

Lancaster City Council | Report Cover Sheet

Meeting	Cabinet	Date	11 February 2020		
Title	Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 and a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007				
Report of	Director for Economic Growth and Regeneration				
Purpose of Report					
<p>The purpose of the report is to consider the designation of a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 and a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.</p> <p>An Article 4 Direction would remove the permitted development which allows the conversion of dwellings to Houses in Multiple Occupation (HMO). A Regulation 7 Direction would restrict the display of To Let boards.</p> <p>The report also seeks approval for progression of the Directions though an informal consultation process and then the statutory processes necessary for the Directions to be made.</p>					
Key Decision (Y/N)	N	Date of Notice		Exempt (Y/N)	N

Report Summary

The concentration of HMOs in some parts of the City of Lancaster is at such an extent that the amenity available to residents is adversely affected due to; increased noise, increased demand for limited parking and a population density that fluctuates during the year.

Policy DM13 of the emerging Development Management Development Plan Document (DPD) seeks to control the concentration of HMOs to protect the amenity of residents. However, the national planning system allows dwellings to change to 'small' HMOs (defined as accommodating 3-6 occupants) without requiring planning permission. Therefore, whilst the policy is useful in controlling larger HMOs, its effectiveness is limited. The only way in which this can be addressed is by the local planning authority seeking to remove the permitted development rights. This will then allow the total number of HMOs to be managed effectively.

The quantum of HMOs within areas of Lancaster also creates an unfortunate ancillary, visual impact. The properties used as HMOs often display To Let Boards for prolonged periods, creating an unacceptable degree of clutter and an adverse visual effect along terraced streets. The introduction of advertisement controls will seek to reduce this clutter and improve the appearance of these areas.

It is recommended that approval is given to undertake the necessary statutory procedures to introduce these measures of control.

Recommendations of Councillor John Reynolds

- (1) That a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015, to control the conversion of dwellinghouses to HMOs (Use Class C4) in the City of Lancaster and Galgate, is progressed through informal consultation and the statutory processes necessary for the Article 4 Direction to be made.
- (2) That a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, to control the display of To Let boards in the wards of Bulk, Castle, John o'Gaunt and Scotforth West, is progressed through informal consultation and the statutory processes necessary for the Regulation 7 Direction to be made.

Relationship to Policy Framework

The Council Plan includes ambitions to enhance community cohesion.

The emerging Lancaster District Local Plan includes policies which seek to improve the amenity of residents in Lancaster and to protect the character and appearance.

Policies in the emerging Strategic Policies and Land Allocations Development Plan Document aim to ensure that development, including uses of buildings, maintain the district's heritage (SP7) and strong and vibrant communities (SP9).

Policy DM13 of the emerging Development Management DPD aims to control the concentration of HMOs and Policy DM21 seeks to ensure that signage is well designed and appropriately sited.

The proposals seek to address the twin detrimental impacts of concentration of HMOs and associated letting boards in accordance with the ambitions of the Council Plan and the Local Plan.

Conclusion of Impact Assessment(s) where applicable

Climate N/A

Wellbeing & Social Value

The proposals will manage the concentration of Houses in Multiple Occupation and associated To Let Boards to protect the amenity of residents and minimise the adverse impacts of high numbers of HMOs in Lancaster.

Digital N/A

Health & Safety N/A

Equality N/A

Community Safety N/A

Details of Consultation

The issue and an associated 'Residential Conversions and Houses in Multiple Occupation Supplementary Planning Guidance' has been discussed by the Local Plan Review Group.

Informal and statutory consultation under the Town and Country Planning (General Permitted Development) Order 2015 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 will be carried out.

Legal Implications

The designation of an Article 4 Direction and a Regulation 7 Direction are required to be implemented through statutory processes within the Town and Country Planning (General Permitted Development) Order 2015 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Failure to do so could result in legal challenges.

Financial Implications

The designation of an Article 4 Direction and a Regulation 7 Direction are required to be implemented through statutory processes within the Town and Country Planning (General Permitted Development) Order 2015 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Failure to do so could result in compensation claims.

