

**Cabinet Member Delegated Decision 16 April 2019**

**Report title:** Confirmation of the non-immediate Article 4 direction for change of use from office to residential

**Wards:** Bishops, Oval and Prince's

**Report Authorised by:** Emma Peters: Interim Strategic Director Sustainable Growth and Opportunity

**Portfolio:** Councillor Matthew Bennett, Cabinet Member Planning, Investment and New Homes

**Contact for enquiries:** Catherine Carpenter, Head of Policy and Place-shaping  
020 7926 1251, [ccarpenter@lambeth.gov.uk](mailto:ccarpenter@lambeth.gov.uk)

**Report summary**

On 28 March 2018 the then Cabinet Member for Planning, Regeneration and Jobs agreed to the making of a non-immediate Article 4 Direction to remove permitted development rights in the London Plan Central Activities Zone (as it relates to Lambeth) allowing change of use from office (Use Class B1a) to residential (Use Class C3). The Central Activities Zone in Lambeth covers Waterloo and Vauxhall. The exemption contained in the General Permitted Development Order 2015, which means the relevant permitted development right is currently not available in the Central Activities Zone, applies until 30 May 2019. In the absence of an Article 4 direction, this permitted development right would become available in the Central Activities Zone in Lambeth from 31 May 2019.

The relevant direction was made on 28 March 2018 in respect of the London Plan Central Activities Zone as it relates to Lambeth. The intended coming into force date of the direction, subject to confirmation, was given as 31 May 2019.

Following the making of the Article 4 direction, affected property owners/occupiers and the Secretary of State were notified and representations were invited between 2 April and 28 May 2018.

The Cabinet Member for Planning, Investment and New Homes is now asked to consider the representations received and to decide whether the Article 4 direction should be confirmed.

It is recommended the Council proceeds to confirm the Article 4 direction and that necessary consequential steps are delegated to officers. If the direction is confirmed the removal of the relevant permitted development right will take effect from 31 May 2019.

## **Finance summary**

The cost of confirming the Article 4 direction and associated notifications is estimated to be £2,000 in the financial year 2019/20 and will be funded from existing approved budgets in the Development, Planning & Housing Growth division.

## **Recommendations**

- (1) That the Council proceeds to confirm the Article 4 direction made on 28 March 2018 and coming into force on 31 May 2019.
- (2) That the Cabinet Member delegates to the Assistant Director Planning, Transport & Development any consequential arrangements to give effect to the terms of Recommendation 1 which shall include publishing confirmation of the direction, notifying affected property owners/occupiers and the Secretary of State.

## **1. Context**

- 1.1 In May 2013, the government introduced a new temporary permitted development right by amendment to the Town and Country Planning (General Permitted Development) Order 1995 to allow change of use from office (Use Class B1a) to residential (Use Class C3) which meant that local planning authorities (LPAs) could no longer control change of use from office to residential as planning permission would not be required. The General Permitted Development Order 1995 was replaced by the General Permitted Development Order 2015 and the relevant class of permitted development rights relating to change of use from office to residential were carried forward into the 2015 Order. The Government announced that the permitted development right was to be made permanent from April 2016. It also announced that the previous provision for exempt areas would not be continued, although the exemptions would not expire until May 2019. The government had previously allowed an exemption for the whole of London's Central Activities Zone (CAZ).
- 1.2 Under the permitted development right, change of use from office (B1a) to residential (C3) requires an application for prior approval to the LPA. In determining a prior approval application, the LPA can only consider impacts of the proposed development on transport, contamination, flooding and noise; plus, since March 2016, the impact of noise from neighbouring uses on the proposed residential use. An Article 4 direction is a means of withdrawing permitted development rights that are granted by the General Permitted Development Order.
- 1.3 The background to the process of making an Article 4 direction is set out in the report to the then Cabinet Member for Planning, Regeneration and Jobs of March 2018, available via this [link](#).
- 1.4 On 21 March 2018 the Cabinet Member agreed to the making of a non-immediate Article 4 direction to remove permitted development rights allowing change of use from office (B1a) to residential (C3) in the Central Activities Zone as it relates to Lambeth. The Article 4 direction was made on 28 March 2018 and notice given to relevant parties of the making of the direction, as explained in section 2 of this report. The intended coming into force date was specified as 31 May 2019.
- 1.5 The Article 4 direction applies to land in the following areas (identified more precisely in the maps appended to the direction):
  - The London Plan Central Activities Zone as it relates to Lambeth.

