

DRAFT

Strategic Environmental Assessment (SEA) Screening Assessment

Article 4 Direction to withdraw permitted development rights for change of use from commercial, business and service use (Use Class E) to residential use (Use Class C3), as allowed under Class MA, of Part 3, of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO 2015).

Prepared by:

London Borough of Lewisham

For consultation with statutory consultees

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1 Introduction

- 1.1 This Screening Assessment report has been prepared to determine whether a Strategic Environmental Assessment (SEA) is required for the use of an Article 4 Direction to withdraw permitted development rights for change of use from commercial, business and service use (Use Class E) to residential use (Use Class C3), in line with the Strategic Environmental Assessment Directive (Directive 2001/42/EC), transposed into law by the Environmental Assessment of Plans and Programmes Regulations (the 'SEA Regulations') 2004.
- 1.2 Recognising that the Article 4 Direction will withdraw permitted development rights and require planning permission to be sought in accordance with our development plan unless material considerations indicate otherwise, the council is required to consider whether the Article 4 Direction has the potential to result in significant environmental effects, particularly where such effects may not have already been assessed during the preparation of the council's statutory Development Plan.
- 1.3 This Screening Report has been prepared in accordance with Regulation 9 of the SEA Regulations 2004.
- 1.4 This is a draft screening assessment for consultation with the prescribed statutory consultation bodies. A final determination will be published by the council having regard to all representations received.

2 Scope of the Article 4 Direction

- 2.1 The proposed Article 4 Direction to withdraw permitted development rights for change of use from commercial, business and service use (Use Class E) to residential use (Use Class C3), as allowed under Class MA, of Part 3, of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO 2015).
- 2.2 The making of an Article 4 Direction is considered to be in compliance with the NPPF and would enable the Council to better demonstrate that future need for retail and employment floorspace is appropriately planned and that we can continue to protect and grow the local economy.

3 SEA Screening Procedure

3.1 The SEA screening procedure generally comprises of 6 stages, as detailed below:

1. Preliminary Assessment: to determine whether screening is necessary;
2. Assessment of likely Environmental Effects: if screening is required the an assessment of the likely environmental effects, including any significant effects, will be undertaken in accordance with the SEA Regulations 2004;
3. Draft Screening Report: a draft screening report will be prepared summarising the results of Stage 2 and including a draft determination as to whether the SPD is likely to have significant environmental effects;
4. Consultation with statutory bodies.
5. Final Screening Report: consideration to be given to the responses from the three statutory bodies and then a final version of the screening report prepared confirming:
 - a. The result of the screening;
 - b. Responses from the consultation bodies;
 - c. The final determination, and
 - d. The statement of reasons if no SEA is required
6. Final Screening Report made publically available: the Council will issue the Final Screening Report to each of the three statutory consultees and make it publicly available for inspection.

3.2 This is the stage 3 report, with the current consultation being stage 4.

4 Assessment of Environmental Effects

4.1 The council, as the “responsible authority”, must determine whether the plan or programme (in this case, the use of an Article 4 Direction) is likely to have significant environmental effects. The criteria for determining the significance of effects are set out in Schedule 1 of the SEA Regulations 2004, which are set out in the Table 4.1 below. The proposal has been assessed against each of these criteria and the results are also detailed in Table 4.1.

Table 4.1 - SEA Screening Assessment

SEA Directive Criteria	Assessment	Likely Significant Effects?
1. Characteristics of the plan or programme		
(a)	<p>the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;</p> <p>It is not considered that this programme will significantly influence or set the framework for other projects or activities. The Article 4 Direction is not a statutory development plan document or a strategic plan, and does not set a framework for allocating resources.</p> <p>The proposed Article 4 Direction is a targeted intervention, which will help give effect to the adopted spatial development strategy for the borough.</p>	No
(b)	<p>the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;</p> <p>The National Planning Policy Framework (NPPF) 2021 paragraph 53 states that.</p> <p><i>the use of Article 4 directions to remove national permitted development rights 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).</i></p> <p><i>[and]...be based on robust evidence,</i></p>	No

