

Delegated Powers Report

Subject: Article 4 Directions to control permitted changes of use from Class E (a, b and c) Retail; Food and Drink; and Financial, Professional and other services to Class C3 residential

Date: 28 September 2021

Introduction

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 the need to apply for planning permission, described as “permitted development”. These permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”).

Councils can make an article 4 direction under the GPDO 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.

In 2019, new directions were introduced to manage the change of use from office and light industry to residential, removing permitted development rights in eight broad areas within the district.

On 1 September 2020 the government introduced, amongst other things, the new Class E (commercial, business and service) uses at Part A of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987, as amended (“the UCO”) amalgamating a number of uses, including shops; cafes and restaurants; financial and professional services; indoor sports; medical or health services; creches and day nurseries; and offices, light industrial uses. Following this, on 21 April 2021, the government also introduced the new Class MA permitted development right at Part 3 of Schedule 2 of the GPDO, which, subject to certain criteria, allows a change of use from a Class E use to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the UCO.

With these recent planning reforms it has become necessary for the City Council to review the existing Article 4s (which is also good practice notwithstanding) particularly in the context of the further relaxations of planning control.

This report sets out the rationale for seeking to control via Article 4 directions certain of the permitted changes of use within the Class MA, specifically those within Class E (a, b and c) Retail; Food and Drink; and Financial, Professional and other services to Class C3 residential, in certain locations in the city.

Background

In 2013 the government changed planning legislation to allow a 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 expired on 31 May 2019.

Although the changes to permitted development rights were initially limited for a five-year period, the government decided that the arrangements should be made permanent. They also extended these rights to allow change of use of light industrial building to residential, providing the change of use does not exceed 500m². At that time, the government 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.

As a consequence, the City Council introduced a number of Article 4s to allow any such changes of use on a managed basis. These related to strategic employment locations within the city, recognising the role Manchester plays in the national economy and the importance of protecting key employment locations to satisfy demand.

The city also has a robust residential growth strategy which enables new homes to be delivered in the right place, of the right quality to meet all of Manchester's needs.

The presence of the existing Article 4s has not deterred or prevented the delivery of development, indeed a strong programme of development has continued and the City Council is now seeking to renew those Article 4s with reference to the new Class E (g).

At the same time the Council believes it is necessary to seek Article 4s in relation to the new Class E (a, b and c) Retail; Food and Drink; and Financial, Professional and other services. The changes being introduced through the new permitted change of use are significant in the context of a city such as Manchester that has a strong retail, food and beverage and high street amenities offer and is seeking to balance the needs of both a growing population and growing economy, including a significant visitor market, retaining a retail and leisure catchment from across the city region and beyond.

What is clear is that the city also has a robust residential growth strategy which enables new homes to be delivered in the right place, of the right quality to meet all of Manchester's needs.

Government Guidance

Para 53 of the revised National Planning Policy Framework (NPPF) (issued 20 July 2021) 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.

It is considered the proposed Article 4s are in line with the NPPF and there is sufficient and overwhelming evidence to support the introduction of the directions.

Proposals

To ensure that the change of use to Class C3 residential of key retail and other associated floorspace falling within Class E (a, b and c) across Manchester can be effectively managed, to avoid wholly unacceptable adverse impacts in specific locations, it is proposed that eight separate article 4 directions are introduced to remove the permitted development rights. In order to avoid the risk of the Council having to pay compensation, the directions should be “non-immediate”. This would mean that, subject their confirmation, the directions would not become effective for at least a year after being made. The directions 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 directions will cover:

1. The City Centre:

- Manchester City Centre – primary shopping area including the area around Piccadilly Gardens
- Ancoats
- The Northern Quarter
- The area around Piccadilly Station
- An area between St Peters Sq and the Great Northern

Outside the City Centre:

2. Chorlton District Centre
3. Didsbury District Centre

4. Eastlands District Centre
5. Gorton District Centre
6. Levenshulme District Centre
7. Longsight District Centre
8. Wythenshawe District Centre

The evidence report, 'Permitted Development Rights for Change of Use to Class C3 Residential from: use Class E (a, b, c) Retail, Financial, Professional and other services and Food and Drink (excluding drinking establishments and hot food takeaways), The Case for an Article 4 Direction in Manchester: City Centre and Other Strategic Locations, July 2021' is attached at Annex A (accompanying document). It provides the detailed evidence and rationale for the introduction of the article 4 directions in Manchester. The boundaries for the proposed article 4 directions are also appended (Annex B).

