

## **APPENDIX 1: THE CASE FOR AN ARTICLE 4 DIRECTION**

### **What are the new permitted development rights?**

The Government introduced the 'Class MA' permitted development right (PDR) in 2021 and the 'Class ZA' right in The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020. The Class MA right is subject to certain stipulations, including a size threshold of 1,500 sqm, a vacancy requirement (2 months) and an exception for listed buildings. The right is also subject to a series of so-called 'prior approval' issues, whereby boroughs have limited scope to the impact of proposed changes of use on a defined list of issues. These include transport access, flooding, impact on the character and sustainability of a conservation area and impact on intended occupiers of the introduction of residential use in an area considered to be important for industry. However, they do not include any assessment of impact on town centre vitality or viability, or of the impact of loss of employment or impact on the character of the area (outside conservation areas).

The Class ZA right is also subject to certain conditions and prior approval considerations. These include height limits, design considerations and an assessment of the impact on business and new residents of the introduction of or increase in residential use in the area.

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 53). It states that directions should be limited to situations where a direction is necessary to protect local amenity or well-being of an area, and be based on robust evidence and apply to "the smallest geographical area possible."

There have been widespread concerns from stakeholders in the planning sector that such wide-ranging PDRs have potentially detrimental impacts on all boroughs' ability to manage their stock of commercial uses and the future vibrancy of town and neighbourhood centres. Furthermore, the Mayor of London has recognised the potential impacts of Class MA rights by encouraging boroughs to make Article 4 Directions removing PDRs where appropriate, and by producing a strategic evidence report to support such Directions.

In Hounslow's case, there are some particular factors which give the borough a unique geographical and economic context, which could mean these PDRs are particularly damaging. These include its proximity to Heathrow, the importance of employment generally to the local economy, the plans in place to encourage the continued growth of the creative industries and the importance of the borough's network of town and neighbourhood centres in serving their local communities.

This context is reflected in key elements of the planning strategy for Hounslow – outlined in the adopted Local Plan 2015 and which were contained within the local plan reviews for the Great West Corridor and the West of the Borough. The key elements of the strategy were:

- Protection and promotion 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 in the west of the borough through the provision of additional industrial land and the maintenance/protection of the stock of existing industrial land;
- Supporting the economy in the Great West Corridor and promoting a place-making agenda based on regenerating the area and providing a range of premises for local businesses, and particularly for the burgeoning creatives sector in this part of the borough.

Clearly, there is a risk of the new PDRs directly undermining these fundamental elements of the strategy. It could:

- Directly lead to the loss of key units in town and neighbourhood centres, undermining their vitality and viability;
- Undermine efforts to promote sustainable communities including concepts such as 20-minute neighbourhoods or 15-minute cities;
- Undermine efforts to boost the evening economy by introducing residential development to key parts of town and neighbourhood centres, displacing other uses and potentially introducing obstacles to businesses operating in the evening;
- Impact on the integrity of existing industrial areas, by introducing residential use, thereby prejudicing the growth of industrial uses and potentially introducing obstacles to business operations;
- Displacing commercial and services uses in parts of the borough identified for employment growth, thereby undermining the key parts of the strategy, such as promoting the growth of creatives.

### **The grounds for an Article 4 Direction**

There has been a gradually increasing number of Class MA prior approval applications in the borough. So far, they have typically been for small vacant office units at the fringes or outside of town centre areas. There is a concern that the cumulative increase of such proposals will start to have a marked impact on centres. This is particularly in view of the government's proposals to further liberalise the regime and remove some of the safeguards, including increasing the threshold and removing the vacancy requirement.

Looking in more detail at the impact of PDRs on employment land, latest studies show that there is a substantial unmet need for additional employment floorspace in the borough. The employment land studies carried out for the borough in 2016 and 2020 show that there was a requirement for nearly 190,000 square metres of industrial land and nearly 150,000 square metres of offices. Whilst heavy industry is not within the scope of the Class MA Right, light industry does fall within the ambit of the permitted development legislation. This means that premises such as workspaces, production space serving creative and media/broadcasting sectors, could be lost to housing under the PDR, jeopardising the Council's strategy for one of its key growth sectors. The significant need for such space, combined with the fact that the important role of the creatives in the borough means that light, flexible workspaces form a significant element of this need. It is thus critical for such stock to be protected where possible.

