

Draft Background Paper in Support of the Designation of Article 4 Areas to Control Houses in Multiple Occupation

1.0 Introduction

- 1.1 This background paper arises out of concerns regarding the concentration of Houses of Multiple Occupation (HMOs) in certain parts of the district, in particular the impact that student HMOs can have upon the amenity of an area. This paper seeks to review the quantity and spatial distribution of HMOs, consider the impact that concentrations of HMOs have upon the amenity of an area and identify where the control of the concentration of HMOs and the associated advertisements will protect the amenity in communities.
- 1.2 The paper provides evidence in support of the designation of an Article 4 Direction for Houses in Multiple Occupation. An Article 4 Direction is made under the Town and Country Planning General Permitted Development Order 1995 (as amended) and will remove Permitted Development Rights which allow the use of houses as small HMOs without the need for a planning application. The Article 4 Direction will not stop development but will provide a means of controlling the concentration of HMOs and seek to protect and enhance balanced communities.
- 1.3 This paper should be read in conjunction with Policy DM13 of the Development Management DPD, the draft Houses in Multiple Occupation Supplementary Planning Guidance and the proposed Article 4.

2.0 Background

HMOs

- 2.1 A house in multiple occupation is a property rented out by at least three people which are not from one 'household' (e.g. a family) but share facilities like the bathroom and kitchen.
- 2.2 HMOs can make a valuable contribution to the private rented housing stock. They provide an affordable type of accommodation and contribute to the mix of housing types and tenures available in Lancaster district. They are often suited to young people and single people, including students, and those on low incomes. However, HMOs can have a detrimental impact on residential character and community cohesion and high concentrations within neighbourhoods can result in imbalanced and unsustainable communities.

What are HMOs

- 2.3 HMOs can consist of a variety of property types including, bedsits, shared houses, households with a lodger, purpose-built HMOs, hostels, guesthouses, bed and breakfast establishments and self-contained flats. Not all of these accommodation types will fall under the planning definition of a HMO or housing definition of an HMO under the 2004 Housing Act. The determining factor is how a property is occupied. In general terms if a property is not occupied by a single family but by three or more unrelated persons, the property will form a HMO.

- 2.4 In planning terms there are two types of HMO:
- Small HMO - shared dwellinghouses (houses/flats) occupied by between three and six unrelated individuals, as their only or main residence, which share one or more basic amenities such as a kitchen or toilet. These HMO's fall within Use Class C4 of the Town and Country Planning (Use Classes Order). They have the same meaning as in section 254 of the Housing Act 2004, with the exception of section 257 which applies to converted blocks flats (and those buildings listed in schedule 14 of the Act).
 - Larger HMO - shared dwellinghouses (houses/flats) with more than six occupants. These HMO's do not fall within any specific planning use class, therefore fall within the Sui Generis category.
- 2.5 A single household is where the occupants are members of the same family, for example a couple (whether married or not), their children or step children (or equivalent), one or more are a close relative of both or either of them.
- 2.6 In Housing terms, the definition of a HMOs is contained within the Housing Act 2004 and can be summarised as, a building or part of a building that:
- Consists of one or more units of accommodation not consisting of a self-contained flat or flats;
 - The living accommodation is occupied by persons who do not form a single household;
 - The living accommodation is occupied by those persons as their only or main residence;
 - Rents are payable or other consideration is to be provided either by the occupier, employer or other means;
 - Two or more households shared one or more basic amenities.
- 2.7 A license is required for large HMOs in Lancaster district and is issued by the Council for properties that meet all the following criteria:
- Has 5 or more unrelated people living in it
 - Has 2 or more separate households living there
- 2.8 Licensing also applies to blocks of purpose-built flats where there are up to two flats in the block and one or both are occupied as an HMO.

Planning Policy

- 2.9 Paragraph 127 of the National Planning Policy Framework (NPPF) states that:

“Planning policies and decisions should ensure that developments:

- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

2.10 Paragraph 53 of the NPPF states:

“The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.”

