



## Article 4 Direction: Protected Shopping Frontages

No.	Title
Appendix A	Article 4 Direction to withdraw the Permitted Development Rights granted by Schedule 2, Part 3, Class D of the Town and Country Planning (General Permitted Development) Order 2015 and maps of shopping frontages to be subject to proposed Article 4 Direction
Appendix B	Consultation notification letters, site notice and newspaper advert
Appendix C	Equalities analysis (available on the council's website - <a href="http://www.southwark.gov.uk/info/856/planning_policy/3289/article_4_directions">http://www.southwark.gov.uk/info/856/planning_policy/3289/article_4_directions</a> )

## Equalities Analysis Stage 2

January 2016

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## Section 1: Equality analysis details

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<b>Proposed policy/decision/business plan to which this equality analysis relates</b>	Article 4 Direction to withdraw the permitted development rights granted by Schedule 2, Part 3, Class D of the Town and Country Planning (General Permitted Development) Order 2015
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<b>Department</b>	Chief Executive	<b>Division</b>	Planning Policy		
<b>Period analysis undertaken</b>	August 2015 (initial) – January 2016 (final)				
<b>Sign-off</b>	Tim Cutts	<b>Position</b>	Planning Policy Team Leader	<b>Date</b>	January 2016

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

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### 1.1 Brief description of policy/decision/business plan

This equalities analysis report supports the report to Planning Committee on 02 February 2016 which requests the confirmation of an immediate Article 4 Direction to remove permitted development rights granted by Schedule 2, Part 3, Class D and of the Town and Country Planning (General Permitted Development) Order 2015 in town centre protected shopping frontages. This follows a period of consultation between 24 September and 23 December 2015 inviting representations on the Direction.

Schedule 2, Part 3, Class D of the Order allows a change of use from A1 (shops) to A2 (financial and professional services) without the need to apply for planning permission.

The ability for local authorities 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 2015.

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 introduction of non-shopping uses (class A1 of the Use Classes Order 1987, as amended) on the borough's high streets and the loss of class A1 space. In particular, there is a concern around the introduction of uses in class A2, which comprises financial and professional services. The A2 use class includes estate agents, banks, building societies and employment agencies.

The town and local centres are the locations best able to accommodate growth in retail space. Schedule 2, Part 3, Class D of the GPDO 2015 allows change of use from Class A1 to Class A2 without the need for planning permission. The loss of current A1 units in town and local centres will impact upon the quantum of retail provision in the borough. It potentially constrains the ability of the council to ensure that retail needs can be met and undermines Core Strategy policy 3.

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 has made an immediate Article 4 Direction to withdraw the permitted development rights for the changes of use listed above in the adopted protected shopping frontages throughout the borough. It is now proposed to confirm the Direction.

The representations received have been reviewed and considered as part of the process of deciding whether to recommend confirmation of the Direction. The review of the consultation responses have been included within the report to Planning Committee (2 February 2016).

The council is now recommending that Planning Committee 'confirm' the Article 4 Direction before the end of the six month period following their implementation, in accordance with article 6 (7) of the Town and Country Planning (General Permitted

Development) Order 2010. This must be done before 21 March 2016 otherwise it will lapse.

### Section 3: Overview of service users and key stakeholders consulted

2. Service users and stakeholders	
<b>Key users of the department or service</b>	<p>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.</p>
<b>Key stakeholders were/are involved in this policy/decision/business plan</b>	<p>The key stakeholders involved in this proposal include: Cabinet Member for Regeneration and New Homes, 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 confirmation 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**

The continued implementation of the Article 4 Direction and the 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.

The potential clustering of A2 uses, comprising financial and professional services, in the Borough's shopping frontages presently permitted by the GPDO would have a detrimental effect on the diversity and therefore the health of the high street as the proportions of everyday shopping uses could decline.

Protecting these main shopping uses from decline would have a positive effect on all age groups as it would maintain the provision and choice of shops and other A class uses which contribute to the vitality of shopping areas. Many groups rely on the town centres for everyday shopping provision and the loss of such provision could have a negative impact on certain age groups. For example, elderly people may only be able to walk short distances between their homes and shops and the protection of shopping uses in these areas would therefore have a positive impact. In addition, younger people without access to a vehicle or would benefit from the retention and protection of shopping uses in their local areas.

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 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 Direction 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 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 continued 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 continued 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 continued implementation of the Article 4 Direction.

The continued 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 continued 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 continued 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 continued 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 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 continued 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 continued 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 may have a negative impact on BME groups in particular areas of the borough. In particular, the Elephant and Castle 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.

Over the long term, the continued 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 so that the retention of shops and cafes which contribute to the character and vitality of the shopping frontages would 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 continued 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**

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

The continued 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, and maintain cohesive communities which has a positive impact for all groups of all religions and beliefs.

**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 continued 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 continued implementation of the Article 4 Direction.

The continued 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 continued 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 continued implementation of the Article 4 Direction.

The continued 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 continued 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 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 confirming 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 2,

Part 3, Class D the Town and Country Planning (General Permitted Development) Order 2015.

**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 confirm the Article 4 Direction. The national planning practice 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 in any recommendations at this stage.	To review the effectiveness of the Article 4 Direction implemented for change of use within the protected shopping frontages	Annually