



Mayor and Cabinet

Report title: Confirmation of a non-immediate Article 4 Direction for Use Class E (commercial, business and service) to Use Class C3 (residential)

Date: 29 January 2025

Key decision: Yes

Class: Part 1

Ward(s) affected: All

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Outline and recommendations

The purpose of this report is to inform Mayor and Cabinet about the outcome of the representation period on the making of a non-immediate Article 4 Direction that removes permitted development rights for the 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).

This Article 4 Direction is being introduced to protect Lewisham's primary and secondary town centres and high streets, preserving their unique character, vitality, and long-term sustainability. Without this measure, unchecked changes of use by private housing developers could jeopardise the future of these key areas, undermining their role as vibrant hubs for the community. The Direction also ensures that any new housing meets the highest standards of design and quality, supporting the borough's commitment to excellent placemaking for its residents.

Additionally, research by the Ministry of Housing, Communities and Local Government (MHCLG) and the Royal Institute of Chartered Surveyors has raised serious concerns about housing created under these permitted development rights. Nationally, such homes often suffer from poor design & low housing standards, with them often located in inappropriate locations, further emphasising the need for local planning oversight.

This report fulfils stage 4 in the process of implementing a non-immediate Article 4 Direction and seeks approval for the Director of Law to confirm the Direction.

If authorised for confirmation, the Article 4 Direction will take effect on 01 November 2025 which is over 12 months after notice of the direction was published.

It is recommended that Mayor and Cabinet:

- Considers the responses to the consultation set out in Section 5.
- Authorise the Director of Law and Corporate Governance to confirm the non-immediate Article 4 Direction, which removes permitted development rights for the change of use from commercial, business and service use (Use Class E) to residential use (Use Class C3).
- Authorise the Director of Planning to carry out the statutory notification of the decision to confirm the Article 4 Direction.
- Note the legal and financial implications set out in Section 6 and 7.

Timeline of engagement and decision-making

06 July 2022	Making of a non-immediate Article 4 Direction Use Class E (commercial, business and service) to Use Class C3 (residential) was presented to and approved by Mayor and Cabinet, with such direction to come into force 12 months after notice of the direction is published.
30 September 2022 to 05 December	Representation period on notice of making the Article 4 Direction.
13 December 2022	The then Department for Levelling Up, Communities and Housing intervened and considered that the proposed Article 4 Direction did not comply with national policy.
06 December 2023	Making of a revised non-immediate Article 4 Direction Use Class E (commercial, business and service) to Use Class C3 (residential) was presented to and approved by Mayor and Cabinet, with such direction to come into force 12 months after notice of the direction is published.
18 September to 01 November 2024	Representation period on notice making the revised Article 4 Direction.

1. Summary

- 1.1. This Article 4 Direction is being introduced to protect Lewisham's primary and secondary town centres and high streets, preserving their unique character, vitality, and long-term sustainability. Without this measure, unchecked changes of use by private housing developers could jeopardise the future of these key areas, undermining their role as vibrant hubs for the community. The Direction also ensures that any new housing meets the highest standards of design and quality, supporting the borough's commitment to excellent placemaking for its residents.
- 1.2. Additionally, research by the Ministry of Housing, Communities and Local Government (MHCLG) and the Royal Institute of Chartered Surveyors has raised serious concerns about housing created under these permitted development rights. Nationally, such homes often suffer from poor design & low housing standards, with them often located in inappropriate locations, further emphasising the need for local planning oversight.