		<p><i>and apply to the smallest geographical area possible).</i></p> <p>The Evidence Base Review June 2022 demonstrates that the Article 4 Direction proposed by the Council is essential to mitigate the adverse impacts of PD rights and to ensure an inclusive diverse and sustainable local economy.</p> <p>The report also demonstrates that the Article 4 Direction meets the requirements of the legislation, national planning policy and national planning practice guidance.</p> <p>The commercial data supplied by the GLA, as well as LB Lewisham's Employment Land Review, demonstrates that the values of residential uses exceed those for nearly all commercial uses in nearly all locations. This means that, even with the limitations posed by the Prior Approvals process, commercial uses in all locations are under threat by this permitted development right. In order to ensure that the borough can maintain a sufficient supply of land and floorspace to meet its objectively assessed needs for office, industrial and town centre uses, it is necessary to introduce an Article 4 Direction to remove Class E to residential permitted development rights in all designated industrial, employment, and town centre locations.</p> <p>It is important to note that an Article 4 Direction merely removes the permitted development right, it does not remove the right of a person to make an application for planning permission to carry out the development.</p> <p>In Lewisham's case, the development plan includes the London Plan, the Core Strategy, the Development Management Plan, the Site Allocations Plan and the Lewisham town centre Local Plan.</p>	
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(c)	the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;	<p>The use of an Article 4 Direction will ensure that the Council has suitable controls to manage/refuse where appropriate any potential loss of retail and employment floorspace within the borough. This will ensure that the borough can continue to demonstrate that it can meet its assessed needs for retail and employment floorspace as well as ensuring the viability and vitality of our town centres and employment areas within the borough.</p> <p>The NPPF (2021) paragraph 8 sets out three key objectives for the planning system to achieve sustainable development. The first of which is as follows:</p> <p><i>an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;</i></p> <p>The Article 4 Direction will ensure the Council can meet this key objective for delivering sustainable development, to continue to protect and grow the local economy and, through the Development Management process assess and refuse where necessary the loss of Class E uses.</p>	No
(d)	environmental problems relevant to the plan or programme;	It is not anticipated that any environmental problems will be introduced or intensified as a result of the proposed Article 4 Direction.	No
(e)	the relevance of the plan or programme for the implementation of	The Article 4 Direction is not directly linked to any community legislation on the environment.	No

	Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).		
2. Characteristics of the effects and of the area likely to be affected			
(a)	the probability, duration, frequency and reversibility of the effects,	The impact of the Article 4 is likely to be overwhelmingly positive, with the Direction having the potential to have positive impacts in the short, medium and longer term.	No
(b)	the cumulative nature of the effects	Once in place the Article 4 Direction will be relevant to all properties that fall within the proposed areas, and only where an application for a change of use is made. The introduction is not considered to result in likely significant environmental effects.	No
(c)	the trans-boundary nature of the effects of the SPD	There are no trans-boundary effects anticipated from the proposed Article 4 Direction.	No
(d)	the risks to human health or the environment (for example, due to accidents)	There are no anticipated risks to human health or the environment.	No
(e)	the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),	The proposed Article 4 Direction will cover 16 wards (173ha in size) and an estimated population of 50,000. The extent of the Article 4 Direction covers only 5 % of the borough and a very small proportion of the sub-region; the proposal is not considered to result in likely significant environmental effects.	No
(f)	the value and vulnerability of the	The areas do contain statutory designated heritage assets. The	No

	<p>area likely to be affected due to:</p> <p>i) special natural characteristics or cultural heritage</p> <p>ii) exceeded environmental quality standards or limit</p>	<p>Article 4 Direction is not expected to have any significant impact on these assets.</p>	
(g)	<p>the effects on areas or landscapes which have a recognised national, Community or international protection status</p>	<p>There are a limited number of Sites of Importance Nature Conservation (SINC) within the areas. The Article 4 Direction is not expected to have any significant impact on these assets.</p>	No

5 Draft Determination

- 5.1 The screening assessment detailed in table 4.1 indicates that the use of an Article 4 Direction for a small proportion of the borough to withdraw permitted development rights for change of use from commercial, business and service use (Use Class E) to residential use (Use Class C3), as allowed under Class MA, of Part 3, of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO 2015) will not result in any significant environmental impacts. It is noted that the SEA Regulations 2004 do not specify the nature of effects (i.e. positive or negative) that would give rise to a full SEA. However, this assessment has identified that the Article 4 Direction is unlikely to generate significant environmental effects by itself, and there are no negative effects on the environment anticipated.
- 5.2 Any effects resulting from higher tier planning documents including the 'parent policies' relevant to town centres and employment sites have already been considered and assessed by a separate full SEA through the Development Plan process.
- 5.3 The Article 4 Direction does not propose any new policies, or the amendment of existing policies, and will not allocate resources or direct other higher level plans and programmes.
- 5.4 In conclusion, the draft determination is that a SEA will not be required.

Next Stage

- 5.5 The draft determination is that a SEA will not be required for the Article 4 Direction. However, before a final determination is made it will be necessary to:
- 1 Consult on this draft determination with statutory consultees
 - 2 Prepare a final screening report, which is to be made publicly available.