PLANNING COMMITTEE –18th June 2026 **PART 1**

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

Item No – 1.1		
PROPOSAL – Make an Article 4(1) Direction in relation to the permitted development right set out within Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) insofar as it permits the change of use of a building from use falling within Use Class C3 (dwellinghouses) to a use falling within Use Class C4 (Houses in Multiple Occupation).		
RECOMMENDATION – It is recommended that the Planning Committee determines whether an Article 4(1) Direction is made in respect of the permitted development right set out within Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) insofar as it permits the change of use of a building from use falling within Use Class C3 (dwellinghouses) to a use falling within Use Class C4 (Houses in Multiple Occupation). If it is determined that an Article 4(1) Direction should be made, the Planning Committee should consider a) whether the necessary provisions are taken for the Direction to be made on an immediate basis as opposed to a non-immediate basis and b) whether the Direction should be made on a Borough wide or more localised basis. In the event that it is determined that an Article 4(1) Direction should be made, delegated authority shall be given to the Head of Planning and/or Head of Legal to take all steps required to make the Direction.		
REASON FOR REFERRAL TO COMMITTEE – Section 2.4.4.2 of the Swale Borough Council Constitution states that the Planning Committee shall have responsibility for making decisions under the Town and Country Planning Act 1990 (as amended) and Planning (Listed Buildings and Conservation Areas) Act 1990, including (at xiii) to resolve to make an Article 4 Direction.		
Case Officer – Ian Harrison		
WARD All	**PARISH/TOWN COUNCIL** All	
BACKGROUND PAPERS AND INFORMATION: Agenda item - Motion - Management and Regulation of HMOs in Swale		

Census Data - https://www.ons.gov.uk/
Swale Borough Council Housing Market Assessment 2020
Swale Borough Council Whole Plan Viability Assessment 2024.

1. BACKGROUND

1.1. At the Planning Committee meeting of 2nd April 2026, the Committee considered the proposal to make a Direction under the terms of Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 to have the effect of restricting the ability for a person to convert a dwelling falling within Use Class C3 to an HMO falling within Use Class C4 without planning permission first being obtained.

1.2. The associated Officer Report is provided at Appendix A. To summarise, some of the key points addressed by the previous Officer Report were:

- The motion of the Full Council meeting of 1st October 2025 was highlighted.
- The legislative background was detailed, including the differentiation between immediate and non-immediate Article 4 Directions.
- The national policy background that is relevant to any decision to make an Article 4(1) Direction was provided.
- The consultation and notification requirements in the event of making an Article 4(1) Direction were detailed.
- An initial assessment was provided in respect of the extent of the existing stock of HMOs within the Swale Borough and the effects of this stock.
- Five options of how to proceed were highlighted.

1.3. The minutes from the Committee meeting of 2nd April 2026 are provided at Appendix B. In summary, the matter was deferred to provide officers with the opportunity to identify further evidence that would assist the considerations of the Planning Committee.

1.4. This report addresses the reason for the deferral and should be read in conjunction with the previous Committee Report.

