

London Borough of Hackney Equality Impact Assessment Form

Title of this Equality Impact Assessment:

Article 4 Direction for Permitted Development Rights for Class E Use (commercial, business and service) to Residential Use

Purpose of this Equality Impact Assessment:

To initially assess the potential impacts on certain individuals or equality groups that could be affected by the implementation of a non-immediate Article 4 Direction (A4D) withdrawing the permitted development rights for Development consisting of a change of use to a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order. This is contained in Class MA, Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021.

The areas affected are the Borough's District Town Centres, and the Local Shopping Centres.

Following endorsement by Cabinet on 24 January 2022, the A4D will be issued and would undergo a consultation period of 6 weeks. If confirmed, the Council will make the A4D following the 12 month notice period, on the date provided by the notice. If, following consultation, it is recommended to confirm the A4D, a further EqIA will be produced to assess any impacts on equalities, particularly with any information gained from the consultation process.

Officer Responsible: *(to be completed by the report author)*

Name: Keung Tsang	Ext: 8753
Directorate: Legal, HR and Regulatory Services	Department/Division: Spatial Planning

Assistant Director: _____ **Date:** _____

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Comment : _____

PLEASE ANSWER THE FOLLOWING QUESTIONS:

STEP 1: DEFINING THE ISSUE

1. Summarise why you are having to make a new decision

The Council has a hierarchy of town centres reflecting a diverse retail character with a strong emphasis on small and independent shopping. It is important to ensure that the vitality and viability of Hackney's retail hierarchy (Major, District and Local Shopping Centres) is not adversely affected, and that the district and local centres are able to continue to provide a diverse range of services, including everyday essential services, to meet local needs. In order to facilitate the recovery of the high street, following the pandemic, the Council needs to ensure that sufficient land is available for retail floorspace to meet business and community needs. This is currently done through the planning system, and the implementation of Local Plan policies.

The issuing of a non-immediate Article 4 Direction (A4D) on a building and the land within its curtilage would remove the PD right that was introduced in 2021 to allow for a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order. This thus would mean that a planning application would be required for this change. This is to allow the Council to manage any potential future change of use which may otherwise constitute a threat to the amenities of the Borough and would be prejudicial to the proper planning of the Borough, in particular the Council's ability to prevent loss of uses which contribute to the wider council aims for the area in achieving sustainable communities.

It is considered important to ensure that retail floorspace is protected if Hackney is to remain a balanced and sustainable community providing both necessary housing but also floorspace/sites for retail, especially for essential services, and by assessing proposed development, including issues around viability, against the Local Plan policies.

The issue of the A4D is considered to be consistent with the Council's Inclusive Economy Strategy (2019) which has three priorities 1) Support local neighbourhoods and town centres to thrive and to be inclusive and resilient places; 2) Champion and support local business and social enterprise in Hackney and protect and maximise the delivery of affordable workspace in the borough; and 3) Connect residents to high-quality employment support and opportunities to learn new skills, get good quality, well-paid work and progress their career throughout their working life.

The issue of the A4D is considered to be consistent with national, regional and local planning policy and guidance. The London Plan policies recognise town centres as the heart of their communities; and the Local Plan (LP33) encourages development that sustains and enhances the vitality and viability of town centres, seeking to ensure that the communities in the borough are supported by appropriate employment and commercial land and floorspace, and town centres that service their needs.

2. Who are the main people that will be affected?

The A4D is likely to have an impact Borough-wide on people who live, work and visit the Borough. There could be some local impact for the owners, occupiers, employers, employees, customers, and people who live or work in the areas affected. It has not been identified that a particular equalities group with protected characteristics would be negatively affected at this stage.

STEP 2: ANALYSING THE ISSUES

3. What information and consultation have you used to inform your decision making?

The decision to implement the A4D would be in line with the Council's Local Plan policy, as well as national and regional planning policy and guidance. The NPPF states that "Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation".

The Council's retail policies are supported by robust evidence as well as referencing market signals through the submission of marketing evidence. The Council's policies establish the proportion of retail uses and other main town centre uses that would ensure the vitality and viability of its town centres and local shopping areas. The new PD rights for the loss of these uses without management through the planning system could undermine the operation of the retail planning policies for the proper planning of the Council's area as they may inhibit the Council's ability to ensure that Town Centres and Local Shopping Centres retain a sufficient critical mass of retail provision accessible by walking, cycling and sustainable transport modes. This is particularly important in the context of a growing population and following recovery of the pandemic.

