

Article 4 Direction Consultation Report April 2022

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1. Introduction

The Hackney Local Plan (LP33), adopted July 2020, is the development plan for the London Borough of Hackney and it sets out an ambitious strategy that will enable the delivery of the Borough's Community Strategy, "Hackney A Place for Everyone", and realises the Council's vision for a fairer, safer, and more sustainable Hackney. It links and supports the delivery of the Council's portfolio of secondary strategies, and sets out a physical growth strategy and an approach to managing land uses, alongside Planning policies and Planning guidance for the Borough. The Plan covers the period 2018 to 2033, and it will direct development and investment in the Borough and help to shape regeneration plans for neighbourhoods.

Purpose of Article 4 Directions

Article 4 Directions (A4D) are part of planning legislation that allows the Council to remove permitted development rights (PDR) including changes of use from an area or a particular property in certain limited situations where it is necessary to protect local amenity or the well being of an area.

An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the Council for that development. PDR are a national grant of planning permission which allow certain works and change of use to be carried out without having to make a planning application under the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order"). These rights can be withdrawn under Article 4(1) of the order if there is a justification for both its purpose and extent.

New Permitted Development Rights (PDR)

As part of reforms to the planning system centred around the Planning White Paper entitled "Planning for the future" and published in August 2020, the Government has made and is proposing a number of amendments to the Town and Country Planning Use Classes Order 1987 (UCO), the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) and the National Planning Policy Framework (NPPF). These amendments, will undermine the spatial strategy as set out in LP33, to shape the sustainable economic regeneration of the borough.

In March 2021 government published legislation¹ in England to introduce a new and much broader permitted development right (PDR), Class MA which came into effect on 1 August 2021 for the change of use of properties in the Commercial, Business and Service use class (Class E) to residential, subject to a range of conditions and limitations. Under the transitional arrangements, where there are existing Article 4 Directions for the office to residential PDR (Class O), these will remain effective until

¹ 1 Statutory Instrument 2021 No.428. The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021.

31 July 2022.

The Government made a statement on 1 July 2021 clarifying its position in respect of A4D and amending the National Planning Policy Framework (NPPF) accordingly. Paragraph 53 now states that,

“The use of Article 4 directions to remove national permitted development rights should: where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre) in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities) in all cases, be based on robust evidence, and apply to the smallest geographical area possible.”

This report sets out the procedures for Article 4(1) directions without immediate effect under Schedule 3 of the The Town and Country Planning (General Permitted Development) (England) Order 2015. The consultation ran from 10 February to 24 March 2022.

Existing Article 4 Directions in Hackney Borough.

Until 31 July 2022, Hackney’s Central Activities Zone (CAZ), City Fringe / Tech City will continue to benefit from existing Article 4 Directions that remove the PDR to change of use from office to residential. They will not be affected by the new PDR until the provisional transitional period has lapsed at the end of July 2022. However, Hackney Central and Dalston town centres as well as the other 15 district and local centres are affected by the new Class E uses (commercial, business and service – town centre uses) and Class C3 (residential) that came into force on 1 August 2021.

New Article 4 Directions Proposed in Hackney Borough.

Two new Article 4 Directions have been proposed

- Hackney’s Central Activities Zone (CAZ), City Fringe / Tech City and Hackney Central and Dalston Town Centre; and
- District and Local Shopping Centres.

These new A4D (s) replace the arrangements for two existing A4D that currently removes the PD rights under class O (Class B1(a) Offices and Class C3 (residential)) and class M (Class A1 (shop) and A2 (financial and professional services) and C3 (residential)).

Many of the reasons for the making of the Article 4 Directions in 2016 and 2019 remain the same, with particular emphasis on the sustainable economic growth and regeneration of the borough.

The Hackney Central Activities Zone (CAZ), City Fringe / Tech City, Hackney Central and Dalston Town Centres Article 4 Direction were limited to those offices that made the most valuable contribution to the employment floorspace needs of the borough and which have been designated as key employment areas within the Hackney Local Plan (LP33). Given the restricted supply of industrial land and premises across the borough and the fact that the former B1(c) use class (light industrial) is now incorporated within the much wider Class E, the Council considered it appropriate to make an Article 4 Direction to remove the PDR in locally significant employment locations, as defined on the policies map 2020.

