Report of the Director of Regeneration

1. **Purpose of the Report and Summary**

1.1 The effective management of the housing stock across the city is an issue the council are looking at across departments. Finance, housing and planning are central to managing this change/way forward.

1.2 This report is one of a number looking at improved controls to manage the housing stock with a particular focus on houses in multiple occupation.

1.3 This report has been developed following concerns raised by members about problems raised by high numbers of single family dwellings being converted into houses in multiple occupation within the areas identified in the attached plans A401 (NASA area), A402 (Spring Bank and Beverley Road-south) and A403 Holderness Road. Previously an Article 4 Direction came into effect on the 9th October, 2013 in relation to the Avenues area of the city. This report follows on from this and details the evidence gathered in relation to the additional areas of the city where it is considered a new Article 4 Direction relating to small Houses in Multiple Occupation should be introduced.

1.4 The Article 4 Direction will require planning permission to be sought for a change of use from a C3 dwelling house to a C4 small House in Multiple Occupation in the defined areas. It should be noted that the Class C4 definition does not differentiate between occupation types.

1.5 It is accepted that whilst Houses in Multiple Occupation do make a valuable contribution to the supply of housing it is considered that where there is a concentration of HMO’s there are above average problems of anti-social behaviour, noise and disturbance. There are also impacts in terms of negative effects on the physical environment including waste and parking pressures. As a result these areas are at risk of becoming imbalanced communities and tend to lead to families moving away with the added

Changes to Planning Legislation: Request for extensions to current Article 4 Direction relating to Houses in Multiple Occupation.
consequences for service provision in the immediate area.

1.6 An extension of the current Article 4 Direction into the areas shown on plans A401, A402 and A403 would enable the Local Planning Authority to manage the number and design of new HMO’s within the extended boundaries and this should mitigate the problems which have been identified.

1.7 It should be noted that the City Council now operates a Task Force relating to HMO’s particular in relation to those households which are supported and receive supplemented Housing benefits. Whilst this is not necessarily a planning condition such households are likely to have an effect on the character of an area and therefore additional controls would help in ensuring the standards applied within a HMO are satisfactory and meet all the required legislative provisions. In addition Environmental Health Licensing is changing from 1st October, 2018 and as a result such properties will require to be licensed were there are 5 persons forming two or more households.

1.8 It is recommended that the report and action be agreed with the extended Article 4 Direction covering Drypool, Holderness, Central, Newington & Gipsyville and St Andrew’s and Docklands.

2. Recommendations

2.1 That Members support and agree to the serving of a formal notice for a further Article 4 Direction to remove the permitted development rights for use Class C3 to use Class C4 on a non-immediate basis;

2.2 That members agree that the extended Article 4 Direction should cover the areas identified within plans marked as A401, A402, and A403 in the Appendix.

3. Reasons for Recommendations

3.1 It is considered that the action taken in respect of issuing a further Article 4 Direction would ensure that the City Council could manage the concentration of such uses within the defined areas as required by Policy 7 of the Hull Local Plan 2016-2032. Where there is a risk they are undermining family housing contrary to policy 7 of the local plan.

3.2 By the adoption of the Article 4 Direction as recommended local amenity and the character of the areas as defined can be managed avoiding nuisances related to pressure on on-street parking and more general noise and disturbance concerns.

4. Impact on other Executive Committees (including Area Committees)

4.1 It is considered that the adoption of the recommendations of this policy will impact upon the Area Committees and Council wards affected as a result consultation with the Committees concerned is necessary. The Area Committees where the new Article 4 Direction would apply are Riverside,
4.2 Area Committees will be formally consulted during the 12 month notification period and comments brought back to cabinet ahead of cabinet deciding to implement the new Article Direction.

The evidence in the attached Appendices supports the new areas for where the Article 4 Direction would apply, however if further evidence is brought forward during the consultation by the public, landlords or councillors it may be necessary to redraw the boundary and commence the 12-month notification period again.

5. Background

Changes to Planning Legislation: Request for extension to current Article 4 Direction relating to Houses in Multiple Occupation (HMO).

5.1 Introduction

The Town and Country Planning (Use Classes) Order was changed in April 2010 to introduce a new class relating to Houses in Multiple Occupation of 3 to 6 unrelated people now stated as Class C4. As a result it became a requirement to obtain planning permission to change from a single dwelling house (Class C3) to a Class C4 (HMO). However, in October, 2010 these control were removed by the introduction of permitted development rights to move freely without planning permission from Use Class C3 to C4, Local Authorities can, where they are having problems from shared houses in a particular area, manage the situation by the introduction of Article 4 Directions. A number of local authorities have imposed such Article 4 Directions and an Article 4 Direction relating to HMO’s which covered the Wyke and Northern areas of the city around the University of Hull came into effect on the 9th October, 2013 and has been very successful in managing the concentration of new HIMO’s and their design.

