

Cabinet

16 December 2025

Article Four Direction – Houses of Multiple Occupation

Portfolio Holder: Councillor Simon Curry, Portfolio Holder for Climate Change and Strategic Regeneration

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Summary

This report presents to Members the recommendations for the imposition of Article 4 Directions within seven Wards within Medway (listed below). This report is accompanied by an evidence base that has considered the existing level of Houses of Multiple Occupation (HMOs) within Medway, and the impacts that these have on the existing residents. The report shows that there is a clear correlation between the proliferation of HMOs and anti-social behaviour, as well as the poor standard of accommodation.

1. Recommendations:

1.1 The Cabinet is asked to:

1.2 Approve the making of seven immediate Article 4 Directions to be brought into effect immediately. This will remove permitted development rights for the change of use from Use Class C3 dwellinghouses to Use Class C4 small houses in Multiple Occupation for the following Wards:

- Chatham Central and Brompton.
- Fort Pitt.
- Gillingham North.
Gillingham South.
- Luton.
- Strood North and Frindsbury.
- Watling.

1.3 Authorise the Assistant Director, Legal and Governance, to issue the relevant Direction and Notices to support the Immediate Article 4 Directions.

1.4 Note the content of the HMO Review and Evidence Paper as appended to this report at Appendix 4, that has been prepared to support the proposed making of the Immediate Article 4 Directions.

1.5 Authorise the Director of Place to consider comments received to the Notice and to thereafter confirm the Immediate Article 4 Directions.

2. Suggested Reasons for Decision(s)

2.1 The Council is responsible for ensuring that all residents have a satisfactory standard of accommodation and for the delivery of all types of housing to be of a high quality, while protecting the residential amenities of an area and the existing residents within it, to ensure both existing and future residents' needs are met.

2.2 There is sufficient evidence as set out in the appendices to this report, to suggest that the unregulated nature of HMOs within Medway within the relevant Wards is resulting in a poor standard of living, with subsequent and linked issues in terms of anti-social behaviour and detrimental impact on existing residential amenity.

3. Budget and Policy Framework

3.1 Policy H7 of the Medway Local Plan 2003 and Policy T8 of the Regulation 19 Draft Local Plan 2025 set out the criteria for assessing whether a proposed HMO is acceptable. However, this only relates to large scale HMOs comprising of more than 6 unrelated residents living together in a property who share basic amenities such as kitchen, living room and bathroom but have separate bedrooms.

3.2 The Town and Country Planning General Permitted Development Order 2010 (GPDO) brought forward a new use class for the Town and Country Planning (use classes) Order 1987 (as amended) being use class C4 - houses in multiple occupation for 3-6 occupants. The GPDO permitted the change of use of a Class C3 dwellinghouse to a Class C4 (small scale HMO) without the need for planning permission.

3.3 As a result of the new GPDO small scale HMO's are permitted development and C3 dwellinghouses can be converted to a C4 use without the need for planning permission and therefore an assessment against the Local Plan policy criteria set out above.

3.4 The National Planning Policy Framework (NPPF) 2024 sets out very clearly the need to deliver a sufficient supply of homes to meet the needs the residents of the area. The reasoned justification to the above Local Plan policies set out the important role that HMOs can play in providing affordable accommodation particularly for young professionals, but this is against an assessment of each proposal against a criteria within the policies that seeks

to ensure the quality of the accommodation, protection for existing family homes and to protect existing residential amenity.

- 3.5 The Town and Country Planning Act allows local authorities to remove permitted development rights through the serving of Article 4 directions where there is evidence that the use of those permitted development rights is causing harm to an area.
- 3.6 The sections below on compensation implications and finance set out the financial implications of the 2 options relating to the serving of an article 4, whether immediate or non-immediate. There is no budget set aside for dealing with compensation claims if the Cabinet were to go down the serving of an immediate Article 4 direction and therefore any justified and substantiated compensation claim would represent a financial pressure on the Council's budget.

