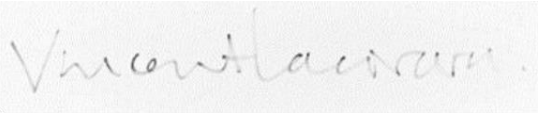




London Borough of Hounslow

| | |
|--|----------|
| Report for: ACTION | |
| Contains Confidential or Exempt Information | N |
| Cabinet Key Decision | Y |

| | |
|---|---|
| Report Title | Confirmation of an Article 4 Direction to withdraw permitted development rights for commercial, business and service uses to change to residential in specified areas |
| Member Reporting | Councillor Tom Bruce Deputy Leader of the Council and Portfolio holder for Assets, Regeneration and Development |
| Contact Details | David Dewar, David.Dewar@hounslow.gov.uk, Christopher Kirk, Christopher.Kirk@hounslow.gov.uk |
| For Consideration By | Cabinet |
| Date to be Considered | Tuesday 11 February 2025 |
| Deadline for call-in | Wednesday 19 February 2025 |
| Implementation Date (if not Called In) | 22 April 2025 |
| Affected Wards | (All Wards); |
| Approved by | Vincent Lacovara, Director of Planning and Buildings  |

1. Recommendations

Cabinet is asked to:

1. Taking account of the analysis of responses to the public consultation for the making of the Article 4 Direction set out in section 4 of this report/ Appendix 1, approve the confirmation of the non-immediate Direction in Appendix 2 of this report under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015, withdrawing permitted development rights for:
 - changes from commercial, business and service uses to residential uses (Class MA); and
 - the demolition of vacant offices/light industrial/research and development buildings and replacing them with housing (Class ZA); in certain areas of the borough, with an implementation date of 22 April 2025.
2. Subject to the above, delegate authority to the Director of Planning and Building to address any outstanding procedural requirements to make the Article 4 Direction operational.

2. Report Summary

The purpose of this report is to confirm an Article 4 Direction which was made on 17 April 2024 (following Cabinet approval for this in December 2023). This is a non-immediate Article 4 Direction which will withdraw permitted development rights for changes from commercial, business and service uses to residential uses (Class MA); and the demolition of vacant offices/light industrial/research and development buildings and replacing them with housing (Class ZA), in certain defined areas of the borough.

As the Article 4 Direction is non-immediate, the relevant legislation requires that such directions come into force no less than 28 days and no more than 2 years after being first publicised. A notice period of at least 12 months is recommended which removes the risk that developers affected by the Direction might seek to make compensation claims to the council for any financial loss accrued, in line with planning legislation.

The areas which the Direction applies to are: town centres; large neighbourhood centres; small neighbourhood centres; strategic industrial locations; locally significant industrial sites; and key existing office locations.

This means that any proposals for changes of use from Class E (Commercial, Business and Service uses) to residential within these areas, or any proposals for demolition of Use Class E and rebuild as residential, would require a full planning application to be submitted.

As agreed by Cabinet in December 2023, following the making of the Article 4 Direction, a public consultation was undertaken on the Article 4 Direction which ran from 22 April 2024 to 31 May 2024. Details of the feedback received is set out in paragraphs 4.12 –

4.15 of this report. No changes are proposed to the Article 4 Direction in response to the consultation.

The implementation of the Direction will allow the Council to maintain an appropriate level of oversight and scrutiny of such proposals, and to resist any proposals which would have harmful impacts for the borough or which would prejudice the proper planning of development in the borough.

It is therefore proposed that, subject to any prospective modification from the Secretary of State, the Article 4 Direction is confirmed for the designations envisaged, and should come into force on **22 April 2025**.

The Article 4 Direction (Class MA and ZA) is included in Appendix 2 of this report. The maps showing the areas of the borough where the Article 4 Direction will apply, and the Maps Index are included at Appendix 3 and Appendix 4 of this report respectively.

