


<p style="text-align: center;">London Borough of Hammersmith & Fulham</p> <p style="text-align: center;">CABINET</p> <p style="text-align: center;">16 APRIL 2018</p>	
<p>ARTICLE 4 DIRECTION TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR OFFICE TO RESIDENTIAL CONVERSIONS</p>	
<p>Report of the Cabinet Member for Economic Development and Regeneration: Councillor Andrew Jones</p>	
<p>Open Report</p>	
<p>Classification - For Decision Key Decision: Yes</p>	
<p>Consultation Housing Legal Economic Development</p>	
<p>Wards Affected: All</p>	
<p>Accountable Director: Jo Rowlands, Strategic Director Growth & Place</p>	
<p>Report Author: Matt Butler, Head of Policy and Spatial Planning</p>	<p>Contact Details: Tel: 020 8753 3493 E-mail: matt.butler@lbhf.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1 On 6th February 2017 Cabinet agreed to the making of a non-immediate Article 4 Direction to remove permitted development rights in the Borough allowing change of use from office (Use Class B1a) and Light Industrial (B1 (C) to residential (Use Class C3). The permitted development right currently means that local planning authorities have limited control over changes of use from office and light industrial to residential as planning permission is not required. By removing PD rights through an Article 4 Direction such as this, applications can be assessed against planning policies to ensure compliance. The relevant direction was made on 25 April 2017 and is intended to come into force, subject to confirmation, on 26 April 2018.
- 1.2 Cabinet is now asked to consider the representations received and to decide whether the Article 4 Direction should be confirmed. It is recommended that

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 26 April 2018.

2. RECOMMENDATIONS

- 2.1 That after careful consideration of the consultation representations Cabinet proceeds to confirm the Article 4 Direction made on 25 April 2017 (**see appendix 1**) and coming into force on 26 April 2018.
- 2.2 That Cabinet delegates to the Strategic Director Growth & Place, in consultation with the Cabinet Member for Economic Development and Regeneration all necessary tasks to give effect to the confirmed direction (including notifying affected property owners and the Secretary of State).

3. REASONS FOR DECISION

- 3.1 Since the introduction of the Government's permitted development (PD) rights for offices and light industrial to change to residential use, the council has seen an increased loss in employment land supply across the borough in particular the loss of office and industrial land to residential use. The impact these PD Rights have had in the borough can be seen through the loss of employment space through Prior Approval applications. Since May 2013, an estimated 73,076 sqm of office development has been granted for conversion to C3 private residential through prior approval in the borough. In particular, the vulnerable office space to PD is smaller scale, lower end/older office space that is usually the more affordable space especially for start-ups and SMEs.
- 3.2 The purpose of PD rights is to speed up the Development Management process and therefore the delivery of development. As a result, prior approval applications are not assessed against the policies in the Development Management Framework and may not fully comply with the borough's standards. Therefore, by removing PD rights through an Article 4 Direction such as this, applications can be assessed against planning policies to ensure compliance.
- 3.3 Hammersmith and Fulham Council have prepared a revised planning policy to help protect against the loss of employment premises in the borough. The policy contained in the Local Plan 2018 seeks to resist the loss of employment floorspace unless strict criteria are met. This means that the council have the ability to permit change of use of employment land and premises to residential but subject to the policy requirements being met. The implementation of the Article 4 Direction alongside the new Local Plan should provide a strong basis to protect and promote employment land across the borough.

4. PROPOSAL AND ISSUES

- 4.1 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.
- 4.2 Under the permitted development right, change of use from office (B1a) and Light Industrial (B1 (C) 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.
- 4.3 On 6th February 2017 Cabinet agreed to the making of a non-immediate Article 4 Direction to remove permitted development rights allowing change of use from office (B1a) and light industrial (B1 (C) to residential (C3). The Article 4 Direction was duly sealed on 25 April 2017 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 26 April 2018.

5. OPTIONS AND ANALYSIS OF OPTIONS

- 5.1 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.
- 5.2 The Council could decide not to introduce this Article 4 Direction. This option is not recommended, as without the ability to effectively assess proposals for change of use from office to residential through the planning system, it is likely the borough's supply of office floorspace and the success and viability of key employment locations would be undermined. The loss of office floor space would compromise the borough's ability to meet employment projections and maximise jobs for local people. It would also mean that the Council would not be able to manage the location, size, tenure mix or quality of new housing being produced through permitted development.
- 5.2 Cabinet is therefore asked to confirm the Article 4 direction made on 25 April 2017 such that the Direction will come into force on 26 April 2018 and to delegate to officers all necessary tasks to give effect to the confirmed

Direction (including notifying affected property owners and the Secretary of State).