- 1.3. At its meeting on 06 December 2023, Mayor and Cabinet agreed the following recommendations to:
- Approve the making of a non-immediate Article 4 Direction that removes permitted development rights for the change of use from commercial, business and service use (Use Class E) to residential use (Use Class C3)
 - Authorise officers to carry out consultation in accordance with Section 6 of the Mayor and Cabinet report.
 - Note the financial and legal implications of making the Article 4 Direction set in Sections 7 and 8 of the Mayor and Cabinet report.
- 1.4. The procedure for making the Article 4 Direction is set out in Section 3 of the Mayor & Cabinet report of 06 December 2023. Statutory consultation has occurred, and the Council is required to consider any representations received prior to making a decision on whether to confirm the Article 4 Direction.
- 1.5. In September 2020, changes to the Use Class Order came into effect which merged many uses which were formally contained in Class A1-A3 (retail), Class B1 (offices, research and development and light industrial) and Class D (leisure and community) into a new Class E and new Class F.
- 1.6. In August 2021, changes to legislation introduced new permitted development rights allowing for changes of use from commercial, business and service use (Use Class E) to residential use (Use Class C3) without the need for planning permission.
- 1.7. Local planning authorities cannot secure planning obligations in respect of matters that are not the subject of the prior approval process. Crucially, and which has proved controversial with authorities in the past, class MA residential development does not attract any affordable housing requirements. However, s106 agreements can be used to provide mitigation of the prior approval matters set out above i.e., highways, environmental, flooding, noise etc.
- 1.8. The evidence paper (**Appendix 1**) accompanying this report outlines the potential adverse economic and social impacts that the permitted development rights could have in Lewisham's designated town centres, employment, and industrial areas.
- 1.9. Article 4 Directions can be used by Local Authorities to withdraw permitted development rights where there is a local need and/or justification for doing so. Article 4 Directions can be implemented with immediate effect or with non-immediate effect. In the case of an immediate Article 4 Direction the Local Authority may be liable for compensation to any landowner or other stakeholder who has a planning application refused for a development that would have been allowed under Permitted Development Rights. A non-immediate Article 4 Direction takes effect 12 months after the Direction is made and negates compensation claims. Given the potential cost of compensation, a non-immediate Article 4 Direction is recommended.
- 1.10. The Mayor of London has encouraged the use of Article 4 Directions covering Use Class E to Use Class C3 to protect the vitality and economic viability of town centres, employment and industrial areas and many other London Boroughs have worked towards this.

- 1.11. At its meeting on 06 July 2022, Mayor and Cabinet approved the making of a non-immediate Article 4 and authorised officers to carry out consultation.
- 1.12. A representation period on the previously proposed Class E Article 4 Direction ran from 30 September 2022 until 5 December 2022.
- 1.13. The Council received 44 representations in total; 11 written representations and 33 representations through Citizen Space.
- 1.14. 79% of respondents (35 in total) who made a representation supported the Article 4 Direction.
- 1.15. However, following formal notification to the Secretary of State, The then Department for Levelling Up, Housing and Communities (DLUHC) intervened and considered that the proposed Article 4 Direction did not comply with national policy. Specifically, they cited paragraph 53 of the NPPF. Which states, “in all cases, (Article 4 directions should) *be based on robust evidence and apply to the smallest geographical area possible.*” They questioned whether the Article 4 Direction did indeed cover the smallest geographical area and they requested the Council reconsider the coverage of the Article 4 Direction and prepare additional evidence base work. This intervention by the then DLUHC was replicated across all London Authorities who were/are seeking to introduce Article 4 Directions on the same topic.
- 1.16. In response to the then DLUHC, the Council did not confirm the Article 4 Direction. As the date of coming into force has now passed without the direction having been confirm it now is of no effect. The Council prepared an additional evidence paper (**Appendix 2**) which accompanies this report. The paper includes more detailed granular assessments focused on individual streets and buildings where wholly unacceptable adverse impacts would occur due to the permitted development right.
- 1.17. Following the recommendations authorised by Mayor and Cabinet on the 06 December 2023, the Council carried out a representation period from 18 September 2024 to 01 November 2024 on the Article 4 Direction.
- 1.18. The Council received 12 representations in total; 7 written representations 5 representations through Citizen Space.
- 1.19. 67% of respondents (8 in total) who made a representation supported the Article 4 Direction.
- 1.20. The council once again notified the Secretary of State of the new made Article 4 Direction as part of the representation period. The Council has received no intervention or comment on the Article 4 Direction and can proceed with its confirmation.

2. Recommendations

- 2.1. It is recommended that Mayor and Cabinet:
 - Note the responses to the consultation set out in section 5.
 - Authorise the Director of Law and Corporate Governance to confirm the non-immediate Article 4 Direction, which removes permitted development rights for the change of use from commercial, business and

service use (Use Class E) to residential use (Use Class C3).

