

Appendix F: Consultation Report

August 2017

Article 4 Direction: Public Houses

Consultation Report

No.	Title
Appendix A	Article 4 Directions to withdraw Permitted Development Rights granted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended)
Appendix B	Map of open and closed pubs in Southwark
Appendix C	Schedule of pubs subject to the Article 4 Direction
Appendix D	Maps of public houses subject to the Article 4 Direction
Appendix E	Equalities analysis
Appendix F	Consultation Report

Consultation report on the representation period for the Article 4 Direction to remove Permitted Development rights associated with public houses.

For:

Confirmation of Article 4 Direction to withdraw the permitted development rights granted under the General Permitted Development Order 2015 (as amended)

August 2017

Introduction

1. This report sets out the consultation the council undertook as a result of introducing the Immediate Article 4 Direction to remove permitted development rights associated with public houses with respect to:
 - General Permitted Development Order 2015 (as amended)
 - Schedule 2, Part 2, Class A and Class C (alteration or construction of any means of enclosure or any exterior painting)
 - Schedule 2, Part 3, Class A and Class B (changes of use to shops (A1), financial and professional services (A2), restaurants or cafes (A3))
 - Schedule 2, Part 4, Class D (change of use to business (B1) for 2 years)
 - Schedule 2, Part 11, Class B and Class C (demolition of buildings or means of enclosure).
2. Permitted development rights fall under the General Permitted Development Order 2015 (as amended).

Background information

3. The Article 4 Direction: Public Houses was introduced on 17th March 2017. The Direction was introduced as an “immediate” Direction which meant that following the decision to introduce the Direction at planning committee, as soon as practicable the Directions would be introduced. This would enable the impacts of the previously permitted development right to be curtailed as soon as possible.
4. Introduction of the Direction curtails impacts brought about by the change of use, demolition or alteration to public houses carried out under permitted development. These applications must then be assessed against the policies in the development plan and any supporting guidance. Policies in the development plan and any supporting guidance.
5. The Council completed an assessment of public houses across the borough based on an analysis of licensing data and planning applications relating to public houses. There are currently 164 public houses open in Southwark today (excluding bars / other Use Class A4 drinking establishments).
6. Public houses play an important role in the community and have unique historic characteristics which should be recognised as key social, cultural and heritage assets. In total the borough has lost a third of all public houses that were present in the borough ten years ago. Over the last ten years 79 public houses in the borough have closed down and 54 of these have subsequently been lost to demolition or change of use. Negative impacts resulting from the loss of public houses are explored in further detail below.
7. The Planning Committee resolved to make an Immediate Article 4 Direction to protect traditional public houses across the borough in recognition of their unique community and historic value. The Direction came into effect on the 17th March 2017.
8. Any Article 4 Direction introduced by a Local Planning Authority (LPA) requires a minimum 21 days statutory representation period to enable representations to be submitted and considered by the council in making the Direction. For immediate Article 4 Directions the representation period happens alongside the introduction of the Direction itself, and representations received are considered when deciding to “confirm” the

Direction. Introducing an immediate Direction has other implications related to compensation claims. These implications are explored in the committee report to which this consultation report is appended. Following the statutory 21 days minimum representation period the council is obliged to consider all responses received during the period and make a decision as to whether “confirm” the direction. This decision must be taken within six months of the Direction being introduced. Should a decision not be taken to do this the immediate Direction introduced will lapse.

Consultation undertaken

9. The representation period on the Article 4 Direction: Public Houses complied with the provisions set out under Article 4 (1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and ran from 16th March to 27th April. Notice of the direction was made by:
 - Local advertisement in Southwark News (local press) on the 16th March 2017.
 - Mail-out to 4,000+ email addresses to the council’s planning policy consultation notification mailing list.
 - Article 4 Direction council webpages updated with relevant information on the Direction, the representation period, the planning committee report and other supporting documents available to view and download
 - Online Consultation Hub page which provided information on the Direction and a portal for submitting representations.