4. Background

- 4.1 A house in multiple occupation (HMO) comprises a house or flat which is occupied by three or more unrelated people who share amenities. They can make an important contribution to the supply of overall housing, generally providing lower-cost accommodation. However, high concentrations of HMOs can have a detrimental impact on local housing areas. For example, they can involve a more intense use of a dwelling, may increase additional noise pollution, parking demands and pressure on local services. Through generally having a more transient population they can also impact on social cohesion.
- 4.2 In 2010, changes to the General Permitted Development Order (GPDO) introduced a new Use Class, C4, which comprises HMOs of between 3 and 6 unrelated occupants (generally referred to as small HMOs) and small bedsits. At the same time, Use Class C3 was amended and consists of the following:
- Class C3a - Those living as a single household as defined by the 2004 Housing Act 2004 (basically a 'family' where there is no limit on the number of members of the household).
 - Class C3b - Not more than six people living together as a single household and receiving care.
 - Class C3c - Not more than six people living together as a single household who do not fall within the C4 definition of an HMO (for example a small religious community, or homeowners with up to 2 lodger/s).
- 4.3 Planning permission is not usually required to convert a Use Class C3 dwellinghouse into a Use Class C4 small HMO. That conversion can be done under the permitted development rights set out in the GPDO. Exceptions to this apply where an Article 4 Direction has been made for an area.
- 4.4 In planning terms, the change of use of a Use Class C3 dwellinghouse to shared housing occupied by 7 or more people (a large sui-generis HMO) requires an express grant of planning permission.

Article 4 Directions

- 4.5 Article 4 Directions can be used by local planning authorities to remove certain permitted development rights in part or all of their area, thereby requiring planning permission for development that would otherwise be automatically permitted, known as 'deemed planning permission'. Article 4 Directions have tended to be used in conservation areas to exert greater control over extensions or other changes to buildings. However, they are also a means by which local planning authorities can exert greater control over small HMO developments which currently enjoy deemed planning permission.
- 4.6 The National Planning Policy Framework (NPPF) requires the use of Article 4 Directions to be limited to situations where it is necessary to protect local amenity or the wellbeing of the area and should be based on robust evidence and apply to the smallest geographical area possible.
- 4.7 The Planning Practice Guidance (PPG) requires the potential harm that an Article 4 Direction is intended to address to be clearly identified. Finally, it requires there to be a particularly strong justification if a Direction is related to a wide area, for example covering the entire area of a local planning authority.

5. Options

- 5.1 The Council is presented with the following options:

To accept the findings of the evidence base and to approve the making of an immediate Article 4 Direction to be brought into effect immediately. This will remove permitted development rights for the change of use from Use Class C3 dwellinghouses to Use Class C4 small houses in Multiple Occupation within any Ward as identified within the Direction.

- (a) To maintain a business-as-usual approach, considering planning applications for larger HMOs but not to propose the making of an Article 4 Direction to remove permitted development rights in relation to smaller HMOs.
- (b) To seek further evidence to further refine the boundaries of the Article 4 Directions within the seven specific Wards identified.

6. Advice and Analysis

Evidence

- 6.1 A separate document is appended to this report, which has been prepared to justify the introduction of Article 4 Directions within the seven identified Wards. This report has assessed the following evidence and information:
- Medway Council existing licencing records.
 - Census data related to multi-person households and tenure.
 - Planning applications for HMOs.
 - The amount of crime and anti-social behaviour within the identified Wards.

- Information regarding car ownership within the identified Wards.

6.2 Having regard to this evidence, it is considered that there is justification for the imposition of Article 4 Directions within the identified Wards.