- Authorise the Director of Planning to carry out the statutory notification of the decision to confirm the Article 4 Direction.
- Note the financial and legal implications of making the Article 4 Direction set out in Sections 6 and 7.

3. Policy Context

Corporate Strategy 2022-26

- 3.1. The introduction of an Article 4 Direction will contribute to the implementation of the Corporate Strategy 2022-26 and in particular support the delivery of the Corporate priority - **A strong local economy** - by protecting the vitality and economic viability of Lewisham's designated town centres, employment and industrial areas.

Permitted Development Rights

- 3.2. Under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), some changes of use are granted planning permission without the need to make a planning application.
- 3.3. On 30 March 2021, the government amended the 2015 order to introduce a new permitted development right Class MA allowing for changes of use from commercial, business and service use (Use Class E) to residential use (Use Class C3). The permitted development right development came into force on 01 August 2021. Development is not permitted by Class MA in certain circumstances, including:
- A size limit whereby the right only applies to sites that would result in the loss of no more than 1,500sqm of Class E floorspace
 - A vacancy test, meaning that the right only applies to premises that have been vacant for 3 months before the Prior Approval application.
 - That the right does not apply to listed buildings
 - That the building must have been in Class E use (includes former classes now incorporated within Class E) for at least 2 years before benefiting from the right.
- 3.4. On 05 March 2024, amendments to Permitted Development Rights Class MA came in to force. The changes related to:
- No limit to the floor space that can be converted under Class MA
 - There is no requirement for the building to be vacant for 3 months
- 3.5. Where the Permitted Development Right does apply, proposals will be subject to a prior approval application, where a very limited number of matters can be considered, namely:
- Transport impacts
 - Contamination risk of the building

- Flood risk
- Impact of noise from commercial premises on intended occupiers
- Provision of adequate natural light to all habitable room
- In conservation areas where the development involves a change of use of the whole or part of the ground floor– consideration of the impact of that change of use on the character or sustainability of the conservation area.
- the provision of adequate natural light in all habitable rooms of the dwellinghouses
- Impact of intended occupiers of introducing residential use to an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.
- where the development involves the loss of services provided by a health centre or a registered nursery the impact on the local provision of such type of services lost
- where the development meets the fire risk condition, the fire safety
- impacts on the intended occupants of the building

Article 4 Directions

3.6. Article 4 Directions can be used to withdraw permitted development rights across a defined area. This power is set out in the Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

3.7. The NPPF (2023) paragraph 53 states that: The use of Article 4 Directions to remove national permitted development rights should:

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 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*

Planning Practice Guidance

3.8. The government's online planning practice guidance (PPG entitled "When is permission required?") gives further detail on the use of Article 4 Directions

3.9. An Article 4 Direction can be used to remove specific permitted development

rights in all or parts of the local authority's area. It does not restrict development altogether but instead ensures that development requires planning permission. A planning application for the proposal would need to be submitted that would then be determined in accordance with the development plan unless material considerations indicate otherwise.

- 3.10. An Article 4 Direction cannot be used to restrict changes between uses in the same use class of the Use Classes Order. (PPG paragraph 030 revised 2020).
- 3.11. The PPG states that an Article 4 Direction to remove national permitted development rights should be limited to situations where it is necessary to protect the local amenity or the well-being of an area. It also states that in deciding whether an Article 4 Direction would be appropriate, local planning authorities should identify clearly the potential harm that the Direction is intended to address. Where the withdrawal of permitted development rights relates to a wide area (e.g. covering a large proportion of or the entire area of a local planning authority), the PPG states particularly strong justification is needed (PPG paragraph 038 revised 2021).
- 3.12. A non-immediate Article 4 Direction can come into force at least 28 days but no longer than two years after the first date for making representations to the direction. In this case a 12 month period after notice of the direction is published has been given before the Direction comes into force . A non-immediate Article 4 Direction is made with a longer period before it comes into effect to prevent compensation claims against the Council.
- 3.13. At this stage the Council considers any representations received after a period of at least 28 days from publication/service of the Notice and decides whether to confirm the Direction. Once a Direction has been confirmed, the council must give notice of the confirmation in the same way as it gave notice of the initial direction and must specify the date that the direction comes into force. A copy of the direction as confirmed must also be sent to the Secretary of State.