Other Resource or Risk Implications

There will staff implications due to an increase in the number of changes of use which will require planning permission (therefore an increase in planning applications) and for the enforcement of the policies. The impact of the increased workload can be monitored in the first year of implementation and consideration given to the resource implications in subsequent years.

Section 151 Officer's Comments

The s151 Officer has been consulted and has no further comments

Monitoring Officer's Comments

The Monitoring Officer has been consulted and has no further comments

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Links to Background Papers

- Draft Background Paper in Support of the Designation of Article 4 Areas to Control Houses in Multiple Occupation
- Draft Background Paper in Support of the Designation of a Regulation 7 Direction in Lancaster
- Draft Residential Conversions and Houses in Multiple Occupation Supplementary Planning Document

1.0 Introduction

1.1 There are wards and streets in Lancaster where the concentration of student HMOs is at such a degree, HMOs create an imbalance in the community and affect the character of the neighbourhood. Issues arise from depopulation over the summer period, noise and disturbance, pressure on refuse storage, car

parking and services, as well as the detrimental visual impact caused by the display of a significant volume of To Let boards. Policy DM13 of the emerging Development Management DPD seeks to control the increase in concentration. However, because the conversion of a dwelling house to a HMO (Use Class C4, 3 to 6 occupants) does not require planning permission, this policy will only control the growth of large HMOs (over 6 occupants).

1.2 An Article 4 Direction would remove the permitted development rights that are contained in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development Order). These currently allow the change of use of a building from a use falling within Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation).

1.3 A Regulation 7 Direction would restrict the display of To Let boards under Class 3A of Schedule 3, Part 1 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2.0 Proposal Details

Control of HMOs

2.1 The attached *Draft Background Paper in Support of the Designation of Article 4 Areas to Control Houses in Multiple Occupation* illustrates the concentration of HMOs within Lancaster and explains the justification for designation in Lancaster as follows:

“The case for an Article 4 Direction to remove permitted development rights for the conversion of dwellinghouses to HMOs is considered to be justified for the following reasons:

- *The areas have significant concentrations of HMOs due to the nature of the housing stock and the proximity to the Universities in Lancaster.*
- *It is expected that the number of students in Lancaster will continue to increase; and it is therefore considered necessary to manage the concentration of HMOs to limit the impacts from further increases in HMO properties in residential area.*
- *Policy DM13 of the emerging Development Management Development Plan Document seeks to manage the concentration of HMOs to protect amenity. At present this management will only affect large HMOs. To be effective in protecting the amenity of areas, small HMOs (Class C4) need managed.”*

2.2 The table below shows the concentration of HMOs within wards in Lancaster.

Ward	Estimated No. of HMOs	Approx total residential units	Approx % of stock in HMO use
Bulk	386	4,200	9.2%
Castle	625	3,000	20.8%
Galgate (Ellel)	18	1,000	1.8%
John O’Gaunt	519	3,200	7.8%
Marsh	106	2,600	4%

Scotforth East	72	2,000	3.6%
Scotforth West	324	3,200	10%
Skerton East	76	3,200	2.3%
Skerton West	4	4,000	0.1%
University & Scotforth	79	2,000	4%

Table 1: Combined data sets of HMOs (November 2019) (Exempt Council Tax properties and HMO Register)

- 2.3 There are streets in Lancaster where over 20% of the residential properties are in use as HMOs. The greatest concentrations are in the wards of Bulk, Castle, John O’Gaunt and Scotforth West. However, if permitted development rights were removed from these wards alone, it would be likely to have the unfortunate effect of increasing concentrations in neighbouring wards of the city. That is why it is considered appropriate to designate an Article 4 Area across the whole city of Lancaster, and to extend this to Galgate too, given the village’s proximity to Lancaster University. This will ensure emerging policy DM13 can manage HMOs across the whole of Lancaster and Galgate.
- 2.4 It is recommended that informal consultation should be carried out to gain the views of residents, landlords and businesses, with regard to the principle of introducing an Article 4 Direction and the area which it will cover. It is also recommended that the consultation responses are taken into account before an Article 4 is designated or ‘made’ in accordance with the procedures in Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015.
- 2.5 Once an Article 4 Direction is ‘made’ press notices and site notices are required to be displayed for a period of at least 21 days to allow formal representations to be submitted. A report will then be presented to Members to take into account the consultation responses and for Members to determine whether to confirm the Article 4 Direction.
- 2.6 The Article 4 Direction would come into force a year following the date it is made. This period of time is to ensure that landowners and occupants are not prejudiced. Failure to provide this length of adequate time could result in claims for compensation by those affected by the change.

