

Blackburn with Darwen Borough Council

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)*

CONSULTATION FEEDBACK REPORT

November 2023

1.0 Consultation and Publicity

- 1.1 The Council are proposing to introduce a new non-immediate Article 4 Direction to remove permitted development rights relating to the change of use from a dwellinghouse (Use Class C3) to a House of Multiple Occupation (HMO) (Use Class C4). Introducing a non-immediate Article 4 Direction is a two-stage process to 'make' and then 'confirm' the direction. The first stage of 'making' the Direction involves the Council carrying out local consultation within the areas where the proposed Direction will take effect. This provides the opportunity for stakeholder groups, local residents, property owners and property agents to make comments on the proposed Direction. The Council are also required to notify the Secretary of State of the proposal.
- 1.2 Consultation must be meaningful and considered in order to be effective and not potentially subject to judicial review. Should the Council receive any representations that it considers require a material change to the proposed Direction, there may be a need to make a new Direction and repeat the consultation exercise before the Council can progress to confirming any Direction.
- 1.3 Council Forum confirmed their approval for the 'making' of the Direction, and the subsequent consultation period, at the meeting on 28 July 2022.
- 1.4 The Article 4 Direction was 'made' on the 8 August 2022. In accordance with legislative requirements, the Secretary of State was notified of the Direction on the same day (via email notification). The following publicity and consultation then followed:
- **Press notice** – published in the 'Lancashire Telegraph' and the 'Bolton News' on 11 August 2022
 - **Site notices** – over 50 site notices were displayed across the Borough (typically 4-5 notices in each ward, within the urban areas). They were posted 8-10 August 2022, and then, in accordance with requirements, re-checked during the consultation period to ensure the notices had not been taken down or de-faced¹.
 - **On deposit** – All materials, including the Direction and accompanying maps of the proposed Direction area, the Notice of Direction and the Justification Report were placed 'on-deposit' at all local libraries in the Borough, and at the Blackburn and Darwen Town Halls.
 - **Council Website** – All materials, including the Direction and accompanying maps of the proposed Direction area, the Notice of Direction and the Justification Report were available on the Council website at:
<https://www.blackburn.gov.uk/planning/planning-policies-strategies-and-guides/housing-space-standards-policy-and-hmos>
 - **Email and Letter Notifications** - were sent to: the Crown and Statutory Undertakers, statutory consultees, general and public consultees (including the Local Plan consultation database) and all Councillors. Separate notification was also sent to the Secretary of State in accordance with the legislative requirements.
 - **Press release** – released to local media. Included by the Lancashire Telegraph on 6 September 2022 ([link](#)).
- 1.5 Consultation was open for a 6 week period from Thursday 11 August 2022 to Friday 23 September 2022. Views were invited by post or email.

¹ For reasons of proportionality and resources, a random selection were checked. All had remained in situ.

2.0 Consideration of all comments received through the consultation

- 2.1 The Council must consider all comments received during the consultation. A total of 8 comments were received through the consultation – all of which either raised no comments or gave support for the introduction of the direction. In the case of Blackburn and District TUC, substantive qualitative comments were raised.
- 2.2 To demonstrate how the Council has considered each representation, this section details a summary of each of the comments received during the consultation period, and then provides the Council's comments / recommendations in response.
- 2.3 As set out below, the Council consider that there were no comments received that require a material change to the proposed Direction. Therefore, there is no reason why the Council cannot proceed to confirm the Direction and the date on which it will become effective. This will be subject to further Council approval, and then further publicity in accordance with the legislative requirements – this includes giving notice of the confirmation, and notifying the Secretary of State.

Id.	1
Name	Historic England
Representor comments:	
Thank you for consulting Historic England on the above proposed Article 4 Direction. We do not wish to make comments at this time.	
Summary:	No comments
Council Comments / Actions:	
Response noted.	

Id.	2
Name	Darwen Town Council
Representor comments:	
Darwen Town Council supports this proposal and would ask that you forward the council's support to the relevant body.	
Summary:	Supports
Council Comments / Actions:	
Support for the introduction of the Article 4 Direction noted.	

Id.	3
Name	Public
Representor comments:	
[Summary]: This change is long overdue. There are many shops and financial institutions I would prefer to use at local level and I travel elsewhere because of issues related to HMO occupants. It does not reflect well upon the town and why should outsiders come here and take up the hospital services and other local support services like mental health. The local support services are or should be provided for local residents who have lived here for sometime and contributed to the community at some point in whatever way. Yes, the sooner the better to bring a stop to all this and certainly reduce it. You won't increase the prosperity for this town if you allow it to mushroom further.	
Summary:	Supports

Council Comments / Actions:	
Support for the introduction of the Article 4 Direction noted.	