2.11 Policy DM13: Residential Conversions sets out the criteria against which applications will be assessed to ensure that conversions do not result in imbalances in the housing market or have a detrimental impact on the amenity of residents. It sets a threshold for the concentration HMOs of 10% of houses classed as HMOs within a 100m radius of an application site. The policy states:

Houses of Multiple Occupation (HMOs)

The City Council considers the importance of maintaining an appropriate housing mix and safeguarding the character of residential areas to be an important priorities. In doing so, the Council have adopted an approach of a general presumption against new housing in multiple occupation within the district. Proposals which would lead to a concentration of more than 10% of houses being classed as HMOs of the total housing stock within a 100m radius will not be considered acceptable. This includes proposals for changes of use to HMOs, or extensions to existing HMOs.

The Council are considering the merits of bringing forward Article 4 directions to manage the amount of small HMOs being developed (i.e. those where 3 to 6 people live separately within the same dwelling house).

Proposals may on exception be considered acceptable where:

V. Effective measures are proposed to minimise noise and other forms of disturbance to neighbouring residential properties;

VI. Suitable means of storage including refuse, recycling and bicycle storage is provided;

VII. The proposal would not harm the character of the building or surrounding area;

VIII. The proposal would not result in unacceptable impact on parking including unacceptable levels of on-street parking;

IX. The proposal would not result in the creation of sub-standard living conditions.

2.12 As the change from a dwelling house to a small HMO (up to six unrelated people living in the house) does not require planning permission, the impact of these HMOs upon the concentrations cannot be currently fully assessed.

3.0 The Concentration of HMOs in the District

3.1 Table 3.6 of the Strategic Housing Market Assessment (2018) shows the profile of the private rented sector in the district including the number of student houses in each sub-area. The 2017 Household Survey indicated that students made up 3% of household types across the district, with the majority being located in South Lancaster close to Lancaster University.

- 3.2 HMOs have been mapped to determine the quantity and spatial distribution. The following data sources have been used to collate the HMOs:
- Council Tax data;
 - The HMO License Register;
 - Data provided by letting and managing agents;
 - Data from letting and managing agent websites.
- 3.3 The accurate identification of the quantity and spatial distribution of HMOs has been problematic due to:
- Permitted development rights which allow the conversion of dwellinghouses (Class C3) to houses of small HMOs (Class C4);
 - Unauthorised development;
 - Licensing only covers HMOs of over 5 persons;
 - Council tax records with student exemptions can be used as an indicative guide only. This information cannot be disclosed to members of the public.
 - Electoral register showing three or more apparently unrelated individuals. It is recognised that will not provide a conclusive evidence that a property is an HMO.
- 3.4 For the purposes of this topic paper, the information will only be made available on a ward and in some cases a street basis.
- 3.5 The information will only be made public by the council on request; in connection with the determination of a current application or appeal and in relation to the 100m radius from the application property. The means of identification will not be made public.
- 3.6 The sources listed above are not conclusive or exhaustive record of all HMOs in the relevant area. There may be existing HMOs which are occupied but unknown to the Council. For example, on 6th April 2010 the Uses Classes Order introduced a class for HMOs to reclassify C3 dwellings to either the new C3 or C4 Classes. The reclassification of existing dwellings to C4 use did not require planning permission and therefore will not be registered on the council's register of planning applications. Planning permission is not currently required to convert from C3 to C4 under permitted development rights. If an Article 4 direction restricting these rights is introduced a more accurate picture of new HMOs will be achievable.
- 3.7 The sources do however provide a reasonable indication of the numbers and location of HMOs.

HMO Register

- 3.8 The HMO License Register data provides all the registered HMOs with 5 or more occupants.

Ward	No. of licenses (Nov '19)
Bulk	53
Castle	138
Ellel	9
John O Gaunt	130
Marsh	30
Scotforth East	18
Scotforth West	38
Sketon East	13

Table 1: HMO Licensed Properties (November 2019)

- 3.9 The Register shows a concentration of large HMOs in the Lancaster wards of Castle and John O Gaunt and to a lesser degree in Bulk, Scotforth West and Marsh wards.