The District and Local Shopping Centres Article 4 Direction is essential in helping to protect community services and facilities, close to where people live including their potential to offer smaller local offices to reduce commuting and promote more resilient workplaces. These centres played a vital role during the pandemic and will continue to do so post economic recovery. However, they are the most vulnerable to the PDR conversions to residential use, because of their accessible locations, more straightforward to convert (compared to town centre locations) and likely to have less ownership constraints.

Offices and retail developments in outlying locations, poorly connected to public transport, or smaller individual offices were excluded as they do not meet the aims of sustainable development.

2. Consultation

Overview

Under the provisions set out in the GPDO, the procedures for Article 4(1) directions without immediate effect under Schedule 3 of the The Town and Country Planning (General Permitted Development) (England) Order 2015, consultation on the Article 4 Directions took place between 10 February to 24th March 2022.

Notice of the Directions was made by:

- Local advertisement in the press; London Gazette and the Hackney Gazette and, a further press release was featured in a Hackney Business Network newsletter
- X2 site notices were displayed at each location, with larger locations displaying additional notices (a total of 75 site notices went up in the affected areas); and
- Notification sent to the Secretary of State.

The Town and Country Planning (General Permitted Development) Order 2015 (as amended) Schedule 3 Article 4 states that the local planning authority need not serve notice on an owner or occupier in accordance with sub-paragraph (1)(c), if they consider that – (a) individual service on that owner or occupier is impracticable because it is difficult to identify or locate that person or (b) the number of owners or occupiers within the area to which the direction relates makes individual service impracticable.

Due to the number of properties in the areas specified in the Article 4 Directions and the ongoing COVID-19 pandemic, the council considered it was impracticable to serve notice on all properties individually. However the council made additional notification as follows:

- Email to around 1,300 contacts on the council's planning policy consultation notification mailing list;
- Mail out to business contacts and organisations;
- Hackney Councils Article 4 Direction webpages were updated with relevant information on the Direction, the notice, maps of the areas affected were available to view and download and the representation period,
- Maps and site notices were displayed in all eight libraries across the borough.
- Policy officers responded to queries from interested members of the public and explained the reason and effect of the Article 4 Directions.

3.0 Summary of consultation responses

Nine responses were received to the consultation, 5 in support of the proposals and 4 no comments. All responses, save one were from strategy bodies. See Appendix A.

Mayor of London

Hackney plays a vital role in the London economy. It contains a vibrant mix of business clusters which contributed around £8.9 bn to London's economic output in 2019. Part of the borough lies within the Central Activities Zone (CAZ) and the Mayor's strategic evidence to support London borough Article 4 Directions highlights the irreplaceable contribution of the CAZ to the output and prosperity of the nation.

TfL

TfL is supportive of the proposals from a transport perspective, as we recognise the unique characteristics of both the Central Activities Zone and City Fringe (Tech City)

as

a world-leading business hub, which underpins the UK economy. The exceptional level of transport capacity and connectivity in the Central Activities Zone (CAZ) and City Fringe is optimised to support commercial development with high trip rates.

Historic England

Historic England therefore supports the proposed direction, which we consider will allow the suitable assessment of the contribution of relevant office buildings through the planning process to the character and vitality of the areas of the borough in question. As a result, we consider that supporting mixed uses here is likely to benefit the continued sustainability and identity of the area and hence its heritage significance.

Theatres Trust

The CAZ/City Fringe area includes Shoreditch Town Hall, Dalston includes the Arcola Theatre and Hackney Central includes the Hackney Empire. The Stoke Newington District Centre includes Earth. These venues strongly contribute towards the vitality of their respective centres and help meet the social and cultural needs of local people. They also bring visitors into the borough, forming part of London's renowned cultural offer. The need and justification to help maintain Hackney's supply of commercial floorspace to support the function and vitality of its centres and other key areas of economic activity have been clearly set out within accompanying papers.

Equalities Impact Assessment

The equalities impact assessment (EQIA) for both A4Ds, concluded that the Article 4 Direction will have a positive impact on equalities and it will assist the council in implementing its strategic growth and regeneration strategy, enabling new housing to be located in areas with a good level of services and facilities, as set out in the councils local plan LP33.

What Happens Next?

This consultation report has set out the process undertaken and representations received to the Article 4 Directions. The Council submitted both A4D proposals to the government on 10th February 2022.

