

## **Delegated Powers Report**

**Subject:** Article 4 Direction to control changes of use from office and light industry to residential

**Date:** 22 March 2018

### **Introduction**

In the United Kingdom, planning permission is required for development, including building and engineering operations or changes of use. However, certain categories of development are allowed by statute without planning permission, described as “permitted development”.

Councils can use an article 4 direction to remove permitted development rights where they are satisfied that it is expedient that such development should not be carried out unless permission is granted for it on an application.

Manchester already has a citywide article 4 direction to manage the change of use of houses into small housing in multiple occupation, which came into force in October 2011.

This report outlines proposals to introduce article 4 directions in Manchester to manage the change of use from office and light industry to residential, removing permitted development rights in eight broad areas within the district.

### **Background**

In 2013 the government changed planning legislation to allow change of use from offices to residential without a full planning application, requiring only consideration of highway, contamination and flood-risk impacts by LPAs through the prior approval procedure. Recognising that there are some locations where offices play a vital economic role, a limited number of exemptions were allowed. These included two parts of Manchester City Centre. These are due to end on 31 May 2019.

Although the changes to permitted development rights were initially limited for a five-year period, the government has now decided that the arrangements should be made permanent. They have also extended these rights to allow change of use of light industrial building to residential, providing the change of use does not exceed 500m<sup>2</sup>. At the same time, the government have also expanded the impacts which may be considered by LPAs so as to include noise in respect of offices buildings; and the sustainability of light industrial provision in respect of light industrial buildings.

### **Government Guidance**

The Planning Practice Guidance provides the following guidance at the section headed “When is permission required?” at paragraph 38, headed “When is it appropriate to use article 4 directions?”

"The use of article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified. There should be a particularly strong justification for the withdrawal of permitted development rights relating to:

- a wide area (eg those covering the entire area of a local planning authority, National Park or Area of Outstanding National Beauty) .....
- cases where prior approval powers are available to control permitted development ....."

Further, the National Planning Policy Framework (NPPF) provides:

"200. The use of art.4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area .... ."

## **Proposals**

To ensure that the change of use of key employment floorspace across Manchester can be effectively managed so as to protect the wellbeing of the locations identified, it is proposed that an article 4 direction is introduced. This will cover key locations in the city that have a clear role supporting local, regional and national economic wellbeing. It is proposed that the article 4 direction will cover:

- City Centre offices, comprising:
  - Manchester City Centre and Strangeways
- City Centre light industry, comprising:
  - North East City Centre and Strangeways
- North Manchester offices, including:
  - Cheetham Hill District Centre
  - Central Park North
  - Hexagon Tower, Crumpsall
- North Manchester light industry, comprising:
  - Hendham Vale Industrial Park
  - Central Park (North and South)
  - Tulketh Street Industrial Estate, Harpurhey
  - Ardwick, Bradford and Gorton North Industrial Areas
- South Manchester offices, comprising:
  - Parkway, Whalley Range
  - Chorlton District Centre
  - Mauldeth House and 550 Mauldeth Road West, Chorlton Park
  - Towers Business Park, Didsbury East
  - Christie Fields and Siemens, Chorlton Park

- Jobcentreplus, Palatine Road, Didsbury West
- South Manchester light industry, comprising:
  - Siemens, Chorlton Park
- Wythenshawe offices, comprising:
  - Roundthorn and Oaks Business Parks
  - Sharston Industrial Estate
  - Wythenshawe Town Centre
  - Airport City North
  - Atlas and Concorde Business Parks and Styal Road commercial area
- Wythenshawe light industry, comprising:
  - Roundthorn and Oaks Business Parks
  - Sharston Industrial Estate

The evidence report, 'Permitted Development Rights for Change of Use to Class C3 Residential from: Class B1 (a) Office; Class B1 (c) Light Industry. The Case for an Article 4 Direction in Manchester: City Centre and Other Strategic Locations, March 2018' is attached at Annex A. It provides the detailed evidence and rationale for the introduction of an article 4 direction in Manchester. The boundaries for the proposed article 4 direction are indicated in appendix 2 of this report.