2. ASSESSMENT

Existing and Increasing HMO Stock

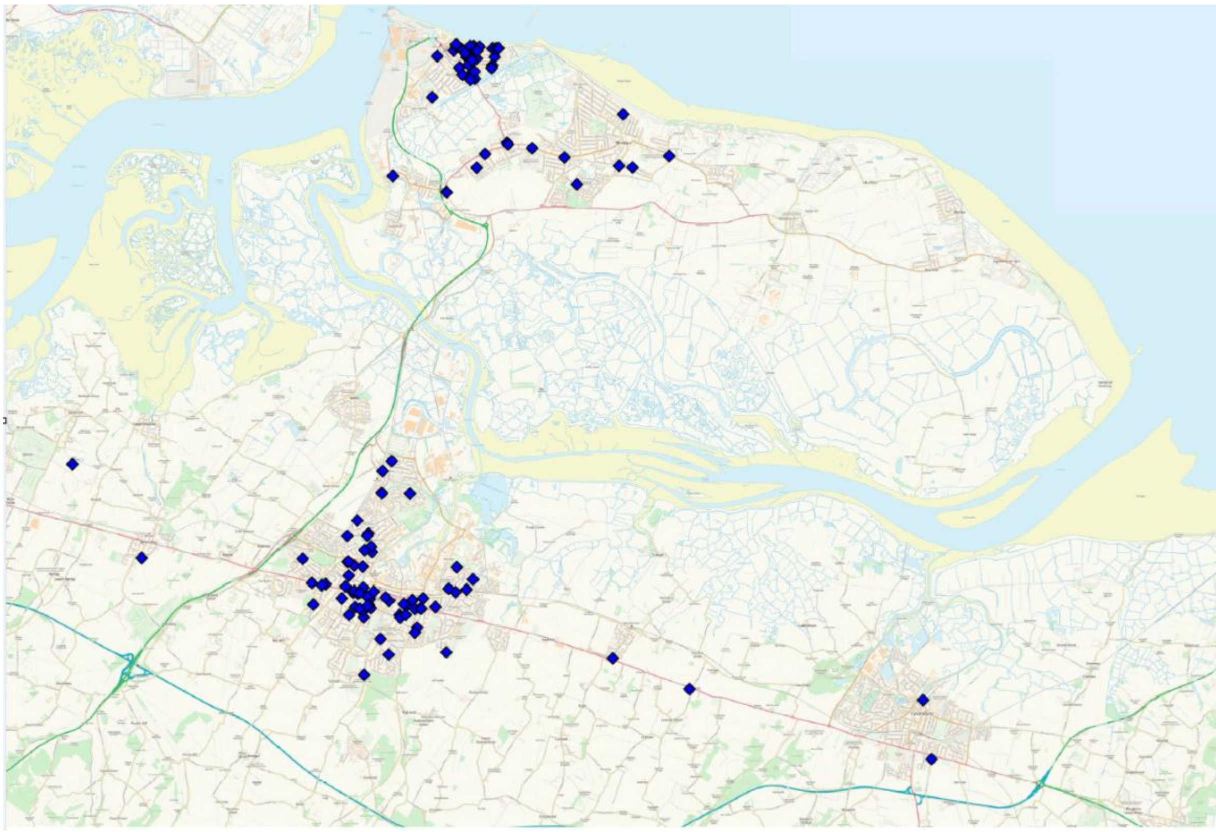
2.1. As set out previously, in conjunction with the preparation of a Supplementary Planning Document addressing HMOs, research was undertaken in respect of the existing stock of HMOs within the Swale Borough. This identified, per ward, the existing known quantity of HMOs:

Abbey	1	Milton Regis	8	Sheppey Central	5
Borden and Grove Park	6	Minster Cliffs	1	Teynham and Lynsted	2
Chalkwell	12	Murston	4	Watling	1
Hartlip, Newington and Upchurch	2	Queenborough & Halfway	8	Woodstock	3
Homewood	15	Roman	16		
Kemsley	3	Sheerness	39	TOTAL	126

2.2. Evidence sourced from the Office for National Statistics (ONS) indicated that when the 2021 Census was undertaken, there were 61 Small HMOs and 14 Large HMOs in the Swale Borough. In total there were, therefore, 75 HMOs. The existence of 126 HMOs was therefore found to represent an increase of 51 HMOs in a period of less than 5 years, a 68% increase.

2.3. Excluding applications for the enlargement of an existing HMO, 8 planning applications for new HMOs appear to have been received in that time and so, it appears that most of those 51 HMOs would have been created without the need to obtain planning permission, through the use of permitted development rights. It is noted that some might have needed planning permission but been undertaken without such permission, which could be the subject of enforcement investigations and, as such, the number cited above should be taken as an approximate figure rather than definitive.

2.4. For reference, the location of known HMOs in the Borough is shown in the following:



2.5. To supplement this evidence, a more detailed assessment of the type of building used as a HMO has been undertaken. For the most part this has represented a desk-based assessment based on mapping and publicly available photographic evidence. Therefore, whilst it is considered to be a sound analysis, there are some instances where available details were limited and, as such, there could be a margin of variation in the analysis.

