

Article 4 Directions: B1c to C3

Initial Equalities Analysis Stage 1

August 2017

Section 1: Equality analysis details

Proposed policy/decision/business plan to which this equality analysis relates	Article 4 Directions to withdraw the permitted development rights for a change of use from light industrial to residential.
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Equality analysis author	Mark Spence				
Strategic Director:	Simon Bevan				
Department	Chief Executive	Division	Planning Policy		
Period analysis undertaken	August 2017				
Date of review (if applicable)	Tbc. A review could take place at the time when the Article 4 Direction is confirmed.				
Sign-off	Philip Waters	Position	Planning Policy Team Leader	Date	August 2017

Section 2: Brief description of policy/decision/business plan

1.1 Brief description of policy/decision/business plan

This equalities analysis report supports the report to Planning Committee on 19th September 2017 which requests consultation on the introduction of an immediate Article 4 Direction to remove permitted development rights granted Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use from B1 (c) (Light Industrial) to C3 (Dwelling houses).

By Article 8 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016, the government introduced a permitted development right into the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2015 under Class PA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("GPDO") to allow a change of use of a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwelling houses) of that Schedule, to last for three years (from 1st October 2017 until 30th September 2020), for which prior approval is granted before 1st October 2020.

According to the GPDO, development is not permitted under Class PA if:

- (a) an application for prior approval is received by the local planning authority on or before 30th September 2017;
- (b) the building was not used solely for a light industrial use on 19th March 2014 or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
- (c) the prior approval date falls on or after 1st October 2020;
- (d) the gross floor space of the existing building exceeds 500 square meters;
- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
- (f) less than one year before the date the development begins:
 - (i) an agricultural tenancy over the site has been terminated, and
 - (ii) the termination was for the purpose of carrying out development under this class, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural purposes;
- (g) the site is, or forms part of – (i) a site of special scientific interest; (ii) a safety hazard area; (iii) a military explosives storage area;
- (h) the building is a listed building or is within the curtilage of a listed building; or
- (i) the site is, or contains, a scheduled monument.

Further, development under Class PA is permitted subject to the condition that it must be completed within a period of three years starting with the prior approval date.

It is considered that this new permitted development right would have adverse impacts on the proper planning of the borough, with the council being unable to manage the process of change in use class from B1 (c) to C3 and being unable to oversee the quality of new homes as a result. Application of this permitted development right could result in a loss of jobs due to the loss of existing and potential floorspace from light industrial sites, with less opportunity to manage land release and support new employment uses in line with adopted and emerging policies with the prospect of negatively impacting the economy.

An Article 4 Direction can be used to remove specific permitted development rights in all or parts of the local authority's area. It would not restrict development altogether, but instead ensure that development requires planning permission. A planning application for the proposal would need to be submitted that would then be determined in accordance with the development plan.

Article 4 Directions can either be immediate or non-immediate depending upon whether notice is given of the date on which they come into force. In the case of this report, the council is proposing to make one immediate Article 4 Direction to withdraw the permitted development rights for the changes of use listed above.

Section 3: Overview of service users and key stakeholders consulted

2. Service users and stakeholders	
Key users of the department or service	<p>Planning is a statutory function carried out by local authorities. The development of planning policies and the impacts of planning decisions can affect everyone with an interest in land in the borough. This can include residents, landowners, developers, local businesses and their employees, community organisations, statutory consultees and interest groups.</p>
Key stakeholders were/are involved in this policy/decision/business plan	<p>The key stakeholders involved in this proposal include: Cabinet Member for Regeneration and New Homes, Southwark Councillors, Overview and Scrutiny Committee, Development Management and Planning Policy officers, Property division, Southwark Health and Well-being Working Group.</p> <p>The Development Management team will be responsible for monitoring the Article 4 Directions and to determine any subsequent planning applications submitted for change of use.</p> <p>The Planning Policy team have received corporate equalities training and Equalities Analysis report writing training. A number of the service deliverers within the council will also have received corporate equalities training.</p>

Section 4: Pre-implementation equality analysis

This section considers the potential impact (positive and negative) of the proposals on the key 'protected characteristics' in the Equality Act 2010 and Human Rights Act. The Planning Committee report sets out detail on the local data and other equality information on which the analysis is based and mitigating actions to be taken.

The making of the Article 4 Directions does not have a direct impact on any groups with protected characteristics. Decisions on planning applications made as a result of the direction may have a potential impact on certain protected characteristics.

Age - Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

Potential impacts (positive and negative) of proposed policy/decision/business plan

The implementation of the Article 4 Direction and the requirement for planning permission is to help ensure amenity is protected within the borough. It is considered that the permitted development rights to be withdrawn would have adverse impacts on the proper planning of the borough, with the council unable to manage the process of change in use class from B1 (c) to C3 and being unable to oversee the quality of new homes as a result.