Whilst the importance of maintaining valuable retail and associated space is an essential aspect of the article 4 directions to the council, there is also the primary rationale for including these locations is to manage housing and neighbourhood quality.

Summary of the Case for an Article 4 Directions in Manchester

Retail; Financial, Professional and other Services; and Food and Drink 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 retail 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 the locations identified to change use to residential, thereby losing key retail, would be detrimental across a wide geography. Many of these retail locations have emerged due to the city's geography, reflecting specific local circumstances. Manchester has a clear strategic objective and commitment to ensure that retail remains the principle use in primary shopping areas to support growth, local needs and continue to make a positive contribution to vitality and viability of these areas. 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.

Previously this rationale has been accepted as a necessity evidenced by the initial two exemptions to the office-to-residential permitted development in the city centre and subsequently the Article 4s introduced in 2019. It is considered the same rationale applies to changes of use from to those uses covered by Class E (a, b and c)

The attached report in appendix A provides an extensive evidence base that sets out a detailed rationale that identifies the key locations to be subject to an article 4 directions 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 the article 4 directions are also attached.

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 directions to remove permitted development rights in respect of a change of use from Class E (a, b and c) Retail; Food and Drink; and Financial, Professional and other services to Class C3 residential in respect of the areas shown on the plans attached, the City Council will give notice of the directions, including the intended date of their 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 Council considers it is not reasonable to notify all owners and occupiers in some of the areas notably in the City Centre.

For these locations, the Council will display site 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.

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.

Recommendation

It is recommended that the Director of Planning, Licensing and Building Control approves the making of the non-immediate article 4 directions to remove permitted development rights in respect of a change of use from Class E (a, b and c) Retail; Food and Drink; and Financial, Professional and other services to Class C3 residential in respect of the areas shown on the plans attached for the reasons given in this report and authorises the publication of the requisite notifications.

I Julie Roscoe, Director of Planning, Licensing and Building Control, hereby approve the making of the non-immediate article 4 directions to remove permitted development rights in respect of a change of use from Class E (a, b and c) Retail; Food and Drink; and Financial, Professional and other services to Class C3 residential in respect of the areas shown on the plans attached for the reasons given in this report and authorise the publication of the requisite notifications.