Ward	Detached	Semi-Detached	Terraced	Flats	Total
Abbey	1	0	0	0	1
Borden and Grove Park	2	0	4	0	6
Chalkwell	5	2	4	1	12
Hartlip, Newington and Upchurch	1	0	1	0	2
Homewood	4	5	6	0	15
Kemsley	3	0	0	0	3
Milton Regis	3	1	4	0	8
Minster	1	0	0	0	1
Murston	0	1	3	0	4
Queenborough & Halfway	4	1	2	1	8
Roman	3	3	9	1	16
Sheerness	1	1	34	3	39
Sheppey Central	3	1	1	0	5
Teynham and Lynsted	1	0	0	1	2
Watling	1	0	0	0	1
Woodstock	2	0	1	0	3
GRAND TOTAL	35	15	69	7	126

2.6. It is considered relevant that 55% of HMOs appear to be within terraced buildings and that this amounts to almost double the next most common type of building. Whilst there will always be a variety of applicable considerations and circumstances, a common perception would be that a terraced dwelling would be attractive for use as a HMO as it is likely to be cheaper than an otherwise comparable semi-detached or detached dwelling. A dwelling would also be more practical and viable for conversion given that such buildings will have more space than a flat, enabling sufficient people to be accommodated for a HMO to be viable, with it also being relatively simple to convert a living room and other such 'communal' space within a dwelling to a bedroom.

Effects of HMOs

2.7. The Motion for Full Council and the debate of that motion identified the following potential impacts of HMOs:

- Impacts on local amenity
- Increased parking demand
- Refuse generation
- Impacts on local infrastructure and public services
- Impacts on housing balance and changes to the character of residential areas
- A reduction of the supply of properties for families and single occupiers
- Poor living conditions for occupiers

2.8. The Motion acknowledged that there are benefits arising from the existence and provision of HMOs.

2.9. Each of these elements was considered in the previous Officer Report.

Benefits and Risks of Serving an Article 4(1) Direction

2.10. In summary, the following benefits were identified previously:

- Making an Article 4(1) Direction would align with the Motion of Full Council.
- The Council would be able to have greater control over the creation of HMOs.
- There would be increased scope to enable the existing character of an area, the living conditions of neighbouring residents and the availability of parking to be retained.
- A benefit of an immediate Direction is that it comes into effect immediately and avoids a year long ‘rush’ for persons to introduce smaller HMOs.
- A benefit of a non-immediate Direction is that there would be a reduced risk of compensation being sought within the first year after the making of the Direction.

In summary, the following risks were identified previously:

- Making of an Article 4(1) Direction could be subject to challenge, particularly if the decision is not found to align with the legislative test and NPPF guidance relating to the extent and scope of a Direction.
- If any procedural requirement is not met, there would be a risk of challenge.
- The Secretary of State has the ability to modify or cancel any direction made by a Local Planning Authority. This could alter or remove the Direction and cause any costs incurred as a result of making the Direction (including the cost associated with the time of those involved) to have been abortive.
- Serving a Direction would reduce the potential to increase the provision of HMO accommodation, limiting the ability to meet a need and potentially increasing rental costs due to a limit on supply.
- The risk of an immediate Direction would be the liability of the Council to any compensation claims made under Sections 107 and 108 of the Act.
- A risk from taking a non-immediate approach would be that there would be a year long period where HMOs could be introduced under the terms of permitted development rights.

3. RESONSE TO PLANNING COMMITTEE COMMENTS

3.1. A component of the previous Planning Committee meeting with respect to this matter was a discussion related to the geographical area to which an Article 4(1) Direction might be applied. In this regard, it is relevant to highlight the content of paragraph 2.13 of the previous Officer Report which highlighted the section of the NPPF (paragraph 54) which states:

> *“The use of Article 4 directions to remove national permitted development rights should:*

where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)

in other cases, be limited to situations where an Article 4 direction 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)

in all cases, be based on robust evidence, and apply to the smallest geographical area possible."

3.2. It is also relevant to again highlight the aligned guidance within the Planning Practice Guidance which was detailed at paragraph 2.14 of the previous Officer Report and reads:

"all Article 4 directions should be applied in a measured and targeted way. They should be based on robust evidence, and apply to the smallest geographical area possible."

"The potential harm that the Article 4 direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to a wide area (eg those covering…. the entire area of a local planning authority)."

3.3. It is considered that a starting point for an assessment as to whether an area smaller than the entire Borough should be considered is the basic assessment of the amount of existing HMOs within an area. The six wards with the most HMOs are Sheerness, Roman, Homewood, Chalkwell, Milton Regis and Queenborough and Halfway.

3.4. In addition, it is considered appropriate to undertake some further analysis of the social and physical make up of these areas in the interests of identifying trends and any other areas that could foreseeably be suitable for comparatively intensive HMO development. To this end, Officers have reviewed several indicators which will be assessed in turn below, along with a justification for those aspects being considered.