10. Initial communications for the representation period expressed a deadline for 27th April 2017, equating to a six week period from when the Direction was introduced on 13th March 2017. In practice, however, the council accepted late representations.

Summary of responses received

11. Across the representation period the council received 37 responses to the introduction of the Article 4 Direction. Of these:
 - 32 were in support of the Direction (see paras 13 – 18 below)
 - Five objected to the Direction (see paras 19 – 22)
 - None have been discounted as N/A

12. The responses mainly comprised of issues and points which are relevant in deciding whether to confirm the Direction. The issues and points raised have been carefully considered and have informed the recommendation to confirm the Direction in the planning committee report to which this consultation report is appended. Where an issue raised through a representation was not considered relevant to the confirmation of the Direction it has not informed the recommendation. These instances have been noted within this report, including in section 17 below, in the summary tables in Appendices F1-F2, as well as within section 67 of the planning committee report.

Supporting representations - Summary

13. Of the 32 supporting representations received during the period 28 were received by individuals acting on their own behalf. Four representations were received from organisations.
14. Reasons given in support of the Article 4 Direction include concern at the loss of public houses across the borough and the impact this is having on community cohesion, local distinctiveness and the preservation of local heritage assets. 17 responses were generally supportive of the Article 4 Direction: Public Houses.
15. In support of the Article 4 Direction respondents identified impacts due to the loss of public houses as including:
 - The loss of public houses resulting in the loss of local community hubs which support social and community cohesion.
 - The loss of public houses contributing to a sense of diminishing local character and distinctiveness.
 - The loss of public houses which in and of themselves are frequently valuable heritage assets offering significant historic value.
16. Each of these points have been duly noted and considered in the report to planning committee recommending confirmation of the Direction. A further, more detailed breakdown of the supporting responses received can be found in Appendix C1 starting on page 10.

Issues raised by supporters – not considered

17. Points in the supporting representations were raised which are potentially related to and/or associated with the Article 4 Direction: Public houses. However, the issues described arise as a result of activity outside of the scope of the Article 4 Direction: Public houses. Therefore they cannot be considered in the decision to confirm the Direction. These include:
 - Suggestion that the council will not prevent the loss of public houses to residential or other uses not protected by the Article 4 Direction: Public houses.
 - Response: The Council has powers to revoke permitted development rights by applying an Article 4 Direction. It is not possible to prevent the change of use, demolition or alteration to use classes which are not considered by the GDPO, 2015 (as amended).
18. Other issues not considered to be relevant to any of the above, nor in informing the recommendation to confirm the Direction itself, are noted in the “Other” column within Appendix C1.

Objecting representations – Summary

19. During the representation period there were five responses which objected to the introduction of the Article 4 Direction: Public Houses. The following is a summary of the

points raised by the objectors. The council's response to each point raised by objectors can be found Appendix C2 on page 15.

20. Four of the objections were received from individuals:

- Considers the council unwarranted in protecting pubs, if, as is the case nationally, demand for drinking in pubs is in decline. Raises concerns about the social and health problems arising from drinking in pubs.
- Concerned that the Council should not be spending tax money on a form of positive discrimination.
- Considers Article 4 Direction unnecessary. If pubs are unviable then they should be used to fulfil housing needs.
- Generally Unsupportive. Considers pubs an obsolete relic.

21. The fifth objection was submitted on behalf of Rocco Homes. The points raised in their representation can be summarised as follows:

- Justification for the Article 4 Direction is not particularly strong. It is highlighted that the committee report states 54 pubs have been lost over the past ten years to change of use or demolition although there is no analysis as to the reasons for this, including acknowledgment that this may be due to over supply.
- Government guidance is clear that Article 4 Directions should be limited to situations where it is necessary to protect local amenity or the well-being of the area. This requires a geographic analysis of availability and type of local house by area which has not taken place.
- There is no published, in-depth analysis of individual pubs. The report states that this has been undertaken but all that is available as a public document is cursory information provided in a tabulated format with no proper analysis undertaken.
- By removing PD rights from public houses, there may also be unintended consequences which could cause further difficulties to a sector already facing challenges to operating viability. For example, new operators may be discouraged from taking on struggling establishments if they do not have a fall back option of PD rights.