5.2 It is important to realise that the direction does not mean there will be no new HMO’s but given there is a need to apply for planning permission it is possible to access parking, noise and concentration issues through the determination process this bringing an ability to manage them through the planning system.

5.3 It should be remembered that Replacement Appendix D to Circular 9/95: General Permitted Development Consolidation Order 1995 – November, 2010 gives advice on the making of Article 4 Directions. Paragraph 2.1 and 2.2 state that Local Planning Authorities should only consider making Article 4 Directions only in those exceptional circumstances where evidence suggests that:

(i) The exercise of permitted development rights would harm local amenity or the proper planning of the area, and;

(ii) That in deciding whether an Article 4 Direction would be appropriate, Local
Planning Authorities should identify clearly the potential harm that the Direction is intended to address.

5.4 In the National Planning Policy Framework – Tailoring planning controls to local circumstances (200) it states that ‘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 wellbeing of the area. Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so’.

5.5 Policy 7 of the Hull Local Plan 2016 to 2032 states as follows;-

1. Conversion of a dwelling house into a House in Multiple Occupation (HMO) for 7 or more unrelated people will only be allowed if the property has a minimal internal floorspace of 150m squared before conversion.

2. Conversion of a property into a House in Multiple Occupation (HMO) will not be allowed if it would:

   (a) result in a concentration of similar uses adversely affecting local amenity and the character of the area;

   (b) introduce a potential source of noise and disturbance greater than that normally associated with a dwelling to the detriment of neighbouring residential amenity, which could not be mitigated by careful planning of room layout and the use of sound insulation; or

   (c) create unacceptable parking problems to the detriment of local amenity.

3. An Article 4 Direction requiring planning permission for small HMO’s for between 3 and 6 unrelated people, and/or a limit on the number of HMOs allowed, will be introduced in areas of the city where family housing needs to be protected or a specific need for such measures can be evidenced.

4. Where an Article 4 Direction exists for small HMOs, and if the concentration of HMOs and flats exceed 50% in a specific street, then further HMOs will not be allowed, with the exception of streets within the University Quarter as shown on the Policies Map.

5. Houses in multiple occupation (HMOs) should meet the internal space standards set out in Table 5.5.

6. Minimum parking standards for HMOs are set out in Policy 32 and Appendix C.

7. Adequate provision must be made for the storage of refuse and recycling containers whereby the containers are not visible from an area accessible by the public, and the containers can be moved to and from their collection.
Policy 32 parking Standards of the Hull Local Plan referred to in Policy 7 states as follows:-

1. Development should comply with the parking standards and guidelines as given in Appendix C parking Standards and Guidelines. The standards will be applied flexibly, particularly in the City Centre as defined on the Policies Map, to take account of:
   a. The accessibility of the development;
   b. The type, mix and use of development;
   c. The availability of, and opportunities for, public transport;
   d. Local car ownership levels; and
   e. The need to reduce the use of high emission vehicles;

2. In the City Centre, as shown on Policies Map, new residential uses will not qualify for on street residential parking permits.

Concern has been raised about problems associated by the increasing number of houses in multiple occupation and the concentration of such properties in certain streets and wider areas. The existing Article 4 Direction referred to students houses but it was noted at the time that that in attributing problems to student houses was only made on general assumptions and that the Class C4 definition is not aimed at one type of resident. In fact it applies to all shared properties of 3 to 6 persons. The issues generally raised in respect of such properties relate to the quality of private rented accommodation; waste management, concerns of the spread of HMO’s into predominantly family residential areas; the state of gardens and the properties; landlord accountability; parking; effect on services; drainage pressures; and the effect on shopping areas. These concerns were identified in a 2008 Government report “Evidence Gathering- Housing in Multiple Occupation and possible planning responses”. It should be noted that some issues could be controlled through the planning regime. There is a basis therefore for an extension to the Article 4 Direction where the evidence supports it.

It should be noted that for all Article 4 Directions the legal requirement is that the local planning authority is satisfied that it is expedient that development which would normally benefit from permitted development rights should not be carried out unless permission is granted for it by an application being granted. An Article 4 Direction would not imply that planning permission is refused but it would give the opportunity to assess each case on its own merits given full consideration of the facts and the local plan policies.