The A4D will be subject to a 12-month notice and 6 week consultation period. During the consultation period, the Council will publish a notice of the A4D in Hackney Gazette and the London Gazette. Details including the direction and notice, together with maps of the areas affected will be publicised on the Council's website. At least two site notices will be displayed for at least 6 weeks. On the same day that notice is given the Council will notify the Secretary of State who has powers to cancel or modify an A4D. Individual owners or occupiers will however not be served with such notice because their number within the affected area makes individual service of notice impracticable.

The proposed A4D will be open for consultation to enable the public to respond, once the consultation has closed, the Council will review these and decide whether any modifications need to be made. The consultation will further inform any impact on inequalities, and a further EqIA will be produced to highlight and seek to mitigate those adverse impacts if it is recommended to confirm the A4D. The Council will re-consult for 21 days on any modifications that are made.

Equality Impacts

4. Identifying the impacts

This EqIA has been produced to assess the impacts that may be experienced following the implementation of the A4D on Class E uses in the affected areas. The key objective is to maximise the positive impacts and for them to outweigh the potential negative impacts. The positive and negative impacts likely to be experienced are considered below:

Equality Groups	Positive Impact	Negative Impact
Overall	<p>The A4D seeks to protect existing retail, office and community floorspace in buildings and land within their curtilage in the town centre areas, to ensure that the vitality and viability of Hackney's retail hierarchy and employment space is not adversely affected, while protecting local jobs and businesses which could be beneficial to all or most equality groups.</p>	<p>The A4D may prevent new residential uses coming forward, however this needs to be balanced against the need to provide housing of a range of sizes, tenure and dwelling mix in the appropriate locations that meets the Borough's housing needs.</p>
Age	<p>By ensuring that a planning application is made for the change of use from Class E to residential, this would allow the Council to assess the proposed development for the housing mix (i.e. for family housing) and amenity space, as well as for the provision of affordable housing.</p> <p>The Article 4 Direction will protect against the creation of poor quality housing through permitted development. Housing produced through permitted development has been evidenced to produce poor quality accommodation.¹ The health and social impacts of poor quality housing disproportionately impacts older people, young people. For example, children attain less well at school, have poorer physical health and have increased stress, anxiety and depression.²</p>	<p>The size limit for the PD right change from Class E to residential is 1500sqm, which can therefore incorporate family-sized housing. However, the primary shopping areas in district centres and local shopping centres, would not be an acceptable location for new housing in that this would break up the main shopping frontages and impact on the viability of the high street. By issuing the A4D, this may affect large families looking for large housing that may have benefitted from this PD right. It is important that the Council manages the type of housing that is built in the Borough to ensure that family-sized housing is provided in the right location.</p>

	<p>Loneliness and social isolation is particularly pronounced in certain groups, such as the elderly.³ High Streets and town centres are social spaces for elderly people and young people.⁴</p>	
Disability	<p>The Article 4 Direction will mean that home proposals meet the accessibility and adaptability needs of people with disabilities. The PD right to change uses to residential could have a negative impact on individuals with disabilities as office units were not built primarily in mind. For instance, office, commercial and leisure units may not have safe access for wheelchairs and people with limited mobility could struggle. There may also be limited disabled vehicle spaces.</p> <p>Loneliness and social isolation is particularly pronounced in certain groups, such as those with a long-term illness or disability.⁵ District and local centres provide a central point for day-to-day contact for residents, and offer accessible vital services for those with disability issues.</p>	<p>As many of the existing retail buildings may not have been built to be accessible, it might be difficult to provide accessible design if a planning application is to be approved, particularly if the building is located in a conservation area or is a listed building. This would be considered on a case by case basis.</p>
Gender Reassignment	None specifically identified at this stage.	None specifically identified at this stage.
Marriage and civil partnership	None specifically identified at this stage	None specifically identified at this stage
Pregnancy and maternity	The Article 4 Direction will protect against the loss of small affordable shops, commercial, business and leisure uses locally in key locations across the borough. This ensures that accessibility to amenity is well distributed in the borough which delivers positive impacts for all, and especially those who are transporting children.	None specifically identified at this stage
Race	By protecting uses in town centres it ensures employment is closer to	By issuing the A4D, this may affect some minority ethnic groups with

	<p>where local residents live, it improves accessibility to employment, and makes access to amenities better which has wider positive societal benefits for all</p> <p>The Article 4 Direction will protect town centre uses. This is important because loneliness and social isolation is particularly pronounced in minority ethnic groups⁶, and town centres act as social spaces for members of those communities.⁷</p>	<p>traditionally large families that may benefit from this PD right, and therefore fail to benefit from the A4D. However it is important that the Council manages the type of housing that is built in the Borough and its location.</p>
Religion/ Belief	None specifically identified at this stage.	None specifically identified at this stage.
Sex	The Article 4 Direction will protect against the loss of small affordable shops, commercial, business and leisure uses locally in key locations across the borough. This ensures that accessibility to amenity is well distributed in the borough which delivers positive impacts for all, and especially women who bear the majority responsibility for childcare. ⁸	None specifically identified at this stage.
Sexual orientation	Loneliness and social isolation is particularly pronounced in certain groups, including LGBTQ communities ⁹ , The A4D will ensure that active ground floor uses are maintained in the town centres, ensuring a vibrant public realm and the increased opportunity for interaction for LGBTQ communities.	None specifically identified at this stage.