<u>Terraced Properties</u>

3.5. As established above, terraced buildings host almost half of the HMOs within the Swale Borough. Data from the 2021 census (Office For National Statistics, March 2023[1]) , separates "accommodation type" into 8 categories. To simplify assessment, these can be grouped into detached, semi-detached, terraced and 'all other' building types, with that last category including flats and converted buildings of various types as well as caravans and other mobile structures. It can be established from this data that the abovementioned six wards with the most HMOs all appear in the top 10 wards

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[1] https://www.ons.gov.uk/datasets/TS044/editions/2021/versions/4

with the highest percentage of terraced properties. The other wards in the top 10 include Abbey, Murston, Priory and St. Ann's.

Crime and Anti-Social Behaviour

3.6. In relation to crime, the report provided previously identified there being only *"a loose correlation between the wards where the most HMOs are known to exist and the wards with the most crimes reported. This is not considered to demonstrate a statistically significant link between the two factors as it is noted that there will be many variables."* Moreover, in respect of anti-social behaviour, it was found that there was "no particular correlation" between anti-social behaviour and the number of HMOs in an area, albeit it was noted that Chalkwell and Sheerness appeared high in both ranks.

3.7. This is, however, a factor that has been considered by other Councils in the making of Article 4 Directions (Derby, Hillingdon and Medway for example) and the preparation of SPDs related to HMOs and other intensive forms of residential development (Bedford, Lewes and Eastbourne and Maidstone). As such, it is considered that these statistics can remain indicators worthy of assessment. The evidence considered here is the same as was provided in the previous Officer Report.

3.8. It is noted that the abovementioned six wards with the most HMOs all appear in the top 10 wards with the highest recorded amount of crime. Other wards in the top 10 include Abbey, Borden and Grove Park, Murston and Sheppey Central.

3.9. Moreover, four of the six wards, the exceptions being Milton Regis and Queenborough and Halfway, appear in the top 10 wards with the highest recorded amount of anti-social behaviour. Other wards in the top 10 include Borden and Grove Park, Murston, Sheppey Central, St Ann's, Teynham and Lynsted and Woodstock.

Deprivation

3.10. At the Full Council meeting where the motion was discussed it was suggested that HMOs can place a strain on resources within an area. Consequently, it is considered that regard can be had to locating HMOs in areas that already experience deprivation as it is can follow that these are areas where resources are most likely needed and/or strained already. Data relating to deprivation (sourced from the Office For National Statistics, January 2024[2]), identifies those households which have no "dimensions of deprivation" and those that have 1 to 5 dimensions of deprivation. For the purposes of this assessment, these have been grouped into households with a dimension of deprivation and those without. Other than Chalkwell, each of the abovementioned six wards with the most HMOs appear in the top 10 wards with the highest percentage of households with one or more dimension of deprivation. Other wards in the top 10 include Minster, Murston, Priory, Sheppey Central and Sheppey East.

Property Value

3.11. At the previous Planning Committee meeting, the discussion mentioned that it could be relevant to see if there is a correlation between the cost of purchasing property and

[2] https://www.ons.gov.uk/datasets/TS011/editions/2021/versions/6

the number of HMOs in an area. Whilst there are HMO landlords who seek to provide high quality accommodation, the debate at the Full Council meeting of 1st October 2025 indicates that a perception exists that this is not always the case and it is understandable that many or most persons, would wish to operate as profitably as possible in all walks of life, including through buying cheaper properties.

3.12. In this regard, evidence of property sales prices is available to the Council having formed part of the Council's Whole Plan Viability Assessment (May 2024). The assessment of the existing HMOs within an area, undertaken as part of the analysis set out at paragraph 2.5, indicates that very few HMOs exist within new or recently built properties. Consequently, of the various elements of evidence available within the Council's Whole Plan Viability Assessment, it is considered relevant to have most regard to the statistic related to "Average Non-New Build Sale Value 2020-2022" which can be found on page 238 (Appendix 6) of that document.

3.13. Five of the six abovementioned wards with the most HMOs appear in the top 10 wards with the lowest non-new build property prices, with the exception being Homewood. The other wards in the top ten are Kemsley, Sheppey Central Sheppey East and The Meads.

Proportion of Households Renting Property.