22. Each of the above points raised relevant to the confirmation of the Direction have been carefully considered in the planning committee report to which this consultation report is appended and responded to in Appendix C2.

Responses not considered

23. All of the responses received have been considered in paragraphs 17-22.

Conclusions

24. As a result of the representation period which followed the introduction of the Article 4 Direction on 17th March 2017, the council received 37 responses. 32 supporting representations raised issues around the need to protect public houses including:

25. The loss of public houses resulting in the loss of local community hubs which support social and community cohesion.
26. The loss of public houses contributing to a sense of diminishing local character and distinctiveness.
27. The loss of public houses which in and off themselves are frequently valuable heritage assets offering significant historic value.
28. The objectors raise points which, where relevant, the planning committee report considers carefully in informing the recommendation. Responses are provided in Appendices C1 and C2 below.



**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
ORDER 2015 (AS AMENDED)**

NOTIFICATION OF ARTICLE 4 DIRECTIONS: PUBLIC HOUSES

Southwark Council made Article 4 Directions on 13 March 2017 under Article 4 (1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

The Article 4 Directions apply to public houses in the London Borough of Southwark.

The Directions come into effect immediately and relate to development consisting of the change of use, demolition or alteration of public houses in respect of:

- General Permitted Development Order 2015 (as amended)
- Schedule 2, Part 2, Class A and Class C (alteration or construction of any means of enclosure or any exterior painting)
- Schedule 2, Part 3, Class A and Class B (changes of use to shops (A1), financial and professional services (A2), restaurants or cafes (A3))
- Schedule 2, Part 4, Class D (change of use to business (B1) for 2 years)
- Schedule 2, Part 11, Class B and Class C (demolition of buildings or means of enclosure)

Development of the description set out above (as applicable to each site in accordance with Schedule 1 of the Directions) should not be carried out on the land shown edged red on the maps annexed to the Directions, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990, as amended.

A copy of the Article 4 Directions and the maps defining the public houses can be downloaded from the Council's website:

<http://www.southwark.gov.uk/planning-and-building-control/planning-policy-and-transport-policy/article-4-directions>

They can also be viewed by appointment at the council offices at 160 Tooley Street, London SE1 2QH, between the following hours: 9am – 4.30pm Monday to Friday. Telephone 0207 525 5471.

Representations concerning the Article 4 Directions can be made between **16 March 2017** and **27 April 2017**.

You can comment by:

Visiting our Consultation Hub and filling in our online form:

<https://consultations.southwark.gov.uk/planning-and-regeneration/article-4-directions-public-houses>

Send an e-mail to planningpolicy@southwark.gov.uk or send comments to: FREEPOST SE1919/14 Planning Policy, Chief Executive's Department, London SE1P 5EX

PLANNING

TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 2015 Notice of Article 4 Directions

Article 4 Directions: Public houses

Southwark Council made Article 4 Directions on 13 March 2017, under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

The Article 4 Directions apply to public houses in the London Borough of Southwark.

