

<b>REPORT TO:</b>		Cabinet	
<b>DATE:</b>		04 December 2024	
<b>PORTFOLIO:</b>		Cllr Munsif Dad: Leader of the Council	
<b>REPORT AUTHOR:</b>		Chief Planning and Transportation Officer	
<b>TITLE OF REPORT:</b>		Houses in Multiple Occupation and Children's Care Homes	
<b>EXEMPT REPORT (Local Government Act 1972, Schedule 12A)</b>	<b>No</b>	Not applicable	
<b>KEY DECISION:</b>			
	<b>Yes</b>	If yes, date of publication:	02 December 2024

**1. Purpose of Report**

1.1 To present to Cabinet the draft versions of:

- i. The evidence base document supporting the need for an Article 4 Direction that would remove permitted development rights for houses in multiple occupation in 9 wards in Hyndburn. This is attached at Appendix 1;
- ii. Supplementary Planning Guidance on Houses in Multiple Occupation that would be used to help determine planning applications for Houses in Multiple Occupation (Appendix 2), and;
- iii. Supplementary Planning Guidance on Children's Care Homes that would be used to help determine planning applications for Children's Care Homes (Appendix 3).

1.2 To seek Cabinet approval to:

- i. Undertake consultation on the making of a "non-immediate" Article 4 Direction;
- ii. Undertake consultation on the Evidence Base (Appendix 1) Supplementary Planning Guidance on Houses in Multiple Occupation (Appendix 2), and;
- iii. Undertake consultation on the Supplementary Planning Guidance on Children's Care Homes (Appendix 3).
- iv. Give delegated authority to the Chief Planning and Transportation Officer, in consultation with the Portfolio Holder, to make any minor amendments required to the draft documents i to iii above prior to consultation taking place, and;
- v. Give delegated authority to the Chief Planning and Transportation Officer, in consultation with the Portfolio Holder, to make any minor amendments required to the draft documents i to iii above considered necessary following the meeting of the Council's Scrutiny Committee later in December 2024.

- 1.3 Cabinet authority is also sought to give delegated authority to the Chief Planning and Transportation Officer, in consultation with the Portfolio holder, to make minor changes to the documents listed above as necessary and / or as recommended by Cabinet when the item is considered.
- 1.4 The purpose of the report is also to provide Cabinet with the background and reasons why these actions are considered necessary.

## **2. Recommendations**

- 2.1 The Cabinet is recommended to: -
- Make an Article 4 Direction to remove permitted development rights for change of use from individual dwelling houses (Class C3) to small Houses in Multiple Occupation in nine wards within Hyndburn (Barnfield, Central, Church, Clayton-le-Moors, Netherton, Peel, Rishton, Spring Hill, and St. Andrew's), in line with the details set out in the Evidence Report (Appendix 1) .
  - Cabinet approves the draft Houses in Multiple Occupation (HMO) Supplementary Planning Guidance (SPG) as set out in Appendix 2 to be issues for consultation.
  - Cabinet approves the draft Children's Home Supplementary Planning Guidance (SPG) as set out in Appendix 3 to be issued for consultation.
  - Delegate authority to the Head of Planning and Transportation to consider the outcome of the consultation and to determine whether the direction should be confirmed, and whether to adopt the HMO and Children's Homes SPGs.

## **3. Reasons for Recommendations and Background**

- 3.1 Over the past 18 months there Council has seen a significant increase in the number of planning applications for Houses in Multiple Occupation (HMO's) and for Children's Care Homes. These applications have given rise to objection from neighbouring residents and concerns about the impact that large numbers of care homes and children's homes will have on an area.
- 3.2 One of the shared aims of the Corporate Strategy (2023-2028) and the adopted Hyndburn Core Strategy is to provide for a greater choice and quality of housing in the Borough. To help deliver this objective the Core Strategy sets out a number of key priorities:
- To provide sufficient housing of the right size and type to meet local needs, including those in need of affordable and supported housing or requiring larger family homes, higher value homes and homes to cater for an aging population. This will provide a more balanced housing supply with a choice of property types and tenure.
  - To ensure that all new property will be built to high standards, in sustainable locations, making the best use of brownfield land and to designs which minimise carbon emissions and relate well to local character.
  - To ensure that areas of low demand housing are regenerated with a wider range of improved and new housing and supporting facilities, including local health centres and public open spaces.