3. Background and links to Corporate Priorities

3.1. In 2021, the government introduced new permitted development rights (PDRs) for commercial, business and service uses. One of the new PDRs, which is the so-called 'Class MA' right, makes it possible to change from commercial to residential without full planning permission, provided that some limited conditions are satisfied which are set out in Class MA. The other new PDR is the so-called 'Class ZA', which makes it possible to demolish a single, purpose built, detached block of flats or a single, detached office, light industrial or research and development building and replace it with a detached block of flats or detached house (Part 20, class ZA); without full planning permission (again, certain criteria have to be met which are set out in Class ZA). Class MA and Class ZA are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which is a law that grants planning permission for certain types of development without the need for a separate application.

3.2. Under government policy in the National Planning Policy Framework (NPPF), boroughs can introduce Article 4 Directions withdrawing PDRs where they can identify that this is "necessary to avoid wholly unacceptable adverse impacts" (para 54 of the December 2024 update of the framework). It states that directions should be limited to situations where it is necessary to protect the local amenity or the well-being of an area, be based on robust evidence and apply to "the smallest geographical area possible."

3.3. The PDRs are designed to assist with housing supply, but there are concerns over the resulting loss of boroughs' ability to manage their employment land supply, to protect their local centres and to plan for their areas including supporting the growth of key business sectors. Several other London boroughs have already made and implemented Article 4 Directions withdrawing some of these PDRs from key areas.

Links to Corporate Priorities

3.4. The implementation of the Article 4 Direction will help the Council to meet the following Corporate priorities:

- **A Healthier Hounslow** – through ensuring thriving local centres which are accessible through sustainable means of travel such as walking and cycling;
- **A Thriving Hounslow** – through the protection of employment floorspace and ensuring the provision of suitable new land for growing sectors of the local economy; and
- **A Liveable Hounslow** – through ensuring the planning of sustainable communities.

3.5. The Direction also directly supports the aims of the adopted Hounslow Local Plan 2015 and the emerging Hounslow Local Plan. It secures an appropriate framework for maintaining the existing stock of – and ensuring a sufficient future supply of – employment land. Additionally, it will ensure that, through the planning application process, section 106 and Community Infrastructure Levy contributions are sought to mitigate the impact of development on existing infrastructure. In addition, key issues such as affordable housing can be addressed through a planning application, resulting in benefits to the local community.

4. Proposal and Rationale

Proposal

4.1. Cabinet is therefore asked to approve the confirmation of the Article 4 Direction, and to delegate to officers the detailed arrangements for implementation. The current intended implementation date for the Article 4 Direction is 22 April 2025. The Direction applies to:

- the borough's designated town centres and neighbourhood centres (as defined in the adopted local plan); and
- the designated employment areas (key existing office locations (KEOLs), strategic industrial locations (SILs) and locally significant industrial sites (LSISs)).

4.2. The effect of the Direction will be to remove permitted development rights (PDRs) for changes from commercial, business and service uses to residential uses (Class MA); and the demolition of vacant offices/light industrial/research and development buildings and replacing them with housing (Class ZA), in certain defined areas of the borough.

Rationale

4.3. Having considered the implications of the PDRs in Hounslow's case, Cabinet agreed that there was a risk of wholly unacceptable adverse impacts being caused by Class MA and ZA PDRs in key designated areas of the borough. These included hampering the Council's efforts to deliver regeneration, boosting key sectors such as the creatives industries, introducing a more vibrant evening economy and ensuring the ongoing vibrant role of local centres and undermining the management of employment land in the borough.

4.4. In Hounslow's case, there are particular factors which give the borough a unique geographical and economic context, which could mean that these PDRs are particularly damaging. These include:

- Our proximity to Heathrow;
- The crucial role of employment land in the borough;
- The growth of the borough's creative industries as a key sector providing jobs for the borough's residents;
- The role of the borough's town and neighbourhood centres in serving their communities.

4.5. This context is reflected in key elements of the planning strategy for Hounslow, which include:

- Protection of promoting of the vitality and viability of the borough's network of town and neighbourhood centres;
- Promoting a mix of uses and the evening economy;
- Supporting the economy based on regeneration of key parts of the borough;
- Boosting the creatives sector.

