



Chief Officer Decision

Pursuant to Article 3C Delegation to Officers (section 6.12) of the Constitution of the London Borough of Hounslow (which came into operation in May 2021)

Details of Decision Taken

Title of decision	Withdrawal of Article 4 Direction – Brentford Dock	
Directorate	Housing, Planning and Economic Regeneration	
Name and title of Chief Officer ¹	Victoria Lawson, Executive Director Environment, Culture and Customer Services	
Date	6 March 2023	
Exempt Information and Grounds	No	If Yes, Identify Which Access to Information Exemption Clause (see Part 4E Access to Information Procedure Rules (section 11.4)
Key decision? ²	No	If yes, identify on what grounds
		If yes, Identify the Forward Plan Reference Number ³
		If yes, confirm that notice of the decision has been on the Forward Plan for at least 28 days in advance of the Decision Date.
		If yes, identify the date that the decision is to be placed in the public domain
		If yes, identify the date that the decision will be implemented if not called in.
Details of Decision (To be recorded as soon as practicable and be available for inspection along with all background papers that have	To withdraw the immediate Article 4 Direction imposed on Brentford Dock	

¹ Authorised officers are an Executive Director, Director or an officer who reports directly to a Chief Officer.

² A key decision is an executive decision which is likely to result in the Council incurring expenditure or making savings that is/are significant (i.e. savings in excess of £1 mil (capital expenditure) or **£500,000**(revenue expenditure) or where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the service in question) having regard to the budget for the service or function to which the decision relates **OR** is significant in terms of its effects on communities living or working in an area comprising two or more wards.

³ At least 28 days' notice on the Forward Plan is required where an executive decision is a key one

<p>been used to inform the decision unless exempt from publication. If exempt include details of the exemption relied on here. Decision to be retained indefinitely in accordance with Records Management Policy)</p>	
<p>Reasons for the Decision</p>	<p><u>Background</u></p> <p>On 12th January 2023 members of Hounslow Council Planning Committee resolved to delegate authority to the Director of Planning and Buildings to impose an immediate Article 4 Direction (“the direction”) on Brentford Dock (“the Dock”) to restrict the installation of new gates, fences or other means of enclosure.</p> <p>The purpose of the imposition of the direction was to commence a period of consultation with local residents to obtain views on the implications of erecting gates within Brentford Dock. This was pursuant to the installation of two recent gates in the Dock area in 2021 and 2023 respectively.</p> <p>As a result of the direction no further gating could be erected without first obtaining planning permission for a period of 6 months. The order would restrict this in perpetuity if confirmed following the consultation period. The order cannot force the removal of any gating erected prior to its imposition.</p> <p>The reason given for the direction was to ensure that Hounslow residents were able to access the area of riverside to the north of Brentford Dock, in accordance with Policy GB5 (Blue Ribbon Network) of the Councils adopted Local Plan and policy SI 16 (Waterways – use and enjoyment) of the London Plan which seek to ensure that public access to and along waterway frontages are retained. The gates that have been erected were restricting this access.</p> <p>The direction was confirmed on 31st January 2023 and the consultation on the direction ran from 3rd February 2023 and 28th February 2023. The consultation was undertaken by way of site notice, press notice and information was added to the Councils web site.</p> <p>As part of this consultation the Secretary of State was notified. No objection was received.</p> <p><u>The Consultation Response</u></p> <p>As of 6th March 2023, 331 responses have been received. 222 residents objected to the direction, 105 supported the direction and 2 neither objected or supported.</p> <p><i>Grounds for Objection to the direction</i></p> <p>A significant number of objections raised concerns over the legality of the direction, legal and moral concerns over its imposition on private land and the cost/ mental implications of the direction on Dock residents. These matters are dealt with below.</p> <p>Additional concerns were raised over:</p> <ul style="list-style-type: none"> • The cost of maintaining the land, born by residents of the Dock

- Antisocial behaviour that takes place on the Dock
- The high/ increasing number of users of the Dock, with new development being pointed towards as a key factor in this
- That the Docks do not lend themselves to public access, with limited amenity space for current residents and security risks due to the design of the homes within the Dock itself

A variety of other concerns were raised, including positive design comments, concerns over a precedent being set, that other options had not been explored and safety/ liability issues.

Alongside the objections were a number of comments that the Council should have/ should be doing more to assist the residents of Brentford Dock in their concerns.