Council Tax Data

- 3.10 Students can apply for a reduction in Council Tax and where all the occupants of a property are students, the property can be registered for a full Council Tax exemption. This data indicates the number of houses used for student accommodation, the primary source of HMOs in the district.

Ward	Number of Student Exemptions
Bulk	295
Castle	532
Ellel	21
John O'Gaunt	392
Marsh	72
Scotforth East	39
Scotforth West	239
Skerton East	40
Skerton West	4
University & Scotforth	79

Table 2: Properties with student council tax exemptions (November 2019)

- 3.11 Council tax records show that there are 1,630 properties in Lancaster that are have student exemptions (Council Tax records November 2019). The data highlights that the concentrations are in similar locations to those identified in the HMO register, with additional of a significant number within Scotforth West ward. Of particular note are the wards of Bulk, Castle, John O'Gaunt and Scotforth West.

Combined Data Sets

- 3.12 The HMOs identified from all these sources have been plotted and placed into a single data base to avoid double counting. The combined data indicates that there are approximately 2,200 HMOs of all sizes 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 3: Combined data sets of HMOs (November 2019)

- 3.13 When the large HMOs from the HMO Register and Council Tax exempt properties are combined, the concentrations of HMOs reflect those identified through the exempt data. The numbers within Castle ward are particularly high with approximately 20% of the dwellings being identified as HMOs. Bulk and John O'Gaunt and Scotforth West ward also have high levels in the region of 8 to 10%.
- 3.14 The numbers and percentages of identified properties illustrate the high levels of HMOs within the city of Lancaster. These properties are concentrated in particular areas and along terraced streets. The impact of HMOs in these streets is exacerbated due to the density of these areas, the position of the terraced properties either abutting the pavement or with short front gardens and the lack of off-street parking.
- 3.15 In Bulk ward there are high numbers of flats on Cable Street, Kingsway, North Road and St Leonards Gate. There is a high concentration of HMO properties on the terraced streets of Albion, Green, Hinde and Ridge Street and Gladstone Terrace (approx. 46 properties). These properties are within an area of 1.7 hectares. There is also a significant number of purpose built student flats within the Bulk ward.
- 3.16 There are streets which have high concentrations of identified properties in Castle ward. 15 have been identified along Dallas Road (20% of dwellings). Along Blades Street 20 have been identified (approx. 27%). Dallas Road and Blades Street run parallel to each other, creating a high concentration in this small area. There are 19 identified in Regent Street, 11 on Portland Street, 10 in Lindow Square and Street and a further 18 on Queen Street and 10 on Brock Street. These latter streets are located to the southeast of Dallas Road and Queen Street is located slightly further to the east. Other notable concentrations in this ward are King Street, Sibsey Street, St. Georges Quay. There are significant numbers of flats on Damside Street, China Street, Aalborg Street, Queen Street and Penny Street. They are all within a confined area, creating a concentration of large HMOs in this part of Castle

- 3.17 The terraces within John O’Gaunt ward where there are high concentrations of identified properties. There are two particular areas of concentration, the area to the north of Aberdeen Road and the area to the east of Dale Street. There are 84 identified properties between Balmoral/Kirkes Roads, Dundee Street, Dumbarton Street and Aberdeen Road (approx. 4.9 hectares). There are 28 identified properties along Dale Street, all these are within a 200m part of the street. St Oswald Street is located to the south east and includes 20 identified properties. Prospect Street adjacent to Dale Street has 34 identified properties (approx. 34% of properties). There are also high concentrations around the Golgotha and Adelphi Road areas. There are 32 (approx. 37%) identified properties on Coulston Road and 26 (approx. 47%) on Golgotha Road. There are 93 exempt properties within an area of approximately 4 hectares.
- 3.18 There are clusters of exempt properties within terraces in Scotforth West ward. These concentrations are highest in the areas around Greaves, Vine and Graham Roads (29 identified properties), South Road where there are 19 identified properties and in the area around Trafalgar Road and Newisham Place.
- 3.19 In Marsh ward, there is a concentration in the Hubert Street area.
- 3.20 It should be noted that University and Scotforth ward includes Lancaster University campus and HMOs in the residential areas and on campus have not been accurately disseminated.
- 3.20 The above information indicates that there is a trend for large HMOs to be concentrated in particular streets. Such concentrations can be beneficial for the landlord or agent but not for other residents in the street.
- 3.21 There are a number of reasons which may explain this trend:
- The availability of cheaper terraced housing capable of extension and alteration to form HMOs;
 - Accessible location for the city centre and universities;
 - The clustering of HMOs for management and maintenance reasons.

