

Report to:	Cabinet Pre Agenda	Date of Meeting:	Thursday 13 July 2017
Subject:	Article 4 Direction - Houses in Multiple Occupation		
Report of:	Chief Planning Officer	Wards Affected:	Blundellsands; Cambridge; Church; Derby; Dukes; Kew; Linacre; Litherland; Victoria;
Portfolio:	Cabinet Member - Planning and Building Control		
Is this a Key Decision:	Yes	Included in Forward Plan:	Yes
Exempt / Confidential Report:	No		

Summary:

The purpose of the report is to seek approval for the making of a non-immediate Article 4 Direction in relation to Houses of Multiple Occupation in relation to parts of Bootle, Seaforth, Waterloo and Southport.

Recommendation(s):

That Cabinet:

(1) Approves the making of a non-immediate Article 4 Direction, attached in Appendix A, for the reasons set out in this report, in relation to Houses in Multiple Occupation in selected areas of Bootle, Seaforth, Litherland, Waterloo and Southport as shown in Appendix B

(2) Authorises the required notifications as set out in the report and the publication of a public notice as shown in Appendix C.

(3) Authorises the preparation of a report, following notification and consultation, to seek Cabinet approval as to whether or not to confirm this non-immediate Article 4 Direction.

Reasons for the Recommendation(s):

To remove the permitted development rights that householders currently have to convert their homes to a small House in Multiple Occupation in parts of Sefton. Planning permission will be required and this will ensure the Council has control of these proposals. The Council will therefore be able to consider whether the proposals, either individually, or in combination, will have a detrimental impact on residential amenity.

Alternative Options Considered and Rejected: (including any Risk Implications)

Option 1 – do not introduce an Article 4 Direction. The Council would not have control of conversion to small HMOs (i.e. for occupation by between 3 and 6 unrelated people) in

the areas identified in Appendix B. Whilst there would be no financial impact on the planning department, there is a risk of clusters of HMOs occurring which may impact on residential amenity. Larger HMOs (i.e. those with accommodation for more than six unrelated people) already require planning permission and will not be affected by this Direction.

Option 2 – Consider the introduction of an Article 4 direction with immediate effect. This would mean that the control of use from homes to small HMOs would be in place as soon as the direction is made. However, the Council would be liable to pay compensation as set out in paragraph 5.5.

What will it cost and how will it be financed?

(A) Revenue Costs

The Council will be required to process and determine planning applications for change of use from a dwellinghouse (class C3) to a house in multiple occupation (class C4) in the designated areas (see Appendix B). There will be no planning fee for these planning applications and the additional work will have to be borne by the Planning Department.

(B) Capital Costs

None

Implications of the Proposals:

<p>Resource Implications (Financial, IT, Staffing and Assets): None</p>
<p>Legal Implications: An Article 4 Direction may be made by the Local Planning Authority. It restricts the scope of Permitted Development Rights either in relation to a particular area or site or to a particular type of development. Where an Article 4 Direction has been made and is in effect, a planning application will be required for development that would otherwise have been permitted development.</p>
<p>Equality Implications: There are no equality implications.</p>

Contribution to the Council’s Core Purpose:

<p>Protect the most vulnerable: The proposals will help the Council to manage the spread of HMOs in areas that have the highest instances of anti-social behaviour, poor environmental quality, and deprivation. A proliferation of HMOs can exacerbate these issues.</p>
<p>Facilitate confident and resilient communities: The requirement of all HMOs to require planning permission will help give local communities a greater say in how their community changes.</p>
<p>Commission, broker and provide core services:</p>

Not applicable
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener Not applicable

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Head of Corporate Resources has been consulted (FD 4732/17) and notes the report indicates no direct financial implications for the Council. The Head of Regulation and Compliance (LD4016/17) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Not applicable

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

Contact Officer:	Ian Loughlin, Senior Planning Officer
Telephone Number:	Tel: 0151 934 3558
Email Address:	ian.loughlin@sefton.gov.uk

Appendices:

The following appendices are attached to this report:

- Appendix A Draft Article 4 Direction
- Appendix B Areas in which the Article 4 Direction will apply
- Appendix C Draft Article 4 Direction Notice

Background Papers:

The following background papers, which are not available elsewhere on the Internet can be accessed on the Council website:

- Supporting case for Article 4 Direction in parts of Bootle, Litherland, Waterloo and Southport.