Grounds for Support of the direction

The following issues were consistently raised within letters of support:

- The implications of introducing gated communities in the borough
- The importance of allowing access to the riverside for reasons such as mental health and heritage
- Equality issues were raised, including disabled access and accessibility issues associated with using the existing Public Right of Way (down some steep steps)
- There were some supporters from within the Dock itself, raising access, design and the prison like feel of the gates

Anecdotal evidence of the riverside walk being quiet and not seeing antisocial behaviour was provided, including suggestions that as the walk had been open for a significant number of years it should be a public right of way.

As with some letters of objection, the Council were urged to find a compromise to ensure that access was preserved.

The Decision

The consultation responses were discussed with both the Chair of Planning Committee and the Portfolio Holder for Regeneration and Development. Pursuant to the discussion this Chief Officer Decision is that this Article 4 Direction should be withdrawn with immediate effect.

It is clear from the consultation responses that there are significant concerns from residents within the Dock with the direction. Procedural and legal matters aside, there are substantial concerns over the safety of its residents, which appear to have grown during and after the pandemic and include the perceived risk from the growing population of Brentford Town Centre. Additionally, there are concerns that residents are having to pay for the maintenance of the land, and that it is unfair that they have to foot the bill while the use of the area increases.

A large number of supporting comments have been provided, seeking to prevent the social problems of gated communities and looking to secure the heritage and health benefits of the riverside walk. A number of representations from both sides seek to secure a compromise

	<p>Ultimately this Article 4 Direction fails to secure the objectives of either group. The direction can only prevent new gating, existing gating on site cannot be removed as part of the process and therefore the direction cannot provide access to the riverside walk. In addition to this it would serve to prevent gating that residents may otherwise seek to provide security, which may not otherwise be objectionable.</p> <p>It is therefore considered appropriate to withdraw the direction and engage with Brentford Dock Limited and residents groups with a view to reviewing any other option available to the Council.</p> <p><u>Legal/ Procedural Issues</u></p> <p>The Article 4 Direction has been challenged and the Council is faced with having to defend a Judicial Review of the process. Advice has been sought from legal officers and Counsel.</p> <p>The advice provided is that the Council should withdraw the direction on the basis of concerns that incorrect factors were considered. The issue should not alter the decision to withdraw the direction, but it is clearly pertinent to the timing of the decision as the Council and residents incur legal costs. As such the decision is to withdraw the direction immediately.</p>
<p>Details of alternatives considered and rejected</p>	<p>On the basis of the above an immediate decision is considered necessary. Further options to achieve a compromise will now be sought.</p>
<p>Factors taken into account (i.e. include here consideration of:</p> <ul style="list-style-type: none"> • public sector equality duty, • biodiversity duty and • crime and disorder implications of decision) 	<p>N/A</p>

Name and title of any Cabinet member consulted	Councillor Tom Bruce	
Member conflict of interest or Disclosable Pecuniary Interest?	No	If yes, give details (this includes non-DPI's interests that you consider should be declared and noted for the record but are not considered to have impaired your judgement or present any related conflict).

Legal and Finance Comments (to be provided after report written)

Comments on behalf of the Chief Financial Officer	This report seeks approval for the withdrawal of the immediate Article 4 Direction imposed on Brentford Dock following a consultation exercise. Any costs associated with this decision need to be met from within approved budgets.	
Finance Officer Name and Title	Christine Holland, Head of Strategic Finance	
Comments on behalf of the Assistant Director of Governance	The immediate withdrawal of the Article 4 Direction is in line with legal advice.	
Confirmation by Legal Officer that the Decision is/is not a key decision	Confirmed.	
Legal Officer Name and Title	Karen Trickey, Senior Governance Lawyer	

Confirmation and Authorisation of Relevant Chief Officer Taking Decision

Signed	V.Lawson	
Confirmation that no significant changes to the report have been made since Legal and Finance Comments were provided	Yes	

Date decision to take effect for implementation ⁴	Immediate
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Note on Publication of Chief Officer Decisions

Chief Officer Decisions which are not key decisions are usually published on the last day of the month. They will need to be provided to Democratic Services at least two days before this.

Chief Officer Decisions which are also key decisions will need to be published immediately to permit call in by Members. Please liaise with Democratic Services to identify a suitable date for publication.

⁴ To allow for call in of a key decision by the Overview and Scrutiny Committee, a decision will not take effect until the sixth day after the decision has been published.