELL
10/17/0824	WITHDRAWN	DARWEN EAST	SUDELL
10/17/1881	REFUSE	MILL HILL & MOORGATE	MILL HILL
10/18/0875	WITHDRAWN	DARWEN EAST	SUNNYHURST
10/21/1182	REFUSE	DARWEN SOUTH	SUNNYHURST
10/21/1305	WITHDRAWN	DARWEN EAST	SUDELL
10/12/1206	GRANT	WENSLEY FOLD	CORPORATION PARK
10/21/1093	REFUSE	EWOOD	EWOOD
10/12/0960	REFUSE	BLACKBURN CENTRAL	CORPORATION PARK
10/13/0165	PERMIT	BLACKBURN CENTRAL	CORPORATION PARK
10/16/0247	REFUSE	WENSLEY FOLD	CORPORATION PARK
10/17/1181	REFUSE	MILL HILL & MOORGATE	MILL HILL

Source: BwDBC 2022

### **Imported need**

- 4.12 Each year, the BwD Homeless team register 200 homeless applications, predominately as a direct effect of imported need. Whilst there are no figures for HMOs directly, data relating to B&Bs shows that in April 2021 referrals came from Pendle, Rossendale, Burnley, South Ribble and Rochdale but there is anecdotal evidence from the Housing team that referrals extend from areas further afield including Scarborough, London and Kent.
- 4.13 There is further (anecdotal) evidence that BwD private landlords import people from other areas of the country to fill the available bed spaces in HMOs, including from homelessness referrals, prison release referrals and violent offenders subject to bail conditions.
- 4.14 The change of use through Permitted Development may mean that vital opportunities to inspect the premises for suitability and safety prior to occupation are missed and means that transparency, and opportunities to intervene around, location and spatial distribution of units are missed. This can, and has, led to the placement of converted units in close proximity which pose a potential risk to those residents.

### **Comparison with other Pennine areas**

- 4.15 Council held data shows that Blackburn with Darwen has a significantly higher proportion of HMO bed spaces than any of the other Pennine local authorities. Caution needs to be stressed when considering these figures, as the data includes larger, licenced HMOs and hostel bed spaces which are not the focus or remit of the proposed Direction and which serve to create a much larger total number of bed spaces than the data presented above (which sought focus on smaller HMOs). However, the data is valuable in illustrating a sizeable disparity between Blackburn and Darwen and other Pennine authorities: Blackburn and Darwen has a total of 862 bed spaces compared to 330 in Burnley and 75 in Rossendale. Whilst acknowledging that Blackburn with Darwen has a much larger resident population than other Pennine authorities, the number of HMO bed spaces is clearly substantially disproportionate, further suggesting the borough accommodates a large amount of imported need.

*Table 4: HMO comparison figures across other Pennine Local Authority areas (2022)*

Local Authority Area	Estimated Population (2019)	Number of HMO bed spaces
Blackburn with Darwen	148,753	862
Burnley	88,527	330
Rossendale	70,895	75
Hyndburn	80,815	15

*Source: Blackburn with Darwen and other Individual Local Authorities (2022)*



## **DEMOGRAPHICS**

### ***Population***

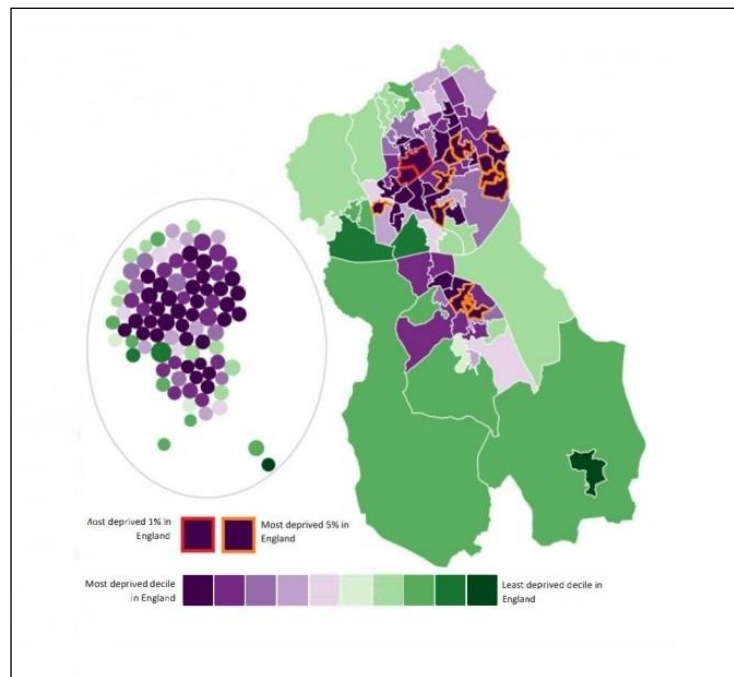
4.16 Blackburn with Darwen (BwD) covers 137 square kilometres and has a population of approximately 150,000 people (ONS 2020), with the number of people per km<sup>2</sup> around three times the England and Wales average illustrating a relatively high population density ([LCC Profile](#)). The population has, in general, been on an upward trend over recent years, and means BwD has the highest population of the 14 Lancashire local authorities, with a bias towards a much younger population than the norm ([LCC Profile](#)). Using ONS population projections, it is estimated that between 2018 and 2043, the population in the authority will increase by just 1%, the lowest rate for any of the 14 Lancashire authorities, and below the expected increase for Lancashire (7.2%) and England (10.3%) ([LCC Profile](#)).

### ***Deprivation***

- 4.17 A significant proportion of BwD's population live in areas of high deprivation.
- 4.18 The Indices of Multiple Deprivation provide statistics on relative deprivation which are reported at a small area level (called Lower Super Output Areas (LSOAs)) across 32,844 areas of England and 317 local authority areas. It uses 7 distinct domains, combined and weighted, which include income, employment, health, education, crime, barriers to housing and services, and the living environment.
- 4.19 The latest release from 2019, showed the BwD unitary authority is in the most deprived 10% in England, and, with regards the local concentration measure, this deprivation has got relatively worse since 2015 ([LCC Insight](#)). In fact, BwD has been in the 20% most deprived in England the five indices published since 2000. As of 2019, 56% of BwD's LSOAs are in the most deprived 20% of England ([LCC Insight](#)).

4.20 Spatial mapping of BwD's 89 LSOAs shows that over a third (33 LSOAs) are within the most deprived tenth (10%) of LSOAs nationally. Two of these LSOAs (outlined in red in Fig 3) are among the most deprived 1% in England, and a further 12 (outlined in orange) are in the most deprived 5%. The highest levels of overall deprivation are found in the urban areas.

Figure 3: Index of Multiple Deprivation 2019 (map with inset cartogram)  
Source: (JSNA 2020 p5)



4.21 Indices are relative, not absolute, as they are ranked in order nationally

and so a change in ranking doesn't necessarily mean a worsening in performance – other places could improve whilst BwD stayed the same. However, as can be seen in Table 4, the general overview through the indices is that BwD is relatively *more* deprived in 2019 than it was in 2015. (JSNA 2020 p5). The IMD illustrate that BwD has some of the highest levels of deprivation within England, particular within the urban areas of the Borough.