- 3.3 The Core Strategy recognises that access to good quality affordable housing is an essential human need and is vital to the creation of sustainable, mixed communities. The provision of a balanced housing market within Hyndburn is a key priority and the Core Strategy seeks to achieve this primarily through the development of larger family homes in sustainable locations.
- 3.4 This policy framework was established in response to the housing problems that have historically been witnessed in Hyndburn. At its worst, the Borough suffered housing market failure due to the high concentrations of poor quality terraced houses coupled with low demand, contributing to high levels of deprivation in central areas of Hyndburn. Whilst much has been done to help address these issues, large areas of the Borough still suffer from high levels of deprivation and associated problems. These areas are characterised by having:
- High density of terraced and low value housing
  - High numbers of rented properties
  - Higher than average health issues
  - Low average wages
  - Higher than average number of people on allowances
  - Higher rates of crime and disorder
  - Poor quality environment
- 3.5 It is important to acknowledge that HMOs have widened the housing choice within the Borough, particularly providing affordable accommodation for young professionals, alongside low-income households who may be economically inactive or working in low paid jobs, and tackling the issues of a large number of vacant dwellings within the Borough. HMOs operated by government partnerships also provides essential temporary accommodations for asylum seekers, homeless people, ex-offenders, etc. The development of HMO's has also served to steadily reduce the level of vacant properties in the Borough.
- 3.6 However, at a time when corporate policies are seeking to improve the quality of housing across Hyndburn, there is a concern that the uncontrolled development of houses in multiple occupation in these areas will serve to lower the quality of housing and only serve to increase the social problems experienced in these areas. Higher than average concentrations of rented properties and houses in multiple occupation can have an unacceptable adverse impact on the socio-economic profile of these areas and as a consequence may result in families moving out of central areas and contributing to a spiral of decline at a time when the Council is working to improve these areas.

### **Need for an Article 4 Direction – Appendix 1 – Evidence Base**

- 3.7 The communities in Hyndburn face a wide range of socio-economic challenges. Many of Hyndburn's Wards are within the top 10% of the most deprived wards in England when measured against a variety of indicators, and a similar number are also in the top 20% most deprived. Over the past 20 years, Hyndburn's position in the indices of deprivation has steadily fallen and the steady increase in the numbers and concentrations of Houses in multiple

Occupation are likely to have contributed towards this and make improvements to Hyndburn's position steadily more difficult.

- 3.8 It is no coincidence that the wards with the lowest house values are also characterised by higher levels of deprivation and higher numbers of HMO's. Whilst these areas were once characterised by failing housing markets with high levels of vacant properties, owners of vacant properties are now finding companies and agencies keen to manage their properties to accommodate people with range of needs such as people on release from prison, mental health needs or refugees with no home. This in turn places additional burdens and stress on already deprived communities.
- 3.9 The report at Appendix 1 sets out the evidence that justifies the making of an Article 4 Direction in 9 wards in Hyndburn.

### **The need for a Policy Framework (Appendix 2)**

- 3.10 If an Article 4 Direction is successfully implemented, it will only mean that planning permission is required for the development of small houses in multiple occupation.
- 3.11 Whilst the Hyndburn Core Strategy sets out a broad strategy for the development of more family homes in the Borough, it was developed at a time when houses in multiple occupation were not an issue. The Development Management DPD was developed in a way that dovetailed with the Core Strategy and whilst it seeks to improve the quality of housing across the Borough, it does not contain a detailed policy framework to help determine planning applications for houses in multiple occupation.
- 3.12 The Supplementary Planning Guidance (SPG) on Houses in Multiple Occupation at Appendix 2 seeks to set out a policy framework for the determination of planning applications for houses in multiple occupation submitted in Hyndburn.
- 3.13 This Supplementary Planning Guidance is intended to expand upon policy or provide further detail to policies in Development Plan Documents and the emerging Hyndburn Local Plan 2040. This document does not have development plan status, but it will be afforded weight as a material planning consideration in determination of planning applications. This Supplementary Planning Guidance remains a consultation draft until it has been consulted on and taken back to Council to be adopted.
- 3.14 This SPG will apply to all planning application for development consisting of a change of use of a building from a use falling within the Use Class C3 (a family dwelling or flat for example) to Use Class C4 (small HMO) with the areas as shown at Figure 1 of Appendix 2. It will also apply to planning applications for the change of use from Use Class C3 to 'sui generis' large HMOs in the whole Local Authority Area.
- 3.15 The guidance will not apply retrospectively to existing HMOs. It should be noted that change of use from a small HMO (class C4) to dwelling house is permitted development is permitted