The Directions come into effect immediately and relate to development consisting of the change of use, demolition or alteration of public houses in respect of:

General Permitted Development Order 2015 (as amended):

Schedule 2, Part 2, Class A and Class C (alteration or construction of any means of enclosure or any exterior painting)

Schedule 2, Part 3, Class A and Class B (changes of use to shops (A1), financial and professional services (A2), restaurants or cafes (A3))

Schedule 2, Part 4, Class D (change of use to business (B1) for 2 years)

Schedule 2, Part 11, Class B and Class C (demolition of buildings or means of enclosure)

Development of the description set out above (as applicable to each site in accordance with Schedule 1 of the Directions) should not be carried out on the land shown edged red on the maps annexed to the Directions unless

Display date	16/03/2017	Expiry date	27/04/2017
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A copy of the Article 4 Directions can be downloaded from the Council's website:

<http://www.southwark.gov.uk/planning-and-building-control/planning-policy-and-transport-policy/article-4-directions?chapter=5>

They can also be viewed by appointment at the council offices at 160 Tooley Street, London SE1 2QH, between the following hours: 9am – 4.30pm Monday to Friday. Telephone 0207 525 5471.

Representations concerning the Article 4 Directions can be made between **16 March 2017** and **27 April 2017**.

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Alternatively send an e-mail to planningpolicy@southwark.gov.uk or send comments to: FREEPOST SE1919/14 Planning Policy, Chief Executive's Department, London SE1P 5EX

Appendix C – Consultation responses summary tables

The following tables provide a detailed breakdown of the comments received alongside the council's response.

- **Appendix C1** shows a summary of each **supporting response** with each issue identified and responded to by the council (**pages 11 – 14**)
- **Appendix C2** shows a summary of each of the **objecting responses** received with each point raised responded to by the council (**pages 15 – 16**)

Appendix C1 – Supporting responses summary table

Responder No.	Response	Concern about loss of community hubs which support social and community cohesion	Sense of diminishing local character and distinctiveness	Loss of public houses, themselves valuable heritage assets offering significant historic value	Generally Supportive	Other	Officer response (and comment on "other")
1	Generally supportive of the Article 4 Directive				Y		
2	Generally supportive of the Article 4 Directive				Y		
3	Suggestion that the council will not prevent the loss of public houses to residential or other uses not protected by the Article 4 Direction: Public houses.					Y	The Council has powers to revoke permitted development rights by applying an Article 4 Direction. It is not possible to prevent the change of use, demolition or alteration to use classes which are not considered by the GDPO, 2015 (as amended).

4	Supportive of the Article 4 Direction to withdraw permitted development rights. To protect remaining pubs for the community and stop the destruction of much loved old buildings.	Y		Y			
5	Supportive of the Article 4 Direction. Asserts pubs are community assets. Recognises that the business model of the traditional pub is under threat but points out there are very good examples of pubs being turned around if they adopt a different model.	Y			Y		
6	Supportive of the Article 4 Direction to reduce the closure of pubs.				Y		
7	Generally supportive of the Article 4 Direction.				Y		
8	Supportive of the Article 4 Direction. Concerned about loss of local distinctiveness and character.		Y				
9	Supportive of the Article 4 Direction to protect meeting spaces for local people.	Y					
10	Supportive of the Article 4 Direction. Concerned about loss of local pubs to housing.				Y		
11	Supportive of the Article 4 Direction to strengthen and enhance community spirit and protect Southwark's heritage.	Y		Y			

12	Supportive of the Article 4 Direction to help protect community areas.	Y					
13	Supportive of the Article 4 Direction to protect valuable assets to the community and local history.	Y		Y			
14	Supportive of the Article 4 Direction to protect social and historical value.	Y		Y			
15	Generally Supportive of the Article 4 Direction.				Y		
16	Supportive of the Article 4 Direction to protect historical value.			Y			
17	Generally Supportive of the Article 4 Direction.				Y		
18	Supportive of the Article 4 Direction to protect a sense of place, community cohesion, local heritage , architecture and townscape.	Y		y			
19	Supportive of the Article 4 Direction, considers pubs to be part of the local fabric.	y					
20	Supportive of the Article 4 Direction to prevent further loss and conversion of pubs.				y		
21	Supportive of the Article 4 Direction to protect remaining pubs and the communities they serve.	Y					
22	Supportive of the Article 4 Direction to protect pubs as valuable community hubs.	Y					
23	Supportive of the Article 4 Direction to protect community pubs.	Y					