National Planning Policy Framework (NPPF) (2023)

- 3.14. The NPPF (2023) paragraph 8 sets out three key objectives for the planning system to achieve sustainable development. The first of which is as follows:
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;*
- 3.15. **Section 3, Plan-making** part of paragraph 20 states that:
Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for...Housing (including affordable housing), employment, retail, leisure and other commercial development.
- 3.16. **Section 6: Building a strong, competitive economy** part of paragraph 81 states:
Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account

both local business needs and wider opportunities for development.

3.17. **Section 7: Ensuring the vitality of town centres**, paragraph 86 states:

Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:

- a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;*
- b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;*
- c) retain and enhance existing markets and, where appropriate, re-introduce or create new ones;*
- d) allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary*
- e) where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and*
- f) recognize that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.*

London Plan

3.18. **Policy E1 Offices** supports improvements to the quality, flexibility and adaptability of office space of different sizes (for micro, small, medium-sized and larger enterprises) through new office provision, refurbishment and mixed use development. It also supports the retention of existing viable office floorspace in locations outside the nationally-significant office locations, supporting borough Article 4 directions to remove permitted development rights where appropriate, facilitating the redevelopment, renewal and re-provision of office space where viable and releasing surplus office capacity to other uses.

3.19. **Policy E2 Providing suitable business space** expects boroughs to include policies in local Development Plan Documents that support the provision, and where appropriate, protection of a range of B Use Class business space, in terms of type, use and size, at an appropriate range of rents, to meet the needs of micro, small and medium-sized enterprises and to support firms wishing to start-up or expand.

- 3.20. **Policy E4 Land for industry, logistics and services to support London's economic function** requires a sufficient supply of land and premises in different parts of London to meet current and future demands for industrial and related functions to be provided and maintained, taking into account strategic and local employment land reviews, industrial land audits and the potential for intensification, co-location and substitution. The policy also seeks the retention, enhancement and provision of additional industrial capacity across designated and undesignated industrial sites to be planned, monitored and managed.
- 3.21. **Policy E5 Strategic Industrial Locations (SIL)** requires that Strategic Industrial Locations should be managed proactively through a plan-led process to sustain them as London's largest concentrations of industrial, logistics and related capacity for uses that support the functioning of London's economy. The policy requires the Borough's Development Plans to develop local policies to protect and intensify the function of SILs and enhance their attractiveness and competitiveness (including improvements to access, public transport, digital connectivity and other related infrastructure).
- 3.22. **Policy SD6 Town centres and high streets** states that:
- The vitality and viability of London's varied town centres should be promoted and enhanced by:*
- 1) *encouraging strong, resilient, accessible and inclusive hubs with a diverse range of uses that meet the needs of Londoners, including main town centre uses, night-time economy, civic, community, social and residential uses*
 - 2) *identifying locations for mixed-use or housing-led intensification to optimise residential growth potential, securing a high-quality environment and complementing local character and heritage assets*
 - 3) *delivering sustainable access to a competitive range of services and activities by walking, cycling and public transport*
 - 4) *strengthening the role of town centres as the main focus for Londoners' sense of place and local identity in the capital*
 - 5) *ensuring town centres are the primary locations for commercial activity beyond the CAZ and important contributors to the local as well as London-wide economy*
 - 6) *supporting the role of town centres in building sustainable, healthy and walkable neighbourhoods with the Healthy Streets Approach embedded in their development and management*

Lewisham's adopted Local Plan

- 3.23. Lewisham adopted Local Plan is made up of the following:
- Lewisham Core Strategy (2011)
 - Site Allocations Local Plan (2013)
 - Lewisham Town Centre Local Plan (2014)
 - Development Management Local Plan (2014)

Core Strategy (2011)

- 3.24. The Core Strategy sets out the current adopted vision, objectives and spatial

strategy for growth and regeneration in the borough. The spatial strategy directs growth and regeneration including residential, employment and town centre uses within appropriate areas for development. This includes Regeneration and Growth Areas, Major Centres, District Hubs and Local Hubs.

