



Eastbourne HMO Article 4 Direction Frequently Asked Questions (FAQ)

What is happening?.....	1
What is an HMO?.....	2
What is an Article 4 Direction?.....	2
What does 'non-immediate' mean?	3
Which permitted development rights are being removed?	3
Why has the Council decided to do this?	3
What will be the impact of the Article 4 directions?	3
Where will this apply?.....	4
What happens now?.....	4
How can I comment on these proposals?.....	4
When would any changes come into force?.....	4
Why will there be a one year delay?	5
How does this affect about conversions of larger HMOs?	5
I am a prospective landlord/property owner. Does this change mean that I will not be able to carry out a conversion to a small HMO?.....	5
I am a landlord/property owner of an existing small HMO that is already operational. Does this mean I now need planning permission?.....	5
Do I still need an HMO licence for existing or new HMOs?	6
Where can I find more information?.....	6

What is happening?

Following concerns about the proliferation and impact of Homes in Multiple Occupation (HMOs) on local communities, the Council has decided to introduce a 'Non-immediate Article 4 Direction' relating to small HMOs.

Currently, single private dwellings can be converted into small HMOs (and back again) without the need to apply to the local planning authority for planning permission, under what

is known as 'permitted development' rights granted by national legislation. The Article 4 Direction will remove these permitted development rights for changes from a single private dwelling to a small HMO, which will mean that in future these proposals will require planning permission from the Council within certain areas of the Borough.

Article 4 Directions to remove permitted development rights for conversions between single private dwellings and small HMOs are a common intervention from local planning authorities that are seeking to deal with impacts relating to HMOs.

What is an HMO?

HMOs are properties that are occupied as a main residence by at least three people who are not part of the same household but share facilities like a kitchen and bathroom, and where rents are payable for the accommodation.

HMOs that are occupied by between three and six people living as separate households are known as small HMOs. They are treated differently under planning legislation from HMOs occupied by seven or more people living as separate households, which are classed as large HMOs.

HMOs form an important part of the housing mix within an area as they increase the range and mix of accommodation, especially for people whose housing options are limited, but they do have the potential to negatively impact on communities in terms of the standard of living environment for local residents and businesses, particularly where there is a high concentration of HMOs in a specific area.

What is an Article 4 Direction?

Where it considers it necessary, a local planning authority can make a direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (known as an Article 4 direction) to override the national granting of permission from permitted development rights.

An Article 4 Direction is a planning tool that can be adopted for all or part of an area by a local planning authority to remove specific permitted development rights for a particular type of development. This would mean that in future, planning permission would be required from the local planning authority for this specific type of development.

Article 4 Directions can only be used in exceptional circumstances where it is considered necessary to protect the local amenity and wellbeing of an area, and there is a legal process that needs to be undertaken to introduce them.

The introduction of an Article 4 Direction does not mean that the proposed development would not be able to take place or would automatically be refused. However, it does provide the local planning authority with an opportunity to apply its local plan policies to determining whether the development is acceptable and should be granted permission.

What does 'non-immediate' mean?

A 'non immediate' Article 4 Direction means that permitted development rights will only be removed upon confirmation of the direction by the local planning authority following local consultation, with between 12 months' and 2 years notice of the direction being made. The non-immediate Article 4 Direction was made on 29th July 2024, and if confirmed, will come into force on 30th July 2025.

Which permitted development rights are being removed?

It is proposed that the permitted development right that allows a single private dwelling to convert to a small HMO (that is occupied by less than six people living as separate households) would be removed. Therefore, in future, changes from a single private dwelling to a small HMO would need to apply for planning permission from the local planning authority.

The permitted development right that allows a small HMO to convert back to a single private dwelling would remain in place, so this change would still not require a planning application to the local planning authority once the Article 4 Direction comes into force.

Why has the Council decided to do this?

Evidence from the Eastbourne HMO Study (2024) indicates that HMOs can have impacts on the creation of mixed and balanced communities through conversion of family homes to HMO where family homes are relatively scarce, and impacts on neighbour amenity from anti-social behaviour in areas where there are a high concentration of HMOs. HMOs can also have cumulative impacts in relation to condition of properties and standards for occupants, the impact on parking and waste collection amenities, and impacts on the wider economy when in concentration. It is considered that this has the potential to have a negative impact on the local amenity and wellbeing of areas of the Borough.

HMOs form an important part of the housing market by providing accommodation for people with limited options, and therefore it is important that the Article 4 Direction is designed to mitigate the impacts of HMOs rather than putting undue restrictions on them coming forward.

What will be the impact of the Article 4 directions?

The Council is currently preparing new planning policy relating only to HMOs through an HMO Development Plan Document (HMO DPD), which will provide more extensive criteria for planning applications for HMOs to be assessed against. This will help determine where new HMOs should be granted permission in relation to the issues identified above.

The Article 4 Direction is required to ensure that all new HMOs within the area that the Article 4 Direction applies to can be considered against these new policies. Conversions of single private dwellings to small HMOs will still be allowed under permitted development rights in the areas of the Borough where the Article 4 Direction does not apply.

Where will this apply?