1. Introduction/Background

- 1.1 In April 2010 the Government introduced changes to the Use Classes Order 1987 (as amended) which created a new use class - Class C4 (Houses in Multiple Occupation). This is defined as the use of a dwelling house by between 3 and 6 residents in multiple occupation. Large HMOs, i.e. those of more than six residents remain *sui generis* and are not covered by the Use Classes Order.
- 1.2 A House in Multiple Direction (HMO) can broadly be defined as a house occupied by unrelated individuals, some of whom share one or more of the basic facilities. Commonly shared facilities include: bathrooms, toilets, shower rooms, living rooms and/or kitchens. A building defined as a HMO may consist entirely of bedsit unit type accommodation (where some or all amenities are shared) or a combination of both bedsits and self-contained flats.
- 1.3 In October 2010 the Government extended permitted development rights for the change of use of properties in class C3 [dwelling house] to class C4 without the need to apply for planning permission.
- 1.4 This means that any change of use from a dwelling house to a small House in Multiple Occupation can occur without the need for planning permission. The Council has no control over which properties are converted and therefore cannot prevent unsuitable homes being converted, or neighbourhoods being inundated with HMOs. In order to manage the conversion of small HMOs the Council can resolve to remove the permitted development rights for this change of use. The process for removing permitted development rights is done through an Article 4 Direction.

2. Article 4 Directions

- 2.1 An article 4 direction is a direction under article 4 of the General Permitted Development Order which enables the Secretary of State or the local planning authority to withdraw specified permitted development rights across a defined area.
- 2.2 Provided that there is justification for both its purpose and extent, an article 4 direction can:
 - cover an area of any geographic size, from a specific site to a local authority-wide area
 - remove specified permitted development rights related to operational development or change of use
 - remove permitted development rights with temporary or permanent effect
- 2.3 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. The potential harm that the direction is intended to address should be clearly identified.
- 2.4 An article 4 direction does not mean that development is not allowed. An article 4 direction only means that a particular development cannot be carried out under

permitted development and therefore needs a planning application. This gives a local planning authority the opportunity to consider a proposal in more detail.

2.5 If a planning application is required solely because permitted development rights have been removed by an article 4 direction, no planning application fee is payable.

2.6 There are 2 types of directions under the General Permitted Development Order: non-immediate directions and directions with immediate effect.

Non-immediate directions are those where permitted development rights are withdrawn following a prior notice period which includes a period of consultation.

Immediate directions are where permitted development rights are withdrawn with immediate effect. These are then confirmed by the Council following consultation.

2.7 The removal of permitted development rights through the introduction of an Article 4 direction may make a Local Authority liable for compensation. However, where 12 months' notice is given in advance of a direction taken effect (i.e. through the making of a non-immediate direction) there will be no liability to pay compensation. Immediate directions are generally used where there is an immediate serious risk of harm, such as inappropriate works to a listed building.

2.8 It is therefore considered appropriate to remove the permitted development rights for the conversion of homes to small Homes in Multiple Occupation through a non-immediate Article 4 direction.

3. The case for Issuing the Direction

3.1 The Council has sought to address the above guidance and legal requirements through its evidence to support the designation of a non-immediate Article 4 Direction. The evidence is provided as a background document to this report. The Council considers that the evidence justifies the application of the Article 4 Direction in the areas of Sefton identified in Appendix B.