- 3.25. The spatial strategy also identified the release of surplus Strategic Industrial Land in the form of Strategic Sites identified as Mixed-Use Employment Locations (MEL).
- 3.26. Aside from the planned release of surplus industrial land the Core Strategy emphasis the need to protect and enhance remaining employment uses within the borough's Strategic Industrial Locations and Local Employment Locations.
- 3.27. Aside from the planned release of surplus industrial land the Core Strategy emphasis the need to protect and enhance remaining employment uses within the borough's Strategic Industrial Locations and Local Employment Locations.
- 3.28. **Spatial Policy 2 Regeneration and Growth Areas** states that these areas:
Will provide key regeneration and development opportunities focused on the localities of Lewisham, Catford, Deptford, Deptford Creekside and New Cross/New Cross Gate. In given effect to the London Thames Gateway and the London Plan Opportunity Area designations, this strategy area will capitalise on public transport accessibility and the availability of deliverable and developable land, particularly through intensification of land uses in town centres and within mixed use employment locations.
The Regeneration and Growth Areas will support the creation of a more sustainable borough by being the prime location for new development comprising of at least 14,975 new homes, 100,000 square meters of new and reconfigured employment floorspace (light industry, workshops, offices), and 62,000 square meters of new retail floorspace by 2026.
- 3.29. **Spatial Policy 3 District Hubs** states that:
District Hubs will be reinforced as places which will sustain a diversity of uses and activities appropriate to each hub's function and location. District Hubs are key places which support the development of a sustainable borough, capitalising on the availability of services, facilities and public transport. Comprising a District town centre and its surrounding residential neighbourhoods, the focus will be to build and maximise the uniqueness and potential of each place. The District Hubs will be managed so as to facilitate change that contributes to the economic vitality and viability of each District town centre.
- 3.30. **Spatial Policy 4 Local Hubs** states that:
Individual Local Hubs will be managed to enhance their identity and distinctiveness in order to achieve an overall upgrade in urban quality and amenity. Local Hubs are places where the availability of development sites will be capitalised to secure physical and environmental improvement and integration with the surrounding neighbourhoods including local shopping parades.
- 3.31. **Core Strategy Policy 3 Strategic Industrial Locations and Local Employment Locations** states that:

The Council will protect the Strategic Industrial Locations (SILs) for uses within the B Use Class (B1c, B8 and where appropriate B2 industry), and also appropriate sui generis uses, to provide land for activities that support the continued functioning of London as a whole such as waste management, transport and utilities, and uses that require 24-hour functioning.

The Council will protect the Local Employment Locations (LELs) for a range of uses within the B Use Class (B1, B8 and where appropriate B2 industry) and also appropriate sui generis uses, to support the functioning of the local economy.

- 3.32. **Core Strategy Policy 4** requires the Council to provide a comprehensive redevelopment of the Mixed Use Employment Locations to provide:
employment uses within the B Use Class amounting to at least 20% of the built floorspace of any development as appropriate to the site and its wider context

Lewisham's emerging Local Plan (2020-20240)

- 3.33. The Council is currently preparing a new integrated Local Plan which will set out the long-term strategy for the borough making provision for new housing (prioritising genuinely affordable housing), employment and other development needs including the necessary infrastructure to support Good Growth (defined in the new London Plan as “growth that is socially and economically inclusive and environmentally sustainable”).
- 3.34. Following approval by Council on 21 September 2022, public consultation was held on the Lewisham Local Plan - Proposed Submission document (Regulation 19 Stage), which ran from 1 March 2023 to 25 April 2023. The Council submitted its plan for examination 8 November 2023. Examination hearing sessions on the plan took place between 18 June 2024 and 18 July 2024.
- 3.35. In accordance with the NPPF and London Plan the new Local Plan demonstrates how it can meet Lewisham's housing target of 16,670 net housing completions over a 10 year period, 8,400 gross square meters of retail floorspace up to 2035 and 21,800 net additional square meters of employment floorspace up to 2038.
- 3.36. **OL1 Delivering an Open Lewisham (Spatial Strategy)** focuses growth and regeneration in the following areas:
- Opportunity Areas, specifically at New Cross, Lewisham and Catford OA and Deptford Creekside and Greenwich OA
 - Areas of regeneration
 - Town centres
 - Key corridors such as the A21
- 3.37. For a more comprehensive Policy Review please refer to Section 3 of **Appendix 1**.