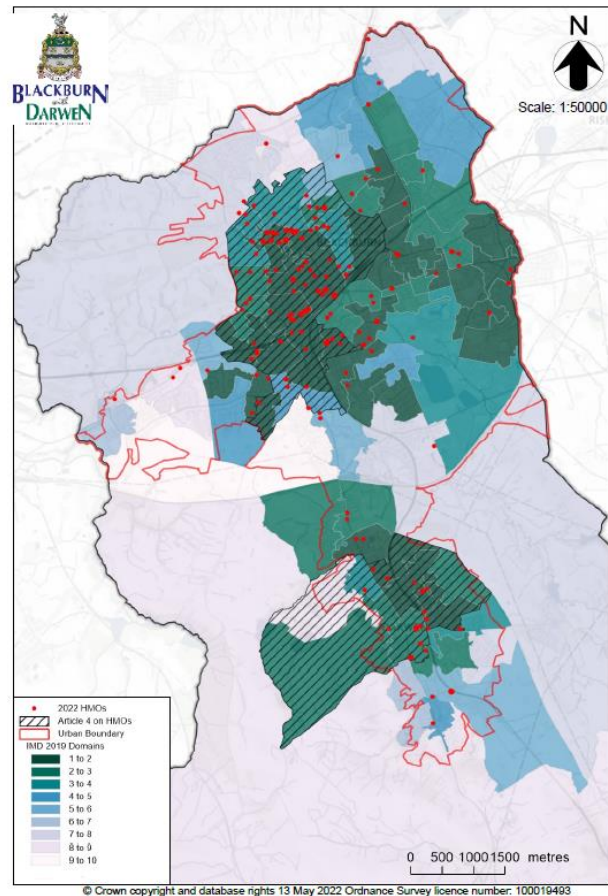
Table 5: Summary measures at Borough level

Summary measure	BwD Rank 2015 (out of 317 LAs)	BwD Rank 2019 (out of 317 LAs)
Average score	15 <sup>th</sup>	9 <sup>th</sup>
Average rank	24 <sup>th</sup>	14 <sup>th</sup>
Proportion of LSOAs in most deprived 10% nationally	12 <sup>th</sup>	9 <sup>th</sup>

Source: (JSNA 2020 p5).

4.22 Reducing deprivation is a key priority of the Council in seeking to achieve its strategic priorities. Figure 4 illustrates the levels of deprivation alongside recorded HMOs and the original Article 4 designations (diagonal marked areas) and the urban boundary (red line). The highest concentrations of HMOs are found in the most deprived areas of the borough (the darkest areas). Clusters of HMOs are also found in areas of relatively high deprivation beyond the central areas of Blackburn and Darwen which were covered by the original Article 4 Directions. In conjunction with the growth in HMO numbers, it is likely that the Article 4 Direction restrictions have had the effect of encouraging HMOs to disperse to other areas of the borough, but HMOs still remain located within the most deprived areas.

Figure 4: Deprivation (deciles) mapped against HMO clusters (Source: BWD via CLG IMD 2019)



4.23 Given the growth in HMOs outside of the current Article 4 Direction designated areas, there is justification to extend the designation to cover the urban areas of the Borough. This would extend the restrictions to cover the significant majority of the most deprived areas of the borough.

## HOUSING

4.24 An ACORN profile of local households classifies Lancashire residents by 18 socio-economic main groups. Within BwD, at the granular district level, 'Modest means' is the dominant group, 'young hardship' is second while 'difficult circumstances', only dominant in Blackburn Central ward, is third ([LCC Profile](#)). This classification indicates that the dominant type of households in BwD are those struggling socio-economically, requiring low cost housing, typically found in the most urban and deprived areas of the borough.

## Housing prices by ward

4.25 House prices in BwD are relatively low. In 2021, the median house price in the borough was £112,500, less than half the median rate for England and Wales of £267,500. Figure 5 illustrates that the lowest house prices are found in the central areas of Blackburn and Darwen and correlate with the areas of highest deprivation rates. In 2021, the lowest median rates in the Borough were found in Darwen East, Ewood and Blackburn Central (c.£78-80K) whilst the highest rates were found in the wards of West Pennine and Billinge and Beardwood (c.£187K-224K) illustrating wide disparities across the urban and rural areas of the borough.

4.26 The availability of low-cost accommodation continues to make BwD attractive to low-income and vulnerable households, which reinforces the demand for this type of accommodation. Low house prices encourage landlords to buy up cheap properties to maximise their rental income and thereby make them desirable investments. The growth in HMOs, and the issues they often then generate, then serves to keep area house prices low, perpetuating the cycle of cheap properties and HMOs.

4.27 The more rural areas of the Borough command higher house prices which are not attractive to landlords and it is considered that those areas therefore can better self-regulate in relation to HMO conversions.

4.28 Extending the Article 4 Direction areas to the urban areas would help better manage the conversion of low-cost housing to HMOs.

4.29 Figure 6 shows the correlation between deprivation levels and median house prices for BwD in 2020, clearly illustrating that the more deprived an area is, the lower the house prices are.

Figure 5: Median house price values by ward, shown against HMO clusters (Source: BwD Council 2022 (Median house prices (CLG

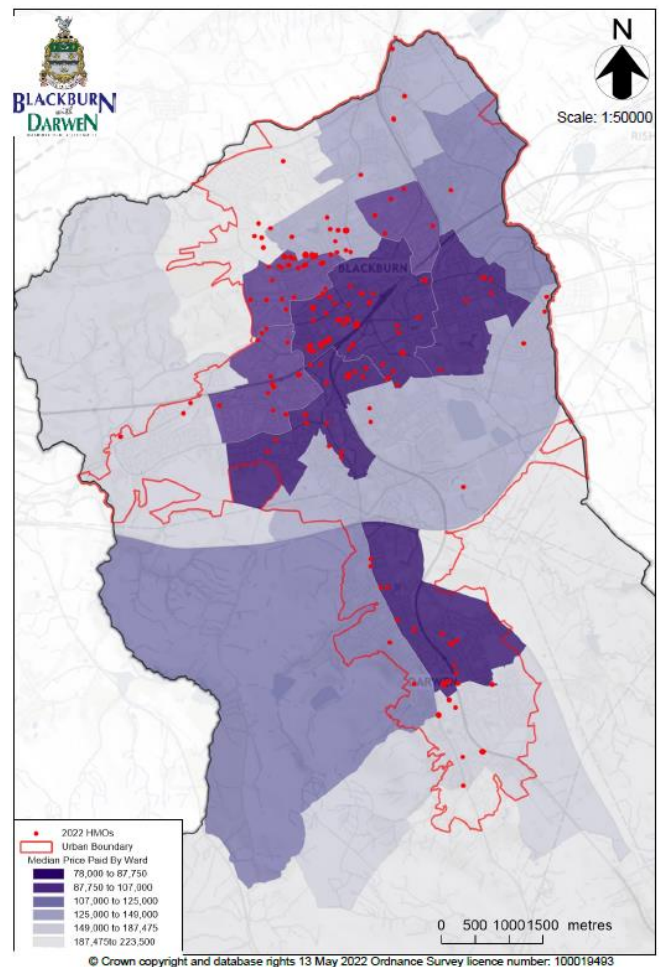
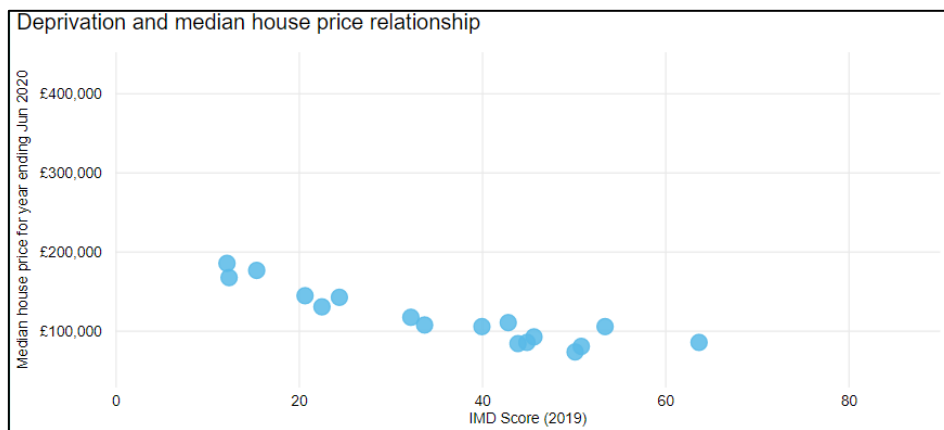


Figure 6: Deprivation and median house price relationships (Source: [LCC Insight](#)).



### Median house prices to earnings

4.30 The median house prices to earnings ratio in the authority area is well below the England average ([LCC Profile](#)) and reflective of wide variations and disparities in general affordability across the Lancashire-14 area ranging from 3.75 to 6.66 times earnings. Blackburn with Darwen has amongst the lowest house price to earning ratios of less than 5, joining Burnley (3.75), Pendle (4.5), Hyndburn (4.33) and Blackpool (4.84) at the lower end of the range. For comparison purposes, the England ratio of house price to earnings was 7.84 (Source: [LCC 2021](#)).