4.0 The Impact of Concentrations of HMOs

- 4.1 HMOs can have a detrimental impact on residential character and community cohesion and high concentrations within a neighbourhood can result in harmful impacts including:
- Seasonal depopulation (where areas are occupied predominantly by students);
 - Divisions between social groups;
 - Lack of interaction;
 - Turnover of occupants;
 - Poor upkeep of houses and gardens;
 - Adverse impact on the affordability of rents;
 - Issues with parking provision and traffic congestion;
 - Difficulties for the owners of remaining C3 dwellings selling their properties.

- 4.2 The increasing demand for student accommodation, has led to an increase in the conversion of family homes to student occupied HMOs. The uneven distribution and concentration puts pressure on housing stock and has resulted in a more intensive use of properties. The transient nature of students has also changed the character of neighbourhoods. The Council's Environmental Health team and the Strategic Housing Market Assessment provides evidence with regard to the impact of HMOs and in particular student accommodation.

Complaints

- 4.3 The Council's Environmental Health team reported that 148 complaints were received between August 2014 and November 2019 with regard HMOs. 54 of these were made in respect of properties in Lancaster. Within the same period 43 Community Protection Notices with regard to anti-social behaviour community protection notices were served on HMOs in the district. As a result of these amenity impacts, it will be less attractive for more permanent residents to live in a community affected by a high concentration of HMOs.
- 4.4 During the last five years (January 2015 to December 2019) approximately 38 applications for HMOs were submitted. These applications relate to either large HMOs or changes of use of buildings other than dwellinghouses (Class C3). This does not include changes of use of dwellinghouses to small HMOs or all the large scale purpose built student accommodation.
- 4.5 Over the same period, approximately 11 planning enforcement complaints in respect of HMOs were received. Some of the complaints related to the change of use to small HMOs which did not require planning permission.

Strategic Housing Market Assessment (SHMA)

- 4.6 The SHMA at page 141 states:
- 'The Strategic Housing Market Assessment Lancaster's student population was just over 13,000 in 2015/16. For 6,700 of these students, accommodation is a part of the offer of a place. Just over 1,000 students (8%) live at home. The remainder of the students find accommodation on Lancaster's market rented sector.'
- 4.7 In 2016 the Lancaster University Annual Report noted the number of students as full time equivalents as 11,986 and in 2018 as 12,960. This is a significant increase in student numbers at just one institution in Lancaster.
- 4.8 Respondents to the 2017 Household Survey commented that student lettings have increased the typical rental charge in South Lancaster. As a result, South Lancaster is no longer affordable for renting on Housing Benefit (the Local Housing Allowance rates are the same across the whole area).

4.9 The Estate Agent review states:

‘The preferred property of choice for students in the market rented sector tends to be larger shared houses near to campus or the centre. Unfortunately, there are few such properties in Lancaster and fewer that are available in these locations. The city’s terraced housing has long been a replacement vehicle for Lancaster’s student population especially in their second year and those choosing to remain in the city post-studies.’

‘Private landlords also report reduced demand for accommodation which they attribute to declining student population and an increase in the number of private landlords operating in Lancaster’s student market.’

