

<b>REPORT TO:</b>	Cabinet		
<b>DATE:</b>	18 March 2026		
<b>PORTFOLIO:</b>	<b>Councillor Munsif Dad BEM JP - Leader of the Council</b>		
<b>REPORT AUTHOR:</b>	Adam Birkett, Head of Planning and Transportation		
<b>TITLE OF REPORT:</b>	Article 4 Direction on Houses in Multiple Occupation		
<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:	10 March 2026

## 1.0 Purpose of Report

- 1.1 The purpose of this report is to present to Members the evidence for an Article 4 Direction made under the Town and Country Planning General Permitted Development Order 2015 (as amended) covering smaller houses in multiple occupation (HMOs) in the wards of Altham, Baxenden, Huncoat, Immanuel, Milnshaw, Overton and St Oswalds.
- 1.2 At the present time, change of use from dwellinghouses (use class C3) to smaller HMOs (properties occupied by 3 to 6 unrelated individuals) within the relevant wards do not require planning permission.

## 2.0 Recommendations

- 2.1 That Cabinet, having considered the evidence base attached as Appendix 1 to this report and being satisfied that there are grounds for an immediate Article 4 Direction as set out in section 3 of this report, approves the introduction of an immediate Article 4 Direction to remove the permitted development right that currently allows a property to change from Use Class C3 (dwellinghouse) to Use Class C4 (small House in Multiple Occupation) without planning permission, as set out in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015, and such Article 4 Direction to apply within the wards of Altham, Baxenden, Huncoat, Immanuel, Milnshaw, Overton and St Oswalds.
- 2.2 That Cabinet also agrees to:

- i. Delegate authority to the Head of Planning and Transportation, in consultation with the relevant Portfolio Holder, to make any necessary minor amendments to the Evidence Base documents and to prepare the final draft of the Article 4 Direction and the associated notice .
- ii. Carry out a public consultation on the proposed immediate Article 4 Direction in respect of the proposed confirmation of the same pursuant to sections 107 and 108 of the Town and Country Planning Act 1990 and the Town and Country Planning (Compensation) (England) Regulations 2015 (as amended).
- iii. Delegate authority to the Head of Planning and Transportation, in consultation with the Portfolio Holder, to review the consultation responses and determine whether the Article 4 Direction should subsequently be confirmed, noting that the Direction will not continue to apply unless the same is confirmed by the Council within 6 months of being made.

### **3.0 Reasons for Recommendations and Background**

- 3.1 The Council resolved in December 2024 to make a non-immediate Article 4 Direction removing the automatic right to change from Class C3 (dwellinghouse) to Class C4 (small HMO), as otherwise permitted under Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015. Evidence prepared to support the Article 4 Direction identified that some areas of the Borough had higher concentrations of HMOs, lower property values, and greater levels of deprivation. It was therefore recommended that permitted development rights be withdrawn within the nine most affected wards: Barnfield, Central, Church, Clayton-le-Moors, Peel, Netherton, Rishton, Spring Hill, and St Andrew's.
- 3.2 The Council confirmed the March 2026 Article 4 Direction on 17 November 2025. The Direction will take effect on 15 March 2026.
- 3.3 A further exercise has now been undertaken to establish whether evidence exists to support a further Article 4 Direction in the remaining seven wards: Altham, Baxenden, Huncoat, Immanuel, Milnshaw, Overton and St Oswalds.
- 3.4 Paragraph 54 of the NPPF states that the use of Article 4 directions to remove national permitted development rights should be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area and in all cases, be based on robust evidence, and apply to the smallest geographical area possible.
- 3.5 Where permitted development rights are removed, the effect is that developers are required to submit a planning application for such proposals (in this case a change from Class C3 (dwellinghouse) to Class C4 (small HMO)). This will allow the effects of a proposed HMO on an area's amenity and the local community to be taken into consideration as part of the planning application process.

3.6 One of the shared aims of the Corporate Strategy (2023-2028), the adopted Hyndburn Core Strategy and the emerging Hyndburn Local Plan 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.

3.7 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.

3.8 The Hyndburn 2040 Local Plan (Strategic Policies and Site Allocations) is now at Main Modifications stage in plan-making. The policies in the plan should now be considered to carry substantial weight. Policy SP11 (Suitable Range of Housing) particularly relates to the development of new apartments and Houses in Multiple Occupation (HMOs) in Hyndburn. It states that the Council will seek to ensure that an appropriate range of housing is delivered in the plan period. New apartment developments (including Houses of Multiple Occupation) will only be supported where they would maintain the prevailing character and setting of the local area and are either:

- a) within town centres or within walking distance (250m or closer) of town centres.
- b) part of high-quality development in canal-side locations where the regeneration benefits of this type of development can be demonstrated;
- c) part of strategy housing development where there is a need to provide a wider range of housing types;
- d) in locations that are well served by public transport and the development would secure the efficient use of land; or
- e) part of a scheme that would involve the reuse or adaptation of a historic mill building in an appropriate location.