3.14. The proportion of home ownership and owner-occupier accommodation relative to households renting can be a means of assessing the economic profile of an area. In this regard, data has been sourced from the 2021 census (Office of National Statistics, 2023[3]). Five of the six wards with the most HMOs appear in the top 10 in terms of households renting their property, with the exception being Queenborough and Halfway. The other five are Abbey, Murston, Priory, Sheppey Central and Teynham and Lynsted.

Summary

3.15. Combining these factors, a general correlation can be identified between various social, economic and environmental factors and the presence of HMOs. The above referenced evidence is available at Appendix C but is summarised in the table below:

Table on next page.

[3] https://www.ons.gov.uk/filters/dd3e078e-2476-4520-80e6-a8db0b77eb6a/dimensions#search--parent

Ward	HMOs Rank		Crime Report Rank	Anti Social Behaviour Rank	Household Deprivation Rank (1 or more dimension of deprivation)	% Households Renting (Private or Social) Rank	Average Non-New Build Sale Value 2020-2022.	% Terraced Dwellings		Number of Instances in ' Top 10'	Total of Rankings	Overall Rank
Abbey	14		9	10	15	6	11	3		3	68	8
Bobbing, Iwade and Lower Halstow	15		19	16	23	23	18	18		0	132	21
Borden and Grove Park	7		16	9	12	18	17	16		2	95	16
Boughton and Courtenay	15		20	20	19	19	22	19		0	134	22
Chalkwell	4		3	2	16	8	2	5		6	40	4
East Downs	15		24	20	18	15	24	21		0	137	23
Hartlip, Newington and Upchurch	12		18	18	20	20	21	17		0	126	19
Homewood	3		10	7	10	7	12	10		6	59	7
Kemsley	10		17	13	14	13	9	12		2	88	15
Milton Regis	5		5	20	4	4	6	14		5	58	6
Minster	14		14	19	6	21	15	24		1	113	18
Murston	9		6	3	6	3	4	1		7	32	3
Priory	15		15	20	8	5	16	7		3	86	14
Queenborough & Halfway	5		4	16	5	12	5	8		5	55	5
Roman	2		7	8	3	2	3	6		7	31	2
Sheerness	1		1	1	1	1	1	2		7	8	1
Sheppey Central	8		8	5	9	14	10	15		5	69	9
Sheppey East	15		2	20	2	16	8	20		3	83	12
St Ann's	15		12	4	17	11	13	4		2	76	11
Teynham and Lynsted	12		13	5	11	9	14	11		2	75	10
The Meads	15		21	13	22	17	7	13		1	108	17
Watling	14		11	10	13	10	19	9		3	86	14
West Downs	15		23	13	24	22	23	23		0	143	24
Woodstock	10		22	10	21	24	20	22		2	129	20

3.16. HMOs are only a fraction of the household type in these wards and it has to be recognised that any social, economic or environmental factors or issues are likely to be far more wide-ranging than any correlation with a number of HMOs in an area. Moreover, it cannot be reasonably suggested that making an Article 4(1) Direction to control the formation of HMOs would cause a material change in any of the statistics that have been identified.

3.17. However, it can be drawn from these statistics that there are areas where economic factors correlate with HMOs and that these are areas that have relatively high levels of crime and/or deprivation, potentially leading to a greater demand for services and assistance than might be the case elsewhere. It is considered that these are wards which have areas of relatively intense residential occupation, as proven by the number of terraced and 'other' properties (which includes flats and converted buildings). It is perhaps the case that Murston and Sheppey Central appear quite high in these statistics as they have the relatively recent 'Thistle Hill' and 'Great Easthall' developments which are substantial in scale and have a high number of terraced properties but, as new built or relatively recently built dwellings, they are less likely to be used as HMOs.

3.18. For these reasons, and in response to the request of the Planning Committee for Officers to identify an evidence base that could identify a more defined area for making an Article 4(1) Direction, it is considered that, if the Committee were so minded, they could consider making an Article 4(1) Direction that would have effect in the wards of Chalkwell, Homewood, Milton Regis, Murston, Queenborough and Halfway, Roman, Sheerness and Sheppey Central.

3.19. It is noted that Murston and Sheppey Central do not currently experience the same quantity of HMOs as the other wards and so these could logically be excluded from the relevant area. However, there is a case to suggest that these areas have the indicators to be attractive for HMO use in the event that restrictions are imposed elsewhere.