development and does not require planning permission. However, permission is still required to change a large HMO (sui generis) into a dwelling house.

- 3.16 In addition to this guidance, other considerations and policies from the Hyndburn Development Plan documents and the emerging Hyndburn 2040 Local Plan may also be relevant to the consideration of a planning application for an HMO, depending on individual circumstances.

### **Children's Homes Supplementary Planning Guidance (Appendix 3)**

- 3.17 The draft Children's Homes SPG is set out in Appendix 3. This SPG has confirmed that the that children's home operated with care staff on shifts does not comply with the definition of Class C3(b) or C3(c) use, and use of premises as a children's home will generally fall within Class C2 use (residential institution). By virtue of their differences in operational nature, level of activities, number of staff/visitors, and associated parking requirement and vehicle movements, material change of use between children's homes and residential dwellings would occur, therefore planning permission will be required for such type of development to enable the Local Planning Authority to assess the merits and impacts of the proposal.
- 3.18 The Children's Homes Supplementary Planning Guidance is intended to expand upon policy or provide further detail to policies in Development Plan Documents and the emerging Hyndburn Local Plan 2040. This document does not have development plan status, but it will be afforded weight as a material planning consideration in determination of planning applications. This Supplementary Planning Guidance remains a consultation draft until it has been consulted on and taken back to Council to be adopted.
- 3.19 This SPG will apply to all planning application for development of children's homes. It particularly aims to ensure that care needs for local children will be met locally, and to minimise the risk of children from other regions of the country to be placed in Hyndburn. It sets out two policies to ensure that the proposed children homes will meet the needs of local communities, and satisfy site specific requirement which includes:
- i. That the general location of the care home is considered to be suitable and appropriate;
  - ii. That the application property is suitable for the number of children and carers proposed;
  - iii. That there is sufficient off-street car-parking for carers and visitors and that the development will not impact on highway safety, and;
  - iv. That the development will not result in a concentration or cluster of children's care home in that area.
- 3.15 In addition to this guidance, other considerations and policies from the Hyndburn Development Plan documents and the emerging Hyndburn 2040 Local Plan and the Ministerial Statement (2023) may also be relevant to the consideration of a planning application for an HMO, depending on individual circumstances.

## **4. Alternative Options considered and Reasons for Rejection**

- 4.1 There are essential three alternative options open to Cabinet:

- Do not take forward the HMO Article 4 Direction  
Alternative options would be to not introduce an article 4 direction, in which case conversions to small HMOs would remain permitted development across the Borough or to apply the article 4 direction to more wards of the Borough.

In light of the evidence presented in the Evidence Report (Appendix 1), it was considered appropriate to introduce the Article 4 Direction to the nine wards in Hyndburn (Barnfield, Central, Church, Clayton-le-Moors, Netherton, Peel, Rishton, Spring Hill, and St. Andrews) as these are the areas with the main concentrations of HMOs, and social/economic issues such as deprivation, high crime rate, and low property prices.

- Do not take forward the HMO SPD  
In this scenario, the Council is likely to receive increased number of planning applications for HMOs. Without detail policy guidance, the Council will not be able to effectively manage and steer future developments of small and large HMOs in a consistent manner in the areas subject to Article 4 Direction and the whole borough, which also lead to more appeals as applicants might challenge the Council’s interpretation of policies in the current and emerging local plans used as reasons for refusal.
- Do not take forward the Children’s Homes SPD  
In this scenario, the Council will continue to receive planning applications for children’s home without any particular policy guidance to allow the planning committee to assess whether the proposed development would meet the care needs for local community, whether the prospective children’s homes are of an appropriate space standards, and whether they will be appropriate located in the community without resulting in undue impact on the amenity of the existing communities and highway safety.  
Consequently, the Council will not be able to effectively manage developments of children’s home, which any lead to more appeals against the Council's decisions.

