

A Local Plan for Lancaster District

2011-2031

**Background Paper on the Designation of Article 4 Areas to
Control Houses in Multiple Occupation**

Updated January 2021



LANCASTER
CITY COUNCIL

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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 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 will protect the amenity in communities.
- 1.2 The paper focuses upon Lancaster. Consideration of the concentration and impacts of HMOs in other parts of the district, particularly Morecambe will be undertaken separately.
- 1.3 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 (Use Class C4) without the need for a planning application. The Article 4 Direction will not stop changes of use but will provide a means of managing the concentration of HMOs and to protect and enhance balanced communities.

2.0 Background

HMOs

- 2.1 A house in multiple occupation is a property occupied 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 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 an HMO or the 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 people, the property will form an 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 stepchildren (or equivalent), close relatives.

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 Licence is required for HMOs in Lancaster district 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 residential properties within a 100m radius of an application site. The policy states:

Houses of Multiple Occupation (HMOs)

The Council considers the importance of maintaining an appropriate housing mix and safeguarding the character of residential areas to be 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. Students occupy 4.6% of the private rented stock in Lancaster. As students occupy the majority of HMOs in Lancaster, their occupation is important indicator of the concentration of HMOs.
- 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 Register;
 - Lancaster University Accredited properties;
 - 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 changes of use;
 - Licencing 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 For data protection reasons, 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 an exhaustive record of all HMOs in the relevant areas. 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. The data base is currently being updated with information from the December 2020 Council Tax Exemptions and the January 2021 HMO Register.

HMO Register

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

Ward	No. of Licences (Aug 2020)
Bulk	57
Castle	138
Galgate	3
John O Gaunt	134
Marsh	46
Scotforth East	16
Scotforth West	40
Skerton East	17

Table 1: HMO Licenced Properties (including 6 pending) (August 2020)

- 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, Marsh and Scotforth West.

3.10 Large HMOs are particularly prevalent in:

- Blades Street (14), Dallas Street (15), Regent Street (12) and Villas Court (6 HMOs out of 16 residential properties) in Castle ward.
- Dale Street (30), St Oswald Street (20 HMOs out of 38 residential properties), Golgotha Road (12) in John O’Gaunt ward.
- Hubert Place (12 HMOs out of 17 residential properties in a single terrace) and Westbourne Road (7) in Marsh ward.
- South Road (9) in Scotforth West ward.
- Lune Street in Skerton East (10 HMOs out of 33 residential properties in a terrace).

These figures relate to Licenced HMOs with 5 or more occupants only.

Council Tax Data

3.11 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 with council tax exemptions. HMOs occupied by students are the primary source of HMOs in the district.

Ward	Number of Student Exemptions
Bulk	295
Castle	539
Ellel	21
John O’Gaunt	392
Marsh	72
Scotforth East	39
Scotforth West	239
Skerton East	40
Skerton West	4
University & Scotforth Rural	79

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

3.12 Council tax records show that there are 1,720 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 addition of a significant number within Scotforth West ward. The wards of Bulk, Castle, John O’Gaunt and Scotforth West are particularly high.

Combined Data Sets

- 3.13 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 1,886 HMOs of all sizes in Lancaster.

Ward	Estimated No. of HMOs	Approx total residential units	Approx % of stock in HMO use
Bulk	322	4,456	7.23%
Castle	567	3,049	18.6%
Galgate (Ellel)	23	1,000	2.3%
John O'Gaunt	424	3,188	13.3%
Marsh	79	2,616	3.02%
Scotforth East	50	2,038	2.45%
Scotforth West	290	3,343	8.67%
Skerton East	48	3,312	1.45%
Skerton West	4	3266	0.12%
University & Scotforth Rural	79	2,334	3.38%

Table 3: Combined data sets of HMOs (November 2019)

- 3.14 When the data sources are combined, the concentrations of HMOs reflect those identified through the exempt data. The numbers within Castle ward are particularly high with approximately 18.6% of the dwellings being identified as HMOs and in John O'Gaunt where 13.3% of residential properties are in HMO use. Bulk and Scotforth West wards also have high levels in the region of 7.23% and 8.67% respectively.
- 3.15 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.
- 3.16 In Bulk ward, there is a high concentration of HMOs on the terraced streets of Albion, Green, Hinde and Ridge Street and Gladstone Terrace (approx. 53 of residential properties). These properties are within an area of 1.7 hectares. There are also a significant number of purpose-built student flats on Bulk Road, Cable Street, Kingsway, North Road and St Leonards Gate.
- 3.17 There are streets which have high concentrations of HMOs in Castle ward. 15 have been identified along the northern 300m of Dallas Road (22% of residential properties). Along Blades Street 19 have been identified (approx. 26%). Dallas Road and Blades Street run parallel to each other, creating a high concentration in this small area. There are 19 HMOs in Regent Street, 11 on Portland Street, 9 in Lindow Square and Street and a further 16 on Queen Street and 9 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 and Sibsey Street. 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 in this part of Castle ward.