In the case of the industrial proposals, the evidence primarily identifies the key locations on which the detailed article 4 proposals are focused. Whilst the importance of maintaining valuable employment space is a useful aspect of the article 4 direction to the council, the primary rationale for including these locations is to manage housing and neighbourhood quality.

## **Summary of the Case for an Article 4 Direction in Manchester**

### *Office to Residential*

Manchester has the most significant concentration of economic activity across Greater Manchester. It provides more jobs than any other district, and more people commute into Manchester to work than to any other district in the city region. In the city centre and other key locations, there are concentrations of office-based employment that provide the economic foundation for the local community and for the wider city region. The impact of permitted development rights that enable buildings in these locations to change use to residential, thereby losing key employment, would be detrimental across a wide geography. Many of these office locations have emerged due to the city's geography, reflecting specific local circumstances. This could include the agglomeration witnessed in the city centre, or the presence of clusters close to the airport. This means that the lost employment is unlikely to relocate elsewhere in the region. It is, therefore, considered reasonable to introduce an article 4 direction to remove these permitted development rights in key locations.

A further issue for Manchester is the need to promote high quality new residential development so that the Council's urban regeneration aims can be achieved. New homes that are provided through the planning system will be properly designed to provide good accommodation, including taking account of local policies such as the Manchester Residential Quality Guidance. Residential conversions that come through the permitted development route are not subject to the same scrutiny nor required to achieve the same standards, and will therefore be of a lower quality. Although the Council's Local Plan and Residential Growth Strategy recognise the need to accelerate the provision of new housing, its ambitions for the long-term enhancement of neighbourhoods across the City rely on high quality place-making. These aims will be undermined if new development does not make a positive contribution in this regard.

There are currently two exemptions to the office-to-residential permitted development in the city centre, which will end on 31 May 2019. Although there will be a brief period when these areas would be covered by both the exemption and the article 4 direction, it is considered that this would be clearer than splitting the City Centre into separate article 4 directions.

#### *Light Industry to Residential*

Manchester's role as a centre for light industry is less substantial than its role as an office location. However, considering the growing demand for residential supply in some parts of the city, there are particular concerns that the opportunity to convert light industrial space to housing without full planning permission will become increasingly attractive. The council is particularly concerned that, in the absence of effective planning controls, this could result in the delivery of low quality housing and become a barrier to achieving high quality neighbourhoods. In Manchester, it is already evident that many of the homes emerging through the permitted development conversion of former office buildings fall short of the council's quality standards, which are clearly expressed in the Manchester Residential Quality Guidance.

Many industrial locations in Manchester are in neighbourhoods where regeneration remains an important aim, and new development the primary route to securing this. Without the ability to manage new development in line with local planning policy standards, housing delivered as permitted development will fail to improve the quality of the local area. The objectives of the Local Plan rely on achieving significant regeneration. The council's strategy for in many neighbourhoods is contingent upon development leading to environmental improvements, including in the quality of housing. Losing this control could, therefore, significantly undermine wider planning strategies across the city. Furthermore, there are key locations for these forms of employment, and these are particularly important sources of employment for local people that may not be able to access the opportunities in other parts of the city. Whilst the prior approval process does provide some protections against the loss of important employment, including the proposed locations within an article 4 direction will provide additional security to the council in this regard.

Therefore, an article 4 direction is proposed as a means of securing important locations for light industrial use, and, above all, supporting the provision of homes and

places of the quality necessary to support the aims of the Local Plan and other associated local policy.

The attached report provides an extensive evidence base that sets out a detailed rationale that identifies the key locations to be subject to an article 4 direction in Manchester, including maps that set out the boundaries of each of the proposed areas. It is considered that the evidence, along with the explanation provided in this report, clearly justifies the withdrawal of the permitted development rights in the locations identified. Maps of the areas proposed to be included within an article 4 direction are attached at Appendix 2 of the attached report.