In addition it has been previously asserted that there is a clear correlation between areas of high concentrations of HMO’s and reports associated with such
areas including noise complaints and those concerning poor levels of maintenance of properties and their gardens. The extended Article 4 Direction covering the areas stipulated would be used as an additional tool to manage the effect of HMO’s on these areas. It is considered that evidence does support an extension of the current Article 4 Direction to covers the areas identified.

MAP 1 – Proposed Article 4 Direction Areas.
MAP 2 – HMO’s noted by Public Health.
MAP 3 – Applications to Building Control Inspectors in respect of HMO’s.

Table 1 Complaints received in relation to HMO’s (City Planning)

5.10 It would remain the case that outside of the extended boundaries of the Article 4 Direction a change of use from C3 to C4 would be permitted development and therefore planning permission would not be required. There is the potential for displacement of HMO’s into areas adjoining the areas. It is considered inappropriate to draw the boundaries too widely given the evidence supporting the need to remove permitted development rights does not exist and no requests from the public or elected members has been received to bring in an area not associated with the plan is in the Appendix. It is considered that other areas should not be included in this extension of the Article 4 Direction but the situation should be monitored and future action taken if considered necessary, proportionate and appropriate.

5.11 In line with the procedure adopted in the initial Article 4 Direction it is considered that a non-immediate Article 4 Direction should be made. Non-immediate directions can be confirmed following a 12 month prior notice of the withdrawal of permitted development rights. Whilst there is a disadvantage to this in that the council will not have additional control during the 12 months this is outweighed by the lack of compensation liabilities.

5.12 It should further be noted that fees are now payable in respect of planning applications required as a result of an Article 4 Direction coming into effect so any increase in workload will be off-set by increases in income. This was not the case when the previous Article 4 direction was brought in October 2013 where applications at that time carried no fee.

5.13 Procedure for implementing Article 4 Directions.

The procedure for implementing the Article 4 Direction will follow the provisions set out;

- The LPA makes the direction (after consulting the evidence base, which could include a public consultation exercise)

- The LPA gives notice of the direction, by advertisement, by at least two site displays (for not less than 6 weeks) and written notice to all owners and occupiers affected (unless the LPA is satisfied that this written notice is impractical)
• On the same day that the notice is given the LPA must also send a copy of the Direction to the Secretary of State

• The notice (as above) must include the description of the direction, where the direction can be inspected, that the public can make representations on the direction for at least 21 days (which can be longer if agreed by the LPA) and also the date that the direction comes into force (this must be not less than 28 days and no longer than 2 years after that date of the notice)

• The direction then comes into force as per the date in the notice, but only as long as it is first confirmed by the LPA. In confirming the direction, the LPA must take into account any representations made by the public in the 21 day period

• The LPA then gives notice of the confirmation, in the same way as the notice of the original direction was made.

5.14 It should be remembered that the making and confirming of Article 4 Directions is a Planning matter which requires an Executive decision. In addition decisions made with regards to making an Article 4 Direction would normally fall to Areas Committees provided the area falls wholly within individual Area Committees boundary. In this case a Cabinet decision will be required as the new Article 4 Directions fall across numerous Ward boundaries.

6. Issues for Consideration

6.1 It is considered necessary to adopt and implement the Article 4 Directions as outlined and recommended. This action would require the planning applications to be submitted for HMO’s (as defined by the Use Classes Order) which would give the opportunity to assess the individual proposals and ensure that they would not have a detrimental effect on the amenity of an area, and to support policy 7 of the Hull Local Plan 2016-2032. However, other current working practises and legislation is in place which could deal with the management issues and quality of accommodation which have been raised. Therefore full consideration should be given as to whether the extension of the Article 4 Direction into these areas is proportionate and necessary.

7. Options and Risk Assessment

7.1 There are options and risks associated with the new Article 4 Direction. Notably in respect of the current Article 4 Direction both the Humber Landlords Association and Students Union supported the need for smaller HMO’s and outlined the effects regulation can have. They were given weight in the previous report. It is expected they will choose to comment during the public consultation period.

7.2 In considering the options presented members will need to consider whether the evidence supports the need for an extension of the Article 4 Direction into the areas shown on the attached plans A401, A402 and A403 or whether other options should be taken. The options are:
Option 1:

Do not extend the boundaries of the Article 4 Direction.

If it is considered that an extension of the boundaries of the current Article 4 Direction is not warranted as a measure to control the issues around HMO’s in the suggested areas then they do not have to be implemented. Planning permission would not be required to change a family dwelling into a HMO’s occupied by 3 to 6 unrelated persons.

Option 2:

Agree to the boundaries as shown on plans A401, A402 and A403. The areas shown have a high concentration of shared houses particularly the streets to the north of Spring Bank and also streets south of Anlaby Road.