### Housing Density / Overcrowding

4.31 The links between poor housing and health are well-established and insecure, poor quality and overcrowded housing can worsen mental health. A household is defined as overcrowded if it has fewer bedrooms than it needs to avoid undesirable sharing. Based on the 2011 census data, Blackburn with Darwen has the third highest rate of overcrowding in the Lancashire-14 with a rate of 6.9%.

Table 6: Percentage of overcrowding, 2011 census (Source: [LCC Dashboard](#))

Area Name	Perc overcrowding	Area Name	Perc overcrowding
NHS Blackburn with Darwe...	6.9	Blackburn with Darwen UA	6.9
NHS Blackpool CCG	7.1	Blackpool UA	7.1
NHS Chorley and South Ri...	3.7	Burnley CD	5.1
NHS East Lancashire CCG	4.8	Chorley CD	3.8
NHS Fylde & Wyre CCG	3.7	Fylde CD	3.9
NHS Greater Preston CCG	6.0	Hyndburn CD	4.6
NHS Lancashire North CCG	5.0	Lancaster CD	5.3
NHS West Lancashire CCG	3.5	Pendle CD	5.5
		Preston CD	7.5
		Ribble Valley CD	3.0
		Rosendale CD	5.1
		South Ribble CD	3.0
		West Lancashire CD	3.5
		Wyre CD	3.4



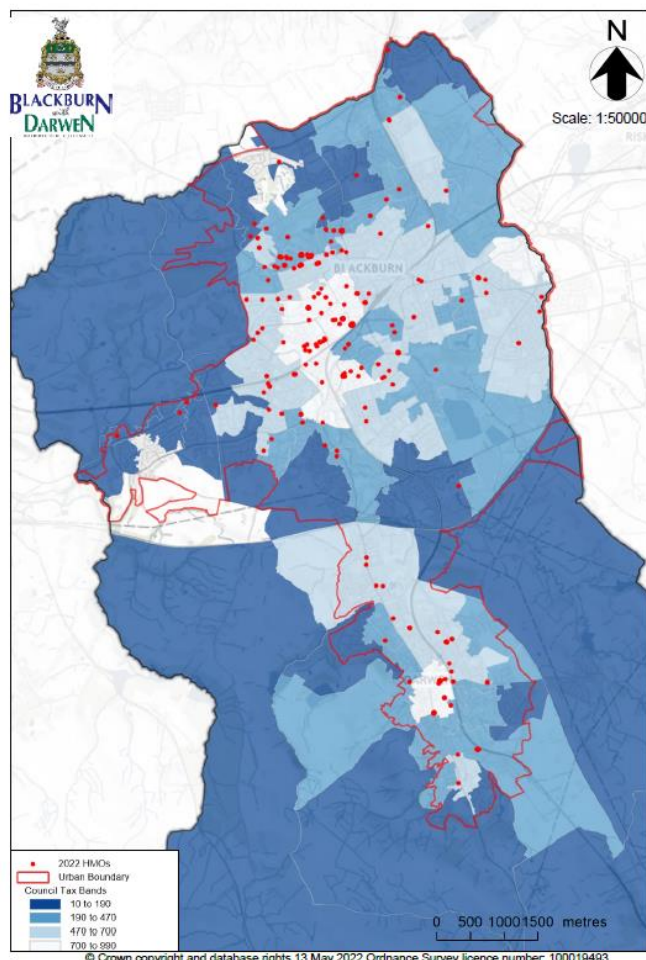
- 4.32 Overcrowding is more common for renters than owner-occupiers: nationally, 1.2% of owner-occupiers are overcrowded compared to 8.7% of social-renting households and 6.7% of private-renting households. Evidence suggests that overcrowding has a detrimental effect on household members' physical and mental health, and the recent coronavirus (Covid-19) pandemic identified increased risks of transmission in overcrowded housing (Source: [HoC 2021](#)), which further impacts on health provision services.

## Housing stock

### Council Tax Banding

- 4.33 Council tax bands are based on the price the property would have sold for on the open market on 1 April 1991 in England. BwD, like other East Lancashire authorities, has a very high proportion of its housing stock in council tax band A, identifying those properties at the cheapest end of the housing market. The significant majority of the HMO clusters are found in those areas with the highest proportions of Band A (and low cost) housing.

Figure 7: Proportion of Council Tax Band A properties (LSOA), shown against clusters of HMOs (Source: VOA 2021)



- 4.34 In BwD, 57.5% of properties are in Band A, compared to an average of 24.1% in England (Source: [LCC 2021](#)) illustrating a much higher proportion of its stock is of cheaper stock.

### Tenure

- 4.35 In 2020, the Lancashire-14 average of owner/occupied or privately rented properties in the dwelling stock was 87.4%, above the England average. In BwD, the percentage was only 81.2%, the lowest in all of the Lancashire-14 areas ([LCC 2021](#)).
- 4.36 Conversely, a high proportion of the borough's dwelling stock is in the registered social landlord (RSL) sector. RSLs provide accommodation but do not trade for profit. In 2020, BwD had the highest percentage of stock in the registered social landlord sector

in the whole Lancashire-14 area at 18.8% (LCC 2021). A high proportion of privately rented stock can affect amenity through unbalanced communities, often at the expense of owner-occupied properties.

### ***Vacant dwellings***

4.37 The percentage of vacant dwellings is high with BwD having a vacancy rate of 4.0%, which is amongst the highest in Lancashire (after Blackpool 4.5% and Burnley 4.3% ) and higher than the Lancashire-14 average of 3.3% and the England rate of 2.6% (LCC 2021).

## **EMPLOYMENT AND INCOME**

### ***Economic activity***

4.38 BwD has a lower proportion of its resident population who are economically active, than compared to the North West and Great Britain. Conversely, it has a higher proportion of residents who are unemployed.

Table 7: Employment and unemployment (October 2020-September 2021)

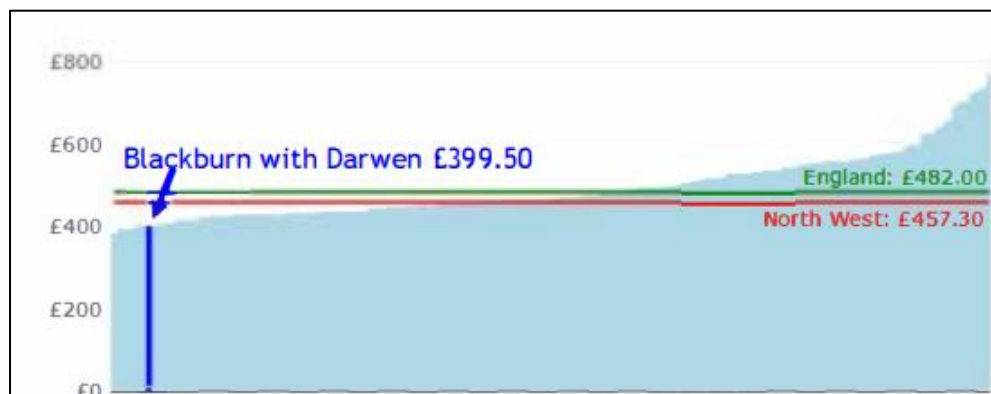
All people	Blackburn with Darwen	BwD %	NW %	GB %
Economically active	66,900	72.3	76.9	78.5
In employment	63,500	68.5	73.3	74.6
Unemployed	4,000	5.9	4.7	4.8

Source: NOMIS 2022 (from ONS annual population survey)

### ***Average earnings***

4.39 In 2019, BwD’s median gross weekly pay was £399.50, compared to £457.30 (NW) and £482 (GB), which placed BwD 7<sup>th</sup> lowest out of 150 upper-tier authorities in England (Source: JSNA 2020 p9), as illustrated by Figure 8.