### **Procedure for introducing the Article 4 Direction - Next Step**

Summarising the main points, the process would be as follows:-

If the recommendation of this report is approved and authority given to make the article 4 direction attached, the City Council will give notice of the direction, including the intended date of its coming into force, and will seek representations in accordance with the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015/596, as amended (the Order). The notification requirements include publishing a notice in a local newspaper, serving notice on the owners and occupiers of the affected properties and land; and displaying site notices. The period during which representations can be made will be six weeks.

In accordance with paragraph 1(2)(b) of Schedule 3 to the Order, the City Council may dispense with serving individual notices, where it is considered that the number of owners and occupiers within the area to which the direction relates would make such individual service impracticable.

The Council will endeavour to directly notify all owners and occupiers in the locations identified for article 4 directions, unless the extent of these areas (in terms of the numbers of owners and occupiers) is of a scale that makes direct notification unreasonable. The only locations where the Council considers it is not reasonable to notify all owners and occupiers are the City Centre (Office B1(a)) and the City Centre (Light Industry B1(c))

For these locations, the Council will display sites notices to ensure that people are aware of its proposals. The Council will also make use of its social media accounts to highlight the making of the direction. Notification of the Article 4 directions will also be sent to all consultees on the Strategic Planning consultation database (around 750 people and organisations).

Following the close of the period for receipt of representations, a further report will be prepared to consider any comments received and seek a determination as to whether or not the direction(s) should be confirmed. If the direction(s) are confirmed, notification will be given in the same manner as for the making.

If confirmed, the article 4 direction(s) would automatically come into force on the date specified in the notice of making, which should be at least a year after such notice. In so doing, the Council will ensure that it will have no liability for compensation claims in respect of the loss of permitted development rights.

The attached table sets out, in more detail, the various stages and requirements relating to bringing the article 4 direction(s) into effect.

**Recommendation**

It is recommended that the Head of Planning, Licensing and Building Control approves the making of the article 4 direction(s) for the reasons given in this report and authorises the publication of the requisite notifications .

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I Julie Roscoe, the Head of Planning, Licensing and Building Control, hereby approve the making of the article 4 direction attached for the reasons given in this report and authorise the publication of the requisite notifications.



Signed.....

Date...22<sup>nd</sup> March 2018.....

Table

Stage	Requirements
1	<p><b>Authorisation</b></p> <ul style="list-style-type: none"> <li>● After consideration of the report which shall include the justification for the removal of permitted development rights and the draft Article 4 Direction, the Head of Planning, Licensing and Building Control may determine whether or not to make the direction and give the requisite publicity.</li> </ul>
2	<p><b>Make the Article 4 Direction</b></p> <ul style="list-style-type: none"> <li>● The direction must state the Classes or parts of classes of Schedule 2 to the GPDO 2015 to be restricted clearly and precisely to enable those who will be affected to understand what they cannot do.</li> <li>● The direction shall include maps defining the areas to which it relates.</li> <li>● Direction to be signed, sealed and dated.</li> </ul>
3	<p><b>Publicise Article 4 Direction</b></p> <p>As soon as practicable following the making of the direction:</p> <ul style="list-style-type: none"> <li>● <u>Publish a notice</u> <ul style="list-style-type: none"> <li>○ Publish a notice for the direction in a local newspaper.</li> </ul> </li> <li>● <u>Site notices</u> <ul style="list-style-type: none"> <li>○ Display at least two site notices in each of the areas covered by the direction for a period of not less than six weeks (replacing as necessary).</li> </ul> </li> <li>● <u>Notify owners and occupiers (unless impractical)</u> <ul style="list-style-type: none"> <li>○ Serve notice on the owners and occupiers of the affected properties and land, unless this is impractical.</li> <li>○ Where individual notification is considered impractical due to the number of owners or occupiers [or because of problems associated with identifying one or more of them] – i.e. in the City Centre – the requirement may be dispensed with.</li> <li>○ However, where the owner is a statutory undertaker or the Crown, they must be individually notified.</li> </ul> </li> <li>● <u>Publish on LPA website</u> <ul style="list-style-type: none"> <li>○ Although not a statutory obligation, it is considered good practice to publish a notice of an Article 4 direction on the LPA's website.</li> </ul> </li> <li>● <u>Contents of notice of the Article 4 direction</u> <ul style="list-style-type: none"> <li>○ Description of the development, the area to which the direction relates and a statement of the effect of the direction.</li> <li>○ Specify that the direction is made under Article 4(1) of the GPDO 2015.</li> <li>○ Name the place where the direction and a map of the affected areas can be inspected.</li> <li>○ Specify a minimum period of 21 days for <b>representations</b> to be made to the LPA.</li> <li>○ The date the representation period begins must be stated in the notice. Any representation received by the LPA during this</li> </ul> </li> </ul>