Option 3:

Consider whether different areas are needed for the Article 4 Direction to apply to. Some Councillors have submitted plans indicating what additional areas should be included within the Holderness Road locality. These are included within Proposal B in Appendix A403b. Having reviewed these submissions and assessed both the concentrations of HIMOs within the area, the property sizes and how they relate to the already established boundaries of the Holderness Road and New Bridge Road Focus Area established within the adopted Holderness Road Corridor Area Action Plan it is not considered appropriate to include these areas at this point of time.

In particular the area of Lorraine Street/Mayville Street and Chamberlain Road where it is suggested there are high levels of HIMOs does not have a single HIMO in this location as identified in Appendix A403f. There is no evidence to support the case for extending the boundary given the quantity of HIMOS is not threatening family housing (the requirement for the introduction of new HIMO article 4 Directions as identified within Policy 7 of the Local Plan).

8. Risk Assessment

8.1 The risk is that if the policy is not adopted the character of streets will change from one made up of family dwellings to mainly small HMO’s which can result in an increase in noise and disturbance and lead to pressures on parking as well as other issues such as waste management. The evidence gathered and policy 7 support the new Article 4 direction covering the area depicted.

9. Consultation

9.1 The policy referred to should be subject to consultation with the appropriate Area Committees, public and the appropriate Landlords Association. Further
consultation with the wider public will follow should the action be approved. It should be noted that it is not considered necessary to consult with student bodies or the University of Hull as the nature of the accommodation is different as most will not be ‘student houses’ given the greater distances from the University over the previous Article 4 direction.

9.2 Suggested extensions to the boundaries of the proposed new areas relating to the Article 4 Direction relating to small HMO’s have been made. These have been noted; however, it is believed that the extended boundaries suggested should not be agreed to at this time. Research has shown that currently the evidence available would not support a further expansion beyond that which has been proposed. Notwithstanding this should circumstances change by for instance the migration of such developments to neighbouring areas a further revision of the Article 4 Direction can be made if considered necessary and appropriate.

9.3 During the development of the boundaries for the HIMO Article 4 direction the rationale for them was focussed on:

1) Concentration of HIMO;

2) Boundaries of existing Area Action plans which are focussed on housing market renewal;

3) Level of complaints;

4) Local Plan policy

In addition there have been numerous reports by councillors for the inclusion of additional streets.

A403f identifies the proposed area, concentration of HIMO’s and the area proposed by Councillor Williams.

9.4 **Policy 7 Houses in Multiple Occupation** states that “An Article 4 Direction requiring planning permission for small HMO’s for between 3 and 6 unrelated people, and/or a limit on the numbers of HMO’s allowed, will be introduced in areas of the city where family housing needs to be protected or a specific need can be evidenced”. The growth of HMO’s was an issue in both the NaSA and Holderness Road Area Action Plan area which is why the boundaries are drawn as shown on the attached A401, A402 and A403. It is considered that the combination of all factors support the present boundaries as identified within the aforementioned plans.

10. **Comments of the Town Clerk (Monitoring Officer)**

10.1 The Council has the power to limit permitted development rights pursuant to Article 4 of the Town and Country Planning (General Permitted Development)(England) Order 2015 by way of the process set out in the body of the report. It is noted that an additional Article 4 direction is
proposed rather than a variation of an existing direction.

10.2 The Council may adopt the proposed direction if it is satisfied that the use of an Article 4 direction is necessary to protect local amenity or well-being of the relevant area.

10.3 Compensation may be payable in certain circumstances in respect of losses arising from the withdrawal of permitted development rights but this risk can be alleviated by the provision of adequate notice before the direction comes into effect.

11. Comments of the Section 151 Officer

11.1 The s151 officer notes the proposed extension of the current Article 4 Direction relating to Houses in Multiple Occupation.

12. Comments of HR City Manager and compliance with the Equality Duty

12.1 The City Human Resources Manager notes the report however there appears to be no staffing implications for the Council.

13. Comments of Overview and Scrutiny

13.1 This report has not been subject to pre-decision scrutiny (Sc5083).

14. Comments of the Portfolio Holder for Economic Investment, Regeneration and Planning, Land & Property

14.1 The previous Article 4 Direction restricting permitted development rights for small HMO has been very effective in managing further changes to the housing stock. It also provides the ability to control the design and location of new HIMO’s to minimise harm to the local area.

14.2 Since 2013 and in particular increasing issues of housing affordability the growth of HIMO’s elsewhere in the city has accelerated and causing problems in particular in previous area of how housing market demand (Holderness and Newington & St Andrews). I fully support this new Article 4 Direction in managing this change.

City Planning Manager