- 4.10 A significant number of new purpose built accommodation buildings have been introduced or are being built. These increase the concentrations of students in some areas in addition to the shared house type HMOs. They also should relieve the pressure for accommodation and new shared house type HMO’s. As the amount of student accommodation has recently increased, now is considered an appropriate time to redress the balance within the housing stock.

5.0 The Means of Controlling HMOs

- 5.1 To more fully regulate the conversion of dwellinghouses to HMOs and the transformative effects of over-concentration of HMOs upon the local character of neighbourhoods, the Council is introducing policy DM13 in the Development Management DPD. The scope of this policy is however limited as only HMOs with 6 more residents require planning permission.
- 5.2 An Article 4 Direction would remove the permitted development contained in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development Order) which allows 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). When an Article 4 comes into effect, planning permission would be required for the conversion of dwellinghouses to small HMOs (Use Class C4). Once these small HMOs require planning permission and on adoption of the Local Plan, the emerging policy can be used when assessing changes of use and will limit the over concentration of new HMOs.
- 5.3 An Article 4 Direction will not stop changes of use but will provide a means to control the concentration of HMOs. Article 4 Directions have no control over how a HMO is managed.
- 5.4 The concentration of HMOs is mainly focused on the wards of Bulk, Castle, John O’Gaunt, Marsh and Scotforth West. However, by restricting the number of additional HMOs in these wards, it is likely that the demand would dissipate outwards. The Council is aware that new housing developments at Luneside and in Galgate have become attractive to HMO landlords. It is therefore important to ensure that new HMOs do not become concentrated in other parts of the district. It is therefore proposed to include all of the Lancaster wards and the parish of Ellel to capture the village of Galgate.
- 5.5 A copy of a draft Article 4 Direction and a map showing the area under consideration for inclusion is attached at Appendix 1 and 2 respectively.

6.0 Consultation

6.1 In preparation for the Article 4 Direction, the Council will undertake informal consultation with the relevant stakeholders. The consultation will seek view in respect of the designation and the extent of the areas proposed to be covered.

6.2 Should the Council decide to move forward and designate an Article 4 direction following the outcome of the consultation, a period of one year will elapse between designation and the Article 4 coming into effect. This is required to ensure that property owners can be made fully informed and not disadvantaged by the change in the need for planning permission. During this time publicity will take place in the form of press and site notices, notices on the Council website and notification to those registered on the planning policy consultation list. Registration is via the Council website on the following page:

<http://www.lancaster.gov.uk/planning/planning-policy/planning-policy-consultations>

7.0 Conclusion

7.1 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, 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.

Appendix 1 – Draft Article 4 Direction

Lancaster City Council

Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Direction made under Article 4 (1) to which Article 5 applies

Whereas Lancaster City Council being the appropriate Local Planning Authority within the meaning of article 4(5) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), is satisfied that it is expedient that development of the description set out in the First Schedule below should not be carried within the area of described in the Second Schedule and shown edged red and hatched on the attached plans, unless permission is granted on an application made under Part III of the Town and Country Planning Act 1990 (as amended).

Now therefore the said Council in pursuance of the power conferred on them by article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), hereby directs that the permission granted by Article 3 of the said Order shall not apply to development of the description set out in the First Schedule below, on land within the area described in the Second Schedule and shown on the attached maps.

First Schedule

Development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended), to a use falling within Class C4 (houses in multiple occupation) of that Schedule being development comprised within Class L(b) of Part 3 of the Schedule 2 of the Town and Country Planning (General Permitted development) Order 2015 (as amended) not being development comprised within any other Class.