4. Evidence Base

Rationale for proposed Article 4 Direction

- 4.1. For a summary on the rationale for the proposed Article 4 Direction please refer to Section 4 of the previous Mayor and Cabinet Report dated 06 July 2022.

Further analysis on the areas covered by the proposed Article 4 Direction

- 4.2. For a summary on the further analysis on the areas covered by the proposed Article 4 Direction please refer to Section 5 of the previous Mayor and Cabinet Report dated 06 December 2023.

5. Representation Period

- 5.1. The representation period on the making the Article 4 Direction complied with the provisions set out in the General Permitted Development Order. Notice of the Direction was made by:
- Local advertisement in the press.
 - Site notices placed in visible locations for a period of at least 6 weeks.
 - The document will be made available on the Council's website as well as in a number of convenient locations including local libraries.
- 5.2. The requirement for written notification of individual owners and occupiers was not carried out (as permitted under the GPDO) as the number of owners and occupiers within the are affected by the Article 4 direction would make service of notice of it impracticable.

Responses to representation period 18 September 2024 to 01 November 2024

- 5.3. The Council received 12 representations in total; 7 written representations and 5 representations through Citizen Space.
- 5.4. 12 representations is a lower response rate than the previous representation period - between 30 September 2022 and 05 December 2022 - on the initial Article 4 Direction which received 44 representations. This may reflect respondents having responded to the first consultation, perhaps thinking it was unnecessary to respond to the second.
- 5.5. 72% of respondents (8 in total) who made representation supported the Article 4 Direction. Their reasons for support can be summarised as:
- Residential conversion of shops negatively impacts the character and diversity of the high street.
 - Permitted development may have a negative impact on theatres and other cultural and performance facilities where neighbouring buildings are converted.
 - Commercial space needs protecting.
- 5.6. 17% of respondents (2 in total) who made a representation objected to the Article 4 Direction. Their reason for objection can be summarised as that the Article Direction will restrict housing supply and that it should cover more areas.
- 5.7. Appendix 7 details a full schedule of representations made and responses, which is inclusive of the representation period carried out in 2022 and 2024.

Responses to representation period 30 September 2022 to 05 December 2022

- 5.8. The Council received 44 representations in total; 11 written representations and 33 representations through Citizen Space.
- 5.9. 79% of respondents (35 in total) who made a representation supported the Article 4 Direction.
- 5.10. 9% of respondents (4 in total) who made a representation objected to Article 4 Direction.
- 5.11. The reasons for support and objection can also be summarised into those points outlined in paragraphs 5.5 and 5.6 above.

6. Financial implications

- 6.1. The cost of making the Article 4 Direction did not exceed the £1,000 allocated within the existing budget.
- 6.2. There may be financial implications arising from the need to deal with future planning applications for change of use from Class E - C3 which would have otherwise be covered under permitted development. This will be managed within the existing Planning budget. As of 17th January 2018 Lewisham charges fees for applications covered by Article 4 Directions.
- 6.3. Section 108 of the Town and Country Planning Act 1990 includes a provision that compensation can be sought where (i) the LPA makes an Article 4 Direction, (ii) an application is made for planning permission to carry out development that would formerly have been permitted by the GPDO and (iii) the LPA refuses that application or grants permission subject to conditions differing from those in the GPDO.
- 6.4. However, where 12 months' notice is given in advance of a direction taking effect (non-immediate Article 4 Direction) there will be no liability to pay compensation (provided that the development authorised by the new changes had not started before the notice was published).