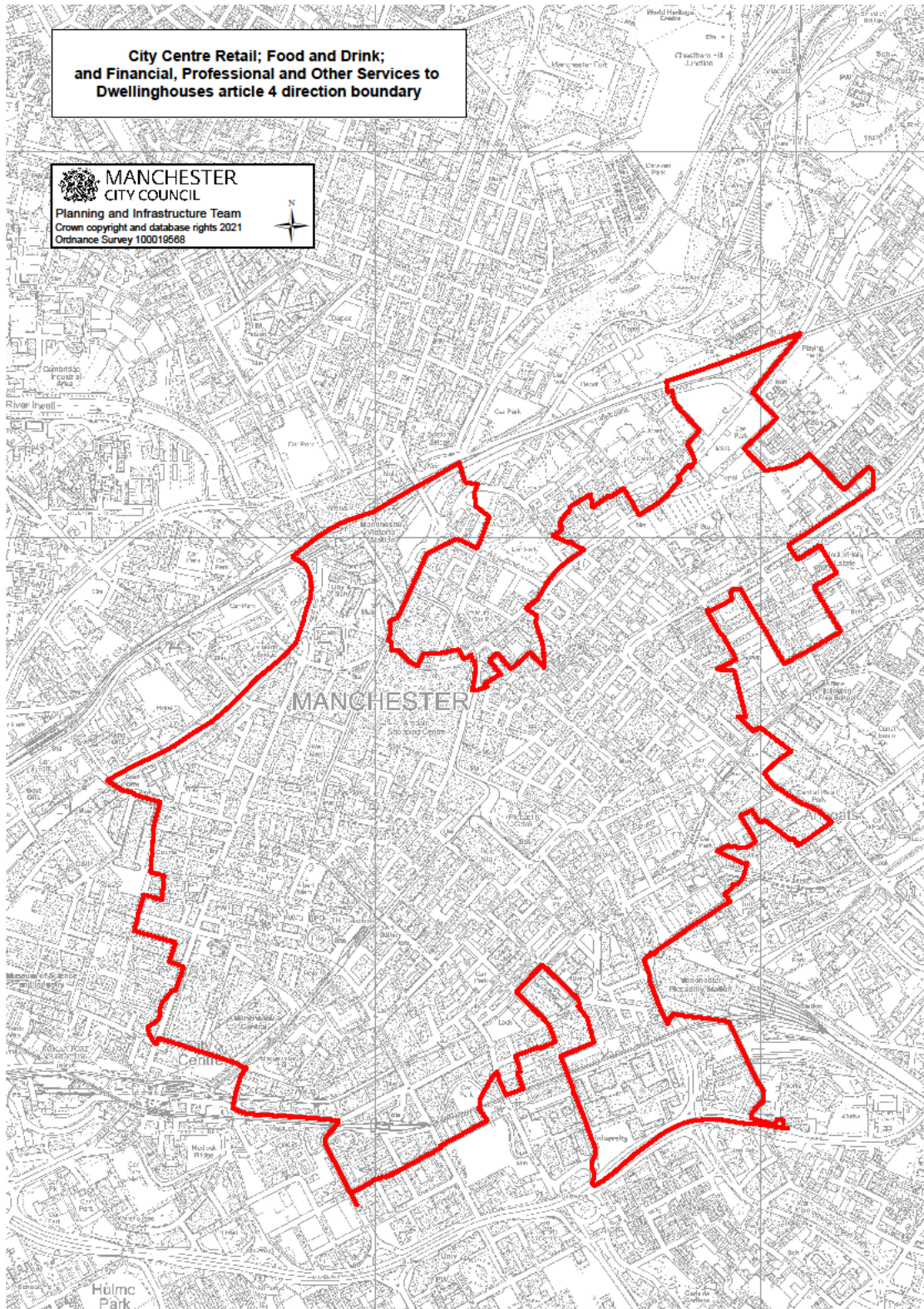


Signed.....