3.2 In particular the evidence demonstrates that these areas exhibit the following characteristics:

- Concentrations of current HMOs
- Concentrations of enforcement action in relation to HMOs and poor housing standards
- Dominance of house types that would lend themselves to conversions to small HMOs under the permitted development rights – many of which may not be suitable due to lack of amenity space, parking, refuse storage etc.
- Areas of high density housing, the conversion of which would result in further very high concentrations of population
- Prevalence of lower house prices that make the conversion to HMOs financial viable
- Prevalence of social issues (such as noise complaints, anti-social behavior) that would be made worse by increasing the local population by the conversion of too many HMOs

- Local environmental issues (such as problems with refuse storage, and noise) that would be made worse by increasing the local population by the conversion of too many HMOs

3.3 The designation of an Article 4 Direction will not provide an automatic restriction to conversions to House in Multiple Occupation. However, following the notice period planning applications will be required which will determine whether the conversion is acceptable in planning terms.

3.4 The recently adopted Local Plan includes Policy HC4 'House Extensions, Houses in Multiple Occupation and Flats'. Amongst other things this policy seeks to ensure that development of buildings to HMOs do not cause significant harm to the character of the area or the living conditions for either the occupiers of the property or for neighbouring properties. Without the designation of the Article 4 Direction in some of the borough's most vulnerable areas it is not possible for the Council to manage the proliferation of HMOs or to ensure they are only occurring in suitable properties.

3.5 The Council has adopted a Supplementary Planning Document for 'Houses in Multiple Occupation' that sets out standards that must be achieved for permission to be granted for larger HMOs (i.e. those for more than 6 residents). The Council will be updating this guidance to ensure that it reflects the need to also manage proposals for smaller HMOs.

4. Selective and Additional Licensing

4.1 The designation of an Article 4 Direction in parts of Sefton is intended to support and complement the designation of a selective and additional (HMO) licensing scheme. These were approved to be consulted on at the meeting of Cabinet on 1 December 2016 (minute 63). The Article 4 Direction will cover the same settlements as the licensing scheme, although it will include a slightly wider area to include areas of similar characteristics and issues.

4.2 As part of the evidence for this, the Council has demonstrated that there is a link between private rented properties in the proposed designated areas and deprivation, poor property conditions, anti-social behaviour and crime. Along with evidence of the poor management of a significant number of privately rented properties that has led to problems for both their tenants, local communities and other members of the public.

4.3 Selective Licensing requires any privately rented property in the designated area of Bootle to be licensed. Additional (HMO) Licensing requires all privately rented Houses in Multiple Occupation (HMO), which are located in parts of Southport, Waterloo, Brighton-le-Sands and Seaforth to be licensed.

4.4 The selective and additional (HMO) licensing proposal was consulted on from March to June 2017 and is intended to be implemented in January 2018.

4.5 The Council considers that in combination the Article 4 Direction and the licensing scheme will drive up standards in the private rental sector, and in particular for HMOs. The licensing scheme will ensure that private rental properties are managed correctly and housing standards are complied with. The Article 4

Direction will ensure that only suitable properties are converted into HMOs (including issues such as room sizes, amenity space, access to shared facilities), that an over concentration of HMOs does not negatively impact on a neighbourhood (including impacts on parking, refuse bins etc.) and that the residential amenity of neighbouring properties is not adversely impacted (including party walls, sound insulation etc.).

5. Procedure

- 5.1 This report seeks authorisation to make the non-immediate Article 4 Direction attached in Appendix A for the areas identified in Appendix B. The Council would give notice of the Direction and representations would be sought in accordance with the Town and Country Planning (General Permitted Development) Order 1995, as amended. A draft notice for the Article 4 Direction is provided at Appendix C.
- 5.2 The Council will also notify the Secretary of State and consult with relevant stakeholders such as residents associations and private landlords. The proposal will also be advertised in the local press, site notices, on the Council's website and through social media to advise people of the proposed changes and give them the opportunity to make representations. A 12 week period will be allowed for comments to be made.
- 5.3 As the number of properties within the proposed Article 4 direction area is significant it would not be practicable to notify each owner or occupier individually. It may also be difficult to identify and locate all owners and occupants. The Council considers the methods of communication set out above will provide a suitable approach to making all relevant parties aware of the intention to implement the article 4 direction.
- 5.4 Any representations received will be reported back to Cabinet to determine whether or not to confirm the non-immediate Article 4 Direction. Subject to the Cabinet's decision, the non-immediate Article 4 Direction would come into force 12 months after notice of making the Direction is given, to ensure that the Council is not liable for any statutory compensation claims relating to loss of permitted development rights. Any Direction will then automatically come into force unless the Secretary of State cancels or modifies it.
- 5.5 An immediate Article 4 Direction would enable the Council to manage new small HMOs straight away. However, it would also potentially expose the Council to compensation liability in cases where any planning applications submitted within the first 12 months of the removal of the permitted development rights were refused or granted subject to conditions, such compensation being based, in part, on the difference in property values arising from the Council's decision.
- 5.6 The decision to issue a non-immediate Article 4 Direction with a prior notice period of 12 months means that the Council also allows the results of local consultation to be taken into account in advance of the Council deciding to confirm the direction and remove permitted development rights. However, there will be a delay in the Council's ability to manage additional small HMOs until the Direction is confirmed.