7. Legal implications

- 7.1. The Council must ensure that the Article 4 Direction is made in accordance with statutory requirements. As per paragraph 54 of the NPPF (2024), Article 4 Directions should:
 - 7.2. be used 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.
 - be necessary to protect local amenity or the well-being of the area.
 - avoid blanket restrictions and be applied selectively, supported by robust evidence.
 - be proportionate and targeted to specific areas where PDRs are demonstrably harmful.
 - 7.3. A failure to justify the Direction adequately could lead to legal challenges on

grounds of irrationality, unreasonableness, or lack of evidence.

- 7.4. Once the Direction is confirmed, Permitted Development Rights are removed, and planning permission will be required for changes of use from Class E to Class C3.

8. Equalities implications

- 8.1. The Equality Act 2010 (the Act) brings together all previous equality legislation in England, Scotland and Wales. The Act includes a public sector equality duty which covers the following nine protected characteristics: age; disability; gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.2. The Council must in the exercise of its functions, have regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
- 8.3. The Council's Single Equality Framework 2020-2024 provides an overarching framework and focus for the Council's work on equalities and helps ensure compliance with the Equality Act 2010.
- 8.4. The Equalities Analysis Assessment (**Appendix 6**) has concluded that the Article Direction will have a positive impact on equalities. The Direction will enable the council to ensure a wide range of workspaces, shops and services for Lewisham's diverse enterprises, it will help make it easier for residents, including those with protected characteristics, to access a range of jobs and other opportunities. This may in turn help reduce the need to travel, and can promote walking and cycling, which is positive for health and wellbeing.
- 8.5. The Direction will also assist the council in implementing its development plan policies – Those policies were subject to Equality Impact Assessments during their adoption. The emerging draft Local Plan is being prepared in parallel with an Integrated Impact Assessment. As such we do not envisage any equality issues arising from this decision.
- 8.6. The Public Sector Equality Duty is only one factor that needs to be considered when making a decision and may be balanced against other relevant factors. The council also took into account other relevant factors in respect of the decision, including financial resources and policy considerations. In appropriate cases, such countervailing factors may justify decisions which have an adverse impact on protected groups.

9. Climate change and environmental implications

- 9.1. A Strategic Environmental Assessment (SEA) Screening Assessment has been carried out and concludes that the proposed use of the Article 4 Direction is unlikely to have any significant effects (see **Appendix 4**).

10. Crime and disorder implications

10.1. There are no direct implications relating to crime and disorder issues.

11. Health and wellbeing implications

11.1. There are no direct implications relating to health and wellbeing. However, the indiscriminate and unplanned loss of valued local facilities, services and unemployment through the use of this permitted development right could affect the health and wellbeing of Lewisham's residents. The Article 4 Direction will allow the Council to properly assess, through the planning application process any impact and refuse permission where necessary.

12. Background papers

12.1. Lewisham's existing adopted Local Development Framework.

<https://lewisham.gov.uk/myservices/planning/policy/adopted-local-plan> Which includes:

- Core Strategy 2011
- Development Management Local Plan 2014
- Site Allocations Local plan 2013
- Lewisham Town Centre Local Plan 2014

12.2. National Planning Policy Framework (NPPF) 2023

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

12.3. Lewisham Local Plan – Proposed Submission document (Regulation 19 Stage)

<https://lewisham.gov.uk/myservices/planning/policy/planning/current-and-future-consultations>

12.4. Report to Mayor and Cabinet 06 July 2022.

<https://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MId=7728>

12.5. Report to Mayor and Cabinet 06 December 2023

<https://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MId=8057&Ver=4>

13. Glossary

Term	Definition
Article 4 Direction	Article 4 Directions can be used to withdraw permitted development rights across a defined area. This power is set out in the Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
GPDO	General Permitted Development Order

Term	Definition
NPPF	National Planning Policy Framework
SEA	Strategic Environmental Assessment

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17. Appendices

- Appendix 1: Class E Evidence Paper June 2022
- Appendix 2: Class E Additional Evidence Paper September 2023
- Appendix 3: Plans indicating extent of Article 4 Direction
- Appendix 4: Strategic Environmental Assessment (SEA) Scoping Assessment
- Appendix 5: Making of Article 4 Direction
- Appendix 6: Equalities Analysis Assessment
- Appendix 7: Schedule of responses