3.9 The explanatory text in paragraph 6.31 also notes that, “New apartment developments and Houses in Multiple Occupation (HMO) in Hyndburn will only be supported in the

appropriate locations set out in Policy SP11 where they are well designed in terms of their appearance, size and setting. The Nationally Described Space Standards (NDSS), which set out minimum space standards and room sizes have been adopted by the Council for all new housing developments (where viable), which includes the new build of (and conversion of existing buildings to) flats/apartments or HMOs”.

- 3.10 The Inspector at the examination of the Local Plan did not make any main modifications to Policy SP11 in the emerging plan and it is therefore considered to carry substantial weight in decision making.
- 3.11 This policy framework was established in response to the housing problems that have historically been witnessed in Hyndburn. At its worse, 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, the 2025 Indices of Deprivation shows that large areas of the Borough still suffer from high levels of deprivation. 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
- 3.12 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 HMOs 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 may have an unacceptable adverse impact on the socio-economic profile of these areas and as a consequence may result in families moving out and contributing to a spiral of decline at a time when the Council is working to improve these areas.
- 3.13 The main driver for the increase in HMOs appears to be the low property prices in the Borough coupled with a lower wage economy, which generates higher numbers of residents seeking lower affordable rents. In many cases this is the only way some residents can access the housing market. This type of property provides a higher yield to owners for a lower initial input. Hyndburn continues to be one of the lowest places in the country for property prices, even though HMOs often sell, once converted, for a higher price.
- 3.14 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 it is believed it has assisted in 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.

- 3.15 Under current planning rules, planning permission is required for the use of a property as a house in multiple occupation if it is to be occupied by more than 6 people. Since the majority of houses in Hyndburn's inner areas and many of the other wards within the Borough are smaller Victorian terraces, the use of these properties as smaller HMO's do not require planning permission.
- 3.16 In 2012, the Government introduced permitted development rights that meant that HMOs occupied by 6 or less occupants did not require planning permission. From this point on it was very difficult to monitor the numbers of properties being converted into HMOs. It would also appear that around 2021 to 2023 there was an uplift in properties being purchased for conversion. HMOs with 5 persons or more, or that comprise two or more households, require a licence from the Council, so these properties can still be monitored.
- 3.17 As of February 2026, it is estimated that there are approximately 502 HMOs in the Borough. Since the decision in 2024 to make a limited Article 4 Direction in 9 wards in the Borough, work has been ongoing to try and identify HMOs. Though there is a concentration of smaller HMOs within the central urban areas, there are smaller HMOs in all wards in the Borough.

#### **The Need for an Article 4 Direction**

- 3.18 The communities in Hyndburn face a wide range of socio-economic challenges. Since the report in December 2024<sup>1</sup>, the latest Indices of Deprivation has been published in October 2025. Since the last publication in 2019 Hyndburn's overall ranking on the Indices has remained the same, 16<sup>th</sup> out of 317 local authorities. Hyndburn had seen a steady decline in ranking, but this seems to have been halted with the publication of the latest Indices.
- 3.19 Looking at the Lower Super Output Areas split into their ward components, in comparison with the 2019 Indices of Deprivation this shows that nearly all the wards in Hyndburn, with the exception of Huncoat, has in some part gone up in terms of their rankings. This means that they have become more deprived in one or more of the measures of deprivation.
- 3.20 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. It is particularly worth noting that in the 2025 Indices of

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<sup>1</sup> [Cabinet Report - Houses in Multiple Occupation and Children's Care Homes – 4 December 2024](#)

Deprivation there are now 14 Wards that are score in the 10% most deprived in the 'Living Environment' decile which assesses the quality of both indoor and outdoor local environments.

3.21 The report at Appendix 1 sets out the evidence supporting the introduction of an Article 4 Direction in the remaining seven wards within Hyndburn. It is considered that there is sufficient evidence to support the making of an Article 4 Direction to remove aforementioned permitted development rights in the wards of Altham, Baxenden, Huncoat, Immanuel, Milnshaw, Overton and St Oswalds.