## **2. Proposal and Reasons**

- 2.1 Following the making of the Article 4 direction, the Council notified the Secretary of State in accordance with the requirements of the General Permitted Development Order 2015. The making of the direction was publicised by the required means and all affected property owners/occupiers were directly notified by letter.
- 2.2 Representations about the making of the Article 4 direction were invited to be made during the period between 2 April and 28 May 2018. Eleven responses were received during that period and no other responses have been received since then. Five responses supported the proposed Article 4 direction and one did not. The remaining five responses were in the

form of questions about the effect of the Article 4 direction and did not express a view about the merits of the making of the direction. Officers responded to these questions giving further explanation. One of these five respondents then made a subsequent comment about the making of the direction, which has been included in the consideration of responses. The representations received that expressed a view about the making of the direction, and an officer response to those comments, are set out in Appendix 1 to this report. A summary is provided below.

- 2.3 The Mayor of London strongly supported the introduction of the Article 4 Direction and emphasised the vital economic role of office agglomerations in the CAZ, adding that the change of use of offices to residential could significantly affect local amenity and wellbeing due to loss of employment opportunities, reduced economic growth, and the loss of nationally and internationally significant businesses. The representation noted that the draft new London Plan encourages boroughs to introduce Article 4 Directions to remove office to residential permitted development rights across the whole of the CAZ.
- 2.4 The Transport for London Spatial Planning team also supported the making of the Article 4 Direction and highlighted the importance of the planning application process in determining change of use from B1a to C3. The representation stated a change of use from offices to dwellings could result in adverse transport impacts on the Transport for London Road Network and complaints from new residents about the effect of nearby transport operations, adding that these impacts would be easier to assess, control and mitigate via the planning application process, with the planning application itself being supported by a transport assessment where appropriate. The representation also argued that compliance with relevant London Plan policy could be better achieved through the planning application process, for example the provision of an appropriate amount of suitably designed cycle parking.
- 2.5 Three other representations supported the making of the Article 4 Direction. The first highlighted the importance of taking into account all material aspects of such a change of use to ensure the proposal does not have adverse impacts on the economy and community. The second stated that offices provide jobs near good transport routes and that too many had been lost to residential accommodation that is under-occupied. This representation was concerned that many people have to travel long distances to work in London and that this had a negative impact on family and community life and individual well-being. The third representation wanted an Article 4 Direction to be established as soon as possible.
- 2.6 The representation not in support of the Article 4 Direction argued that the direction represents another way of making money from planning. It stated that there is a shortage of housing and space in London and that Lambeth should not stand in the way of this positive change from the government. It added that Lambeth policies are overly restrictive to the needs of the people that live within the borough.
- 2.7 Officers have considered this representation but do not consider that it would amount to a justification not to proceed to confirm the Article 4 direction for the following reason. The Article 4 direction would not amount to an absolute prohibition on the change of use of a property; its effect is to require an application for a planning permission to be made for the proposed change of use. The planning policy objective of delivering housing to meet

identified requirements can be achieved whilst also meeting other planning policy objectives such as preserving the supply of land for office use in this part of the borough.

- 2.8 The Secretary of State was notified of the making of the Article 4 direction but no comments were received.
- 2.9 All the other eight local planning authorities within the CAZ (Cities of London and Westminster and London boroughs of Southwark, Wandsworth, Islington, Camden, Hackney and Tower Hamlets) have also made an Article 4 direction to remove permitted development rights for change of use from B1a office to C3 residential in the CAZ as it relates to their respective areas. At the time of writing, all but two of these directions have been confirmed. None of the authorities has made a decision not to confirm its direction.
- 2.10 Officers do not consider that there have been any changes to planning policy (at national, London-wide or borough level) since the making of the Article 4 direction that would have any bearing on the decision whether to confirm it. For example, the introduction of the new National Planning Policy Framework in July 2018 (updated February 2019) and subsequent updates to national Planning Practice Guidance do not have an impact on the considerations in this report. Similarly, officers do not consider that the land use context described in the previous report to the Cabinet Member in March 2018 has changed since that report.
- 2.11 The Cabinet Member is therefore asked to decide that the Council proceeds to confirm the Article 4 direction made on 21 March 2018 such that the direction will come into force on 31 May 2019 and to delegate to officers all necessary tasks to give effect to the confirmed direction (including notifying affected property owners/occupiers and the Secretary of State).

