

<b>Committee(s):</b> Planning & Transportation Committee	<b>Dated:</b> 20/07/2021
<b>Subject:</b> Confirmation of the Non-Immediate Article 4 Direction to remove permitted development rights for the change of use of offices (Class E(g)(i)) to residential (Class C3)	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	2,4,7,10
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>N</b>
<b>If so, how much?</b>	<b>£0</b>
<b>What is the source of Funding?</b>	
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	<b>N/A</b>
<b>Report of:</b> Director of the Built Environment	<b>For Decision</b>
<b>Report author:</b> Peter Shadbolt, Department of the Built Environment	

### Summary

On 12 May 2021, the Planning & Transportation Committee approved the making of a non-immediate Article 4 Direction to remove permitted development rights for the change of use of offices (Use Class E(g)(i)) to residential (Use Class C3). The Article 4 Direction was sealed on 13 May 2021 and formal notice of the Direction was given, including to the Secretary of State, and consultation on the making of the Direction took place for a period of 6 weeks between 17 May 2021 and 25 June 2021. Ten responses were received, with seven expressing support for the proposed Article 4 Direction and three responses indicating no comment. The Secretary of State requested additional information to support the proposed Direction to inform his decision on whether to direct the City Corporation. On 1 July 2021, the Secretary of State announced changes to national policy on Article 4 Directions through a Written Ministerial Statement. These changes emphasise the need for Article 4 Directions to be based on robust evidence and apply to the smallest geographical area possible. Further evidence has been provided to the Secretary of State to support the City's Article 4, but no further comment on the Article 4 Direction has been received from the Secretary of State.

In the absence of objection to the Article 4 Direction or further direction from the Secretary of State, in accordance with the requirements of the General Permitted Development (England) Order 2015, the Committee is now asked to approve the confirmation of the non-immediate Article 4 Direction, which will come into force on 1 August 2022.

## **Recommendation(s)**

Members are recommended to:

- Agree that it is expedient that some of the new permitted development described in class MA should not be carried out unless permission is granted by the City Corporation.
- Approve the confirmation of the non-immediate Article 4 Direction made on 13 May 2021 and coming into force on 1 August 2022 for the whole of the City of London, removing permitted development rights granted by Class MA, Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 for the change of use of a building or any land within its curtilage from offices (Use Class E(g)(i)) to residential (Use Class C3).
- Authorise officers to take all necessary steps to give effect to the decision including publicising confirmation of the Article 4 Direction in accordance with statutory requirements.

## **Main Report**

### **Background**

1. The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 has introduced a new class of permitted development, Class MA, which will come into effect from 1 August 2021, under which development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (Commercial, Business and Service) to a use falling within Class C3 (Residential) is permitted development and not subject to the requirement for planning permission. To ensure that the City Corporation can retain planning control over the change of use of buildings from offices to residential, the Planning & Transportation Committee on 12 May 2021 authorised the making of a non-immediate Article 4 Direction to remove the national permitted development right within the City. The Direction was made on 13 May 2021 and, subject to confirmation, will come into force on 1 August 2022. As a non-immediate Direction with 12 months notice prior to it coming into force, there will be no entitlement for landowners or developers to seek compensation from the City Corporation for the loss of national permitted development rights. The existing City of London Article 4 Direction removing office to residential permitted development rights will remain in force until 31 July 2022.

### **Current Position**

2. In accordance with the provisions of Schedule 3 to the Town and Country Planning (General Permitted Development) (England) Order 2015, formal notice of the making of the Article 4 Direction, specifying the intended coming into force date as 1 August 2022, was given (including by local advertisement and display of notices) and comments sought through public consultation, which ran from 17 May 2021 until 25 June 2021. A copy of the Direction and notice was sent to the

Secretary of State. Notice was also published on the City Corporation's website. Ten responses were received during the public consultation and these are set out in Appendix 1 to this report. Seven of the respondents supported the making of the Direction, with the Mayor of London and the City Property Association expressing their strong support. Three responses noted the consultation but made no specific comment.

3. It was considered impracticable to individually notify owners and occupiers of affected properties and land throughout the City, due to the large numbers involved, the multiple-occupancy nature of many buildings, and the resulting inability to identify leaseholders and occupants. However, there is a requirement to individually notify statutory consultees and the Crown Estate where they are owners or occupiers of any land within the area to which the Direction relates. Many of these statutory consultees are also consultees for planning purposes and were consulted by notification through the City Corporation's standard planning policy consultation database. A small number of additional statutory consultee have been separately notified. No responses from these additional consultees had been received prior to drafting of this report. Any comments received before the date of the Committee will be reported verbally at the Committee meeting on 20 July 2021.
4. The Ministry of Housing, Communities and Local Government (MHCLG) wrote to the City Corporation indicating that the Secretary of State was considering whether there is cause for him to use his powers of intervention, whether the Direction fulfils national policy set out in Paragraph 53 of the National Planning Policy Framework on the use of article 4 directions and whether it is in accordance with guidance on the use of article 4 directions as set out in National Planning Practice Guidance. MHCLG invited the City Corporation to provide further supporting evidence in support of the Direction. Further supporting information on the extent of the Direction and the specific support for the Article 4 Direction in the London Plan 2021 was provided.
5. On 1 July 2021, the Secretary of State announced changes to national policy on the making of Article 4 Directions through a Written Ministerial Statement. These changes came into effect on the publication of the Statement. The Statement indicates that use of Article 4 Directions 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;
  - 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;
  - in all cases, be based on robust evidence, and apply to the smallest geographical area possible.
6. The Statement indicates that article 4 directions that cover the entirety of a local authority area are unlikely to be supported.
7. Officers are in touch with MHCLG officials on the impact of this new policy on the City Corporation's Article 4 Direction. If further comment or direction from the