5.7 An immediate Article 4 Direction also requires the Council to satisfy a further legal requirement that the development to which the Direction relates would be prejudicial to the proper planning of the area (e.g. it would prevent the implementation of a significant regeneration proposal) or constitute a threat to the amenity of the area. It is not considered that these conditions exist in Sefton for an immediate Article 4 Direction to be considered.

5.8 The following stages are expected to be met in the implementation of the non-immediate article 4 direction:

- Issue non-immediate Article 4 Direction – **August 2017**
- Period for comment – **August to November 2017**
- Cabinet confirm non-immediate Article 4 Direction – **January 2018**
- Article 4 Direction comes into force – **August 2018**

APPENDIX A – DRAFT ARTICLE 4 DIRECTION

TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995 AS AMENDED

DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5 APPLIES

WHEREAS the Metropolitan Borough of Sefton being the appropriate local planning authority within the meaning of article 4(4) of the GPDO, are satisfied that it is expedient that development of the description(s) set out in the Schedule below should not be carried out on the land shown edged/coloured red on the attached plan, unless planning 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 1995 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description(s) set out in the Schedule below:

SCHEDULE

Change of use from a use falling within Class C3 (dwellinghouse) of the Schedule to Town and Country Planning (Use Classes) Order 1987 to a use falling within Class C4 (Houses in Multiple Occupation), being development comprised with Class L of Part 3 of Schedule 2 to the said Order and not being development comprised with any other Class.