### **Options for Introducing a New Article 4 Direction**

3.22 There are two types of Article 4 Direction:

- Non-immediate Article 4 Direction: This requires a minimum 21-day period of public consultation before the Article 4 Direction can be made and notice of the Direction must be published not less than 12-months before the Direction takes effect in order to ensure there are no compensation provisions.
- Immediate Article 4 Direction: This takes effect as soon as the Direction is made, removing permitted development rights immediately before consultation. However, the Direction must be 'confirmed' by the local planning authority within six months following a period of public consultation. As an immediate Direction withdraws permitted development rights without notice, the Council is liable for losses incurred by those who apply for planning permission within 12 months of the Direction and are refused or is granted subject to conditions. Section 107(1)(b) of the Town and Country Planning Act 1990 states that a person is entitled to compensation if they have "incurred expenditure in carrying out work which is rendered abortive by the revocation or modification or has otherwise sustained loss or damage which is directly attributable to the revocation or modification."

3.23 The evidential threshold required to justify an immediate Article 4 Direction is higher than that for a non-immediate Direction. Immediate Directions require evidence that the permitted development presents an immediate threat to local amenity or prejudices the proper planning of an area. This is a higher threshold to cross than the evidence base needed for a non-immediate Direction, where the Council only need prove that the Article 4 Direction is necessary to protect local amenity or well-being of an area. The evidence set out in Appendix 1 indicates that there is a strong basis for intervention and could support the making of an immediate Direction if the Council considered this necessary.

3.24 When considering the introduction of a new Article 4 Direction, the Council has two further potential options.

3.25 The first option would be to withdraw and replace the existing March 2026 Article 4 Direction, which is due to come into effect on 15 March 2026, with a single borough-

wide Article 4 Direction. While this approach would provide a simplified framework with one clear map and a consistent set of restrictions across the Borough, it would also create the potential for the entire Direction to be subject to legal challenge.

- 3.26 The second option would be to retain the existing March 2026 Article 4 Direction and introduce a separate Article 4 Direction covering the remaining seven wards. The March 2026 Article 4 Direction is considered to be legally robust and has not been subject to challenge. Under this approach, only the newly introduced Direction would carry a potential risk of challenge.
- 3.27 Having considered the above options, it is recommended that the March 2026 Article 4 Direction remains in place and that a second Article 4 Direction is introduced to cover the remaining wards. This approach is considered to present a lower level of risk of legal challenge, would minimise the scope for future compensation claims and would involve less administrative work for the Council.

#### **4.0 Alternative Options considered and Reasons for Rejection**

- 4.1 There are alternative options open to Cabinet - firstly where the Article 4 Direction should apply and secondly, what type of Article 4 Direction should apply:

##### Do not take forward the HMO Article 4 Direction within the remaining 7 Wards of the Borough

- 4.2 One option would be to not introduce an Article 4 Direction, in which case conversions to small HMOs would remain permitted development across the remaining 7 Wards within the Borough. The position could be monitored for a set period with a further report to Cabinet being mandated. This option carries a risk that smaller HMOs will be difficult to identify and monitor, and also that they would proliferate in those wards, possibly as a result of some displacement of HMO's from the parts of the Borough covered by the existing March 2026 Article 4 Direction. Therefore, this option is not one recommended to take forward.

##### Whether to make an Immediate or non-Immediate effect Article 4 Direction

- 4.3 A Direction with immediate effect can withdraw permitted development rights straight away; however, it must be confirmed by the local planning authority within six months of coming into effect in order to remain in force. Confirmation can only occur after the local planning authority has undertaken local consultation in accordance with Sections 107 and 108 of the Town and Country Planning Act 1990 and the provisions of the Town and Country Planning (Compensation) (England) Regulations 2015 (as amended).
- 4.4 As set out above, compensation provisions apply to Directions that take immediate effect. By contrast, a non-immediate Direction may be made giving at least 12 months' notice before it comes into force, thereby removing the potential for compensation claims once the Direction is in effect.

- 4.5 While the evidence set out in this report indicates that there is a strong planning basis for intervention, the level of financial risk associated with making an immediate Article 4 Direction is difficult to quantify. Given the evidence of relatively high numbers of HMOs within the Borough, and the factors identified which contribute to the demand for the conversion of properties to HMOs, there is the potential for compensation claims to arise if an immediate Direction is pursued. The Council does not have complete information on the location of all such properties and there may be additional properties not currently identified. Furthermore, the possibility of speculative planning applications being submitted for the purpose of establishing a basis for compensation claims cannot be discounted.
- 4.6 Having regard to the above considerations, it is for members to determine whether they would prefer to make a non-immediate Direction, which would remove the financial risks to the Council whilst still addressing the planning concerns, although at a slower pace.