Other Groups	Positive Impacts	Negative Impact
Owners	The owner would need to submit a planning application to change the use of Class E to residential. This would allow the Council to assess the quality of the proposed development, by ensuring national space standards for housing are met.	The owner would be required to submit a planning application to change the Class E use to residential which otherwise would have required prior approval. The Article 4 Direction will protect against the creation of poor quality housing through permitted development.

Occupier	If a planning application is received to change from Class E to residential, the occupier, (i.e. the employer) would be consulted by the Council if they did not submit the planning application and would be invited to submit representations; an action that is not required for a change of use under PD.	The occupier would be required to submit a planning application to change retail to residential use which otherwise would have required prior approval. As the A4D is non-immediate, the occupier could not claim compensation.
Employees	The A4D would lower the negative impact to job security and the chances of job losses in existing retail and office uses, as the change to residential would require planning permission.	None specifically identified at this stage.
Local Residents/ Community/ Customers	<p>With the A4D, retail would be prevented from changing under PD to a use that might not be suitable in town centre locations and might have detrimental impacts on the viability and vitality of the centre and impacts on customers who would have used those services, as well as adverse amenity impacts.</p> <p>The A4D would safeguard the opportunity for buildings in the affected areas to be used as retail and may safeguard jobs for local residents, as well as the prospect of affordable housing being provided.</p> <p>If a planning application is submitted for a change of use to residential, the local residents would be consulted by the Council and invited to submit representations. The Council would also be able to assess the planning application, taking into consideration the impact on local residents.</p>	The A4D may prevent new residential uses coming forward, however this needs to be balanced against the need to provide housing and other services and facilities in appropriate locations to meet local needs for workspace and shopping.

	The Article 4 Direction will ensure that affordable workspace is provided through the development of new residential units in the Central Activities Zone which supports the growth of Small and Medium sized Enterprises and Local Small Businesses. This is a benefit for local residents.	
Hackney Council	<p>The Council would be able to safeguard the use of retail floorspace in town centres, in line with Policies E9 and SD6 of the London Plan, and LP34 and LP35 of the Local Plan.</p> <p>The Council would be able to manage and plan appropriately taking account of local needs through retaining a balance of land uses in key areas of the Borough, for a sustainable community.</p>	
Other groups	None specifically identified at this stage.	None specifically identified at this stage.

4. A) What positive impact could there be overall, on different equality groups, and on cohesion and good relations?

- The A4D seeks to protect existing retail floorspace in buildings and land within their curtilage in town centres, to ensure that the vitality and viability of Hackney's retail hierarchy (Major, District and Local Shopping Centres) is not adversely affected, while protecting local jobs and businesses which could be beneficial to all or most equality groups, but this will be further considered after the consultation process.
- The Council would be able to manage the balance of land uses in key areas of the Borough, for a sustainable community.
- By issuing the A4D, it would ensure that a planning application is made for the change of use from retail to residential use. This would allow the Council to assess the quality of the proposed development against planning policy for the housing mix and tenure, size, amenity space, Lifetime Homes, etc.
- The housing mix, tenure and amenity space provision of a residential development is particularly of importance for families. The A4D would allow for this type of assessment.
- It is likely that the existing retail buildings would have been purpose built for commercial use and would therefore not be built to Lifetime Homes standard. By requiring a planning application for a change of use development, when applications are made, they would be assessed against planning policy and be required to be fully accessible.

- If a planning application is received to change the use of retail to residential, the neighbouring residents (and the owner/occupier/employer if they did not submit the application) would be consulted by the Council and invited to submit representations; an action that is not required for a change of use under PD. The Council would also consider the impact on these groups when assessing the planning application.
- The A4D would aid in the recovery of businesses following the pandemic.
- The A4D would safeguard the opportunity for buildings in the affected areas to be used as retail, as well maintaining the prospect of affordable housing being provided via a planning application.
- With the A4D, retail would be prevented from changing under PD to housing that might not be suitable in town centre locations and might have detrimental impacts on the viability and vitality of the centre and impacts on customers who would have used those services.
- The A4D would safeguard the opportunity for buildings in the affected areas to be used as retail and may safeguard jobs for local residents, as well as the prospect of affordable housing and workspace being provided.
- The Council would be able to safeguard the use of retail floorspace in town centres, in line with Policies E9 and SD6 of the London Plan, and LP34 and LP35 of the Local Plan. For this reason it is vital they are protected if Hackney is to remain a balanced and sustainable community providing both necessary housing but also floorspace/ sites for retail uses.