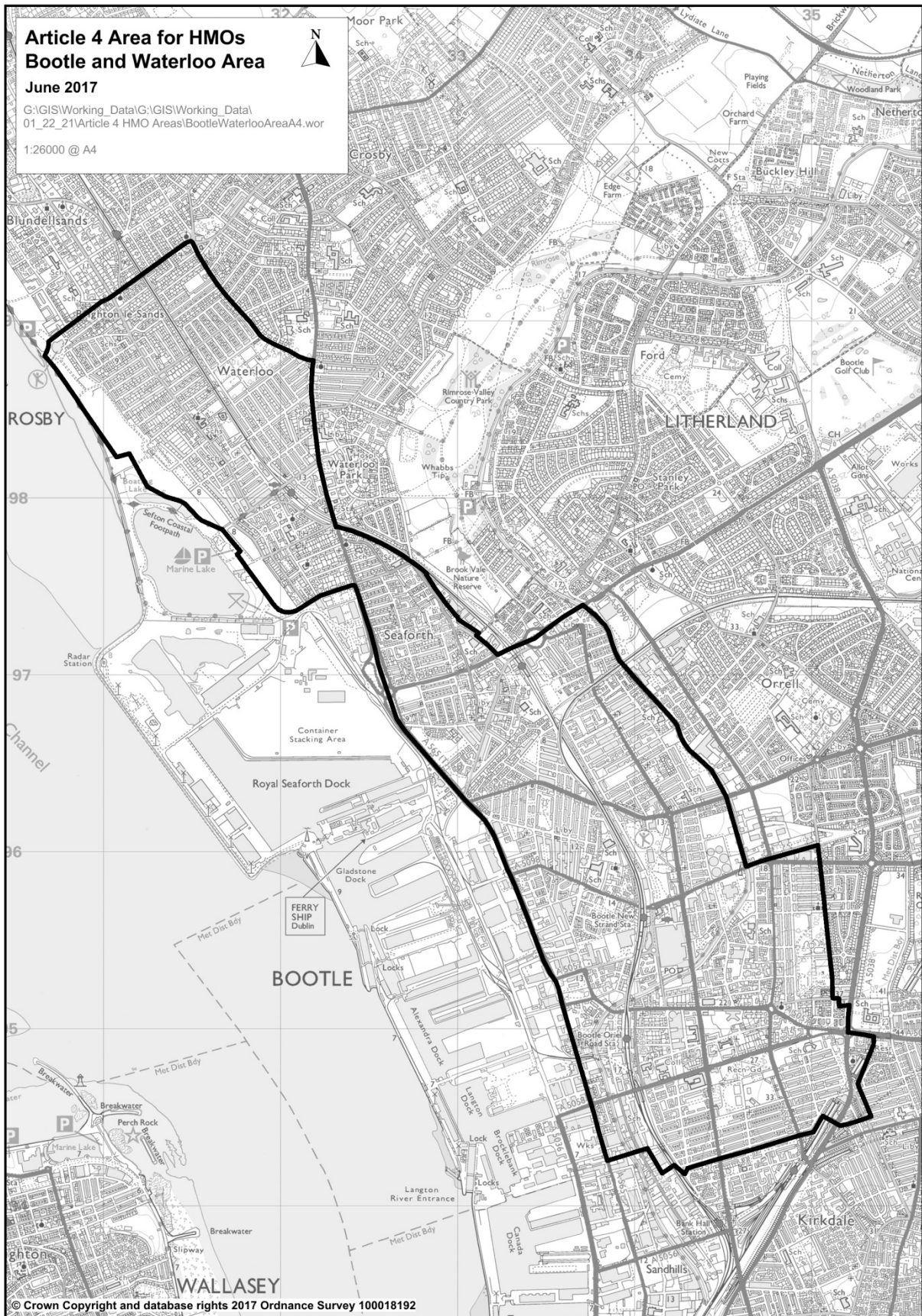
The Article 4 Direction will come into force on _____ 2018

Made under the common seal of
Sefton Metropolitan Borough Council
this ____ day of _____ 2017

The common seal of Sefton Metropolitan Borough Council
Was affixed to this direction in the presence of