4.6. Having considered the risks associated with the PDRs as described in the section above, the Council made an Article 4 Direction to remove these rights in designated areas, on 17 April 2024. As it is a non-immediate Article 4 Direction, the relevant legislation requires that such directions to come into force no less than 28 days and no more than 2 years after being first publicised. A notice period of at least 12 months is recommended, which removes the risk that developers affected by the Direction might seek to make compensation claims to the council for any financial loss accrued, under the relevant legislation (Section 108 (2A) of the Town and Country Planning Act 1990).

4.7. With the publicity period having elapsed and comments having been received and considered, it is recommended that it is now appropriate to confirm the Direction, ready for it to come into force following the one-year notice period. Introduction of the Direction will:

- Enable the Council to maintain its ability to proactively manage commercial, business and services uses across key areas of the borough. This will ensure that proposals that lead to the loss of commercial uses comply with the Council's policies for town centres and for employment land.
- Enable the borough's town and neighbourhood centres to continue their key role in supporting local communities and ensure the borough's strategy for employment growth, including for sectors such as the creatives industries in the Great West Corridor (GWC), remain deliverable.

4.8. Clearly, there is a risk of the new PDRs directly undermining these fundamental elements of the strategy, leading to the loss of key premises/land to serve these objectives. Therefore, they could hamper the Council's efforts to deliver regeneration, boost the creatives, introduce a more vibrant evening economy and ensure the ongoing vibrant role of local centres.

4.9. Our evidence shows that the borough's town and neighbourhood centres are popular and successful, with generally low vacancy and high footfall. There is therefore a strong case for protecting what are clearly vital and viable centres from any developments which could undermine this vibrant role.

4.10. The evidence also highlights the critical role of employment land in the borough, the ongoing need to provide additional employment land for industrial and office use, and for policy and planning approaches to be taken forward to support the growth of key sectors such as the creatives. It shows the critical role existing industrial areas will play in the regeneration and growth of key parts of the borough.

4.11. Overall, the evidence clearly points to the risk of wholly unacceptable adverse impacts being caused by these PDRs in key designated areas of the borough. Based on this evidence, therefore, the areas to which the new Article 4 Direction should apply are:

- the borough's designated town centres and neighbourhood centres (as defined in the adopted local plan); and
- the designated employment areas (key existing office locations (KEOLs), strategic industrial locations (SILs) and locally significant industrial sites (LSISs)).

Appendix 5 of this report sets out the detailed case for this Article 4 Direction, including further background information, justification and evidence.

Public Engagement

4.12. Notification was given of the decision to make the Article 4 Direction on 19 April 2024, with the statutory consultation on the Direction starting on 19 April and running to 31 May 2024. A report on the consultation is included at Appendix 1. In summary, during the consultation process, 9 representations were received by the Council on the Direction. These comprised:

- 3 from developers opposing the Direction being applied to their particular site;
- 1 from a local stakeholder group calling for an additional site to be added to the area of the Article 4 Direction;
- 2 from individuals and local stakeholder groups supporting the Direction;
- 1 from a government statutory body (Historic England) supporting the Direction;
- 2 raising no comments.

4.13. Each individual representation is set out in full in the Consultation Report (Appendix 1). Regarding the developer objections, the following comments were made:

- The loss of offices on a particular site being referred to in the consultation response would not result in wholly unacceptable adverse impacts; and the site is not considered a viable future location in the future for offices. Its inclusion in the designated area would therefore mean that the Direction would not apply to the smallest geographical area possible.
- The proposed Direction does not meet the policy requirements of the NPPF, as it is not based on adequate or robust evidence to support the case for it being applied to a particular site being referred to in the consultation response. The Direction is not considered necessary to protect local amenity or the well-being of the area.
- The Direction fails to be supported by an adequate evidence base and ignores the potential for permitted development to deliver much needed homes in suitable places.

4.14. Other comments received included a response from a local residents' group, which supported the making of the Direction but expressed concerns that the Chiswick Tower, Chiswick High Road, had not been included in the Direction, and called for the Council to consider the case for a direction covering this site.

4.15. Historic England supported the proposed Direction. It stated that it will better protect the historic environment, particularly conservation areas and non-designated heritage assets.