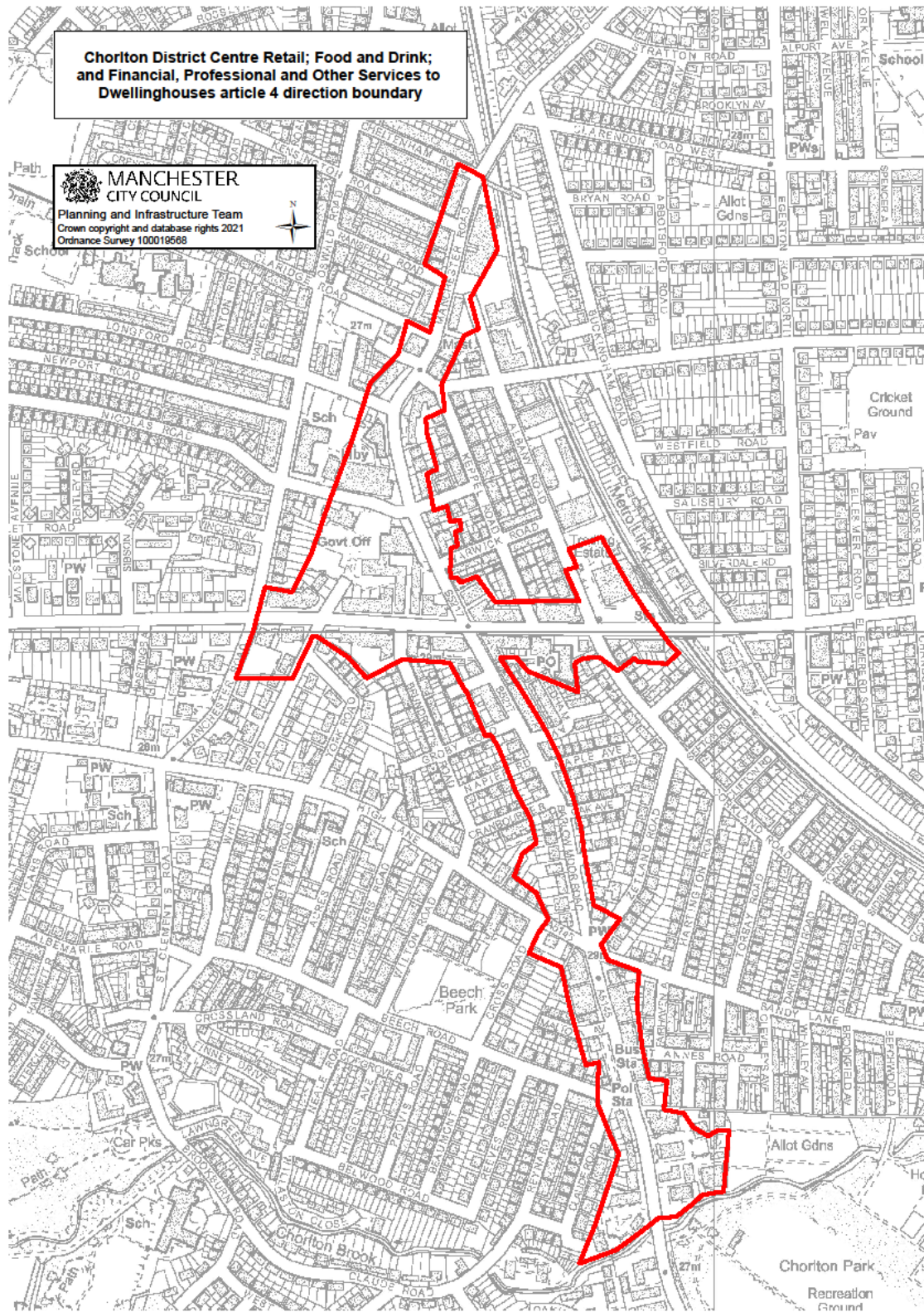
Date...28 September 2021

Annex B

City Centre



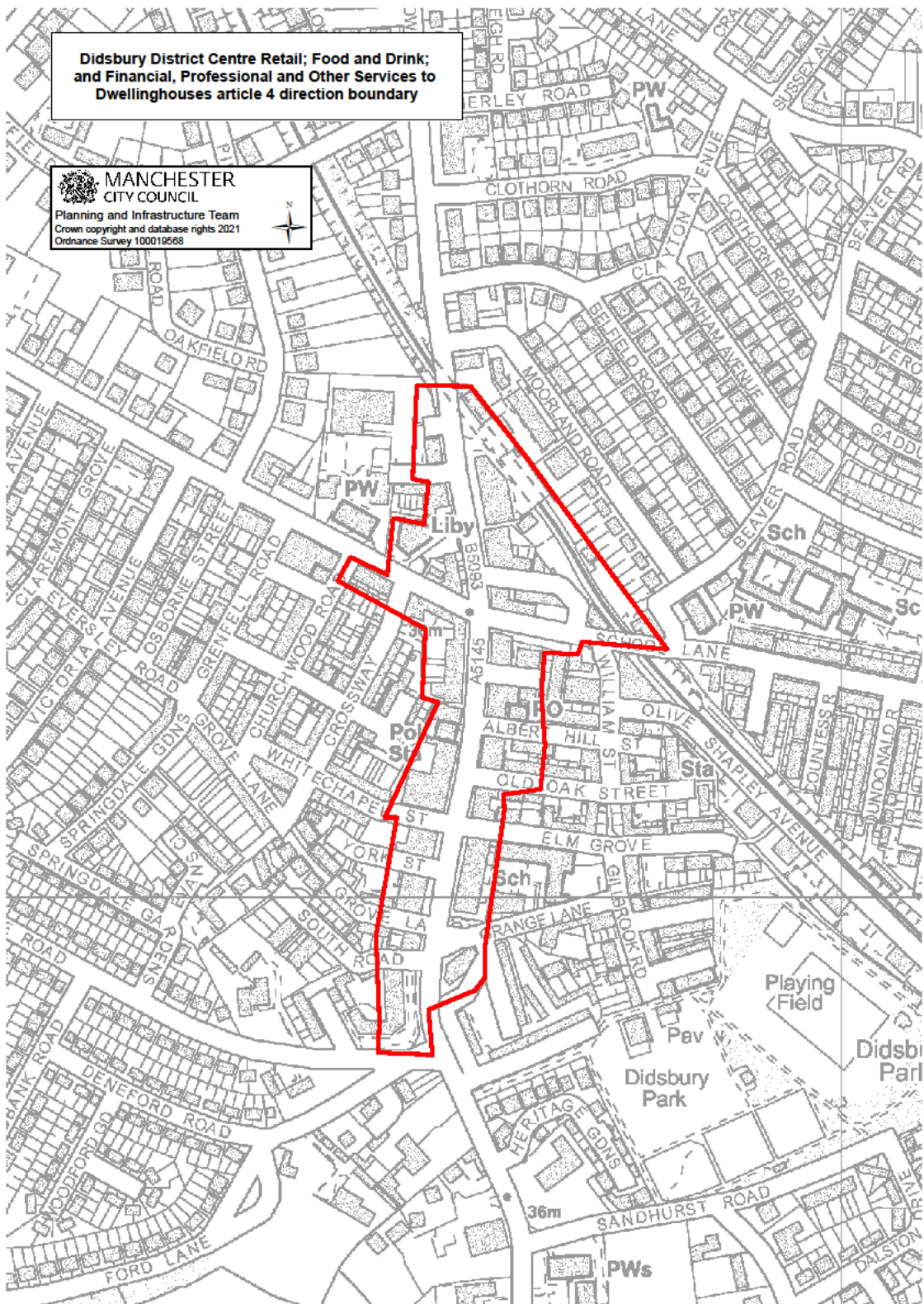
Chorlton



