



AGENDA ITEM: 7(a)

**EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE:
2 December 2010**

Report of: Council Secretary and Solicitor

Relevant Portfolio Holder: Councillor M Forshaw

**Contact for further information: Mrs J Denning (Extn. 5384)
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**SUBJECT: CALL IN ITEM – ARTICLE 4 DIRECTION – ORMSKIRK, AUGHTON
AND WESTHEAD**

Wards affected: Ormskirk, Aughton, Skelmersdale and Burscough Wards.

1.0 PURPOSE OF THE REPORT

1.1 To advise the Executive Overview & Scrutiny Committee of the reason for the call in of the decision on the above item, as set out in Minute No. 85 of the meeting of Cabinet held on 16 November 2010.

2.0 RECOMMENDATIONS

2.1 That the Committee determines whether it wishes to ask for a different decision.

2.2 That if the Committee does wish to ask for a different decision, the Committee indicates which of the options set out at paragraph 5.1 below, it wishes to pursue.

3.0 DETAILS RELATING TO THE CALL IN

3.1 The report attached as an Appendix to this report was considered at Planning Committee on 11 November and Cabinet on 16 November 2010.

3.2 The decision of Planning Committee 11 November 2010 reads as follows:

“56. ARTICLE 4 DIRECTION ORMSKIRK AND AUGHTON AND WESTHEAD

The Acting Executive Manager Planning introduced his report as contained on pages 1035 to 1044 and additional late information as contained on pages 1077 to 1079 of the Book of Reports, the purpose of which was to seek approval for the making of an Article 4 Direction to control the development of Houses in Multiple Occupation throughout Ormskirk, parts of Aughton and Westhead.

RESOLVED: That the report be noted with no additional comments.”

3.3 The decision of Cabinet 16 November 2010 reads as follows:

“85. ARTICLE 4 DIRECTION ORMSKIRK, AUGHTON AND WESTHEAD

Councillor Forshaw introduced the report of the Acting Executive Manager Planning which sought approval for the making of an Article 4 Direction to control the development of Houses in Multiple Occupation throughout Ormskirk, parts of Aughton and Westhead.

Councillor Forshaw referred to the additional information circulated by the Acting Executive Manager Planning in respect of student numbers and Minute 56 of the Planning Committee.

In reaching the decision below, Cabinet considered the details set out in the report before it and the additional information circulated and accepted the reasons contained therein.

RESOLVED: That the Acting Executive Manager Planning be given delegated authority to instruct the Council Secretary and Solicitor to make an Article 4 Direction, to withdraw permitted development rights in Ormskirk, Aughton and Westhead for development consisting of a change of use from Class C3 (dwelling houses) to Class C4 (small scale houses in multiple occupation) in accordance with paragraph 6 of the report.”

3.4 The following reason for call was given in the requisition:

“That the Article 4 Direction does not provide adequate protection for all residents of West Lancashire and will enable landlords opportunities to purchase properties in other areas of the Borough thereby potentially displacing the concentration of HMOs into other areas. West Lancashire Borough Council must implement a system that enables effective management of HMOs proactively rather than reactively.”

3.5 The requisition also provided an alternative decision which was:

“That the Acting Executive Manager Planning be given delegated authority to instruct the Council Secretary and Solicitor to make an Article 4 Direction, to withdraw permitted development rights in Ormskirk, Aughton, Westhead,

Burscough and Skelmersdale for development consisting of a change of use from Class C3 (dwelling houses) to Class C4 (small scale houses in multiple occupation).”

- 3.6 The following Members of the Executive Overview & Scrutiny Committee signed the requisition for call-in in accordance with the provisions of Overview & Scrutiny Committee Procedure Rule 15:

Councillor J Coyle
Councillor C Mawdsley
Councillor N Furey
Councillor B Nolan
Councillor I Moran

4.0 COMMENTS OF THE ACTING EXECUTIVE MANAGER PLANNING

- 4.1 Article 4 Directions enable Local Authorities to withdraw permitted development rights given under the General Permitted Development Order. Government guidance in relation to the use of Article 4 Directions is contained in Planning Circular 9/95. The Circular states that permitted development rights “...should only be withdrawn in *exceptional circumstances*. Such action will rarely be justified unless there is a *real and specific threat*, i.e. there is reliable evidence to suggest that permitted development is likely to take place which could damage interest of acknowledged importance and should therefore be brought within the full planning control in the public interest.”
- 4.2 The guidance adds that; “The boundaries of land subject of the directions should be drawn as tightly as possible having regard to the circumstances of the case. Directions covering wide areas of land will not normally be approved.”
- 4.3 The report to Cabinet set out the clear justification for the use of an Article 4 Direction in Ormskirk and the immediate surrounding areas due to the significant number of properties already within multiple ownership, the problems that were being encountered by local residents and the on-going pressure on the housing market for further future expansion of the Houses in Multiple Occupation (HMO) market in these areas. There is no such evidence available to justify the removal of permitted development rights in Burscough and Skelmersdale.
- 4.4 An Article 4 Direction requires the approval of the Secretary of State. It is my view that adding Burscough and Skelmersdale to the proposed Article 4 Direction could significantly increase the risk of the Direction not being approved by the Secretary of State.

5.0 CONCLUSION

- 5.1 Following consideration of the decision of Cabinet, the requisition for call in, and the comments of the Acting Executive Manager Planning, the Executive Overview & Scrutiny Committee can decide if it wishes to ask for a different decision. If the Committee does not wish to ask for a different decision then the decision of Cabinet takes immediate effect. If the Committee does wish to ask for a different decision, it may:

- a. refer the decision back to Cabinet (as the decision making body) for reconsideration, setting out the different decision; or
- b. refer the matter to Council. If the matter is referred to Council and Council does not object, then the decision of Cabinet will take effect immediately from that Council meeting date. If the Council does object, then the decision and the objection will be referred back to Cabinet (as the decision making body) for reconsideration.

5.2 The Secretary of State in his Guidance recommends that Overview & Scrutiny Committees should only use the power to refer matters to the full Council if they consider that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

Report of the Acting Executive Manager Planning.