4.16. Reason for Decision and Options Considered

4.17. The main benefit of the Article 4 Direction being confirmed is that it will significantly decrease the risk of wholly unacceptable adverse impacts being caused by Class MA and Class ZA permitted development rights in the designated areas of the borough. The risks have been identified by the Council as including the loss of key units in town and neighbourhood centre, undermining their vitality and viability; undermining efforts to promote sustainable communities and the evening economy; impacting the integrity of industrial areas by introducing residential use and thereby potentially introducing obstacles to business operations; and displacing commercial and services uses in parts of the borough identified for employment growth, thereby undermining key parts of the strategy, such as promoting the growth of creatives.

4.18. Disbenefits of the Direction will be the resource implications of processing more planning applications. However, these proposals already need to be processed via prior approval applications, and it is considered that this resource will be met through existing budgets and planning application fees. Other disbenefits will be the cost to developers of preparing and submitting planning applications. However, it is considered that this is outweighed by the benefits of the borough being able to manage its stock of floorspace in Class E use and that the costs of planning applications will not deter businesses from operating and developing in the borough.

4.19. Alternative options considered are pursuing a borough-wide Article 4 Direction and not pursuing an Article 4 Direction. Following the responses to the publicity on the Direction, further options considered have been reducing the area covered by the Direction to exclude individual sites, and extending the area of the Direction to include additional sites over those proposed to be covered.

4.20. The Council considers that there is insufficient evidence to support a borough-wide Article 4 Direction as this would contain many residential areas; it would not meet the criteria in terms of 'wholly unacceptable adverse impacts' and the 'smallest geographical area possible'. By contrast, not pursuing an Article 4 Direction at all would risk allowing the realisation of wholly unacceptable adverse impacts identified in the report above.

4.21. In response to the representations received on the making of the Direction, the Council continues to consider that the evidence base highlights that there are particular circumstances in place in Hounslow justifying the Direction as made. These are the importance and profile of employment land which means that there is the potential for Class MA and ZA permitted development rights to cause significant harm to the boroughs' economy and communities. The Council maintains the concern that the prior approval process does not provide adequate mitigation of these impacts. Regarding the particular sites cited by developers (as set out in the section above and in Appendix 1 - Consultation Report), the Council notes that they all fall within employment designations where the inability of the Council to manage the stock of land and the development of employment uses risks resulting in wholly unacceptable adverse impacts. Additionally, two of the sites fall within the Great West Corridor area where the future development and maintenance of an adequate scale and quality of employment land is of strategic importance. Overall, therefore, it is still considered that the proposed designations remain an appropriate area for the Article 4 Direction to apply to. The presence of an Article 4 Direction will not stymie appropriate developments coming forward; it merely allows the Council to maintain an appropriate level of management and oversight over the nature of this development, via the planning application process.

4.22. Regarding the proposed inclusion of the Chiswick Tower, there is no provision in the legislation to add additional locations to an Article 4 Direction after notification has taken place. As notification for the proposed Direction has already been given, any additional sites would have to be included in a new Article 4 Direction that would have to be introduced through the full statutory process. The issues highlighted in the representation that requests inclusion of Chiswick Tower in the area covered by the Direction are specific to the site and therefore may not necessarily apply to the wider Article 4 Direction being proposed. It is not therefore proposed to make any change to the area covered by the Direction on the basis of the issues highlighted in this representation.

5. Risk

5.1. There is a risk that the Secretary of State cancels or modifies the Article 4 Direction once confirmed. In this case, the Council will not be able to apply the approach to any excluded areas, so it would have to rely on the prior approval process to manage any impacts within any such excluded areas.

5.2. Appropriate and sustainable developments are critical for the future growth of the borough. There is therefore a risk that the Article 4 Direction may disincentivise developers to bring forward some development schemes. However, it is considered unlikely that the need to submit a planning application would result in any meaningful change to the scale or rate of development coming forward.

6. Financial Implications

6.1. . Preparation of and consultation on the Article 4 Direction is being resourced internally by Spatial Planning team and its cost can be met through existing budgets.

6.2. As referred to in paragraph 4.6 of this Report, the non-immediate nature of the Article 4 Direction (with implementation being triggered no less than 12 months after the notice of the making of the Article 4 Direction) mitigates the risk of compensation claims from applicants where planning permission is refused as a result of the Direction.