Figure 8: Median gross weekly earnings (2019)



Source: JSNA 2020

4.40 In 2021, the median gross weekly pay for BwD was £569.70, lower than the comparables for the North West (£575.80) and Great Britain (£612.80) (Source: NOMIS 2022). However, average earnings in Blackburn with Darwen are noticeably higher when measured by place of work in comparison to place of residence and so the authority records a net loss from commuter flows. The figure by place of residence is well below the national average (Source: [LCC 2019](#)).

### **Household income**

4.41 Gross disposable household income (GDHI) is effectively the amount of money that households have available for spending or savings after taxes, social contributions, pensions and housing interest payments. In 2016, the per-head figure for Blackburn with Darwen was more than a third lower than the UK average (35.9%). In general terms the per-head figure for the authority is in long-term decline in comparison to the UK average. Of all the authorities in the 'NUTS2' geography, BwD is ranked 2<sup>nd</sup> lowest for GDHI. (Source: [LCC Insight](#) 2021.)

### **Worklessness**

4.42 Worklessness has short and long-term effects to physical and mental health, and, along with income, is a key factor in socio-economic deprivation. Its definition is wider than unemployment, and includes those claiming Universal Credit or other benefits, those with caring responsibilities and those with a health condition or disability. In 2020, 14.8% of BwD households were workless, which is higher than the national rate of 13.6%.

Table 8: Workless households (Jan-Dec 2020)

	Blackburn with Darwen	NW	GB
Number of workless households	6400	357,900	2,772,600
Percentage of households that are workless	14.8%	15.5%	13.6%

Source: NOMIS 2022 (from ONS annual population survey)



### Claimant counts

4.43 Historically, the ‘claimant count’ was the number of people claiming Job Seekers Allowance (JSA), but has since been redefined to include those claiming Universal Credit (UC), which is a benefit paid to people on low income or who are out of work. As UC now covers a broader span of claimants, there will inevitably be an increase in claimants, and therefore the claimant count cannot be used to accurately study time-trends.

4.44 To navigate around these ‘moving goalposts’, the Department of Work and Pensions introduced a new ‘alternative claimant count’, which make adjustments for the shift. This data shows that the number of claimants in BwD has been consistently higher than England, with a figure of 4.9% in 2019, compared to 3.1% for England, placing the Borough in the highest fifth nationally (JSNA 2020, p8). Figure 9 shows that the highest concentrations of claimants within the borough are found in the main urban areas, and correlate with the areas of highest deprivation.

4.45 Figure 10 shows the average monthly number of new claimant counts (people claiming unemployment related benefits who were not claiming benefits in the previous month). The average is taken using a snapshot of data taken each November between 2015 and 2021.

4.46 The highest number of new claimants are found in the urban areas of Blackburn and Darwen, and also largely correlate with those areas that have high concentrations of HMOs.

4.47 This data cannot infer that all new claimants are associated with HMOs, but instead that the HMOs are located

Figure 9: Claimant county rates as % of residents aged 16-64 (Source: JSNA 2020 p8 (December 2019 data))

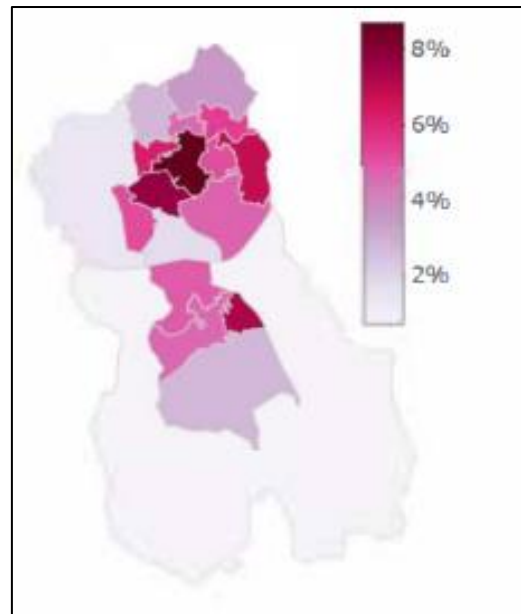
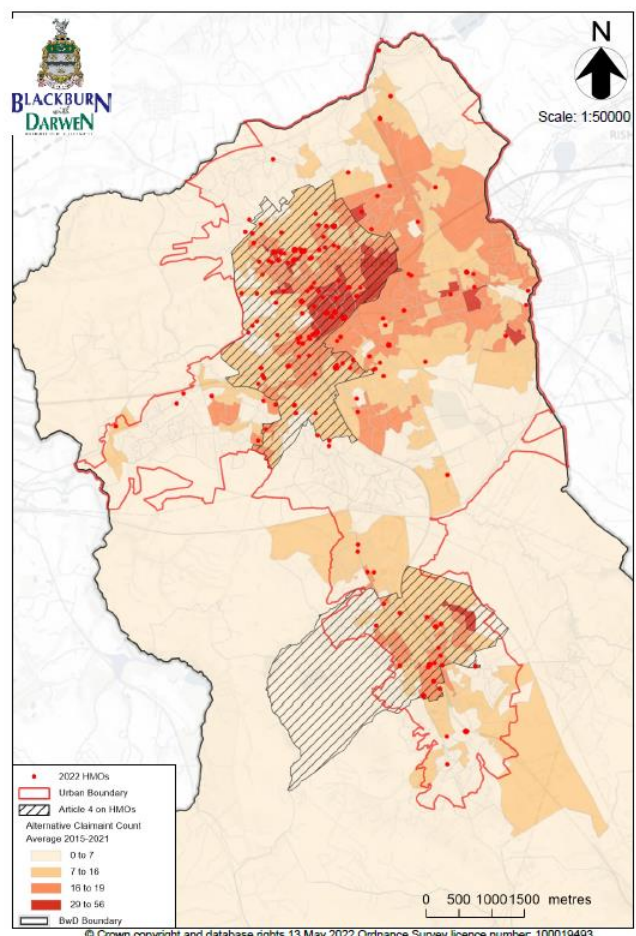


Figure 10: Alternative claimant counts – average new monthly claimants (Nov 2015- 2021) by LSOA (Source: DWP 2022)



in the areas that typically have higher levels of benefit claimants and the highest proportions of low-cost housing.

- 4.48 Anecdotal evidence is that many of the new benefit claimants are from people who originate outside of the BwD area, indicating imported need for subsequent low cost accommodation and services.

**Employment and Support Allowance**

- 4.49 Blackburn with Darwen has a large number of employment and support allowance (ESA) claimants (Source: [LCC 2019](#)). In 2018, BwD had the second largest number of ESA claimants in the Lancashire-14 area (7,320), representing 11.8% of the total claimants in Lancashire (61,630). 50% of claimants in the Lancashire-14 area were classified under the health condition of ‘mental and behavioural disorders’, rising to 53.01% in BwD. Blackburn with Darwen (£127.99) had the highest total mean ESA weekly amounts in the Lancashire-14 area in August 2018, above the Great Britain level of £124.32. In August 2018 BwD received the second largest of ESA award payments per week in the Lancashire-14 area of £0.936 million. (Source: [LCC 2019](#)).

