



Article 4 Direction: Protected Shopping Frontages

Initial Equalities Analysis Stage 1

September 2013

Section 1: Equality analysis details

Proposed policy/decision/business plan to which this equality analysis relates	Immediate Article 4 Directions to withdraw the permitted development rights granted by Schedule 2, Part 3, Class C and Schedule 2, Part 4, Class D of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)
---	---

Equality analysis author		Barbara-Ann Overwater			
Strategic Director:		Simon Bevan			
Department		Chief Executive	Division	Planning Policy	
Period analysis undertaken		September 2013			
Date of review (if applicable)		Tbc. A review could take place at the time when the Article 4 Direction is confirmed.			
Sign-off	Tim Cutts	Position	Planning Policy Team Leader	Date	September 2013

Section 2: Brief description of policy/decision/business plan

1.1 Brief description of policy/decision/business plan

This equalities analysis report supports the report to Planning Committee on 8 October 2013 which requests consultation on the introduction of an immediate Article 4 Direction to remove permitted development rights granted by Schedule 2, Part 3, Class C and Schedule 2, Part 4, Class D of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Schedule 2, Part 3, Class C of the Order allows a change of use from Class A3 (restaurants and cafes), Class A4 (drinking establishments) and Class A5 (hot food takeaways) to uses in Class A2 without the need to apply for planning permission.

Furthermore, on 30 May 2013, the Government introduced further flexibility under Schedule 2, Part 4, Class D which allows a change of use to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1 (business) from uses falling within use classes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), A5 (hot food takeaways), B1 (business), D1 (non-residential institutions) and D2 (assembly and leisure) for a period of 2 years.

Therefore, Local authorities' ability to manage the balance of uses on the high street and proliferation/clustering of individual uses is somewhat constrained by the Town and Country Planning General Permitted Development order 1995 (as amended).

Southwark's planning policies seek to maintain a network of successful town centres and shopping frontages which have a range of shops, services and facilities to help meet the needs of Southwark's population. However, the council has recently become concerned with the proliferation of betting shops, payday loan shops and pawnbrokers on the borough's high streets. These uses fall within use class A2 of the Use Classes Order 1987 (as amended) which comprises financial and professional services. Overall, the clustering of betting shops and other types A2 uses such as pay day loan shops and pawnbrokers in the borough's shopping frontages can have a detrimental effect on the diversity and therefore the health of the high street.

In addition to impacts of A2 uses, the new permitted development rights granted on 30 May 2013 could have other wide ranging and unintended adverse consequences on Southwark's high streets and compromise Southwark's ability to use planning policies to manage its high streets.

An Article 4 Direction can be used to remove specific permitted development rights in all or parts of the local authority's area. It would not restrict development altogether, but instead ensure 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.

Article 4 Directions can either be immediate or non-immediate depending upon whether notice is given of the date on which they come into force. In the case of this report, the council is proposing to make two immediate Article 4 Directions to withdraw the permitted development rights for the changes of use listed above in the adopted protected shopping frontages throughout the borough.

Section 3: Overview of service users and key stakeholders consulted

2. Service users and stakeholders	
Key users of the department or service	Planning is a statutory function carried out by local authorities. The development of planning policies and the impacts of planning decisions can affect everyone with an interest in land in the borough. This can include residents, landowners, developers, local businesses and their employees, community organisations, statutory consultees and interest groups.
Key stakeholders were/are involved in this policy/decision/business plan	<p>The key stakeholders involved in this proposal include: Cabinet Member for Regeneration and Corporate Strategy Southwark Councillors, Overview and Scrutiny Committee, Development Management and Planning Policy officers, Property division, Southwark Health and Well-being Working Group.</p> <p>The Development Management team will be responsible for monitoring the Article 4 Direction and to determine any subsequent planning applications submitted for change of use.</p> <p>The Planning Policy team have received corporate equalities training and Equalities Analysis report writing training. A number of the service deliverers within the Council will also have received corporate equalities training.</p>

Section 4: Pre-implementation equality analysis

This section considers the potential impact (positive and negative) of the proposals on the key 'protected characteristics' in the Equality Act 2010 and Human Rights Act. The Planning Committee report sets out detail on the local data and other equality information on which the analysis is based and mitigating actions to be taken.