4. B) What negative impact could there be overall, on different equality groups, and on cohesion and good relations?

- The A4D does not prevent the change of use from class E to residential, instead it allows all applications to be assessed by the council against its local plan policies and ensure quality housing is provided as part of any change of use and that the retail shopping areas are protected to meet the needs of local communities.
- The size limit of a retail unit that can change under PD to residential is 1500sqm.
- The A4D may have an impact on large families, including those from ethnic minorities with traditionally large sized families seeking large sized housing who may benefit from this flexibility of the PD rights. However the location of housing in the main shopping frontages would impact on the vitality of the shopping centres. It is therefore important that the Council ensures that family-sized housing is provided in the right locations.
- As many of the existing retail buildings may not have been built to be accessible, it might be difficult to provide accessible design if a planning application is to be approved, particularly if the building is located in a conservation area or is a listed building.
- The owner/occupier/employer would need to submit a planning application to change the use of retail to residential, which would otherwise have just required prior approval. As the A4D is non-immediate, the owner could not claim compensation.

STEP 3: REACHING YOUR DECISION

5. Describe the recommended decision

It is considered that the A4D at this stage would have a mostly positive impact on equalities in general, as it would potentially safeguard retail uses, and allow the Council to fully assess any potential change of use by receipt of a planning application. At this stage there were some negative impacts identified, however these need to be balanced against the need to provide good quality housing in appropriate locations, size and tenure mix which meets the Borough's housing needs. Furthermore Hackney reached 98% of its housing target over 5 years from FY2015-2019 and is projected to meet its housing target going forward.

The positive impacts from the implementation of the A4D are therefore considered to outweigh the negative impacts, in which actions can be taken to eliminate or mitigate them. The recommendation is therefore to proceed with the issue of the A4D, but it will be considered again after consultation.

STEP 4 DELIVERY – MAXIMISING BENEFITS AND MANAGING RISKS

6. Equality and Cohesion Action Planning

No	Objective	Actions	Outcomes highlighting how these will be monitored	Timescales / Milestones	Lead Officer
1	To ensure that local residents and those with an interest in the affected areas are notified of the proposed A4D	Consult via Hackney Gazette, London Gazette, site notices and the Hackney website	An equal opportunity for people to provide comments on the proposed A4D	During consultation	
2	To safeguard retail, office and community floorspace in key areas in the Borough	By applying the A4D and resisting the loss of retail under PD without a planning application being submitted	The requirement of a planning application to change the use to residential, which could then be assessed by the Council	A4D to be confirmed 12 months after its issuing	
3	To require a planning application from the owner/ occupier to change a Class E unit to a dwelling	By requiring a planning application to be submitted for a change of use to allow the Council to assess the potential impacts	Through Development Management and Enforcement	Ongoing	
4	To ensure that the A4D meets the Council's equality objectives before confirmation of the A4D	Another EqIA will be produced before any potential final confirmation of the A4D	The new EqIA will assess any impacts on equalities, particularly with any information	Within 12 months of the issuing of the A4D	

			gained from the consultation process.		
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1. Research into the quality standard of homes delivered through change of use permitted development rights Dr Ben Clifford, Dr Patricia Canelas, Dr Jessica Ferm and Dr Nicola Livingstone Bartlett School of Planning, UCL Professor Alex Lord and Dr Richard Dunning Department of Geography and Planning, University of Liverpool July 2020
2. Health Equity in England: The Marmot Review 10 Years On, Professor Sir Michael Marmot Jessica Allen Tammy Boyce Peter Goldblatt Joana Morrison, 2020. Institute of Health Equities
3. Loneliness - What characteristics and circumstances are associated with feeling lonely? 2018
4. High Streets for All Report, Authored by We Made That LSE Cities ,Copyright Greater London Authority September 2017
5. Loneliness - What characteristics and circumstances are associated with feeling lonely? 2018
6. Loneliness - What characteristics and circumstances are associated with feeling lonely? 2018
7. High Streets for All Report, Authored by We Made That LSE Cities ,Copyright Greater London Authority September 2017
8. Women shoulder the responsibility of 'unpaid work', ONS, 10 November 2016
9. Loneliness - What characteristics and circumstances are associated with feeling lonely? 2018