## **5.0 Consultations**

- 5.1 If members decide to make an immediate Article 4 Direction, then a consultation process will be required prior to confirmation of the Direction, as explained in section 4.3 above.
- 5.2 Should Cabinet be minded to approve a non-immediate effect Article 4 Direction the process is as follows:
- Make Direction and serve notice locally and to the Secretary of State with a consultation period of six weeks including:
    - Advertisement in the local press
    - Display of the Article 4 Direction Notice at all libraries within Hyndburn Accrington, Great Harwood, Oswaldtwistle, Rishton libraries for a period of 6 weeks
    - Display of Notice in Accrington Town Hall
    - Notice published on the Council's web pages.
    - Correspondence to statutory consultees and other bodies
    - Consultation with Landlords and Property Agents
    - Send a copy of the Direction and the Notice Secretary of State
  - Collate comments and provide Council response to comments made during consultation\*.
  - After consultation has concluded, and should no amendments be felt necessary, as a result of considering the responses, the making of the Article 4 Direction will be confirmed.
  - If confirmed, publish notice of the confirmation of the non-immediate Article 4 Direction.

- Give notice of confirmation of the Article 4 Direction to relevant bodies including the Secretary of State.
- Article 4 Direction takes effect no less than 12 months after it was made.

**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.

5.3 The process for making an immediate Article 4 Direction is as follows:

- The Council makes the Direction and notifies the Secretary of State and Lancashire County Council.
- The Article 4 Direction will be publicised by the Council by placing a notice in a local newspaper, displaying Article 4 Direction site notices in at least two locations in the Borough and placing a notice on the Council’s website. At this point the Direction comes into immediate effect.
- Once the direction is made, a six-week consultation will be carried out.
- After consultation has concluded, and should no amendments be felt necessary, as a result of considering the responses, the making of the Article 4 Direction will be confirmed. This must be done within 6 months of the Direction coming into effect or it will cease to apply. The Secretary of State must be advised of confirmation of the Direction and be provided with a copy of the same.

## 6.0 Implications

<p><b>Financial implications (including any future financial commitments for the Council)</b></p>	<p>If the Council makes an immediate Article 4 Direction, then it may be liable to pay compensation as explained in section 4 of this report. The likelihood and number of such claims, and the possible cost of compensation payments, cannot be determined and there is currently no provision in the budget for expenditure in this regard.</p> <p>If the Council makes a “non-immediate” Article 4 Direction it would not be liable for the potential compensation claims associated with an “immediate” Article 4 Direction as set out in Section 4 of this report.</p>
<p><b>Legal and human rights implications</b></p>	<p>The Equality Act 2010 introduced a new public sector equality duty under section</p>

	<p>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. Detailed assessment is provided within the Customer First Analysis and is appended to this paper at Appendix 2.</p> <p>If an immediate Article 4 Direction is made the Council is required to give public notice of the same, giving prescribed information. The Council must also advise Lancashire County Council of the making of the Direction, together with the Secretary of State.</p> <p>It should be noted that the Secretary of State has powers to intervene at any point after the making of the Direction to alter the geographical extent of the Direction, amend or stop the direction from taking effect completely. However, this is rare in the case of Article 4 Directions relating to HMOs.</p>
<p><b>Assessment of risk</b></p>	<p>If a non-immediate Article 4 Direction is made, the principal risk concerns the extent to which smaller HMOs will proliferate during the period from the Cabinet meeting date until the final making of the Article 4 Direction and the publication of the Notice. This risk is difficult to judge in terms of its impact. If there is a proliferation of these types of properties it could have a further detrimental impact on the Borough but it</p>

	<p>does take time to purchase and convert a property so some of that risk would be mitigated against. The situation would be monitored in terms of information obtained by the Housing Standards Team within the Council.</p> <p>If an immediate Article 4 Direction is made there is a higher risk of legal challenge, potentially via judicial review.</p> <p>In addition, an immediate Direction carries the risk of compensation being payable. It is not possible to determine the likelihood and possible amount of such payments with any accuracy. This risk would be removed by the making of a non-immediate Direction, although the latter would not take effect for 12 months during which time further planning detriment could occur from the creation of the further HMO's in the wards concerned pursuant to permitted development rights.</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>The Customer First Analysis is appended to Appendix 1 of this report.</p>

**7.0 Local Government (Access to Information) Act 1985:  
List of Background Papers**

[Cabinet Report - Houses in Multiple Occupation and Children's Care Homes – 4 December 2024](#)

[Resources Overview & Scrutiny Committee Report - The Impact of HMOs in the Borough – 10 December 2025](#)

Appendix 1 - Evidence to Support Hyndburn Article 4 Direction

**8.0 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.