

Article 4 Directions: Railway arches

No.	Title
Appendix A	Article 4 Directions to withdraw the Permitted Development Rights granted by Schedule 2, Part 3, Class M, Class O, Class P and Class PA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)
Appendix B	Railway arches subject to Article 4 Directions
Appendix C	Equalities analysis

Equalities Analysis Stage 2

September 2016

Section 1: Equality analysis details

Proposed policy/decision/business plan to which this equality analysis relates	Article 4 Directions to withdraw the permitted development rights granted by Schedule 2, Part 3, Class M, Class O, Class P and Class PA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)
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Department	Chief Executive	Division	Planning Policy		
Period analysis undertaken	April 2016 (initial) – September 2016 (final)				
Sign-off	Juliet Seymour	Position	Planning Policy Manager	Date	September 2016

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 which recommends the confirmation of three immediate Article 4 Directions to remove permitted development rights granted by Schedule 2, Part 3, Class M, Class O and Class P and one non-immediate Article 4 Direction relating to Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) in railway arches in Southwark. The recommendation follows a 6 week period of public consultation between 2 June and 21 July 2016.

Schedule 2, Part 3, Class M, Class O, Class P and Class PA of the Order allows a change of use from shops (Class A1), financial and professional services (Class A2), betting offices, pay day loan shops or launderettes (Sui Generis use), offices (Class B1a), light industrial (Class B1c) or storage and distribution (Class B8) to a dwellinghouse (Class C3) without the need to apply for planning permission.

The ability for local authorities to ensure high quality residential accommodation is provided in the borough is somewhat constrained by the Town and Country Planning General Permitted Development Order (GPDO) 2015 (as amended) in specific relation to railway arches.

The GPDO 2015 (as amended) consolidated permitted development rights for England and introduced new provisions. A number of these provisions include changes of use to dwellinghouses without the need for a full planning application. Some railway arches in use as offices, storage or distribution units, retail units or betting shops would therefore be permitted to change to residential units under these provisions. There are a number of concerns with regard to creating residential units in railway arches which should be subject to a robust analysis in determining whether such a use would be acceptable. Converting railway arches to dwellings could result in negative impacts on residential amenity through restricted access to outdoor space, restricted access to natural light and fresh air, exposure to excessive noise and vibration from the railway, safety concerns and incompatibility with surrounding uses. It is therefore considered appropriate to confirm the Article 4 Directions to remove certain permitted development rights which relate to changes of use of railway arches.

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 confirm one non-immediate and three immediate Article 4 Directions to withdraw the permitted development rights for the changes of use listed above in railway arches throughout the borough.

The representations received have been reviewed and considered as part of the process of deciding whether to recommend confirmation of the Directions. The review of the consultation responses have been included within the report to Planning Committee.

The council is now recommending that Planning Committee 'confirm' the Article 4 Directions before the end of the six month period following their implementation, in accordance with the Town and Country Planning (General Permitted Development) Order 2015. This must be done before 30 November 2016 otherwise the immediate Directions will lapse.

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 New Homes, Southwark Councillors, Overview and Scrutiny Committee, Development Management and Planning Policy officers, Property division, Regeneration.</p> <p>The Development Management team will be responsible for monitoring the Article 4 Directions 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 Directions 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 Article 4 Directions and the requirement for planning permission is to help secure good quality residential accommodation and provide adequate protection against changes of use within railway arches which could have a negative impact on the safety, wellbeing and health of future occupiers.

The potential conversion of railway arches to dwellings presently permitted by the GPDO would have a detrimental effect on future residents through the potential to create poorly lit, poorly ventilated and poorly insulated dwellings within railway arches. The surrounding land is often incompatible with residential development, resulting in amenity concerns (safety, security, noise, odour, dust and heavy vehicular movements).

Protecting railway arches from conversion to residential use would have a positive impact on all age groups as it would prevent poor quality accommodation becoming available. It is important that all groups have access to a safe, warm and dry home, whether in private ownership, rented accommodation or social housing. Exposure to noise, poor ventilation and lack of natural light could have health implications that could be more pertinent in certain age groups, for example elderly people or infants.

The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough that supports 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 railway arches to dwellings could have a negative impact on people with disabilities. Dwellings within railway arches may not always be easily accessible for vehicles or provide safe access for wheelchairs, and people with limited mobility could be affected by this. The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough that ensures 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 Directions 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 Directions.

The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough that supports the needs of all groups in society. Overall there will be a positive impact on for all equality groups.

Equality information on which above analysis is based.

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Mitigating actions to be taken

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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 Directions.

The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough that supports the needs of all groups in society. Overall there will be a positive impact on for all equality groups.

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Mitigating actions to be taken

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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 railway arches to dwellings could have a negative impact on pregnant women. Dwellings within railway arches may not always be easily accessible for vehicles, including emergency vehicles, and pregnant women could be affected by this. Potential neighbouring uses which emit pollutants or dust, and poor ventilation in dwellings could also impact upon the health of pregnant women and new born babies. The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough that is suitable for all groups in society 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 Directions 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

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

The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough that supports the needs of all groups in society. Overall there will be a positive impact on for all equality groups.

Equality information on which above analysis is based

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Mitigating actions to be taken

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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 Directions.

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Mitigating actions to be taken

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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 Directions.

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Equality information on which above analysis is based

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Mitigating actions to be taken

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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 Directions.

The Article 4 Directions will help to ensure that good quality residential accommodation is provided in the borough that supports the needs of all groups in society. Overall there will be a positive impact on for all equality groups.

Equality information on which above analysis is based

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Mitigating actions to be taken

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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 confirmation of the Article 4 Directions have been considered under the Human Rights Act 1998 and it has been determined that none of the Articles will be triggered.

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 Directions, 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 Directions. 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 Directions implemented for change of use of railway arches to residential dwellings.	Annually