Control of To Let Boards

- 2.7 The attached *Background Paper in Support of the Designation of a Regulation 7 Direction in Lancaster* outlines the justification for controlling To Let boards as follows:

“The case for a Regulation 7 Direction is considered to be justified for the wards of Bulk, Castle, John o’Gaunt and Scotforth West for the following reasons:

- *The areas have a significant concentration of HMOs due to the nature of the housing stock and the proximity to the Universities in Lancaster. Due to the turnover of occupants in these areas, particularly the student population, there is a significant proliferation of ‘To Let’ boards.*

- *The proliferation and clutter arising from the display of ‘To Let’ boards have a negative impact on the local character of the areas. The cumulative impact has a harmful effect upon amenity contrary to the aims of the NPPF.*
- *A Regulation 7 Direction will prevent the proliferation of ‘To Let’ boards in these area and have a positive impact on the council’s ability to control advertisements and ensure that the character and appearance of areas is protected.”*

2.8 It is recommended that informal consultation be carried out to gain the views of residents, landlords and businesses with regard to the principle of introducing a Regulation 7 Direction and the area which it will cover. It is also recommended that the consultation responses are taken into account before a Regulation 7 Direction is submitted to the Secretary of State in accordance with Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3.0 Options and Options Analysis (including risk assessment)

<p>Option 1: Designate an Article 4 under the Town and Country Planning (General Permitted Development) Order 2015.</p>
<p>Advantages: The Article 4 Direction will allow the concentration of HMOs in Lancaster to be managed to better protect the amenity of residents and of the areas and to enable policy DM13 of the emerging Development Management DPD to be effective in managing all sizes of HMO.</p>
<p>Disadvantages: An Article 4 Direction will increase the number of change of use applications to be processed and the enforcement necessary to ensure that it is effectively implemented.</p>
<p>Risks: If an Article 4 Direction is not implemented in accordance with the statutory procedures and adequate time provided between the Direction being ‘made’ and it coming into force, there is a risk of legal challenge and compensation claims.</p>
<p>Option 2: Do not designate an Article 4 under the Town and Country Planning (General Permitted Development) Order 2015.</p>
<p>Advantages: None</p>
<p>Disadvantages: Not introducing an Article 4 Direction will allow the concentration of small HMOs in Lancaster to increase and undermine the effectiveness of policy DM13 of the emerging Development Management Development Plan Document.</p>

<p>Risks: The number and concentration of HMOs will increase adversely affecting the amenity of residents and of area.</p>
<p>Option 3: Designate a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.</p>
<p>Advantages: A Regulation 7 Direction will allow management of the number of To Let boards displayed. This will reduce the proliferation and clutter arising from the excessive display of boards within terraced streets and improve the visual amenity of the areas designated.</p>
<p>Disadvantages: A Regulation 7 Direction may increase the enforcement necessary to ensure that it is effectively implemented.</p>
<p>Risks: If a Regulation 7 Direction is not implemented in accordance with the statutory procedures, there is a risk of legal challenge and compensation claims.</p>
<p>Option 4: Do not introduce a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.</p>
<p>Advantages: None</p>
<p>Disadvantages: The proliferation and clutter of To Let signs will continue to adversely affect the visual amenity of the areas.</p>
<p>Risks: None</p>

4. Officer Preferred Option

- 4.1 The officer preferred options are Option 1, in regard to the designation of an Article 4 under the Town and Country Planning (General Permitted Development) Order 2015 and Option 3 with regard to introducing a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. These actions will ensure that the concentration of HMOs and associated To Let boards can be managed to better protect the amenity of residents and the character and appearance of the areas proposed to the designated.