Authorised Officer

APPENDIX B - AREAS IN WHICH THE ARTICLE 4 DIRECTION WILL APPLY

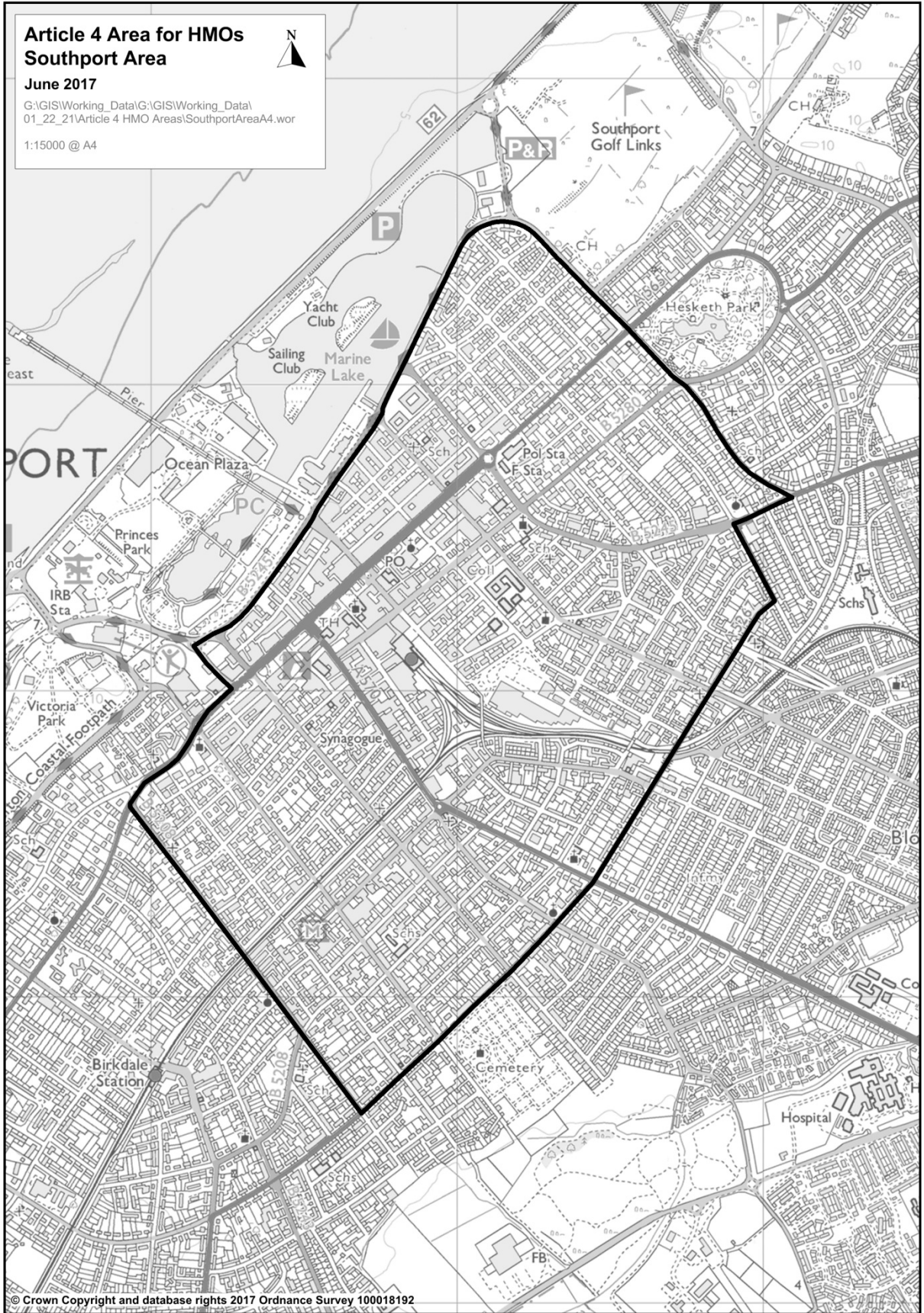


**Article 4 Area for HMOs
Southport Area**

June 2017

G:\GIS\Working_Data\G:\GIS\Working_Data\
01_22_21\Article 4 HMO Areas\SouthportAreaA4.wor

1:15000 @ A4



APPENDIX C DRAFT ARTICLE 4 DIRECTION NOTICE



Town and Country Planning (General Permitted Development) Order 1995

Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010

Notice pursuant to Article 5(1) of the making of an Article 4 Direction

Sefton Council made an Article 4 (1) Direction on *[insert date]*, under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995, as amended. The Direction relates to development comprising change of use from a use falling within Class C3 (dwellinghouses) 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 Order, and removes permitted development rights for this type of development from the date when the Direction comes into force. Planning permission will therefore be required for change of use from Class C3 to Class C4 once the Article 4 Direction is in force.

The Article 4 Direction applies to the parts of Sefton, including parts of Bootle, Seaforth, Litherland, Waterloo and Central Southport. A copy of the Direction, including a map defining the areas covered, can be viewed at the Council's Planning Department, Ground Floor, Magdalen House, Trinity Road, Bootle L20 3NJ; at each of Sefton's libraries; or can be viewed on the Council's website at www.sefton.gov.uk/article4HMO

Representations may be made concerning the Article 4 Direction between *[insert dates]*. If you wish to make representations you may do so by email to local.plan@sefton.gov.uk or by post to Local Plan Team, Sefton Council, Magdalen House, 30 Trinity Road, Bootle L20 3NJ.

Any representations must be made by 5pm on *[insert dates]*.

The Article 4 Direction, will come into force, subject to confirmation by the Council, on *[insert date]*.