The making of the Article 4 Direction itself does not have a direct impact on any groups with protected characteristics. Decisions on planning applications made as a result of the direction may have a potential impact on certain protected characteristics.

It is considered however that the effect of the direction will promote good relations between people who do not share the protected characteristic and those who do, in that it is likely to result in a more balanced and mixed community.

Age - Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

Potential impacts (positive and negative) of proposed policy/decision/business plan

According to a survey by the Gambling Commission 'Gambling Prevalence Survey'; (2010) young adults are at risk of becoming problem gamblers. The proper management and monitoring of the number of betting shops through the implementation of an Article 4 Direction for protected shopping frontages is considered to have a positive impact on this

age group.

The 'flexible town centre uses' permitted change of use will result in the loss of the council's ability to properly assess the amenity impacts of potentially harmful changes of use and prevent the development of uses which are likely to have adverse amenity impacts, for example through increased noise, odours, loitering, Anti-Social Behaviour, hours of operation. This is considered to have a potential negative impact on all age groups.

The potential loss of an important community asset – e.g. a local shop or community centre - to another use, or development of uses such as payday loan shops or cafes in locations where they are more likely to have adverse impacts on amenity, may have a negative impact on all age groups.

The implementation of the Article 4 Direction and requirement for planning permission is to help maintain a sufficient amount of retail, employment and social infrastructure within the borough, especially where this space contributes significantly to the character and function of an area. It will also help to ensure the continued vitality and viability of protected shopping frontages enabling the continued access to diverse range of local shops that support the needs of all age groups in society. Overall there will be a positive impact on for all age groups.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Directions will largely give rise to positive impacts.

Disability - A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Possible impacts (positive and negative) of proposed policy/decision/business plan

The borough has a range of community facilities which encompass a wide range of uses, such as health, leisure, educational, youth and general community space in town centres. These facilities are used by people who have disabilities. It will be difficult to properly plan for sufficient infrastructure provision if the council does not know when these types of uses will be lost for a temporary two year period through permitted development rights.

The council needs to be able to protect community facilities where there is an identified need, and the Article 4 Direction will enable the council to do this where necessary.

The potential change of use of essential services such as shops and social infrastructure

to other uses, which are within walking distance of many residential areas could have a negative impact on people with disabilities who rely on access to local services. The implementation of the Article 4 Direction will help to ensure the continued vitality and viability of protected shopping frontages enabling the continued access to diverse range of local shops and services in town centres where there is good accessibility for people with disabilities and is considered to have a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Gender reassignment - The process of transitioning from one gender to another.

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts are identified on this group as a result of the implementation of the Article 4 Direction.

The implementation of the Article 4 Direction and requirement for planning permission will help to encourage and maintain balanced and mixed communities and town centres that support the needs of all groups in society. Over the long term it should also help to maintain the vitality and viability of the protected shopping frontages which has a positive impact for all equality groups.

Equality information on which above analysis is based.

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Marriage and civil partnership - Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide

range of legal matters. **(Only to be considered in respect to the need to eliminate discrimination.**

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts are identified on this group as a result of the implementation of the Article 4 Direction.

The implementation of the Article 4 Direction and requirement for planning permission will help to encourage and maintain balanced and mixed communities and town centres that support the needs of all groups in society. Over the long term it should also help to maintain the vitality and viability of the protected shopping frontages which has a positive impact for all equality groups.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Pregnancy and maternity - Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Possible impacts (positive and negative) of proposed policy/decision/business plan

The potential change of use of essential services such as shops and social infrastructure to other uses, which are within walking distance of many residential areas could have a negative impact on pregnant women who rely on access to local services. The implementation of the Article 4 Direction will help to ensure the continued vitality and viability of protected shopping frontages enabling the continued access to diverse range of local shops and services in town centres where there is good accessibility and is considered to have a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Race - Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Possible impacts (positive and negative) of proposed policy/decision/business plan

The change of use of small shops and offices as a result of the new permitted development rights may have a negative impact on BME groups in particular areas of the borough. In particular, the Elephant and Caste area, along Walworth Road, has a high number of Latin American retail occupiers.