More pointedly, the analysis of planning applications showed that prior to a previous A4D preventing office to residential changes coming into force in 2018, there had been a loss of 63,000 square metres of offices from the prior approval process between 2012-15, and that combined with 65,000 square metres of offices being lost through the conventional planning application route, this left the borough having lost nearly 130,000 square metres of office floorspace altogether – a very substantial sum.

This was brought under control, at least in the key employment areas of the borough, when the A4D was introduced. However, this ceased to have effect in August 2022, and with the introduction of the new, wider PDRs, this situation clearly presents a serious sign of the challenges facing the borough's office stock. It is recognised that the changing working practices, which have evolved particularly since the pandemic, are likely to have altered the picture regarding the need for office floorspace. However, given the criticality of the employment profile of the borough, it will still be important to retain stock, even if it is provided in a different format (for example, in a manner which is particularly appropriate for growing sectors such as the creatives/media/IT).

A particularly critical aspect of the economic context of the Great West Corridor is the support and growth of the creative industries. This follows on from the Mayor of London's designation of the area as a Creative Enterprise Zone (CEZ) – Great West Creatives. This reflects the strength and opportunity represented by this sector. The purposes of the CEZ are:

- To promote new creative clusters and workspace
- To provide employment and training for local people and strengthen the already thriving creative economy in Hounslow
- The designation underlines the importance of strengthening networks between major companies such as Sky and locally-based enterprises, and building on London's hub for TV and film production by unlocking new affordable production and studio space.

The risk to the work of Great West Creatives from Class MA and ZA PDRs is that they could directly remove what would otherwise be affordable space available for creative industries, and could also impact the integrity of industrial areas by introducing residential use in an unmanaged manner, which harms the future potential of the area to deliver space for such businesses.

There has recently been a particularly concerning appeal decision relating to a Class ZA prior approval application in the borough. This was for the demolition of an office building and rebuild as residential apartments on the Power Road Industrial Estate (planning application reference 00535/250/PA2). Although the appeal was dismissed, the inspector rejected the ground of refusal that the introduction of residential would harm businesses in the area. This clearly sets a damaging precedent and underlines the need to protect areas such as this with an Article 4 Direction. Given that this is an area which the Local Plan strategy and employment evidence has envisaged as being particularly appropriate for providing new floorspace for firms operating in the creatives sector, the precedent created by the decision is potentially very damaging and it highlights the need for an Article 4 Direction to provide some protection for these key employment designations.

## GLA Strategic Evidence report

In July 2021 the Greater London Authority (GLA) published a strategic evidence report (see Appendix 2) designed to support London boroughs who may wish to pursue A4Ds withdrawing commercial to residential PDRs. Overall, this report found:

- The Mayor supports A4Ds to safeguard strategic office functions in town centres across London;
- Outside of town centres, the contribution of other urban business parks – such as Bedfont Lakes and Chiswick Park (both in Hounslow borough) to the economy and employment of outer London in particular could be reduced by PDRs;
- London’s high streets and town centres have shaped the fabric of the capital and are a focal point for London’s culture, communities and everyday economies. In some locations, PDRs could “undermine the adaptation of London’s town centres and high streets as vibrant, successful locations for a range of businesses, culture, civic and community activities complemented by well-planned housing and mixed-use development”. The report argued that with the right support, town centres were well placed to recover from the impacts of the pandemic, and that “it is essential that these actions are not undermined by permitted development”.
- It is important to mitigate against the negative impacts of commercial to residential PDR on plan-led approaches to industrial development
- A4Ds may be particularly appropriate in Creative Enterprise Zones “where it is important to safeguard capacity for light industrial, maker space and culture-oriented creative production uses”.