Secretary of State is received prior to the Committee, then officers will report this and any potential implications verbally to the Committee. In the meantime, in the absence of a direction from the Secretary of State to amend the Article 4 Direction, officers recommend that the Committee proceed with the confirmation of the Article 4 Direction, as set out in this report.

## **Proposals**

8. An Article 4 Direction cannot come into force on the date specified in the notice unless it has been confirmed by the local planning authority. Following consultation, the Planning & Transportation Committee is required to take into account any representations received when deciding whether or not to confirm the Direction. As no objections or requests for amendment to the Article 4 Direction have been received, and the strong justification for making the City-wide Direction set out in the report to Committee on 12 May 2021 remains valid, it is recommended that the Committee approves the confirmation of the Direction made on 13 May 2021. A copy of the Direction to be confirmed is attached as Appendix 2 to this report.
9. As soon as practicable after the Direction has been confirmed, the City Corporation is required to give notice of the confirmation and the date on which the Article 4 Direction will come into force. This will be done through:
  - Giving notice of the Direction by local advertisement in at least one newspaper in the area and displaying site notices at no fewer than 2 locations for a period of not less than 6 weeks.
  - Serving individual notices where the owner or occupier is a statutory undertaker or the Crown.
  - Sending a copy of the Direction as confirmed to the Secretary of State.
  - Notice will also be given on the City Corporation's website in accordance with best practice.
10. Individual notification to owners and occupiers of affected properties and land throughout the City is considered impracticable due to the large numbers involved, the multiple-occupancy nature of many buildings, and the resulting inability to identify all leaseholders and occupants.
11. Members should note that, under the provisions of the GPDO, the Secretary of State can make a direction cancelling or modifying the Article 4 Direction at any time before or after its confirmation by the City Corporation. As set out in paragraphs 4 to 7, although the Secretary of State has asked for further supporting information, he has not indicated any intention to modify or cancel the Direction.

## **Corporate & Strategic Implications**

### Strategic implications

12. The making of an Article 4 Direction is in line with the City of London Local Plan 2015, the draft City Plan 2036 and the London Plan 2021, which seek to maintain the City's role as a strategically important, globally orientated financial and business centre. The Direction accords with the Vision and Strategic Aims of the

Corporate Plan which seek to support and promote the City as the world's leading financial and professional services centre

#### Financial implications

13. The confirmation of the non-immediate Article 4 Direction, as set out above, would mean that compensation for the removal of permitted development rights would not be payable.

#### Resource implications

14. There are no resource implications, the required officer time can be provided within existing resources and Local Risk budgets.

#### Legal implications

15. The Article 4 Direction would remove permitted development rights in the City of London for the change of use from offices to residential. The Comptroller and City Solicitor has been consulted on this report.

#### Risk implications

16. There are no risk implications.

#### Equalities implications

17. An Equality Analysis Test of Relevance screening has been undertaken which has concluded that no group with protected characteristics will be negatively impacted by this proposal.

#### Climate implications

18. There are no implications for the Climate Action Strategy.

#### Security implications

19. There are no security implications.

### **Conclusion**

20. At its meeting on 12 May 2021, the Planning & Transportation Committee agreed to the making of a non-immediate Article 4 Direction to remove national permitted development rights for the change of use of offices (Use Class E(g)(i)) to residential (Use Class C3). Formal notification of the Direction and consultation has been undertaken in accordance with legislative requirements. No objections or requests for amendment to the Direction have been received through the consultation and no direction to amend the Direction has been received from the Secretary of State. The Committee is now being asked to approve the confirmation of the Direction. As soon as practicable after confirmation of the Direction, notice of confirmation must be given as set out above and the Direction itself will come into force on 1 August 2022.

### **Appendices**

- Appendix 1 – Responses to consultation on the making of the Article 4 Direction
- Appendix 2 – Article 4 Direction and map showing extent of the Direction

**Background Papers**

Report to the Planning & Transportation Committee, 12/05/2021: Approval of a Non-Immediate Article 4 Direction to remove permitted development rights for the change of use of offices (Class E(g)(i)) to residential (Class C3).

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