It is considered essential to control the loss of smaller commercial space, which is most suited to SMEs and which are vital to the economic development of the borough, through the planning application process.

Problem gambling is seen as a health disorder and has been identified as 'gambling that comprises, disrupts or damages family, employment, personal or recreational pursuits. According to a survey by the Gambling Commission 'Gambling Prevalence Survey; (2010) minority ethnic groups are at risk of becoming problem gamblers. In addition, areas with higher densities of payday loan lenders are often those whose populations have higher proportions of minority ethnic groups.

Over the long term, the implementation of the Article 4 Direction should help to maintain the vitality and viability of the protected shopping frontages and address the issue of over-concentration of particular uses or the loss of small commercial space, which is considered to have an overall positive impact for this equality characteristic group.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Religion and belief - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a

belief should affect your life choices or the way you live for it to be included in the definition.

Possible impacts (positive and negative) of proposed policy/decision/business plan

The borough has a range of community facilities and general community space in town centres and protected shopping frontages which can accommodate religious worship. The council needs to be able to protect community facilities where there is an identified need and the implementation of the Article 4 direction will help.

The implementation of the Article 4 Direction will help to ensure the continued vitality and viability of protected shopping frontages enabling the continued access to diverse range of local shops and services in town centres where there is good accessibility which is considered to have a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Sex - A man or a woman.

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts are identified on this group as a result of the implementation of the Article 4 Direction.

The implementation of the Article 4 Direction and requirement for planning permission is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. Over the long term it should help to maintain the vitality and viability of the protected shopping frontages and balance of use, which has an overall positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Sexual orientation - Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts are identified on this group as a result of the implementation of the Article 4 Direction.

The implementation of the Article 4 Direction and requirement for planning permission is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. Over the long term it should help to maintain the vitality and viability of the protected shopping frontages and balance of use, which has an overall positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Human Rights

There are 16 rights in the Human Rights Act. Each one is called an Article. They are all taken from the European Convention on Human Rights. The Articles are The right to life, Freedom from torture, inhuman and degrading treatment, Freedom from forced labour, Right to Liberty, Fair trial, Retrospective penalties, Privacy, Freedom of conscience, Freedom of expression, Freedom of assembly, Marriage and family, Freedom from discrimination and the First Protocol

Possible impacts (positive and negative) of proposed policy/decision/business plan

The Council has carefully considered the balance to be struck between individual rights and the wider public interest. The rights of those affected by the proposed Article 4 Direction have been considered under the Human Rights Act 1998 and it has been determined that none of the Articles will be triggered. The Council therefore considers that the advantages of making the Article 4 Direction substantially outweigh the disadvantages to those who will no longer be able to benefit from the permitted rights currently granted by Schedule 1, Part 3, Class C and Schedule 2, Part 4 Class D of the Town and Country

Planning (General Permitted Development) Order 1995 (as amended).
Information on which above analysis is based
Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights (ECHR). Various Convention rights may be engaged in the process of making and considering the Article 4 Direction, including under Articles 1 and 8 of the First Protocol. The European Court has recognised that “regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole”. Both public and private interests are to be taken into account in the exercise of the Council’s powers and duties as a local planning authority. Any interference with a Convention Right must be necessary and proportionate.
Mitigating actions to be taken
N/A

Section 5: Further actions and objectives

5. Further actions			
Based on the initial analysis above, please detail the key areas identified as requiring more detailed analysis or key mitigating actions.			
Number	Description of Issue	Action	Timeframe
1	The initial decision would be to support an Article 4 direction, to be followed by formal consultation. Any new issues would be assessed as part of that consultation and reported when the local authority decides whether to confirm the direction. Guidance suggests that the need and effectiveness for Article 4 directions should be monitored at regular intervals. This would be subject to committee approval but would suggest a yearly review is appropriate. This does not need to be reflected	Tbc	Tbc

in any recommendations
at this stage.