3.20. The next two wards in the abovementioned assessment (Abbey and Teynham and Lynsted) have a grand total of 3 HMOs and are markedly below the other wards in several areas. Consequently, it can be considered that there is a step change in HMO supply and the indicators that these locations would be liable to be attractive to HMOs. Any areas that are not affected by an Article 4(1) Direction could be reconsidered in the future if it was deemed to be necessary.

3.21. Reducing the area that is the subject of an Article 4(1) Direction would better align with the guidance set out within the NPPF and the Planning Practice Guidance that is set out above. Such policy and guidance would, presumably, be a consideration for the Secretary of State who is required to be notified of the making of an Article 4(1) Direction and has the opportunity to rescind or modify that Direction if they so wish.

4. OPTIONS

4.1. At the previous Planning Committee, five options were set out. These are repeated below, and remain as the options available to Members. The above analysis is particularly relevant to options B and C.

A. An Article 4(1) Direction can be made that would have Immediate Effect or a "Non-Immediate" Direction can be made that would come into effect in 12 months time.

B. An Article 4(1) Direction can be made that would have effect throughout the Borough or specific parts of the Borough.

C. A combination approach could be taken where an Article 4(1) Direction is made that has immediate effect for part of the Borough and a further Article 4(1) Direction is made that does not immediately come into effect for the remainder of the Borough.

D. The Planning Committee could choose to not make any Article 4(1) Direction.

E. The Planning Committee could defer the matter to enable any aspect to be explored further and/or addressed in more detail if it is considered that any of the tests set out above are not met.

5. RECOMMENDATION

5.1. It is recommended that the Planning Committee determines whether an Article 4(1) Direction is made in respect of the permitted development right set out within Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) insofar as it permits the change of use of a building from use falling within Use Class C3 (dwellinghouses) to a use falling within Use Class C4 (Houses in Multiple Occupation).

5.2. If it is determined that an Article 4(1) Direction should be made, the Planning Committee should consider a) whether the necessary provisions are taken for the Direction to be made on an immediate basis as opposed to a non-immediate basis and b) whether the Direction should be made on a Borough wide or more localised.

5.3. In the event that it is determined that an Article 4(1) Direction should be made, delegated authority shall be given to the Head of Planning and/or Head of Legal to take all steps required to make the Direction.

6. IMPLICATIONS

Issue	**Implications**
Corporate Plan	The making of an Article 4(1) Direction would have implications for the following Corporate Plan priorities: • Community • Economy • Environment • Health and housing • Running the Council
Financial, Resource and Property	There are financial and resource implications associated with preparing and making an Article 4(1) Direction, undertaking public consultation in relation to it and as a result of due process. This is within the base budget. A financial risk could arise from persons making claims under Sections 107 and 108 of the Town and Country Planning Act 1990 as a result of any implications occurring within the first year following the 'planning permission' that is automatically granted by

	Development Order being revoked. No public examples of this have been identified and so the likelihood and cost risk is unknown. It could arise under any circumstance where a condition of planning permission causes an applicant to incur additional costs or any financial effects arising from the refusal of a planning application.
Legal, Statutory and Procurement	The preparation and making of an Article 4(1) Direction would be carried out under a national legislative and regulatory framework. There would be resource requirements within the Council's legal service as a result of the formal making of the Direction.
Crime and Disorder	As set out in the body of this report, there is a perception of a link between the existence of HMOs and anti-social behaviour and crime. Although it is unlikely that a subsequent planning application could be refused on the grounds of potential events of crime or anti-social behaviour, a control could have an effect on these matters if the perception is accurate.
Environment and Climate/Ecological Emergency	There are no environment and climate/ecological emergency impacts arising from this decision.
Health and Wellbeing	There are no direct health and wellbeing impacts arising from this decision. However, an Article 4(1) Direction could result in more control being had over HMO development which would give greater scope to control the provision of adequate living conditions for future occupiers and the environment and living conditions of existing residents.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	As set out above, there is a potential financial risk from compensation claims made under Section 107 and 108 of the Town and Country Planning Act 1990. There is a risk of work being abortive if an Article 4(1) Direction is challenged or altered/withdrawn by the Secretary of State.
Equality and Diversity	None at this stage.
Privacy and Data Protection	None at this stage.
Local Government Reorganisation	There could be an issue around controls in the existing Swale Borough not aligning with controls that exist in other parts of any future authority.