### **3. Finance**

- 3.1 The costs associated with confirming the Article 4 direction arise from notifying owner/occupiers, site notices and a press notice.
- 3.2 The 2019/20 costs are estimated to be £2,000 and will be funded from existing budgets within the Development, Planning and Housing Growth division.

### **4. Legal and Democracy**

- 4.1 The detailed procedure for confirming an Article 4 direction is contained in Schedule 3 of the General Permitted Development Order 2015.
- 4.2 Those requirements include the obligation to provide notification that the Article 4 direction has been confirmed by local advertisement, through site notices at no fewer than two locations within the area to which the direction relates and by notifying every owner/occupier of every part of the land within the area or site to which the direction relates (unless it is impracticable to do so). It is also necessary to notify the Secretary of State that the Article 4 direction has been confirmed.
- 4.3 This proposed key decision was entered in the Forward Plan on 26 October 2018 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution

requires the report to be published on the website for five clear days before the proposed decision is approved by Cabinet. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days - the call-in period – must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

## **5. Consultation and co-production**

5.1 Details of the representation period and any responses received are set out in section 2 of this report and Appendix 1.

## **6. Risk management**

6.1 The permitted development rights in question are being withdrawn on notice to affected property owners/occupiers.

6.2 The procedures for confirming an Article 4 direction are set down in legislation as noted in section 4 of this report and are not considered to give rise to a need for additional risk management steps.

## **7. Equalities impact assessment**

7.1 An Equalities Impact Assessment (Appendix 2) has been undertaken and has identified there will be no direct negative impacts on any groups with protected characteristics. It has identified there may be positive impacts on BME groups, young people, those of working age and those with the pregnancy and maternity protected characteristic.

## **8. Community safety**

None

## **9. Organisational implications**

None

## **10. Timetable for implementation**

The timetable below relates to the process of confirming the Article 4 direction and the associated publication/notification. The decision to confirm the Article 4 direction cannot be enacted until the 5 day call in period has expired:

<b>Non-immediate Article 4 direction process</b>	<b>Date</b>
Decision to proceed to confirm the Article 4 direction	April 2019
Notify land owners/occupiers by post, site notice and press advertisement that the direction has been confirmed	April 2019
Council website entry	April 2019
Notify the Secretary of State that the direction has been confirmed	April 2019
Intended date of coming into force	31 May 2019

<b>Audit trail</b>				
<b>Consultation</b>				
<b>Name/Position</b>	<b>Lambeth directorate or partner</b>	<b>Date Sent</b>	<b>Date Received</b>	<b>Comments in para:</b>
Emma Peters	Interim Strategic Director Sustainable Growth and Opportunity	04.04.19		
Sandra Roebuck	Director Development, Planning and Housing Growth	03.04.19	03.04.19	
Rob Bristow	Assistant Director Planning, Transport and Development	01.04.19	03.04.19	
Susan Boucher	Legal Services	26.03.19	28.03.19	Throughout
Wayne Chandai	Democratic Services	27.03.19	01.04.19	
Andrew Ramsden	Finance and Investment	27.03.19	29.03.19	3.2, finance summary
Cllr Matthew Bennett	Cabinet Member for Planning, Investment and New Homes	04.04.19	08.04.19	

<b>Report history</b>	
<b>Original discussion with Cabinet Member</b>	22 October 2018
<b>Report deadline</b>	N/A
<b>Date final report sent</b>	N/A
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	No
<b>Key decision report</b>	Yes
<b>Date first appeared on forward plan</b>	26 October 2018
<b>Key decision reasons</b>	3. Meets the community impact test
<b>Background information</b>	<a href="#">Town and Country Planning (General Permitted Development) (England) Order 2015</a>  <a href="#">Decision to make the Article 4 Direction March 2018</a>  <a href="#">CAZ Article 4 Direction made March 2018</a>
<b>Appendices</b>	Appendix One – Schedule of representations Appendix Two - Equality Impact Assessment

**APPROVAL BY CABINET MEMBER IN ACCORDANCE WITH SCHEME OF DELEGATION**

**I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:**

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

Catherine Carpenter, Head of Policy and Place-shaping, Sustainable Growth and Opportunity

**I approve the above recommendations:**

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Councillor Matthew Bennett, Cabinet Member for Planning, Investment and New Homes**

**Any declarations of interest (or exemptions granted): None**

**Any conflicts of interest: None**

**Any dispensations: None**