Procedures to Make an Article 4 Direction

6.3 There are two main types of Article 4 Directions:

- (i) Direction with immediate effect: Schedule 3, Paragraph 2(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 provides a local authority with the power to make an immediate Direction that can withdraw permitted development rights with immediate effect without prior notice. The use of this power can only be used if the local authority considers that the development to which the Direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area.
- (ii) Direction without immediate effect: Schedule 3, Paragraph 1(1) of The Town and Country Planning General Permitted Development (England) Order 2015 sets out the procedure which must be followed so that the Direction can legally take effect. This includes the process for making the Direction and publicity requirements.

6.4 In the case of the Article 4 Direction under consideration for the identified Wards, as shown on the appended plans, it is proposed that an immediate Direction is taken forward. It is considered that the criteria for making an immediate Direction as outlined within the supporting document has been met. This is due to the significant increase in recent small HMO developments coming forward as permitted development, without the ability for the Local Planning Authority to manage and control the amenity of the proposed occupants and neighbours, the concentration of HMOs in any single location and the management of important elements such as parking provision and bin storage. It is therefore considered that an immediate Article 4 Direction is essential to the proper planning of these seven Wards and will protect the amenity of existing and proposed occupiers.

Appeals Against an Article 4 Direction

6.5 There is no right of appeal against an Article 4 Direction. The decision of the Council to make a direction can, however, be subject to Judicial Review (JR) proceedings. If successful, the direction could be quashed.

Compensation Implications

6.6 In the case of any Direction that is brought into force without there being a period of at least 12 months from the date the Direction is made and the date upon which it comes into force, a statutory compensation liability may arise.

- 6.7 A claim can be made to the Council if planning permission is refused or granted subject to conditions other than those conditions imposed by the GDPO. The claim for compensation can include abortive expenditure and other loss or damage directly attributable to the withdrawal of the permitted development right. However, this is limited to the difference of the value of the land if the development had been carried out and its value in its current state, as well as the cost of preparing architectural plans for the works.
- 6.8 Compensation will not be payable if any claim is made after 12 months of the Direction coming into effect.

Making of the Direction and Consultation

- 6.9 The Cabinet is asked that authority be given for the immediate Article 4 Direction to be made. If authorisation is given then the Direction can be made, following which Medway must give notice as soon as practicable to introduce an immediate Article 4 direction by:
- Publishing a notice of the direction in a local newspaper.
 - Displaying at least two site notices for a period of not less than 21 days in the Wards that will be affected by the direction.
- 6.10 Advice is also given that where practicable, a Local Authority should serve notice on every owner and occupant of land to which the Direction relates. This size of the relevant areas means that notifying all landowners and occupiers would be impracticable, and so instead details will be sent to a mailing list of landlords and managing agents held by the landlord licensing team and those registered on the Council's Local Plan consultation database interested in being informed of consultations concerning planning material. The Council will also have to serve a notice to any statutory undertakers affected by the proposals.
- 6.11 The notice of the Article 4 Direction must:
- Include a description of the type of development for which permitted development rights will be removed and the area to which it relates.
 - Include a statement of the effect of the direction under Article 4.
 - Name a place where a copy of the direction and associated map can be inspected at all reasonable hours.
 - Specify the date that the Article 4 Direction comes into force.
- 6.12 In addition, Medway Council must notify the Secretary of State on the same day that the notice of an Article 4 Direction is published or displayed. The Secretary of State has the power to modify or cancel Article 4 Directions at any time before or after their confirmation, although they will not use their powers unless there are clear reasons why intervention at this level is necessary.
- 6.13 Whilst not a legal obligation, it is also considered good practice to publish a notice of the Article 4 Direction(s) on the Council's website. It is also

recommended that on the same day the notice of the Article 4 Direction is published or displayed, the Council publishes the evidence that it has prepared to justify the purpose and extent of the direction.

