



ARE YOU AWARE OF THE HIDDEN DANGER TO YOUR HMO INVESTMENT?



ARTICLE 4 COULD BE THE CULPRIT!



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What is Article 4 ?

Article 4 is a change to planning regulations which would mean that any property that had established use as a single dwelling house (Planning Use Class C3) and an owner wants to change its use to a small HMO (Planning Use Class C4) planning consent would be needed. Councils can adopt Article 4 direction in certain areas, streets or even City Wide. Coventry Council have recently announced they are to hold a consultation to establish whether Article 4 Direction can become enforced within the Coventry region.

Article Link: <https://www.coventry.gov.uk/news/article/4352/plans-to-limit-hmos-in-parts-of-coventry>

YouTube Video Link: <https://www.youtube.com/watch?v=ayTKcgwA5Hc>





If I own a HMO now, what should I do?

Before Article 4 is introduced in Coventry, you are strongly advised to validate your HMO class use. This is not to be confused with your HMO licence, which in effect is only a licence to operate your HMO.



If you do not solidify your HMO's class use you will encounter problems when you try and sell your HMO, or try to re-mortgage it. The reasons are explained further below.



Re-Mortgage/Sell your HMO in Article 4 area

The first reason is to be certain that your HMO is lawful and thus you can sell, re-finance/re-mortgage your HMO, both now and in the future.



There is great uncertainty about HMO's and their previous or present use of a HMO amongst lenders, solicitors, and surveyors and some may not be too familiar with this type of property and the local conditions. Once Article 4 is introduced in areas, lenders, surveyors, and solicitors will all be aware of it and therefore must follow protocols and rules that specifically apply to Article 4 areas, and thus how sales or finance are arranged during a lending application.

Landlords may face the question of whether the property has a certificate of lawful use or relevant planning consent, either at the time when they want to sell the HMO, re-finance it, or lend against their HMO. The main reason for this (from a lenders prospective) is based on the risk tolerance that the council cannot enforce (in the future) unlawful class use change of the property, for example historically a property would have been used as a residential dwelling (class use c3), and at some point it has been converted to (multiple occupants), class 4 HMO use. The process for a class use change must be carried out lawfully and this is the reason why lenders want to protect their lending to ensure retrospective planning cannot be enforced on the funds they have lent against a property.



At the time of a legal exchange and completion for a HMO, several (protocol) questions will be asked to establish the use of the property based within an article 4 area. Most of these questions will seek to establish the lawfulness of the HMO, even though Article 4 may not have existed when the development was completed.

With limited and unclear information, a solicitor or lender may not be able to satisfy his/her conditions that would allow the completion to take place. Certain documents would need to be presented to validate the lawfulness of your HMO and protect you from any unreasonable conditions-imposed from lenders, surveyors, and solicitors. This would in essence “future proof” your investment, and overcome any barriers to complete your transaction, Both now and in the future.





PD Rights & Regularising HMO in Article 4 area

The second reason is Planning, PD Rights & Regularising the use of your HMO. If your property was being used without planning permission as a HMO (either small or large) before Article 4 is implemented in your local area, and is still in the same use, you may need to ensure that the use of your property is not in breach of planning controls.



If you have created any side or rear extensions to the property (during the Permitted rights dates) and no planning permission was obtained, it could have contravened planning and thus it will be illegal to operate as a HMO, once Article 4 is in force.



What's the process to follow?

To solidify the class use of lawfulness of past, present, future use of your building use, operations or other matters needs to be established. Action needs to be taken to solidify this class use of a HMO prior to Article 4 direction being in force, as retrospective planning applications are often refused or too hard to prove.



Once the correct documents have been collated and submitted it means that no enforcement action can be carried out to the development referred to in the application.

If a landlord does not want to regularise their current use as a HMO, before Article 4 is enforced it is strongly recommended that they retain sufficient documentation to demonstrate lawful use as a HMO, pre-Article 4 direction.



If you choose this option the council will seek 10 years proof of existing class use and will ask you to validate; all historic tenancy agreements, retrospective council tax records, affidavits from previous tenants, bills associated throughout the development and continuing tenure, bank transfer receipts, statements from builders regarding the works carried out to convert to HMO, your personal bank records to prove rents received, as well as rent books, together with many other documents. This type of retrospective application can be very lengthy to establish lawful use and for it to be validated from the planning department within the council.

Our aim is to bring awareness of this “little known” topic and the huge implications it can have on your finances should you wish to carry out any financial transactions on your HMO, post Article 4 direction.

Article 4 HMO will have implications with your investment. We can advise you how to avoid transactions not materialising or completing a sale or re-finance of your HMO, after Article 4 directions are in force, which will ultimately be caused by not being able to satisfy lenders/ underwriters criteria for a completion.

We specialise in providing the correct form of documents/ certificates/ bundle pack that would be required to “future proof” your HMO investment, in case you needed to sell the property or re-finance your HMO, post Article 4 direction.



We are now taking pre-screening applications for £99 plus vat. During our pre-screening process we will seek to establish the types of documents you currently hold for your HMO, and potentially what documents will be required to validate class use, before Article 4 is introduced.

Please contact our team for more information at info@safehmo.co.uk



 **Address:**
Ground Floor Offices
4 Harnall Row
Coventry, CV1 5DR

 **Phone Number:**
02477 360021

 **Email & Website:**
info@safehmo.co.uk
www.safehmo.co.uk



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