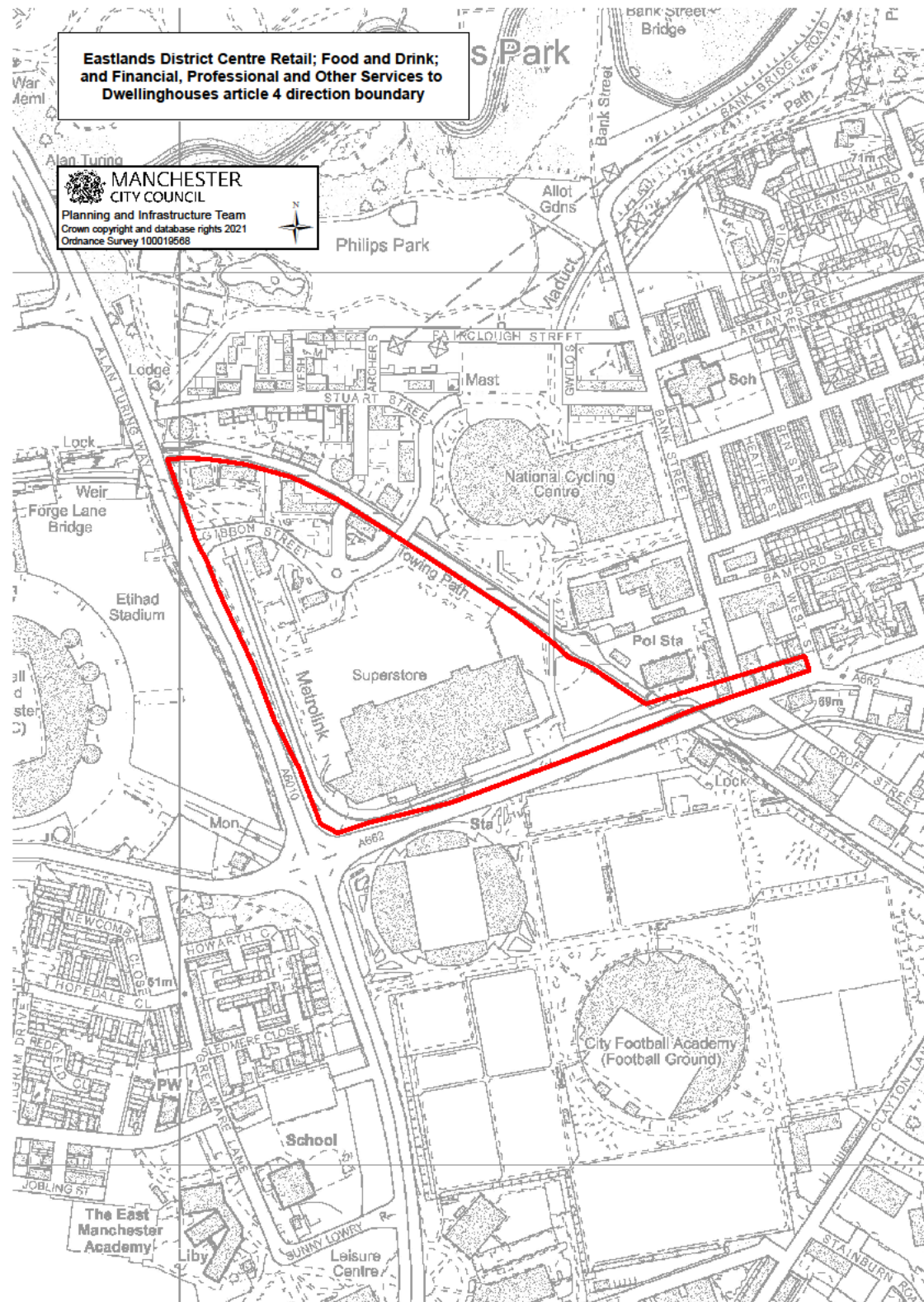
Didsbury

**Didsbury District Centre Retail; Food and Drink;
and Financial, Professional and Other Services to