- 3.18 Areas of terraces within John O’Gaunt ward have high concentrations of HMOs. 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 96 HMOs between Balmoral/Kirkes Roads, Dundee Street, Dumbarton Street and Aberdeen Road (approx. 4.9 hectares). There are 39 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 HMOs. Prospect Street adjacent to Dale Street has 36 HMOs (approx. 35% of properties). There are also high concentrations around Golgotha and Coulston Roads. There are 25 HMOs on Golgotha Road (approx. 46%). There are 34 (approx. 31%) HMOs on Coulston Road. There are approx. 84 HMOs within an area of approximately 4 hectares.
- 3.19 In Marsh ward, there is a concentration in the Hubert Place area with 12 HMOs within a terrace of 18 houses. There are also 9 in a length of 165m on West Street.
- 3.20 In Scotforth East, there are 9 HMOs within 260m length at the northern end of Claughton Drive, Sandforth and Melling View. Slaidburn also has a high concentration of 9 HMOs within a 300m length of street, 14.5% of residential properties within the street.
- 3.21 There are clusters of HMOs within terraces in Scotforth West ward. There are high concentrations in Vine Street where 8 (approx. 33%) out of 24 residential properties are HMOs in a 50m length of street. Graham Street where 9 of the properties are HMOs. South Road where there are 26, Avondale Road where 17 (approx. 22.5%) out of 75 residential properties are HMOs.
- 3.22 There is one area with a high concentration in Skerton East ward. Along Lune Street there are 13 HMOs in a single terrace of 150m in length. 40% of the residential properties along this part of the street are HMOs.
- 3.23 It should be noted that University and Scotforth Rural ward includes Lancaster University campus and HMOs in the residential areas and on campus have not been accurately disseminated.
- 3.24 A map showing the concentrations of HMOs by postcode can be viewed using the following link:
<https://lancaster.maps.arcgis.com/apps/webappviewer/index.html?id=c415f7faa93244f3aa3df2c1dc458488>
- 3.25 The above information indicates that there is a trend for 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.
- 3.26 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. Residents raised a number of issues during the consultation in February to April. Please see the Consultation Statement for further details. High concentrations within a neighbourhood can result in harmful impacts including:

- Divisions between social groups;
- Lack of interaction;
- Turnover of occupants;
- Seasonal depopulation (where areas are occupied predominantly by students);
- Poor upkeep of houses and gardens;
- Adverse impact on the affordability of rents;
- Noise and disturbance;
- 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.

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 five years between August 2015 and mid-January 2021, approximately 40 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 Since August 2015, approximately 16 applications for Certificates of Lawful Use to change the use of a dwellinghouse(C3) to a small HMO (Use Class C4) have been received. 13 of these were submitted in 2020 since the proposed Article 4 was first publicised. It is unlikely that the number of changes of uses in any one year has increased significantly. The proposed Article 4 will have encouraged owners to ensure they had written confirmation of the lawfulness of the use prior to commencing development to ensure that they were not affected by the proposals.

4.6 Over the same period, approximately 17 planning enforcement complaints in respect of HMOs were received. This number may not capture all complaints in respect of HMOs as they initial complaint may not refer specifically to a HMO use. Some of the complaints related to the change of use to small HMOs which did not require planning permission.

Strategic Housing Market Assessment (SHMA)

4.7 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.’

4.8 Data on the Lancaster University website gives the total student population as 13,332 in 2015/16 and 15,725 in 2019/20. This is a significant increase in student numbers at just one institution in Lancaster. The number of students at the University of Cumbria in Lancaster has fallen during this time period. Lancaster University is anticipating further growth in the future. It is unclear what impact the pandemic will have upon student numbers.

4.9 Respondents to the 2017 Household Survey commented that student lettings have increased the typical rental charge in South Lancaster. As a result, respondents are of the opinion that South Lancaster is no longer affordable for renting on Housing Benefit (the Local Housing Allowance rates are the same across the whole area).

4.10 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.’

4.11 A significant number of new purpose-built student accommodation has been or is 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. It is acknowledged that purpose-built accommodation may not suit all students and tends to be more expensive.

5.0 The Means of Controlling HMOs

5.1 To more fully regulate the conversion of dwellinghouses to HMOs and the effects that an over-concentration of HMOs has upon the local character of neighbourhoods, the Council has introduced 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 removes the permitted development contained in Schedule 2, Part 3, Class L(b) 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 force, planning permission is required for the conversion of dwellinghouses to small HMOs

(Use Class C4). Once these small HMOs require planning permission, the policy can be used when assessing changes of use and will manage the concentration of all new HMOs. An Article 4 is not retrospective, and the controls will not affect properties which are in a lawful HMO use when it comes into force.

- 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 an 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. As University and Rural ward includes the University Campus and policies in the Local Plan seek to focus accommodation in campus, it is not considered justified to include this ward.
- 5.5 It is therefore proposed to include the Lancaster wards of Bulk, Castle, John O’Gaunt, Marsh, Scotforth East, Scotforth West, Skerton East, Skerton West and the village of Galgate.

6.0 Consultation

- 6.1 The Council undertook informal consultation between 21 February and 3 April. The consultation sought views on the proposed designation and the extent of the areas to be included. Further details of the consultation and the responses can be found in the Consultation Statement.
- 6.2 Following the Article 4 being made on the 10th November 2020, consultation took place in accordance with Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015, as amended.
- 6.3 The Council will now consider the responses and decide whether to confirm the Article 4. If the decision is made to confirm the Article 4 it will come into force on 10th November 2021. Further details about the process can be found in the Consultation Statement January 2021.

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:

- Areas identified have significant concentrations of HMOs due to the nature of the housing stock and the proximity to the Universities in Lancaster.
- Where, areas do not presently have significant concentrations, the introduction of an Article 4 is likely to increase pressure for HMOs. These areas are to be included within the Article 4 area, to ensure that concentrations are managed to remain at an appropriate level.
- It considered necessary to regulate the concentration of HMOs to manage the impacts from further increases in HMO properties in residential areas.
- Policy DM13 of the Development Management Development Plan Document seeks to manage the concentration of HMOs to protect amenity. At present this management will only affect large HMOs (Sui generis – over 6 occupiers). To be effective in protecting the amenity of areas, the concentration of small HMOs (Class C4) also needs to be managed.

Appendix 1 – HMO Density by Postcode Map

<https://lancaster.maps.arcgis.com/apps/webappviewer/index.html?id=c415f7faa93244f3aa3df2c1dc458488>