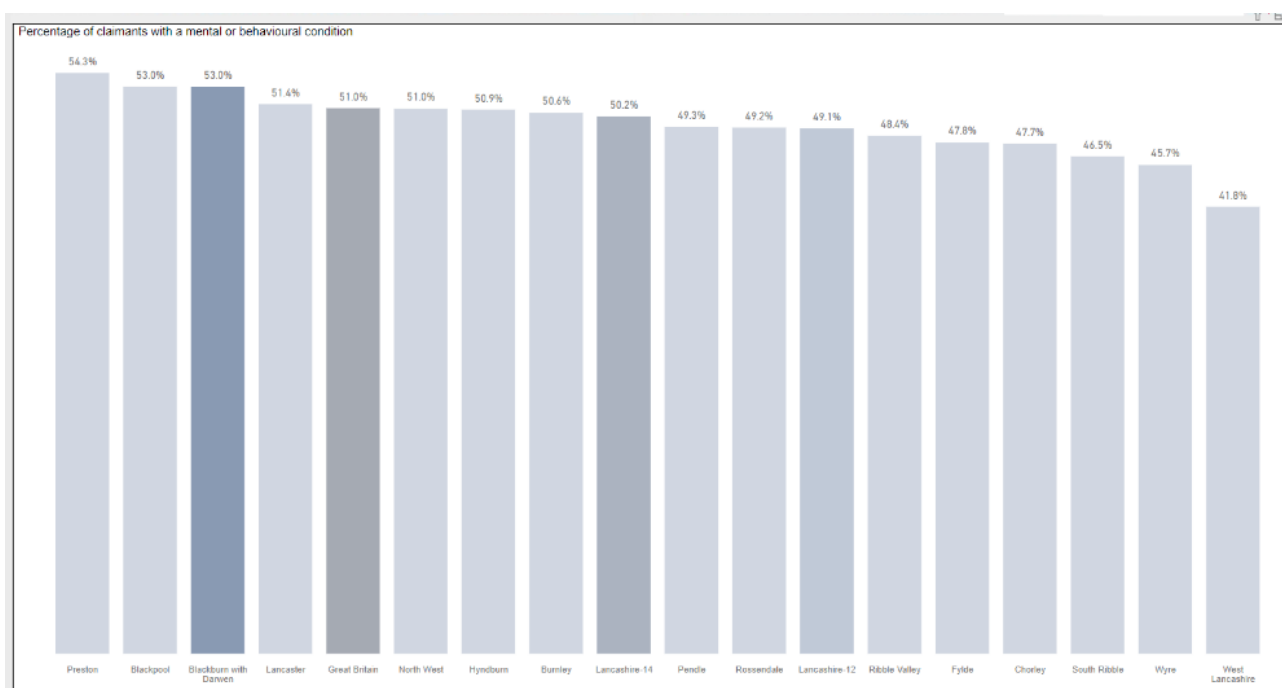


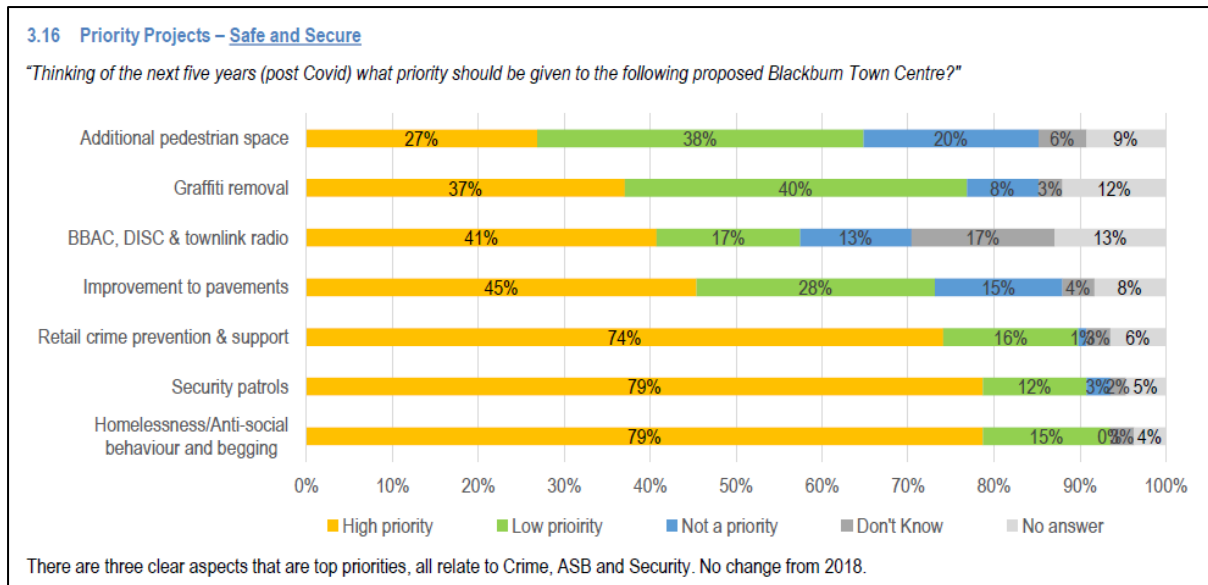
Figure 11: Percentage of ESA claimants with a mental or behavioural problem (Source: [LCC Insight 2019](#))

**TOWN CENTRE BUSINESS AND REGENERATION**

- 4.50 In October 2021, the Blackburn Business Improvement District (BID) team undertook a survey of town centre businesses, obtaining a 60% completion rate from approximately 183 surveys, with the majority from retail units and restaurant/café/bars. The survey asked for the views of businesses on the town centre with findings including:

- 90% of businesses stated that the levels of anti-social behaviour (ASB), rough sleeping and begging need to be reduced, marking it as a clear priority action area above addressing the number of empty shops and offices. The survey notes it is difficult to compare to 2018 results, but states this aspect appears to have increased in need.
  - 39% of businesses disagreed or strongly disagreed that Blackburn feels clean and comfortable.
  - 63% of businesses thought that BID priorities to improve the town centre appearance were / would continue to benefit their business, with 62% saying the same for safety and security improvement.
  - In terms of the 'safe and secure' priorities, and a five year future plan, the three highest priorities were given to addressing homelessness/anti-social behaviour and begging (79% rated it a high priority), security patrols (79%) and retail crime prevention and support (74%).
- 4.51 The survey ratings concluded that the two highest priorities for improvements were to address ASB/rough sleeping/begging and empty shops. Respondent businesses did not consider Blackburn had a good environment, cleaning or comfort standard or year on year growth, and that customers are visiting less and for a shorter duration. Whilst visits may be affected by a number of factors, including retail and leisure habits changing following the covid pandemic, it is clear that businesses consider that the prevalence of homelessness, crime and ASB are having an adverse impact on immediate businesses in the town centre.
- 4.52 Many considered that the behaviour of some individuals, known as being attached to town-centre HMOs, detracts vital business development opportunities, new shoppers and leisure seekers. The direction of resources to address the harm caused by these referrals into the town centre, including local investment in police officers and security guards, also serves to reduce investment from the private sector to regenerate the town centre, affecting the long-term development plans for the borough, economic recovery and its broader reputation and perception.
- 4.53 In response to the survey, the BID team prepared a Reset Plan (March 2022) to recommend the interventions and opportunities for town centre recovery. Whilst much of this focused on expanding the town centre offer and increasing its appeal, the need to improve the town centre experience means that issues relating to ASB need to be addressed, although direct action falls outside the remit of the business improvement activity.
- 4.54 A similar survey was also undertaken in Darwen in October 2021. As with Blackburn's, 45% of respondents stated addressing ASB was a priority to address, ahead of empty shops or pavement conditions. 84% considered that tackling ASB was a high priority, with shoplifting prevention and training following at 71%.

Figure 12: Results from Blackburn BID Survey 2021



## **CRIME, ANTI-SOCIAL BEHAVIOUR AND ENVIRONMENT**

4.55 There is a significant link between HMO residents and crime, particularly within Blackburn Town Centre. Over a 12 month period in 2015, 10% of town centre HMOs had residents charged within 305 crimes, although crime rates are expected to be higher than just those recorded. 50% of those crimes were against businesses, and 20% involved car crime. Persons from those HMOs were responsible for a fifth of all theft/shoplifting offences in the town centre. Of the offenders, 36% had a birthplace recorded in Blackburn and 42% recorded as not in Lancashire, which further suggests large portions of the need for HMOs are imported (Source: BwD Council). It also indicates the detrimental impacts made to local amenity as a direct result of HMO residents.

### ***Crime / anti-social behaviour***

4.56 Figure 13 and the Lancashire [recorded crime article](#) reveals that Blackburn with Darwen has a crime rate which is above average for the Lancashire-14 area. The highest rates (all above the national average) are found in urban areas and correlate with areas of deprivation (Source: [LCC 2021](#)). BwD Council data shows that crime levels for violence, criminal damage, theft and ASB are nearly double the borough average in the wards where HMOs are located. Figure 14 shows the distribution of anti-social behaviour offences in the BwD borough in 2021/22.