6.3. The implementation of the Article 4 Direction is likely to lead to more planning applications in the areas covered by the Direction than there would be if the Direction were not implemented, which will have to be processed by the Development Management Planning Team. It is considered that the costs of this work will be covered by application and pre-application fees. It should be noted that planning application fees are much higher than the fees for proposals coming forward under permitted development rights (prior approvals), and therefore would be much more likely to cover the costs of processing the applications. On this basis, whilst not a relevant factor in determining whether or not to confirm the Direction, it is worth noting that the confirmation of the Direction would, overall, likely result in generating greater income for the council than not doing so.

6.4. Planning applications for new housing or conversions to housing are likely to require financial contributions to be made through the Community Infrastructure Levy (CIL) and Section 106 agreements including provision of affordable housing. Meanwhile, developments subject to prior approval do not make financial contributions to affordable housing, and would therefore not contribute to the borough's London Plan set strategic affordable housing target of 50% of all new homes. A consequence of this would be that the council would have a reduced amount of Section 106 contribution funding to deliver affordable housing in the borough. Having the Article 4 Direction in place will help prevent this from occurring, as removing the permitted development rights will mean applicants are required to submit planning applications which, for qualifying sites, will be required to make Section 106 contributions for affordable housing.

7. Legal Implications

7.1 As a non-immediate Article 4 Direction, if confirmed by Cabinet, the Direction cannot come into force any earlier than one year from the date of the publication of the notice, which as noted above in the current case was 19 April 2024. The decision to confirm must be notified on the owner and occupier of every part of the land within the area or site to which the Directions relate, unless (as in this case) the Council considers that individual service on owners / occupiers is impracticable because it is difficult to identify or locate that person; or the number

of owners or occupiers within the area to which the Direction relates makes individual service impracticable. In addition, a copy of the Direction and the relevant maps will need to be sent to the Secretary of State on the same day that notice is first published. Any statutory undertakers and the Crown will also need to be sent individual letters with a copy of the Direction where applicable. A copy of the Direction including its associated maps must also be placed on the Council's website.

7.2 The Article 4 Direction cannot be applied retrospectively to development undertaken before a direction comes into force, or to development that has commenced at the time that a direction comes into force.

8. Communities, Equalities and Health Implications

8.1. The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not; and
- (iii) to foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, sexual orientation.

8.2. The Spatial Planning Team has assessed the key equalities impacts of removing permitted development rights through the proposed Article 4 Direction throughout the process of making the Direction, including as part of the December 2023 Cabinet report on the Making of an Article 4 Direction to withdraw permitted development rights for commercial, business and service uses to change to residential in specified areas (in section 7 of the report).

8.3. It is considered that if the Council were not to make such an Article 4 Direction, the loss of commercial, business and service uses through permitted development, particularly in town and neighbourhood centres but also in designated employment areas, could lead to significant negative impacts on groups with protected characteristics. The particular groups considered to be most impacted by the loss of access to these venues and services (either for work, shopping for essentials and specialty items, leisure or other needs) are: children and younger people; older people; those with disabilities; pregnant people; and those from BAME communities.

8.4. This could also pose a threat to the ongoing vitality of local and neighbourhood centres, areas which typically contain essential services and facilities for local communities including those sharing protected characteristics, and this could also lead to negative impacts upon fostering good relations and community cohesion. Additionally, the loss of floorspace for commercial, business and related services could

pose a threat to employment land in designated areas, which is land which provides positive economic outcomes for all of those with protected characteristics.

8.5. It is considered that the Article 4 Direction would not have any adverse equality impacts or adverse outcomes upon those with protected characteristics who might otherwise seek to benefit from the PDR in question, because although the Direction would remove these rights in the specified localities, proposals for conversions from commercial and business premises to residential uses could still be brought forward through a planning application.

8.6. Furthermore, the ability for the Council to assess the impacts of such conversions of business and commercial premises to residential uses through a full planning application is likely to positively impact on all groups who share protected characteristics, in particular by ensuring that all housing in the borough provides sufficient levels of amenity (something the Council would not be able to control if a change of use takes places under permitted development rights). This would also allow such proposals to be subject to public consultation, during which those with protected characteristics could raise any specific equalities impacts that may be relevant to such a decision.