Dwellings article 4 direction boundary**

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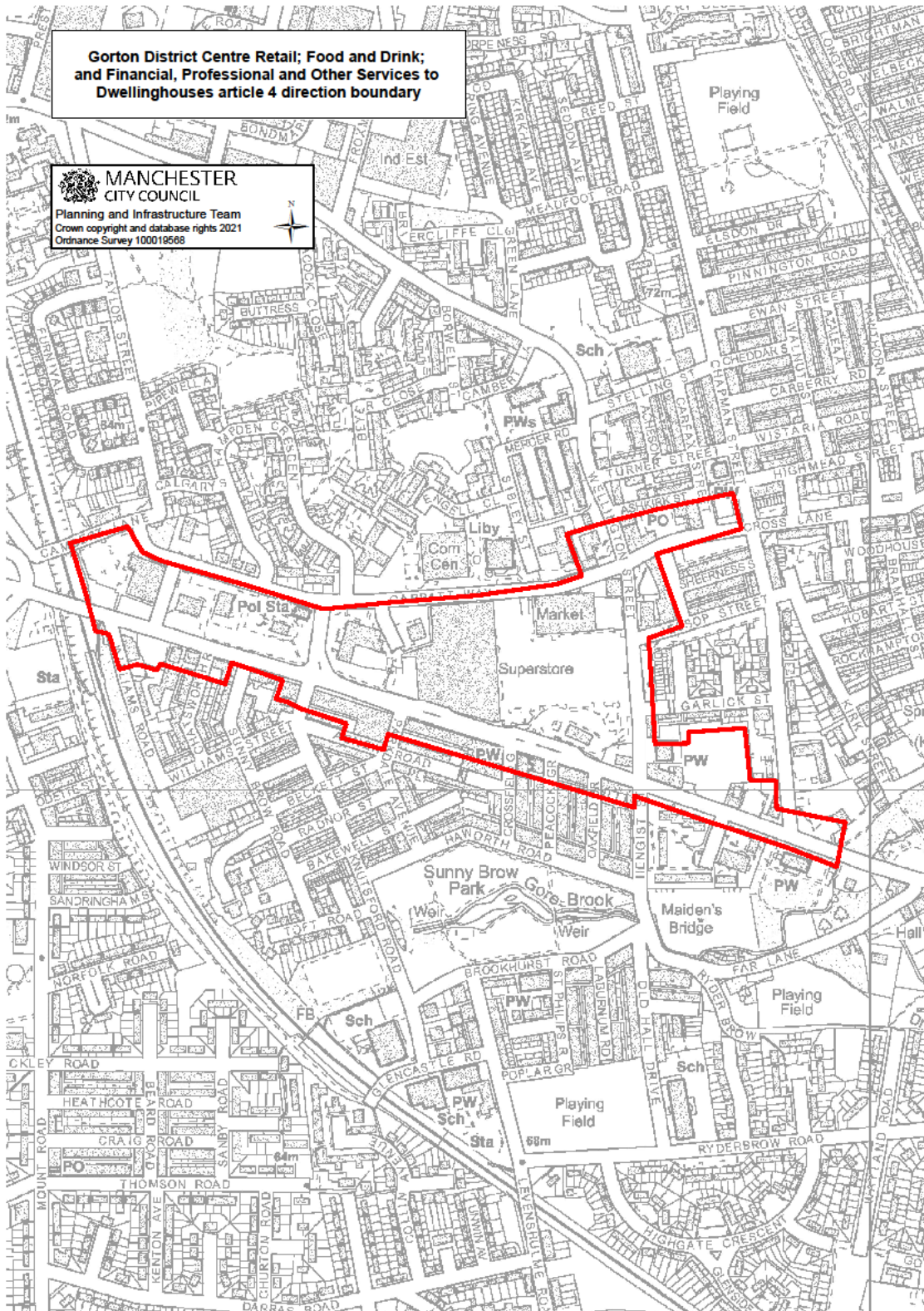
Eastlands