Id.	4
Name	Community CVS
Representor comments:	
<p>Please accept this e-mail as a response to the Article 4 Direction Consultation and as confirmation that Community CVS, which is a membership based charity involving hundreds of local community groups, charities and social enterprises that operate across Blackburn with Darwen, is supportive of introducing the Article 4 Direction as a way of controlling the numbers and locations of HMOs within our urban neighbourhoods.</p> <p>Many of our local community groups have verbally expressed concerns around the impact that HMO's can have on neighbourhood life. There is a role for HMOs, but the number and location of HMOs needs to be controlled. The introduction of the Article 4 Direction would help by placing their creation within the planning process. The introduction of Article 4 Direction should be part of a package of measures to ensure that our housing provision and support for homeless people provides the right level of support to meet the needs of our local population.</p>	
Summary:	Supports
Council Comments / Actions:	
Support for the introduction of the Article 4 Direction noted.	

Id.	5
Name	Natural England
Representor comments:	
Natural England has <u>no comments</u> to make on this application.	
Summary:	No comments.
Council Comments / Actions:	
Response noted.	

Id.	6
Name	Coal Authority
Representor comments:	
It is noted that this current consultation relates to an Article 4 Direction to remove permitted development rights for change of use from Class C3 to C4. I can confirm that the Planning team at the Coal Authority have no specific comments to make on this consultation.	
Summary:	No comments.
Council Comments / Actions:	
Comments noted.	

Id.	7
Name	Blackburn and District Trades Union Council
Representor comments:	

I am writing to submit the comments of Blackburn and District Trades Union Council in response to your Consultation on an Article 4 Direction on Houses of Multiple Occupation.

As a broad principle we have no objections to the idea that proposals to convert residential properties into HMOs should be subject to planning permission. We approach the issue, indeed, from a perspective of not being particularly impressed by national policy in the first place.

We think a degree of oversight is reasonable, considering the impact HMOs can have on neighbours and to check that adequate attention is paid to potential problems. We have heard, for instance, that the storage and collection of household waste can be an irritant where there are HMOs.

We are also aware that the landlords of these HMOs can claim higher housing allowance rates in many cases, and it may be that more could be done to ensure they are providing value for money in terms of support and quality of accommodation.

At the same time, however, we are a little concerned that the motivation presented by the Borough seems to be dominated by dissatisfaction at the numbers of HMOs, without there being much said about the local housing needs of young people in particular.

We noted in our response to the Borough's Consultation on the "Local Plan" that: "It does not appear to make any attempt to assess the level of "sofa-surfing" and precarious accommodation in the Borough. Anecdotally, it seems to us that young men can have difficulty finding stable accommodation (which leads to adverse economic and social consequences for the whole community)" and "that there remains a need for specific research on the accommodation needs of young people in the Borough, leading to some idea of what sorts of developments might best address their needs".

The Article 4 Direction "Background Document" does not really give us much confidence that this sort of study has been done, though the Borough did say as part of the Local Plan Consultation that the issue was something that required further consideration.

A 2017 #personfirst study for "Healthwatch" - "Blackburn with Darwen's Homeless Population" - noted that "The largest type of household group that BwD Housing Needs provide assistance to are singles with no dependent children. This group has risen from 377 (41.2%) in 2008/9 to a high of 1283 (66.7%) in 2013/14".

It does not follow that HMOs are the best solution. But it may be that they are not simply a "supply side" issue arising from the availability of low cost-housing, which the "Background Document" seems to highlight. They could also be seen as a response to local needs and taken as a signal that more needs to be done to try to ensure that local young people have more appropriate accommodation opportunities available.

As "Shelter" commented in response to the #personfirst study "work to support better access to long term private rented accommodation would be welcome" - and work to support provision of long-term Council rented accommodation for young singles even more welcome. "Shelter" also commented that ".... many people are stuck in HMOs or rough sleeping because there is no suitable accommodation available to them, or because they have been excluded from social housing".