	<p>period must be taken into account by the LPA in deciding whether to confirm the Article 4 direction (see below).</p> <ul style="list-style-type: none"> <li>○ Specify the date that the Article 4 direction is proposed to come into force, which should not be less than 1 year after the completion of the publication requirements in respect of their making, so as to ensure that the right to compensation does not arise.</li> <li>○ This date must be between 28 days and two years following the date on which the representation period began. An Article 4 direction must be confirmed by the LPA before it can come into force (see Confirmation of Article 4 direction below).</li> </ul> <ul style="list-style-type: none"> <li>● <u>Send copies of Article 4 direction and notices to Secretary of State</u> <ul style="list-style-type: none"> <li>○ On the date the notice is first published or displayed, the LPA must send a copy of the Article 4 direction and the notice(s) of the direction to the Secretary of State (at the NCU).</li> </ul> </li> </ul>
4	<p><b>LPA's Consideration of representations</b></p> <ul style="list-style-type: none"> <li>● The LPA must take into account any representations it receives during the representation period when deciding whether or not to confirm the Article 4 direction.</li> <li>● A report should be prepared for Head of Planning, Licensing and Building Control to consider the representations and make a determination as to whether the direction should or should not be confirmed.</li> </ul>
5	<p><b>Confirmation of Article 4 Direction</b></p> <ul style="list-style-type: none"> <li>● An Article 4 direction cannot come into force on the date specified in the notice of making unless it has been confirmed by the LPA.</li> <li>● The approval of the Secretary of State is <u>not</u> required for confirmation – though the Secretary of State has powers to modify or cancel a direction at any time if there are clear reasons why such intervention is necessary.</li> <li>● The Article 4 direction cannot be confirmed until 28 days after the completion of the publication requirements in respect of its making.</li> <li>● The Article 4 direction should be endorsed to indicate that it has been confirmed and signed and sealed.</li> </ul> <p>When the Article 4 direction has been confirmed, the LPA must as soon as practicable:</p> <ul style="list-style-type: none"> <li>● <u>Notice of confirmation</u> <ul style="list-style-type: none"> <li>○ Give notice of the confirmation and the date the Article 4 direction shall come into force in the same way as required for the notification of the making of the direction (see above).</li> </ul> </li> <li>● <u>Send a copy of Article 4 direction to Secretary of State</u> <ul style="list-style-type: none"> <li>○ Send a copy of the Article 4 direction as confirmed to the Secretary of State (at the NCU).</li> </ul> </li> </ul>



6	<p><b>Article 4 Direction come into force (become effective)</b></p> <ul style="list-style-type: none"><li>● From the date the Article 4 direction come into force, applications for planning permission will need to be submitted to the LPA for the changes of use in the areas covered by the direction.</li><li>● Where prior approval has been granted prior to an Article 4 direction coming into force and the development is completed within 3 years of such approval, the direction is of no effect and the development is authorised.</li></ul>