Figure 13: Total recorded crime rate (per 1000 people) March 2020-March 2021 (Source: [LCC Insight](#))

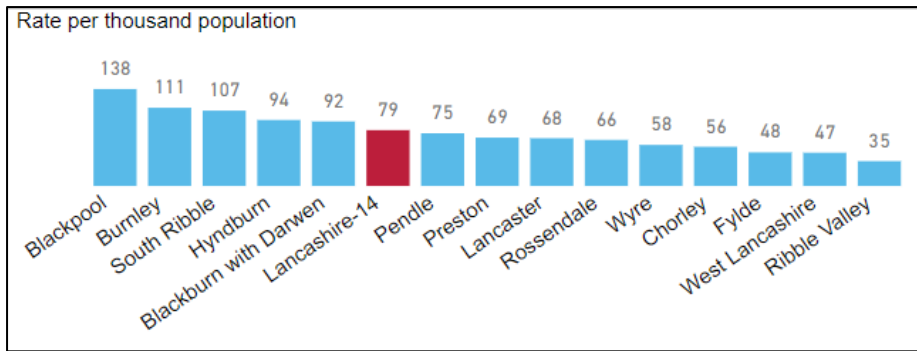
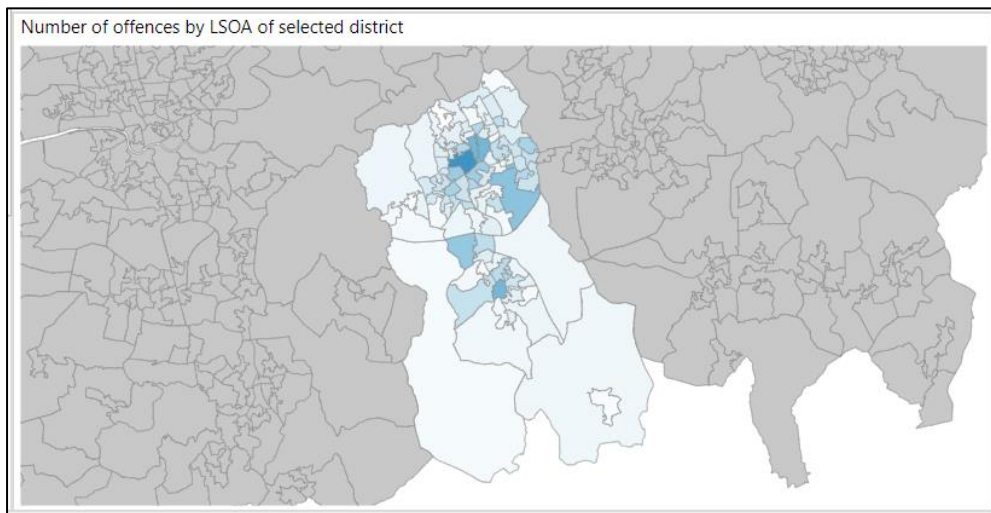
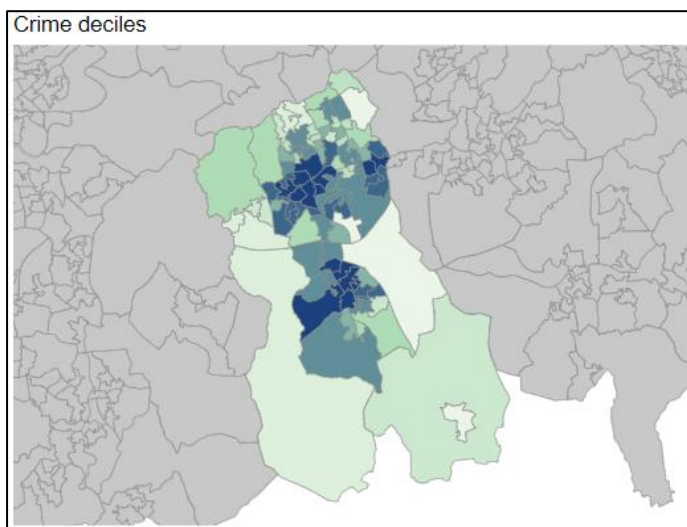


Figure 14: Distribution of Anti-social behaviour offences March 2021-Feb 2022 (Source: [LCC Insight 2022](#))



4.57 Patterns of crime correlate with deprivation. In the deprivation domain for crime, the darker areas show those areas at higher risk of crime.

Figure 15: Crime Deciles at LSOA (Source: IMD 2019 via LCC Insight)



4.58 Alcohol is known to contribute to offending behaviour, particularly violence, anti-social behaviour and criminal damage. Residents in the authority have an above average number of hospital stays due to alcohol and alcohol related mortality as shown in Figure 16 (Source: [LCC Profile](#)).

Figure 16: Local Alcohol Profiles for BwD & England (Source: [OHID 2022](#) via [LCC Profile](#) 2022)

Indicator	Period	Blackburn		Region England				England	
		Recent Trend	Count	Value	Value	Value	Worst	Range	Best
Admission episodes for alcohol-related conditions (Narrow): Old Method	2018/19	↓	912	675	742	664	1,127		389
Admission episodes for alcohol-related conditions (Broad): Old Method	2018/19	→	4,279	3,359	2736	2367	4,022		1,329
Admission episodes for alcohol-specific conditions	2020/21	↓	1,220	898	795	587	2,276		298
Alcohol-related mortality: Old Method	2018	→	77	62.7	54.9	46.5	86.1		26.9
Alcohol-specific mortality	2017 - 19	-	63	16.0	14.6	10.9	27.3		3.9

### Environmental Crime

4.59 Data collected by the Council on the number of environmental crime offences in 2021/22 shows the highest numbers of reports derive from the urban areas of the borough (see Fig 17). Fly tipping forms the highest proportion of reported offences. Reports of accumulated back yard rubbish are, again, highest in the urban areas (darker colours) and correlate with higher densities of HMOs. As with other data, this is not to state that higher levels of environmental crime are due to HMOs, but only that there is a strong correlation between areas with higher concentrations of HMOs and higher levels of environmental crime.

4.60 Environmental crimes have significant impacts on residential amenity.

Figure 17: Environmental Crime Reports by ward in 2021/22 (Source: BwDBC EnviroCrime 2022)

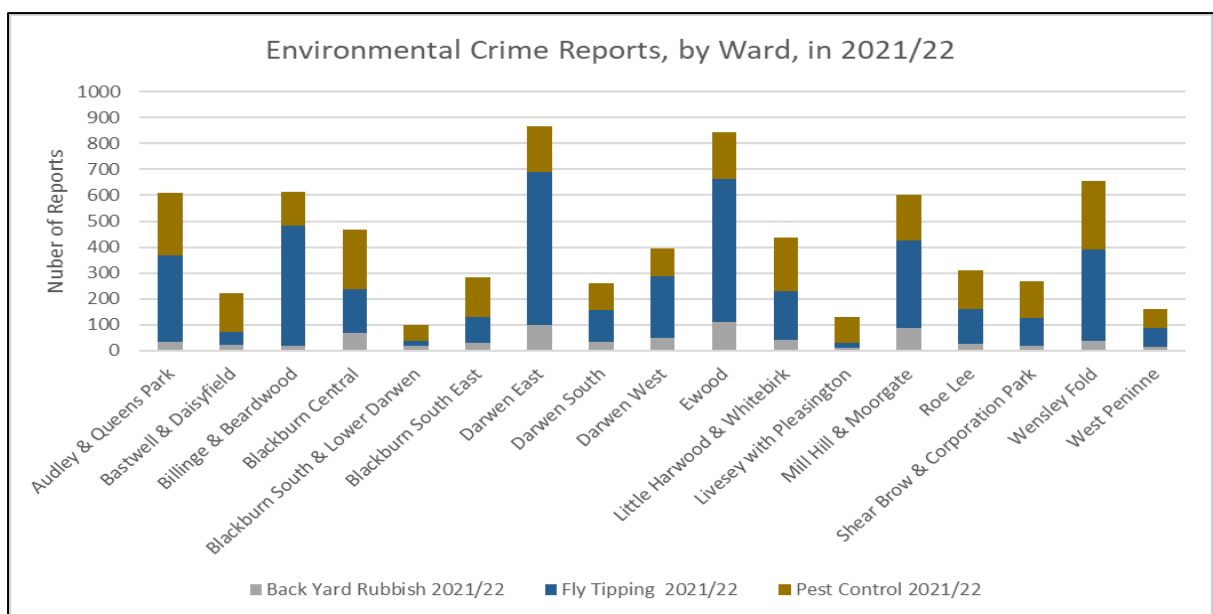
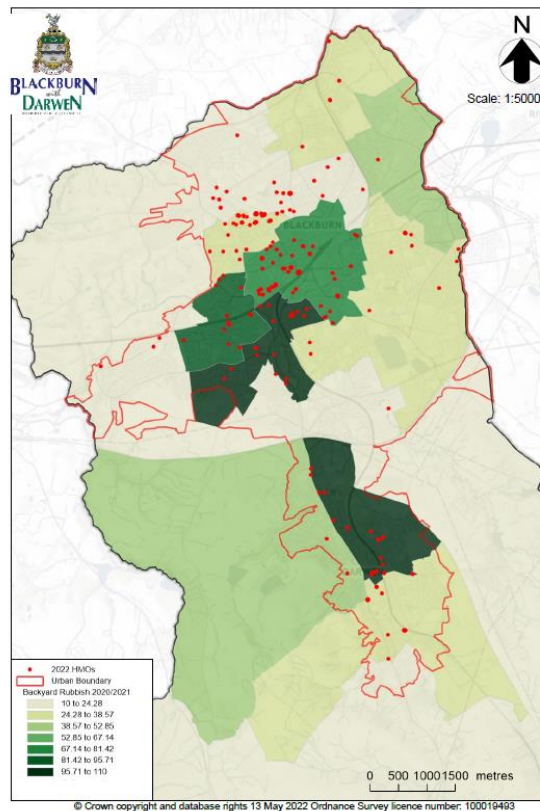