The report found that the difference between the value of offices, retail and light industrial properties relative to residential use in London, “is such that the new Class E to residential PDR could see a significant loss of commercial uses to residential.” Specifically, it suggested that average residential values exceed average office and retail values in most parts of London including in outer London. The only exception to this was in lower residential value band areas of outer London. Here, the average residential values are broadly comparable with average retail values, but marginally higher than office values. It stated that average residential values exceed average industrial values in all parts of London.

## The consultant’s study

The Council appointed Stantec to produce a study incorporating a town centre and neighbourhood centre ‘health check’, together with a commentary on the potential impact of the PDRs on employment land in the borough (see Appendix 1).

The report was finalised in autumn 2022. Overall, the results were:

- The borough’s town centres were overall functioning successfully, with generally low rates of vacant units and high levels of footfall;
- Some of the centres had particular characteristics which made them successful, e.g. Hounslow’s particular independent food offer, and Chiswick’s high-quality food and drink offer;

- The borough’s wide network of neighbourhood centres was also operating successfully, with generally high footfall and low vacancy rates;
- There remains a significant requirement for additional employment floorspace, including to support the growth of the creatives;
- As shown in the table below, the differential between values in the borough showed that, in some of the centres in the borough, commercial rent values meant that units in these areas may be particularly vulnerable to pressure for change to residential. The report highlighted that such value differentials had driven the loss of offices in similar areas in Richmond borough in the past.

**Table: Average commercial rents for centres compared with residential property prices, Hounslow borough**

<b>Centre</b>	<b>Average commercial rent (£/sq m)</b>	<b>Average property price (July 2022)</b>
Hounslow	748	£451,095
Chiswick	1,309	£752,100
Brentford	252	£518,915
Feltham	418	£373,176
Hounslow West	300	£451,095
Bedfont	246	£332,492
Hanworth	294	£407,495
Heston	220	£377,525
Cranford	160	£338,846
Isleworth	228	£474,920
Old Isleworth	367	£551,250
<b>AVERAGE</b>	<b>413</b>	<b>£457,174</b>

Source: Government property information and Foxtons average house prices (July 2022) cited in Stantec Evidence Report 2022

The popularity and success of the borough’s town centres, as highlighted by the report, is considered to be a strong reason for protecting what are clearly vital and viable centres, especially where a comparison of values provided in both the Stantec and the GLA studies pointed to potential vulnerabilities to residential conversion. Were such conversions to take place, it would result in lower footfall arising from these units and thereby potential harm to the ongoing vitality and vibrancy of these centres.

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 growth 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. The emerging planning strategy reflects this, including by bringing forward plan-led approaches to providing land in such areas for critical growth sectors of the economy such as the creative industries. Such strategies and objectives could be compromised were units to be lost to residential use in these key employment areas, and it is therefore considered that there is justification for protection of these uses in designated employment areas.

Overall, it is recommended that the evidence clearly points to the risk of wholly unacceptable adverse impacts being caused by Class MA rights and Class ZA rights in key designated areas of the borough, and therefore a targeted withdrawal of these PDRs should take place. Based on the findings in the report, the designated areas recommended for protection 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)).

Alternative options considered are pursuing a borough-wide Article 4 Direction and not pursuing an Article 4 Direction at all. It is recommended that there is insufficient evidence to support the former, given the much lower quantum of Class E stock outside the designated areas, together with the fact that it is the key designations which are the core commercial, service and business areas for the borough which need to be priorities for protection. Were particularly damaging proposals to come forward outside these areas, the Council would have the option to consider an immediate Article 4 Direction for individual properties were this judged to be justified and proportionate.

In relation to the option of not pursuing an Article 4 Direction, it is recommended that this would risk allowing the realisation of wholly unacceptable adverse impacts identified in the section above. This option is therefore not recommended.

**References and further evidence:**

[GLA Strategic Evidence report \(GLA, July 2021\)](#)

[Evidence Report to Support Consideration of Article 4 Directions \(Stantec, October 2022\)](#)