Government guidance confirms that Article 4 Directions should be applied to the smallest geographical area possible. The issues associated with HMOs do not apply equally across the whole Borough. Therefore, the Article 4 Direction should apply only to areas where there are existing concentrations of HMOs and where there is a relative lack of family homes.

There is a strong correlation between where HMOs are located and the lowest percentages of households that have 3 or 4+ bedrooms, and these are focussed on the wards of Devonshire, Meads and Upperton. Therefore, the Article 4 Direction will only cover wards of Devonshire, Meads and Upperton (in the area of these wards outside of the South Downs National Park), plus a small area in the south of St Anthonys ward to ensure that properties on both sides of Whitley Road and Seaside are included within the area.

What happens now?

The Council must consult on its intention to introduce an Article 4 direction. This consultation is being undertaken alongside consultation on new planning policies for HMOs (in the HMO DPD) between Friday 2nd August and Friday 27th September 2024.

How can I comment on these proposals?

The Council is inviting representations on the Non-immediate Article 4 Direction proposals from Friday 2nd August and Friday 27th September 2024. The Article 4 Direction Order and map showing the area that it will apply to, along with further background information, is available from the Council's website: www.lewes-eastbourne.gov.uk/HMO-Planning, where you can also submit comments directly online.

Alternatively, hard copies of the documentation can be viewed at the Eastbourne Borough Council offices, Town Hall, Grove Road, Eastbourne, BN21 4UG, between the hours of 9am – 5pm Mondays to Fridays.

Representations may be made concerning this Article 4(1) Direction to the local planning authority by emailing LocalPlan@lewes-eastbourne.gov.uk or alternatively by post to the Town Hall address as above. Representation must arrive by 5pm on Friday 27th September 2024. Please note that the consultation responses will be published, excluding any personal information.

When would any changes come into force?

Once the consultation period has finished, the Council will consider any comments that have been made, and a report will be presented to Planning Committee. If Planning Committee agrees that it is appropriate to impose the Article 4 direction, a decision will be made confirming the Article 4 Direction will be introduced. The Direction will then come into force no sooner than 30th July 2025.

Why will there be a one year delay?

The Council is currently working on introducing new planning policy for HMOs through the HMO DPD. It is anticipated that this will start to be able to be used in determining planning applications in summer 2025. This will align with the Article 4 Direction coming into force so that there is a policy basis for determining applications for conversion from single private dwellings to small HMOs once the permitted development rights have been removed.

Furthermore, national planning policy dictates that circumstances in which an immediate direction can restrict development are limited, and legislation means that the Council may be liable to pay compensation to those whose permitted development rights have been withdrawn if an application for development which would otherwise have been permitted development is refused within 12 months of the Article 4 Direction being made (i.e. before 30th July 2025). Giving one year's noticing of the Article 4 Direction coming into force would mean that the Council would not be held liable for compensation.

How does this affect about conversions of larger HMOs?

All conversions involving large HMOs (consisting of seven or more occupants living as separate households) already require planning permission from the local planning authority as there are no permitted development rights associated with this type of HMO, and this will not be changed by the Article 4 Direction.

Furthermore, conversion to small HMOs from any other use also requires planning permission from the local planning authority, and this will remain the case once the Article 4 Direction comes into force.

Does this change mean that I will not be able to carry out a conversion to a small HMO?

No – An Article 4 Direction does not prevent the development to which it applies from taking place, nor mean that any subsequent planning application for such development would be automatically refused. It does, however, give the local planning authority an opportunity to consider a proposal in more detail and apply local plan policies to the determination of the application. HMOs play a key role in the local housing market, and the Article 4 Direction will allow such conversions to be assessed against planning policy to ensure they do not have an unacceptable impact.

Does this mean I need to apply for planning permission for my existing small HMO that is already operational?

Article 4 Direction does not apply retrospectively, so any development undertaken before it came into force is not affected. Therefore, if the authorised use of a property as an HMO has commenced before the date the Article 4 direction takes effect, it would not need to apply for planning permission. However, owners of small HMOs created prior to the introduction of the

Article 4 Direction may wish to apply for a [Certificate of Lawful Development](#) to confirm that the HMO use is lawful and does not require planning permission.

Do I still need an HMO licence for existing or new HMOs?

Eastbourne Borough Council currently operates a mandatory licensing scheme under the Housing Act 2004, which requires an HMO licence for any property with 5 or more unrelated occupiers living as separate households and sharing amenities. Operating a licensable HMO without a licence is a criminal offence and there can be serious consequences arising. Full details on HMO licence requirements are available via the Council website: www.lewes-eastbourne.gov.uk/article/1249/Houses-in-multiple-occupancy

Where can I find more information?

Should you have any questions or require alternative formats of the consultation documentation (e.g. translations, large type, Braille or audio), please contact the Planning Policy team via email at LocalPlan@lewes-eastbourne.gov.uk or by telephone on 01323 410000 quoting 'Eastbourne Planning Policy'.

You can also find all the consultation materials as well as submit your comments online via the Council's website: www.lewes-eastbourne.gov.uk/HMO-Planning.