Figure 18: Environmental crime (back yard rubbish), by ward for 2021/22, shown against HMOs (Source: BwdBC EnviroCrime 2022; BwdBC LLPG 2022)



## **SUMMARY OF EVIDENCE**

- 4.61 In 2012, and in response to the growing number of uncontrolled HMOs following the Government’s changes to the GPDO, the Council introduced Article 4 Directions to seven of its wards to better manage the conversion of dwellings to HMOs in those areas. The designation of these areas was subject to ongoing monitoring and review.
- 4.62 Following review, and based on the evidence presented through this report, the Council consider it has a robust justification to make a new Article 4 Direction that will serve to extend permitted development restrictions across the urban areas of the borough.
- 4.63 The evidence shows that, since 2012, the numbers of HMOs have grown significantly and the locations of those HMOs show they have dispersed to parts of the borough that fall outside those areas currently managed under the Article 4 planning powers. It is expected that this is as a result of the Article 4 Direction restrictions. Based on planning application data, much of that growth appears to have occurred through permitted development rights. The evidence has also shown that the wide variety of inter-related issues pertaining to HMOs are not confined solely to the boundaries of a few wards contained under the existing Article 4 Directions but stretch across the urban areas.

- 4.64 As a result of changes to the ward boundaries in 2018, the Article 4 Direction boundaries no-longer correlate with current ward boundaries and so, through this review, more appropriate boundaries can now be considered.
- 4.65 This report does not purport to say that all of the borough's issues are linked to HMOs, but it can say that there is a high correlation of issues where HMOs have become established.
- 4.66 The data shows a variety of inter-related issues across the urban areas of the Borough (rather than the 7 original wards). As a general summary:
- The borough has high proportions of poor quality housing stock which can be bought cheaply, and is located in the most deprived and urban areas of the borough. These areas are impacted by social and amenity issues including higher levels of anti-social behaviour and crime. The highest levels of anti-social behaviour, crime and environmental crime are often associated with clusters of HMOs.
  - HMOs operate within a private market and attract an enhanced rate of public-funded housing benefit as they are listed as providing support for their clients, which can attract opportunistic landlords into the BwD area in the anticipation of generating high levels of revenue for often sub-standard housing.
  - The type of cheap and low standard accommodation generally attracts and houses those who are vulnerable and presenting with multiple and complex needs, who, once resident in BwD, require intense support, not just from the Council but involving finite resources from across the public sector, including the emergency services and support services. The Council support extends to helping vulnerable people claim benefits to support them.
  - High proportions of the borough's ESA claimants are in relation to mental and behavioural problems and patterns of new UC claimants are typically located in the areas of high deprivation and cheap housing. Anecdotal evidence confirms many ESA and UC claimants originate from outside of the BwD area, meaning the borough involuntarily imports a high percentage of adults with multiple and complex needs that then require support. BwD's 'pro-active' approach to supporting clients with needs and in crisis results in a large percentage of these referrals remaining in the Borough.
  - Alongside data accompanying crime statistics, this indicates that much of the HMO need is imported from other areas of the country, with landlords targeting the vulnerable to fill their bed spaces and secure income. Demand is not generated from a local need. Blackburn with Darwen has a significant and disproportionately higher proportion of HMOs than other Pennine local authority areas, further suggesting it is accommodating need from other areas.
  - Most out of Borough placements go unnoticed until the client presents to housing needs for support after eviction of crisis. As a result, vulnerable people are continually, albeit unintentionally, being placed at risk by LA housing departments who place individuals in accommodation without knowledge of the accommodation or the circumstances regarding risks of the other communal residents. Placed clients



are largely those with the most challenging and complex behaviours, resulting in increases of incidences of rough sleeping, street begging, anti-social behaviour, violence, street-working, street drug and alcohol use and general criminality within the borough. The prevalence of properties converted to HMOs also increases the risks for individuals as placements cannot be known.

- Benefit payments, responding to crime, ASB and environmental damage also drains the Local Authority of revenue and, in turn, opportunities to invest in improving areas of the borough and regenerating the town centres. Such improvements are highly prioritised by town centre businesses, who cite the social problems accompanying existing HMOs as a priority for the Council, and its partners, to address to ensure their businesses and the wider town centres can prosper. The regeneration of Blackburn and Darwen town centres are a key focus of the Council, alongside wider objectives.

4.67 The ability for HMOs to appear without more effective planning management perpetuates these issues. The resulting effects are to create detrimental impacts on the **amenity and wellbeing** of local areas, with increased levels of crime, anti-social behaviour (ASB) and environmental issues. It also fosters a vicious cycle of amenity deterioration, depressed house prices and poor quality stock, damaging local character, worsening deprivation rates and creating a perpetuating negative spiral that then encourages further HMOs to continue the cycle. Clusters of unmanaged HMOs have a detrimental impact on the growth, regeneration, image, investment and sustainability of communities and neighbourhoods. The transient nature of tenants in such accommodation, many of whom have no connection to BwD, undermines community cohesion, neighbourhood sustainability and 'civic pride'. It also has the potential to fundamentally change the character of an area, and for an area's housing choice to be skewed away from family accommodation.

4.68 Through the emerging Local Plan, the Council have an ambition for balanced growth in the Borough, which includes a focus on the provision of jobs and economic growth, regenerating the town centres of Blackburn and Darwen, and addressing inequalities in health and deprivation. Aside this, the Council's corporate priorities include a focus on reducing health inequalities, supporting connected communities, safeguarding the most vulnerable people and supporting town centres and businesses. Based on the available data, it is likely that this work will be significantly undermined unless tighter management of HMO accommodation is introduced, and with it greater protection of the amenity of local neighbourhoods, strengthening communities, improving housing and working to address deprivation and health inequalities.

4.69 Whilst acknowledging Planning is just one tool to try and address the borough's cumulative HMO issues, extending the Article 4 Directions to all urban areas will grant the Council more effective control to restrict the otherwise unregulated conversion of dwelling houses to HMOs. It is expected that such interventions can seek to rebalance communities and address the cumulative and detrimental impacts of HMOs on the borough and local amenity.