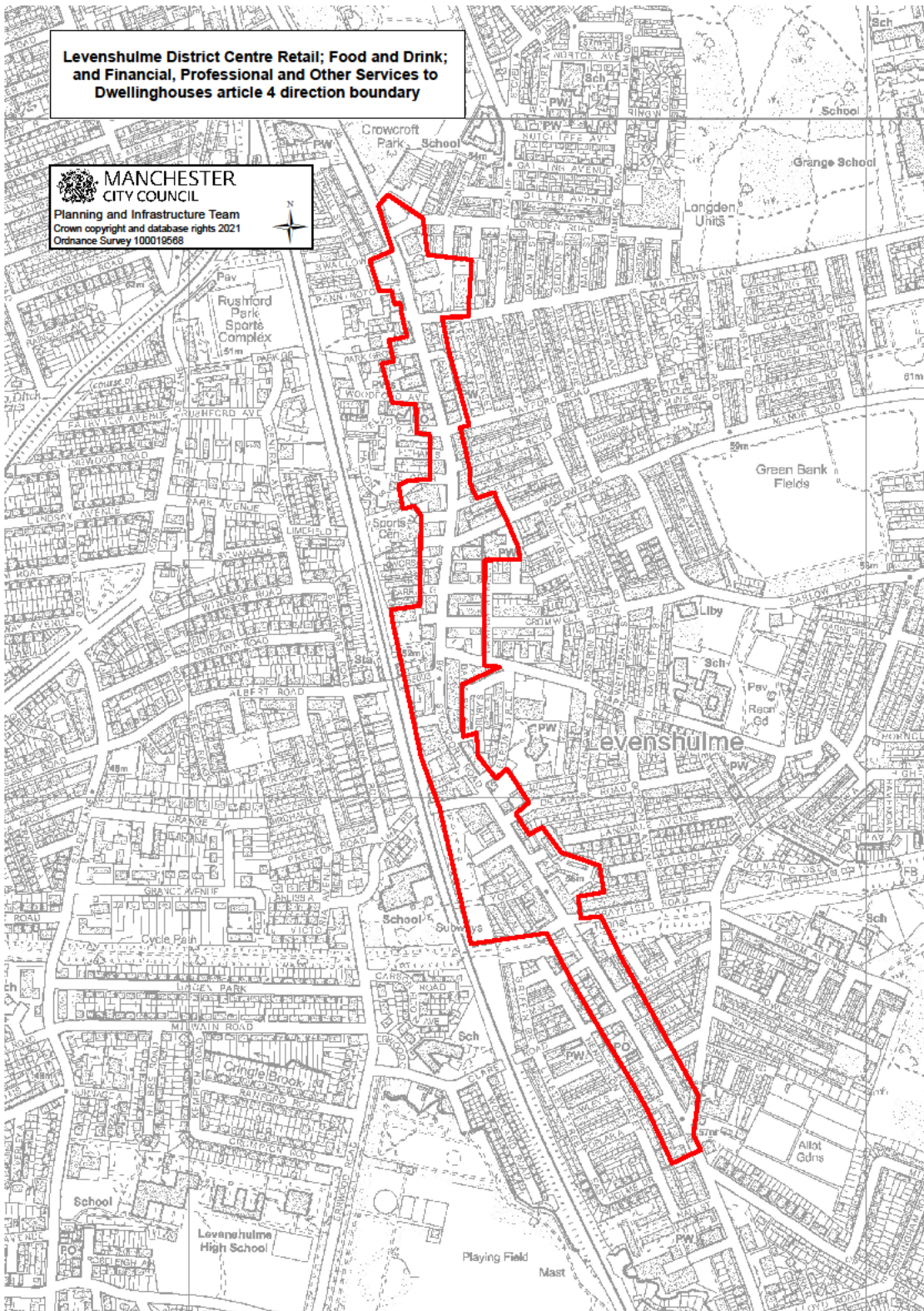
Gorton

**Gorton District Centre Retail; Food and Drink;
and Financial, Professional and Other Services to
Dwellings article 4 direction boundary**