Confirming the Directions

- 6.14 The Council will make the Order for the Article 4 Direction which will come into effect immediately. Notice will then be given in accordance with legislative requirements of the making of the Order.
- 6.15 Following the notice period, a further report will then be made making a recommendation to the Director of Place as to whether or not the direction should be confirmed. This will consider any representations received in response to the notice of the immediate Article 4 Direction.
- 6.16 If a resolution is made to confirm the Direction(s), then the Council has to give notice locally (following the same procedures as outlined above) and notify the Secretary of State as soon as practicable. From the date that the Order is made for the immediate Article 4 Direction(s), planning permission will be required for a change of use from Use Class C3 to Use Class C4 in the designated areas.
- 6.17 This report is accompanied by an evidence base that has considered the existing level of HMOs within Medway and the seven wards referred to, and the impacts that these have on the existing residents. The report shows that there is a clear correlation between the proliferation of HMOs and anti-social behaviour, as well as the poor standard of accommodation.
- 6.18 The report recommends that Article 4 Directions be imposed upon the seven identified Wards with the justification as to why.

7. Diversity Impact Assessment

- 7.1 This proposal will ensure that all existing and future residents of Medway have better access to high quality housing.

8. Risk Management

- 8.1 With the imposition of immediate Article 4 Directions, as is set out within paragraphs 7.6 and 7.7 of this report, there would be the opportunity for owners of properties who have their planning application refused (who would not ordinarily require the benefit of planning permission) to seek compensation. At present, it is not possible to quantify this risk.
- 8.2 The level of risk could be managed by the Development Management department having a clear understanding as to how any planning policy would be applied to planning applications, and to have a clear methodology as to seeking to refuse applications on the basis of proliferation (for example, when more than 10% of properties within a specific area/street has been exceeded). At present that policy framework does not exist, but it may be that through the

development of the new Local Plan, this could be introduced prior to adoption (para. 49 NPPF).

9. Consultation and Engagement

9.1 The required level of consultation and engagement is set out at paragraphs 6.9 – 6.13 of this report.

10. Climate Change Implications

10.1 There are no significant climate change implications as a result of this proposal.

11. Financial Implications

11.1 The proposals outlined in this report do not have any immediate financial implications with the exception of minor costs relating to the advertising of the Article 4 Direction in local media outlets.

11.2 The Article 4 Direction will result in an increase in the number of full planning applications for conversions of dwellings to ‘small’ HMOs (that is between 3-6 residents). The cost of processing these will be partially recovered by planning application fees and the existing departmental revenue budget. There will be staff time associated with the preparation and implementation of the Article 4 Direction which cannot fully be recovered from external sources. However, it is expected that this will be absorbed into the existing service. Future monitoring of the numbers of small HMO planning applications will provide an accurate assessment of impacts.

11.3 There are two types of Article 4 directions, Immediate and Non-Immediate directions. As set out in the report above there are compensation implications in relation to an immediate direction. A claim for compensation can be made to the Council if planning permission is refused or granted subject to conditions in addition to those conditions imposed by the legislation ‘the Town and Country Planning (General Permitted Development) Order 2015’. However, compensation is only payable if an application is made within 12 months of the Article 4 direction taking effect.

11.4 It is unknown how many applications are likely to be submitted and therefore not possible to accurately predict the extent of any financial risk or liability for the Council at this stage. However, any claim for compensation will only be in relation to the difference in value, if the Article 4 Direction was not in effect. Relevant planning applications for small HMOs should be robustly monitored during each financial year to evaluate any potential cost implication on the Council’s general fund revenue budget.

11.5 There is no existing budget for dealing with compensation claims if the Cabinet were to go down the route of serving of an immediate Article 4 direction and therefore any justified and substantiated compensation claim would represent a financial pressure on the Council’s budget. This could

possibly be met through existing revenue budgets within the planning service. However, as we are not able to accurately predict the extent of any financial risk or liability at this stage, we are not able to say with any certainty that this could be achieved.

12. Legal Implications

12.1 The legal implications of making an Article 4 direction are set out within this report.

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Appendices

Appendix 1 to 3 – Location of current HMOs
Appendix 4 – HMO Review and Evidence Base

Background Papers

None