6. CONSULTATION

- 6.1 Following the making of the Article 4 Direction, the Council notified affected owners/occupiers in accordance with the requirements of the General Permitted Development Order 2015. Over 2,000 letters were sent to businesses and residents, a public notice was placed in the local newspaper and details were made available on the Council's webpages. A notification letter was sent to the Secretary of State.
- 6.2 Representations about the making of the Article 4 Direction were invited to be made during a consultation period between 25 April and 6 June 2017. 22 representations were received with the majority of respondents supporting the Article 4 Direction. However, there were also comments opposing the removal of permitted development rights. A schedule of all the representations has been included in **appendix 2**.
- 6.3 A selection of the main issues/comments raised during the consultation are detailed below:
- *Conversion of office and industrial space without consent should never have been agreed by the Government in the first place.*
 - *Losing flexibility through the introduction of a borough wide Article 4 Direction will be significantly damaging and unnecessarily obstructive to housing supply.*
 - *I would very much like the Council to take a far more pro-active role in planning regulations and preserving what's left of the independent businesses we have in Fulham.*
 - *The proposal to impose an Article 4 Direction in respect of the PDR for converting office and light industrial uses to residential use conflicts with the National Planning Policy Framework.*
- 6.4 Officers have considered the representations and do not consider that they would amount to a justification not to proceed to confirm the Direction. It is important to note that 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 determination of an application for planning permission would mean that the proposed loss of office space would be assessed against relevant planning policies and consideration being given to any other material considerations.
- 6.5 The Secretary of State was notified of the making of the Article 4 Direction but no comments were received apart from a request for additional information, which the Council then provided.

7. EQUALITY IMPLICATIONS

- 7.1. The Council has had due regard to its Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. There are no expected negative impacts on protected groups with the making of a non-immediate Article 4 Direction to remove permitted development rights in the Borough allowing change of use from office and Light Industrial to residential.
- 7.2. Implications completed by Peter Smith, Head of Policy and Strategy, tel. 020 8753 2206.

8. LEGAL IMPLICATIONS

- 8.1 The Council must have regard to any representations received before deciding whether or not to confirm the Article 4 Direction. The detailed procedure for confirming an Article 4 direction is contained in Schedule 3 of the GPDO.
- 8.2 The Secretary of State has the power to cancel or modify an Article 4 direction at any time before or after it is confirmed.
- 8.3 *Implications verified/completed by: Lindsey Le Masurier, Senior Solicitor, tel. 020 7361 2118.*

9. FINANCIAL IMPLICATIONS

- 9.1 As office and light industrial to residential conversions are currently classed as permitted development, no applications for planning permission have been necessary and no fees have been required to be paid to the Council.
- 9.2 Approval to confirm the Article 4 Direction to remove permitted development rights in the borough allowing office and light industrial to residential conversions means that applications for planning permission including a planning application fee will be required.
- 9.3 The Article 4 Direction is therefore likely to lead to an increase in the number of planning applications for which planning application fees will be applicable. Any additional income is not expected to be significant and will be used to fund the consequent additional costs associated with the processing of these planning applications. It is important to note that the introduction of the Article 4 Direction could lead to an overspend in respect of processing the resulting applications and the fees generally do not cover the costs of processing.
- 9.4 Other costs associated with confirming the Article 4 Direction include those arising from notifying owner/occupiers, site notices and a public notice. The costs are estimated to be approximately £2,000 and will be funded from existing budgets within the Policy and Spatial Planning budget.

9.5 Implications completed by: Danny Rochford, Head of Finance, RPHS, tel. 020 8753 4023.

10. IMPLICATIONS FOR BUSINESS

10.1 This report recommends that Permitted Development rights are withdrawn for some commercial premises, specifically and with reference to businesses; Office (B1) (a) and Light Industrial (B1 (C) to Residential (C3). Overall the impact on businesses in the borough is considered to be positive given the additional protection to employment space, which will help maintain the supply of business space and control prices.

10.2 *Implications verified/completed by: Alben Karameros, Economic Development Team, 020 7938 8583.*

11. COMMERCIAL IMPLICATIONS

11.1 Currently there are no fees being paid to the Council for planning permission as office and light industrial to residential conversions are currently considered permitted development.

11.2 This report seeks approval to remove the permitted development rights in the borough. This means planning permission and planning application fees will be charged by the Council for office and light industrial to residential conversions.

11.3. However, the fees will not account as significant income for the Council and there is likely to be an overspend in respect of processing the resulting applications as the fees generally do not cover the costs of processing.

11.4 *Implications completed by: Andra Ulianov, Procurement consultant, verified by Simon Davis, Head of Commercial Management, tel. 0208 753 7181,*

12. IT IMPLICATIONS

12.1. There are no IT implications in this proposal.

12.2. From an Information Governance point of view, the proposal does not propose that personal data is managed differently and therefore there are no additional information management implications.

12.3. *Implications verified/completed by: Veronica Barella, interim Chief Information Officer, tel. 020 8753 2927.*

13. RISK MANAGEMENT

13.1. The reduction of available space affects the supply and demand balance which can push up commercial rents and make it harder for businesses and charities to start up, operate and grow in the borough additional risks may arise in local employment opportunities. The proposals would help mitigate risks in accordance with the needs and expectations of our community.

13.2. *Implications verified by: Michael Sloniowski Risk Manager, tel. 020 8753 2587.*

14. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

None.

LIST OF APPENDICES:

Appendix 1 – Article 4 Direction made in April 2017
Appendix 2 – Schedule of representations