## 5. PROPOSED COUNCIL RESPONSE

- 5.1 Government guidance is that Article 4 Directions should apply to the smallest geographical level possible. The 2012 Article 4 Direction covered 7 wards (with the ward boundaries drawn as they applied at that time).
- 5.2 The evidence presented through this report has demonstrated that HMO numbers have grown considerably and been dispersed beyond those areas covered by the original Article 4 Direction and that i) **the factors contributing to a continuing growth in HMOs and ii) the consequential harm arising from HMOs both extend to a wider urban area** than those original seven wards.
- 5.3 Without Council intervention, there is a risk that these factors will see a continued growth in HMOs, and the vicious circles described through this report will continue to spin.
- 5.4 To **protect local amenity and the well-being of the area from further harm**, the Council therefore propose to extend the Article 4 Directions to cover the urban areas of the borough. The boundary of those urban areas is set by Policy CP2 of the emerging Local Plan 2021—2037. The new Article 4 Direction, once in effect, will replace the 2012 Article 4 Direction and its designated areas.

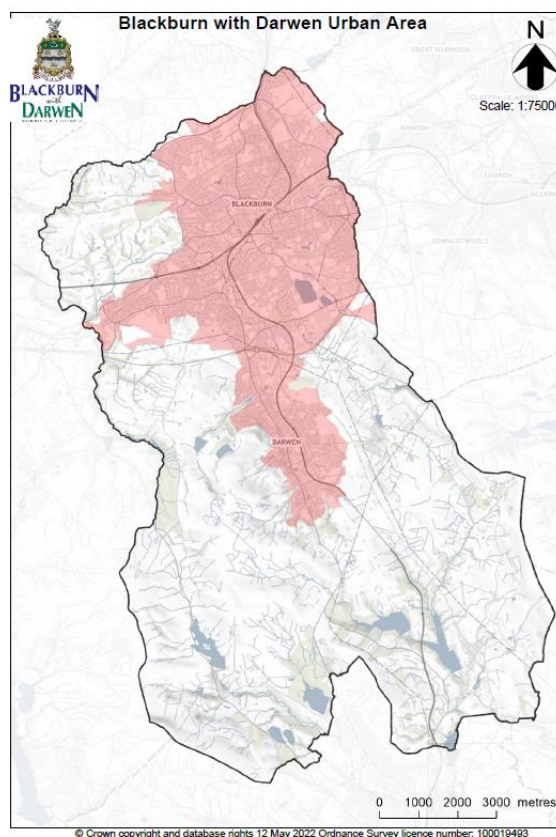
5.5 This area is shown on the map at Fig 19.

Figure 13: Proposed Article 4 Direction area (urban area)

5.6 It is considered that this is the smallest, appropriate geographical level to apply for the reasons evidenced through this document.

5.7 The remaining non-urban areas of the Borough are considered to be self-regulating due to higher house prices and better quality housing stock dissuading their conversion to HMOs by potential landlords. But, as before, the Article 4 Direction will be subject to future monitoring and review, and, should issues disperse into those areas to create negative impacts on local amenity, then the boundaries can again be considered.

5.8 It is acknowledged that, under the GPDO, in an area with an Article 4 Direction it would be possible for a dwellinghouse to change from a HMO to a dwellinghouse under permitted



development rights, but then require planning permission to change again from a dwellinghouse to a HMO. Under these proposals, that would likely result in a refusal of planning permission under Policy DM6. However, the number of cases of this are expected to be few.

## **Risks**

Risk	Mitigation
The current situation will remain in place for a further 12 months whilst the non-immediate direction is introduced. In this time, there could be a 'rush' of conversions to avoid the future requirement for planning application.	Planning is just one part of the regulatory process available to the Council to manage the conversion of properties to HMOs. The only alternative to a non-immediate direction would be to introduce an immediate direction, but this would leave the Council open to the risk of financial compensation for a 12 month period.
Planning applications for the conversion to an HMO in an Article 4 Direction area are exempt from a planning fee.	Under the emerging policy DM6, it is expected that all applications will result in a refusal, which may deter applicants. The cost of processing applications will be met through the existing budget for the Growth department.
The extended Article 4 Direction could result in a reduction in the supply of HMOs.	The Council's Housing and Economic Needs Assessment (2018) and Update (2021) identified no need for any type of this accommodation (HMOs).
Transfer of displacement of problems to other areas not covered by an Article 4 Direction.	The evidence shows a growth of HMOs dispersed into areas not covered by the existing Article 4 Direction, but this is understood to be because of the similar conditions across the wider urban area, including deprivation and low-cost housing. Rural areas are considered to be self-regulating due to higher house prices and better quality housing stock dissuading conversion to HMOs.

## 6. CONSULTATION

- 6.1 Article 4 Directions need to be made through a two stage process. The first is for the Council to make the direction and undertake local consultation with the areas the Direction is proposed to take effect in. The second is the confirmation of the direction by the Council. Prior to confirming the Direction, the Council must consider all comments made during the consultation and consider whether materials changes are necessary to the Direction. If significant amendments are needed, further consultation may be required.
- 6.2 Schedule 3 of the GPDO 2015 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 in the local press: *Lancashire Telegraph & Bolton News*
  - Display of the Article 4 Direction Notice at all libraries within Blackburn (Blackburn Central library, Darwen library, Cherry Tree library, Mill Hill library and Roman Road library), for a period of 6 weeks.
  - Display of the notice in Blackburn Town Hall and Darwen Town Hall.
  - Notice published on the Council web pages.
  - Site notices
  - Correspondence to statutory consultees and other bodies
- 6.3 Individual service of the notice on owners and occupiers of land is impracticable due to the number of owners and occupiers in the area the proposed Article 4 Direction is to cover.
- 6.4 The notice will include all details required by Schedule 3 (4) including a description of the development and area, a statement of effect, and a copy of the map area.
- 6.5 A period of **6 weeks** will be given for representations to be made, following which the Council will consider all representations made and take them, with a final report, to Council to seek confirmation of the Direction.
- 6.6 Any representations requiring material changes to the Article 4 Direction may warrant further consultation.
- 6.7 The Secretary of State (SoS) will be notified of the relevant details on the date the notice is first published/displayed, and following its confirmation by the Council.

## 7. PROPOSED TIMETABLE

7.1 The Council are pursuing a non-immediate Direction and there is a 12 month lead in period from the date the direction is made, to the date it takes effect. This follows the same stance as the 2012 Direction, so as to avoid the need for financial compensation measures at cost to the Council.

### Timetable

7.2 A timetable for the preparation of the Article 4 Direction is set out below. The Article 4 Direction will be taken before full Council for approval at both the preliminary stage, to 'make' the notice, and the final stage, to consider the representations made through public consultation and to 'confirm' the notice.

7.3 Aside that work, the Local Plan Examination in Public is expected in 2022, and through it, will make the case for the newly worded policy. It is anticipated that the Local Plan will be adopted by the Council in summer 2023. Should the Article 4 Direction proceed in accordance with the timetable, then this will also take effect in summer 2023.

**Table 9: Timetable for preparation of the Article 4 Direction**

Planning and Highways Committee 'to make'	16 June 2022
Full Council 'to make'	28 July
Direction Notice 'made'	August
Secretary of State notified	August
6 week consultation on Direction notice	August – September
Analysis of representations/additional consult?	October/November
Planning and Highways Committee 'to confirm'	Autumn/Winter 2022/23
Full Council 'to confirm'	Winter / Spring 2023
Direction Notice confirmed	Winter / Spring 2023
Secretary of State notified	Winter / Spring 2023
Direction Notice takes effect	August 2023

7.4 Note that if the consultation results in any representations that the Council consider are warranted and necessitate 'material changes' to the consultation, then this will require another round of consultation which may amend the timetable relating to the date the direction notice may be confirmed.

7.5 Council's may 'confirm' all article 4 directions. However, the Secretary of State (SoS) must be notified 'as soon as practicable' (PPG para 50<sup>10</sup>) at both the preliminary (notice 'made') and final (notice 'confirmed') stages. The SoS does not have to approve article 4 directions but will only intervene where there are clear reasons for doing so (PPG Para 50).

<sup>10</sup> [When is permission required? - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

- 7.6 Once the Direction is made, the Council will again continue to monitor and review the appropriateness of the direction and its extent.

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of the Local Government Act 1972.

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