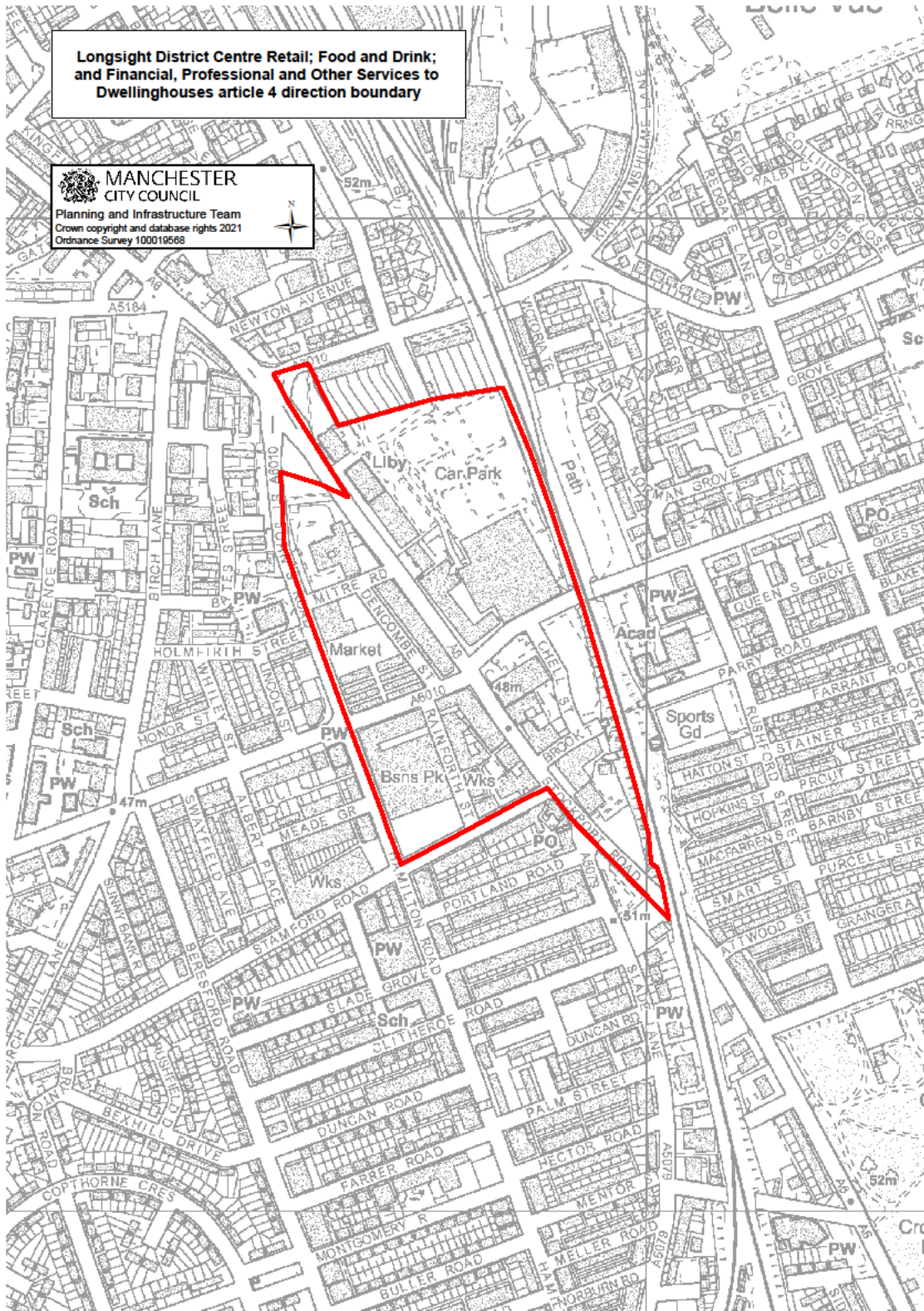
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Levenshulme



Longsight



Wythenshawe

