

Article 4 Direction
Designated Industrial Areas

Consultation Report November 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 These rights can be withdrawn under Article 4(1) of the order if there is a justification for both its purpose and extent.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 which began with the Planning White Paper entitled "Planning for the future", 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

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

Directions for the office to residential PDR (Class O), these will remain effective until 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 23rd July to 1st September 2022.

Existing Article 4 Directions in Hackney Borough.

Until 31 July 2022, Hackney’s Central Activities Zone (CAZ), City Fringe / Tech City, major centres and Priority Industrial Areas benefited from an existing Article 4 Direction that removed the PDR to change of use from office to residential.

However, Hackney Central and Dalston town centres as well as the other 19 district and local centres, were 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 Direction Proposed in Hackney Borough.

A new Article 4 Direction have been proposed

- Designated Industrial Areas

This new A4D replaces the arrangement for a recent A4D that removed the PD rights under class O (Class B1(a) Offices and Class 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 of the borough.

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 considers it appropriate to make an Article 4 Direction to remove the PDR in locally significant employment locations, as defined on the policies map 2020. Once the industrial spaces are changes to residential, they do not return to industrial uses.

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 23rd July to 1st September 2022.

Notice of the Directions was made by:

- Local advertisement in the press; London Gazette and the Hackney Gazette.
- At least 2 site notices were displayed at each location, with larger locations displaying additional notices (a total of 32 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 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, 3 in support of the proposals and 6 no comments. All responses were from strategy bodies. See Appendix A.

The three responses in support of the Article 4 Direction were:

Mayor of London

The Mayor fully supports the introduction of this Article 4 Direction.

The Mayor's strategic evidence indicates that there is particular justification for the use of targeted Article 4 Directions to safeguard industrial areas, along with high streets and town centres, from the impacts of permitted development.

It is also important that the essential industrial and logistics functions of Hackney's locally significant industrial sites and priority industrial areas are not undermined by permitted development rights and that the delivery of new homes and jobs associated with Local Plan site allocations is managed to ensure their full potential is realised, supported by Article 4 Directions where appropriate.

TfL

TfL is supportive of the proposals from a transport perspective, as we recognise that improvements in access, transport capacity and connectivity may be required to ensure that residential development is an appropriate use in designated industrial sites.

Historic England

Historic England supports the proposed direction, which we consider will allow suitable assessment of the contribution of office buildings through the planning process to the character and vitality of the areas of the borough in question.

Equalities Impact Assessment

The equalities impact assessment (EQIA) for the A4D concluded that the Article 4 Direction has a mostly positive impact on equalities in general, as it would potentially safeguard industrial and low cost workspace, and allow the Council to fully assess any potential change of use by receipt of a planning application.

What Happens Next?

This consultation report has set out the process undertaken and representations received to the Article 4 Direction. The Council submitted the A4D proposals to the government on 21st July 2022.

Once the government has reviewed the evidence for the Article 4 Direction, a decision letter will be sent to Hackney Council.

Appendix A Summary Table of Representations

ref	Respondent name	Representation
01	Mayor of London	<p>The Mayor fully supports the introduction of this Article 4 Direction.</p> <p>London depends on a wide range of industrial, logistics and related uses that are essential to the functioning of its economy and for servicing the needs of its growing population, as well as contributing towards employment opportunities for Londoners.</p> <p>The 2021 London Plan Policy E1 (Offices), supports the use of Article 4 Directions to remove office to residential permitted development rights, where appropriate, as does Policy E4, to ensure that industrial and logistics capacity is not undermined by permitted development rights. The Plan notes the importance of ensuring sufficient space exists to support the growth of new start-up companies and to accommodate SMEs, including lower-cost and affordable business space (paragraph 6.1.5).</p> <p>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. All of Hackney borough lies within the Central Services Area which plays an important role in providing essential services to the CAZ and Northern Isle of Dogs and land to support transport functions, as the 2021 London Plan acknowledges. The Mayor's strategic evidence indicates that there is particular justification for the use of targeted Article 4 Directions to safeguard industrial areas, along with high streets and town centres, from the impacts of permitted development.</p> <p>It is also important that the essential industrial and logistics functions of Hackney's locally significant industrial sites and priority industrial areas are not undermined by permitted development rights and that the delivery of new homes and jobs associated with Local Plan site allocations is managed to ensure their full potential is realised, supported by Article 4 Directions where appropriate.</p> <p>The Mayor therefore strongly supports the proposed Article 4 Direction to avoid wholly unacceptable impacts and considers that the areas defined are the smallest geographical areas possible to achieve this objective.</p>
02	TFL	<p>Thank you for giving TfL the opportunity to comment on the Article 4 Directions to remove permitted development rights for changes of use from Class E uses to Class C3 (Residential) use in designated industrial sites within the borough. TfL is supportive of the proposals from a transport perspective, as we recognise that improvements in access, transport capacity and connectivity may be required to ensure that residential</p>

		development is an appropriate use in designated industrial sites.
03	National Highways	We have undertaken a review of the Article 4 directions and raise no comments.
04	The Coal Authority	I can confirm that the Coal Authority has no specific comments or observations to make.
05	Canals and Rivers Trust	I can confirm that the Canal & River Trust have no comments to make on the proposed Article 4 direction.
06	Marine Management Organisation	<p>The MMO will review your document and respond to you directly should a bespoke response be required. If you do not receive a bespoke response from us within your deadline, please consider the following information as the MMO's formal response.</p> <p>Under Section 58(3) of <u>Marine and Coastal Access Act (MCAA) 2009</u> all public authorities making decisions capable of affecting the UK marine area (but which are not for authorisation or enforcement) <u>must have regard to</u> the relevant marine plan and the UK <u>Marine Policy Statement</u>. This includes local authorities developing planning documents for areas with a coastal influence.</p>
07	Historic England	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. Historic England supports the proposed direction, which we consider will allow suitable assessment of the contribution of office buildings through the planning process to the character and vitality of the areas of the borough in question. We note the sensitivity of much of the borough in terms of its historic environment and the contribution of wider townscape character to its distinctiveness. 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.
08	Natural England	Natural England has no comments to make on this consultation.
09	National Grid/Avision Young	We have reviewed the above document and can confirm that National Grid has no comments to make in response to this consultation.

Appendix B Directions and maps

Appendix 1 A4D Designated Industrial Areas Direction.pdf

Appendix 2 A4D Designated Industrial Areas map.pdf

Appendix C Site notices and publicity

A4D NOTICE Designated Industrial Areas.pdf