## 5. Consultations

- 5.1 Should Cabinet approve the making of a non-immediate article 4 direction, the broad timeline for consultation thereafter is as follows:

<b>Task</b>	<b>Timeframe</b>
Report to the Cabinet seeking approval for the making of the Article 4 Direction	December 2024
Make Direction and serve notice locally and to the Secretary of State with a consultation period of six weeks. The consultation will include the following elements: <ul style="list-style-type: none"> <li>- Advertisement in the local press</li> <li>- Display of the Article 4 Direction Notice at all libraries within Hyndburn (Accrington library,</li> </ul>	December / January 2024 for a period of 6 weeks

<p>Great Harwood library, Oswaldtwistle library, and Rishton library) for a period of six weeks.</p> <ul style="list-style-type: none"> <li>- Display of notice in Accrington Town Hall</li> <li>- Notice published on the Council's web pages</li> <li>- Site notice</li> <li>- Correspondence to statutory consultees and other bodies</li> <li>- Consultation with Land Lords and Property Agents</li> </ul>	
<ol style="list-style-type: none"> <li>1. Collate comments and provide Council response to comments made during consultation.</li> <li>2. Update Cabinet on the outcome of the consultation.</li> <li>3. Cabinet to take decision on whether or not to confirm the Article 4 Directions.</li> <li>4. If confirmed, publish notice of the confirmation of the non-immediate Article 4 Direction. Note: The Direction will then come into force 12 months from the date of Notice.</li> <li>5. Give notice of confirmation of the Article 4 Direction to relevant bodies including the Secretary of State.</li> </ol>	February / March 2025
<p><i>Note *If the consultation results in any representation that the Council considers necessitate 'material changes' to the document, then this would require a further round of consultation, which may alter the timetable relating to the date the direction notice may be confirmed or brought into force.</i></p>	*(another six weeks)
<p>Article 4 Direction takes effect (non-immediate effect)</p>	February / March 2026.
<p>To monitor and review the Directions, considering whether the original rationale for the Directions remains valid.</p>	On-going through Local Plan annual monitoring report

5.2 Consultation on the HMO SPG and Children's Homes will be for eight weeks, consistent with regulations and the Council's Statement of Community Involvement. This represents an additional two weeks on the consultation timescales to take account of the holiday period. It will be advertised on the Council's website and the local press, and notifications sent to statutory consultees and those on the Local Plan consultation list. In addition, all private sector landlords registered who received a monthly landlord news bulletin from the Council and the agency providers for children homes within the borough (known to the Council) will be notified

of the consultation. The document will be made available in local libraries, Accrington Town Hall, and foyer of Scaitcliffe House.

## 6. Implications

<p><b>Financial implications (including any future financial commitments for the Council)</b></p>	<p>The implementation of a “non-immediate” Article 4 Direction means that the Council should not be liable for the potential compensation claims associated with an “immediate” Article 4 Direction.</p>
<p><b>Legal and human rights implications</b></p>	<p>The Equality Act 2010 introduced a new public sector equality duty under section 149. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council must, in exercising its functions, have “due regard” to the need to: 1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. 2. Advance equality of opportunity between people who share a protected characteristic and those who do not. 3. Foster good relations between people who share a protected characteristic and those who do not.</p> <p>Detailed assessment are provided within the Customer First Analysis behind Appendix 1, 2, 3 respectively.</p>
<p><b>Assessment of risk</b></p>	<p>The principle risk concerns the extent to which the policy documents will be given weight by Inspectors at appeal. Undertaking consultation on the draft policies helps to address this, but the SPG’s will not have development plan weight.</p>
<p><b>Equality and diversity implications</b>  <i>A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i></p>	<p>These are appended to the three documents at Appendix 1, Appendix 2 and Appendix 3 of this report.</p>

## 7. Local Government (Access to Information) Act 1985: List of Background Papers

- 7.1 *Copies of documents included in this list must be open to inspection and, in the case of reports to Cabinet, must be published on the website.*



**8. Freedom of Information**

- 8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.