Summary:	No objections in principle. However, consider that there is insufficient consideration through the Justification Paper in relation to identifying the local housing needs of young people, particularly young men, who, anecdotally, are considered to have difficulty finding stable accommodation. Further
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	consideration should be given to this and whether better access to suitable accommodation should be provided.
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Council Comments / Actions:

The Article 4 evidence paper sets out the Council’s reasoning and justification for the introduction of a direction to restrict the conversion of dwellings to HMOs in the urban areas of the Borough. This justification is not simply based on ‘dissatisfaction with the numbers of HMOs’, but recognises the issues that are caused and manifested through a proliferation and over-supply of HMOs, which are often unregulated and of poor standard.

The numbers of HMO’s in Blackburn with Darwen is a significant challenge, particularly in the context of East Lancashire - the borough has more HMOs than the combined number of HMOs in the rest of East Lancashire. As a result of this disproportionate number of HMOs, the borough draws in individuals with high needs from across the sub-region and beyond. Providing appropriate levels of care and support to these groups is difficult.

The Council have an adopted ‘Homelessness and Rough Sleeper Strategy 2019-2024’ which reflects the need for joint working with partners to address the challenges of homelessness, including that relating to its prevention. The Strategy is one of a number of partner strategies in the cross-cutting Transforming Lives programme. It seeks to address the housing needs of all households, including single persons and childless couples.

One of the key challenges recognised in the study is the over-supply of HMO bed spaces, compared to the population. The standard of HMOs and the quality of support services offered through HMOs is also identified as a significant issue. It acknowledges that there has been an increase in reliance on unsupported temporary B&B accommodation, particularly for single individuals.

The strategy has 4 objectives, including (1) Prevention and relief of homelessness; (2) limiting the use of B&B and increasing the provision of suitable temporary accommodation and (4) Addressing the over-supply of houses in multiple occupation. Objective (2) establishes an approach to ensuring that single persons, couples, and families, are appropriately supported whilst Objective (4) recognises there is a need to address the over-supply of HMOs – including that which can be achieved through the tightening of local planning regulations.

The Council are therefore taking a holistic approach to understanding transient person’s needs and have a number of transformative strategies in place which seek to improve access to appropriate accommodation, including for all age groups.

The Council has five supported accommodation properties for those under 25, and monitor demand through our housing needs team for relief and prevention cases. We have enough capacity to support Blackburn with Darwen residents under 25 where there are additional support needs to help them manage a tenancy. Such placements are commissioned directly by us, so we can also quality assure each placement, unlike the majority of specified accommodation. The Council have been involved with partners in developing bespoke accommodation for young people (16-24) at Silas Church, and are currently working with a registered provider to develop supported accommodation for vulnerable adults in Darwen, and a second scheme for vulnerable adults at Mile End Row, Blackburn.

There are a shortage of single person and large family properties in the borough, with extensive waiting lists for both with social housing providers. While housing supply has been a national issue for some time, the Council are bringing forward a new housing strategy to help address such challenges locally with stakeholder and community consultation and engagement central to its development.

The Council's Housing and Economic Needs Assessment (HENA) (2018) identified that almost 32% of households privately renting are comprised of single people, many likely to be multi-adult households living in shared accommodation (i.e. HMOs) (para 8.14). It recommended that the Local Plan should guide a future mix of size and tenures, to ensure that an appropriate mix of housing is provided to cater for all needs. This has been incorporated into policy DM3 and DM5 of the emerging Plan and should help to start to address identified housing need in the borough.

Therefore, for the reasons set out in the justification paper, and acknowledged in wider strategies such as the Homelessness and Rough Sleeper Strategy, the introduction of an Article 4 Direction is considered necessary to help tackle some of the issues arising from HMOs, including that affecting amenity within the Borough. We consider that we are taking appropriate action to respond to transient accommodation needs, and wider housing needs, whilst safeguarding the borough from disproportionate HMO growth and the impacts they create on communities.

The Council acknowledge that in broad principle this consultee has no objections to the introduction of the direction, and determine no changes are required to the direction.

Id.	8
Name	Homes England
Representor comments:	
As a prescribed body, we would firstly like to thank you for the opportunity to comment on the above consultation. Homes England is the government's housing accelerator. We have the appetite, influence, expertise, and resources to drive positive market change. By releasing more land to developers who want to make a difference, we're making possible the new homes England needs, helping to improve neighbourhoods and grow communities. Homes England does not wish to make any representations on the above consultation. We will however continue to engage with you as appropriate.	
Summary:	No comments
Council Comments / Actions:	
Comments noted.	