The permitted development rights to be withdrawn could also potentially result in the loss of jobs due to the loss of existing and potential floorspace from light industrial sites.

The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough and help to protect employment opportunities suitable for people of all ages. The Article 4 Direction is considered to have a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Disability - A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Possible impacts (positive and negative) of proposed policy/decision/business plan
<p>The implementation of the Article 4 Direction and the requirement for planning permission is to help ensure amenity is protected within the borough. It is considered that the permitted development rights to be withdrawn would have adverse impacts on the proper planning of the borough, with the council unable to manage the process of change in use class from B1 (c) to C3 and being unable to oversee the quality of new homes as a result.</p> <p>The permitted development rights to be withdrawn could also potentially result in the loss of jobs due to the loss of existing and potential floorspace from light industrial sites.</p> <p>The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough and help to protect employment opportunities suitable for those with disabilities. The Article 4 Direction is considered to have a positive impact.</p>
Equality information on which above analysis is based
<p>This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.</p>
Mitigating actions to be taken
<p>The above analysis highlights that the implementation of the Article 4 Directions will largely give rise to positive impacts.</p>

Gender reassignment - The process of transitioning from one gender to another.
Possible impacts (positive and negative) of proposed policy/decision/business plan
<p>No identifiable impacts have been identified on this group as a result of the implementation of the Article 4 Directions.</p> <p>The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough and help to protect employment opportunities suitable for all groups across the Borough. The Article 4 Direction is considered to have a positive impact.</p>
Equality information on which above analysis is based.
<p>This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.</p>

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Directions will largely give rise to positive impacts.

Marriage and civil partnership - Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. **(Only to be considered in respect to the need to eliminate discrimination.**

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts have been identified on this group as a result of the implementation of the Article 4 Directions.

The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough and help to protect employment opportunities suitable for all groups across the Borough. The Article 4 Direction is considered to have a positive impact.

Equality information on which above analysis is based

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Mitigating actions to be taken

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Pregnancy and maternity - Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts have been identified on this group as a result of the implementation of the Article 4 Directions.

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Equality information on which above analysis is based

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Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Directions will largely give rise to positive impacts.

Race - Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts have been identified on this group as a result of the implementation of the Article 4 Directions.

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Equality information on which above analysis is based

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Mitigating actions to be taken

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Religion and belief - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the

definition.

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts have been identified on this group as a result of the implementation of the Article 4 Directions.

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Equality information on which above analysis is based

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Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Directions will largely give rise to positive impacts.

Sex - A man or a woman.

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts have been identified on this group as a result of the implementation of the Article 4 Directions.

The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough and help to protect employment opportunities suitable for all groups across the Borough. The Article 4 Direction is considered to have a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Directions will largely give rise to positive impacts.

Sexual orientation - Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts have been identified on this group as a result of the implementation of the Article 4 Directions.

The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough and help to protect employment opportunities suitable for all groups across the Borough. The Article 4 Direction is considered to have a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

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Human Rights

There are 16 rights in the Human Rights Act. Each one is called an Article. They are all taken from the European Convention on Human Rights. The Articles are The right to life, Freedom from torture, inhuman and degrading treatment, Freedom from forced labour , Right to Liberty, Fair trial, Retrospective penalties, Privacy, Freedom of conscience, Freedom of expression, Freedom of assembly, Marriage and family, Freedom from discrimination and the First Protocol

Possible impacts (positive and negative) of proposed policy/decision/business plan

The council has carefully considered the balance to be struck between individual rights and the wider public interest. The rights of those affected by the proposed Article 4 Directions have been considered under the Human Rights Act 1998 and it has been determined that none of the Articles will be triggered.

Information on which above analysis is based
Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights (ECHR). Various Convention rights may be engaged in the process of making and considering the Article 4 Directions, including under Article 1 of the First Protocol. The European Court has recognised that “regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole”. Both public and private interests are to be taken into account in the exercise of the council’s powers and duties as a local planning authority. Any interference with a Convention Right must be necessary and proportionate.
Mitigating actions to be taken
N/A

Section 5: Further actions and objectives

5. Further actions			
Based on the initial analysis above, please detail the key areas identified as requiring more detailed analysis or key mitigating actions.			
Number	Description of Issue	Action	Timeframe
1	The initial decision would be to support the Article 4 Direction, to be followed by formal consultation. Any new issues would be assessed as part of that consultation and reported when the local authority decides whether to confirm the direction. Guidance suggests that the need and effectiveness for Article 4 Directions should be monitored at regular intervals. This would be subject to committee approval but would suggest a yearly review is appropriate. This does not need to be reflected	Tbc	Tbc

in any recommendations
at this stage.