8.7. The Article 4 Direction will also enable the Council to assess where conversions would risk harming the vitality of town and neighbourhood centres, ensuring accessibility of such facilities for those who share protected characteristics. It will also help ensure that employment floorspace is protected, enabling positive economic outcomes for all residents.

8.8. Overall, it is considered that the impacts of confirming the Article 4 Direction are likely to have a significant positive impact on residents with disabilities, those from BAME communities, carers of young children, and younger and older residents.

8.9. The PSED has been complied with in terms of the preparation of the emerging Local Plan (2020-2041) Regulation 19 Version, the objectives of which (promoting economic growth and supporting our town centres) the Article 4 Direction is seeking to help deliver.

8.10. As part of the preparation of the emerging Local Plan, an EqIA has been completed. This considers the impact of the policies and proposals in the Plan, and any reasonable alternatives, on groups with protected characteristics. The EqIA can be viewed in Appendix 6 of this report.

9. Climate Emergency Implications

9.1. The Article 4 Direction would have a minor impact as it would apply to changes of use only. It would, however, assist the Council's ambitions to be carbon neutral by 2030, by ensuring the ongoing vitality and viability of local centres, including town centres and neighbourhood centres. This would help encourage sustainable transport and minimise the generation of unnecessary trips by private vehicle.

9.2. The Article 4 Direction would assist the Council's ambition to be carbon neutral by 2030, by requiring planning permission for demolition of vacant office blocks and light industrial blocks and their replacement with housing. This would enable the

Council to assess such proposals against the full range of Local Plan and London Plan policies, including those related to reducing carbon emissions and the circular economy.

10. Other Implications

10.1. In terms of staffing implications, Development Management staff will be required to process planning applications for any changes of use or for demolition/rebuild which otherwise would have been subject to the PDRs, though would still have resulted in prior approval applications in any event. Spatial Planning staff will be required to monitor the results and effectiveness of the Article 4 Direction.

11. Value for Money Assessment

11.1. Confirming and implementing the Article 4 Direction would mean that the specified forms of development would be considered in full via a planning application in the designated areas. They would therefore be subject to adequate application fees and would make relevant contributions to affordable housing and local infrastructure, thereby representing good value for money. This is in comparison with the 'prior approval applications' which such developments would currently be subject to. These are charged at a lower fee rate, and there is no scope to require contributions to affordable housing and infrastructure.

12. Implementation Plan

12.1. If Cabinet approval is received in February 2025, notice will be given in the Hounslow & Chiswick Herald, along with the required site notices being displayed across the borough in a similar manner to the making of the Direction in 2024. It will also be published on the Council's website and notification given to the Secretary of State.

12.2. The intention is to implement the Article 4 Direction from 22 April 2025. This would mean that any proposed changes from Class E uses to residential using Class MA PDRs, or proposed demolition and rebuild using Class ZA PDRs, would require planning permission.

12.3. The Council will provide further guidance and publicity regarding the implementation of the Article 4 Direction to stakeholders, through a 'Frequently Asked Questions' sheet, which will outline the Direction, what effect it has and why it is being introduced.

13. Comments of the Chief Financial Officer

- 13.1 Any costs arising from making the Article 4 Direction operational must be met from within existing approved budgets.
- 13.2 As outlined in section 6, the costs arising from processing the planning applications that follow on from the implementation of the Article 4 Direction are expected to be met from planning related fees and charges.

14. Comments of the Monitoring Officer

- 14.1. The matter is one for determination by Cabinet in accordance with the Council's Constitution and the relevant legislation outlined in this report.

15. Appendices

- 15.1. The appendix documents can be found at the below SharePoint links

- 1 - [Consultation Report](#)
- 2 – [Article 4 Direction \(Class MA&ZA\)](#)
- 3 - [Article 4 Direction Maps \(Class MA&ZA\) \(Second Schedule\)](#)
- 4 - [Article 4 Direction \(Class MA&ZA\) Maps index](#)
- 5 - [The case for an Article 4 Direction](#)
- 6 – [Local Plan Regulation 19 Version EQIA, June 2024](#)

16. Background Information

- 16.1. N/A.

REPORT ENDS