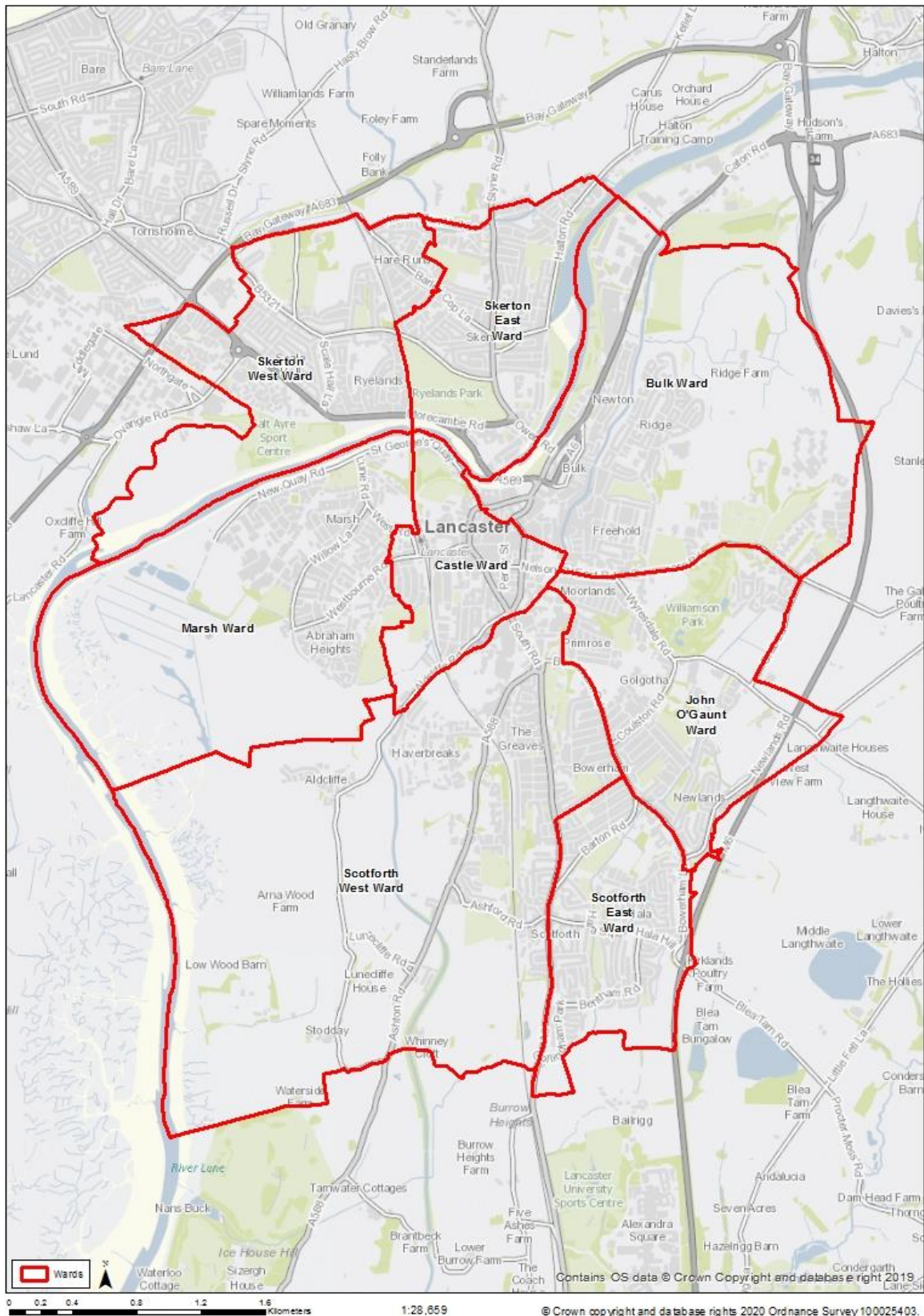
Second Schedule

The land edged in red and shown hatched on the attached plan (being the land comprised within the Lancaster electoral wards of Bulk, Castle, John O’Gaunt, Marsh, Scotforth East, Scotforth West, Skerton East, Skerton West and the village of Galgate in Ellel ward, on the date this Direction was made)