Once the government has reviewed the evidence, a decision letter will be sent to Hackney Council.

Appendix A Summary Table of Representations

ref	Respondent name	Representation
01	Theatres Trust	We support both of these directions. The CAZ/City Fringe area includes Shoreditch Town Hall, Dalston includes the Arcola Theatre and Hackney Central includes the Hackney Empire. The Stoke Newington District Centre includes EarthH. These venues strongly contribute towards the vitality of their respective centres and help meet the social and cultural needs of local people. They also bring visitors into the borough, forming part of London's renowned cultural offer. The need and justification to help maintain Hackney's supply of commercial floorspace to support the function and vitality of its centres and other key areas of economic activity have been clearly set out within accompanying papers. From the Trust's perspective we are concerned about the potentially negative impact this form of permitted development may have on theatres and other noise-generating cultural facilities where neighbouring and nearby buildings are converted. Therefore, we welcome these Article 4 directions and support them coming into effect.
02	National Highways	National Highways raises no concerns or objections to this consultation.
03	Natural England	Natural England has no comments to make on this consultation.
04	Mayor of London	The Mayor fully supports the introduction of these Article 4 Directions. Hackney plays a vital role in the London economy. It contains a vibrant mix of business clusters which contributed around £8.9 bn to London's economic output in 2019. Part of the borough lies within the Central Activities Zone (CAZ) and the Mayor's strategic evidence to support London borough Article 4 Directions highlights the irreplaceable contribution of the CAZ to the output and prosperity of the nation. It is estimated that the output of the CAZ, Northern Isle of Dogs (NIOD) and a 1km fringe around them stood at just under £257bn in 2019, accounting for 55 per cent of London's output and 13 per cent of UK output. It is also critical that the delivery of new homes and new jobs associated with Hackney's town centres is delivered in a managed way to ensure their full potential is realised, supported by Article 4 Directions where appropriate.
05	Canals and Rivers Trust	I can confirm that the Canal & River Trust have no comments to make on the proposals.
06	Transport for London	TfL is supportive of the proposals from a transport perspective, as we recognise the unique characteristics of both the Central Activities Zone and City Fringe (Tech City) as a world-leading business hub, which underpins the UK economy. The exceptional level of transport capacity

		<p>and connectivity in the Central Activities Zone (CAZ) and City Fringe is optimised to support commercial development with high trip rates.</p> <p>In the case of a large-scale residential conversion, TfL agrees that any such development proposal must be considered on a case by case basis, with careful analysis of individual applications to determine whether a change of use would be acceptable. In making such decisions, consideration should be given to the area's strategic function, physical design and transport connectivity.</p> <p>We also support the requirement for full planning permission for conversions from commercial uses to residential in designated areas outside CAZ and the City Fringe including town and district centres, to ensure that optimal use is made of the site's transport connectivity and that mitigation can be secured where necessary to address any strategic transport impacts.</p>
07	Historic England	<p>As the Government's statutory adviser, Historic England is keen to ensure that conservation and enhancement of the historic environment is taken fully into account at all stages and levels of the planning process.</p> <p>We note the extent of the area of the borough covered by the proposed Article 4 direction, and further note that a significant proportion of this coincides with conservation area designation and a concentration of important listed buildings. As such, we consider there is significant sensitivity of much of the borough in terms of its historic environment, existing townscape character and distinctiveness.</p> <p>Historic England therefore supports the proposed direction, which we consider will allow the suitable assessment of the contribution of relevant office buildings through the planning process to the character and vitality of the areas of the borough in question. As a result, we consider that supporting mixed uses here is likely to benefit the continued sustainability and identity of the area and hence its heritage significance.</p>
08	Marine Management Organisation (MMO)	Marine Management Organisation (MMO) has no comments to make on this consultation.
09	Atom Gallery-127 Green Lanes	We are writing to express our support for the Article 4 Direction to remove permitted development rights for flexible changes of use between Town Centre uses on Green Lanes and for the designation of the area as a Local Shopping Centre.

		<p>We own and operate a small printing business and art gallery at 127 Green Lanes. We are very much in favour of removing permitted development rights, as we have been concerned at plans by local landlords to convert existing business premises to residential. We fear that if this were to happen it would impact severely on ours and neighbouring businesses.</p>
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