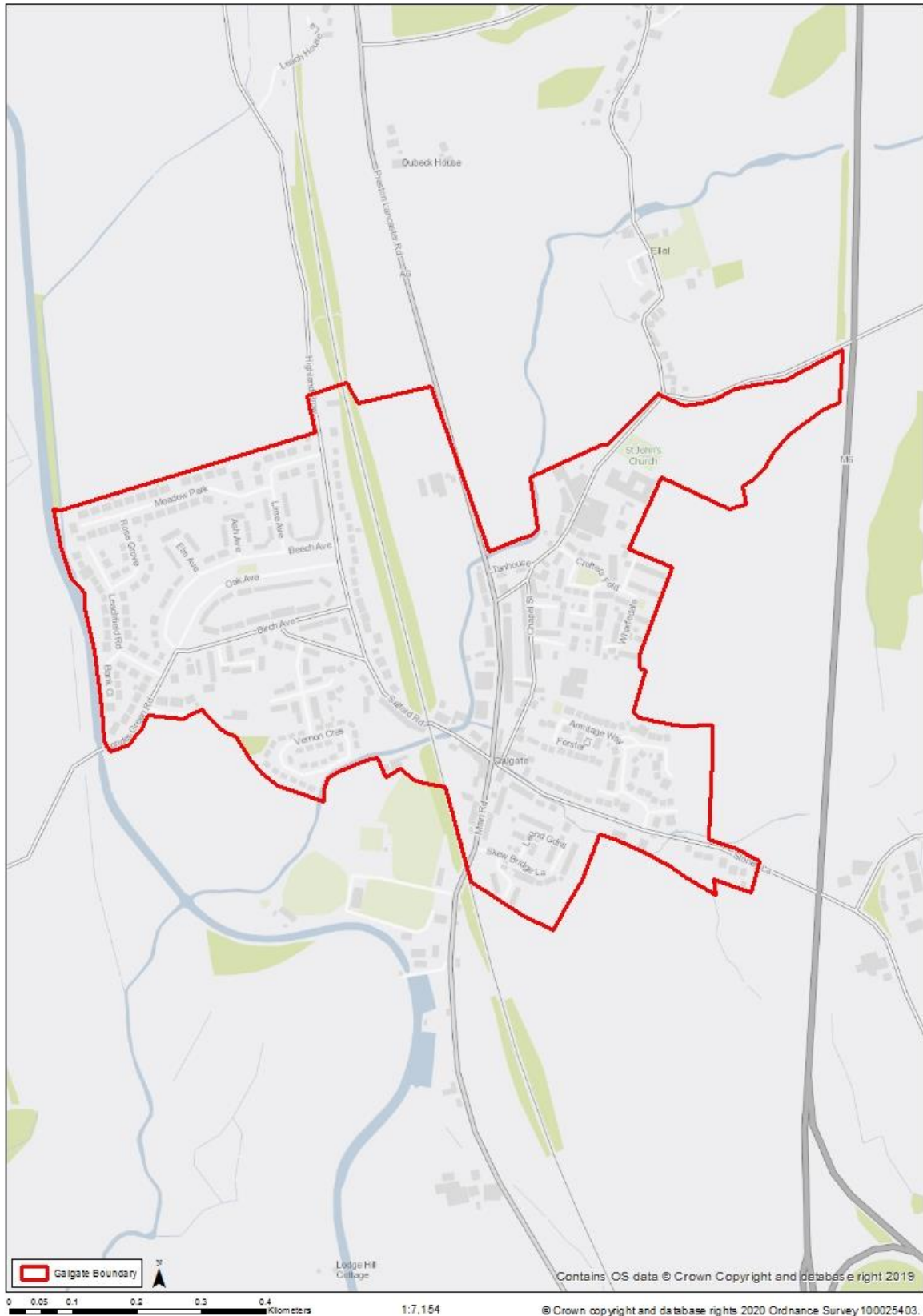
The Article 4 Direction will come into force on ??? (1 year after the made date)

Made under the Common Seal of Lancaster City Council on this // day of ?? 20??

Appendix 2 – Area Under Consideration for Inclusion in the Article 4



Lancaster wards



Galgate