24	Generally Supportive of the Article 4 Direction.				Y		
25	Supportive of the Article 4 Direction to protect pubs from closure.				Y		
26	Generally Supportive of the Article 4 Direction.				Y		
27	Generally Supportive of the Article 4 Direction.				Y		
28	Generally Supportive of the Article 4 Direction to protect pubs.				Y		
29	Supportive of the Article 4 Direction to protect pubs as social hubs and drivers of economic activity in local areas and local distinctiveness.	Y	Y		Y		
30	Supportive of the Article 4 Direction to protect local pubs and communities.	Y					
31	Supportive of the Article 4 Direction to protect local pubs and communities particularly where protecting local distinctiveness and promoting the local economy is concerned.	Y	Y		Y		
32	Generally Supportive of the Article 4 Direction. Wishes to protect against the loss of pubs.				Y		

Appendix C2 – Objecting response summary table

Objector No.	Objection Representation Summary:	Council Response:
1	Considers the council unwarranted in protecting pubs, If, as is the case nationally, demand for drinking in pubs is in decline. Raises concerns about the social and health problems arising from drinking in pubs.	The Council accepts that alcohol consumption may adversely affect health outcomes. However, the representation has not provided evidence which demonstrates the existence of pubs is related to harmful alcohol consumption that would not otherwise occur (for example in other public places or in the home). Many respondents supported the Article 4 Direction because pubs provide a space for social interaction. For many people this is important to enhance wellbeing and reduce isolation and loneliness.
2	Concerned that the Council should not be spending tax money on a form of positive discrimination.	For many residents pubs function as a place of social interaction. They also represent an important part of the local economy. Southwark has experienced a significant loss of pubs over a ten year period and this has raised local concerns about the future of Southwark pubs. The Council has introduced an Article 4 to ensure any future loss of pubs is properly managed. Any proposals for works to a pub which come under the scope of the Article 4 Direction will be assessed in accordance with the policies of the plan.
3	Considers Article 4 Direction unnecessary. If pubs are unviable then they should be used to fulfil housing needs.	In many cases a pub could command a higher value in an alternative use. This does not mean it is unviable in its current use. The Article 4 Direction protects p against the loss of pubs which are not genuinely unviable through requiring a full planning application.
4	Generally Unsupportive. Considers pubs an obsolete relic.	The historic nature of pubs, for many people, adds to their appeal. A large number of Southwark residents and visitors appreciate their continued operation.

5	<p>Justification for the Article 4 Direction is not particularly strong. It is highlighted that the committee report states 54 pubs have been lost over the past ten years to change of use or demolition although there is no analysis as to the reasons for this, including acknowledgment that this may be due to over supply.</p>	<p>The evidence demonstrates the scale of loss has been significant. Due to the permitted development rights enjoyed by pubs prior to the introduction of the Article 4 Direction the Council has limited evidence of the reason why so many pubs have been lost. The Council considers the Article 4 necessary to ensure that any future losses are justified by evidence.</p>
	<p>Government guidance is clear that Article 4 Directions should be limited to situations where it is necessary to protect local amenity or the well-being of the area. This requires a geographic analysis of availability and type of local house by area which has not taken place. There is no published, in-depth analysis of individual pubs. The report states that this has been undertaken but all that is available as a public document is cursory information provided in a tabulated format with no proper analysis undertaken.</p>	<p>The Council undertook a thorough and consistent review of all pubs in A4 use affected by the Article 4 Direction. This is presented in tabulated format.</p>
	<p>By removing PD rights from public houses, there may be unintended consequences which could cause further difficulties to a sector already facing challenges to operating viability. For example, new operators may be discouraged from taking on struggling establishments if they do not have a fall-back option of PD rights.</p>	<p>The Council will consider the viability of a pub in any application resulting in the loss of a pub. The Council considers the benefits of ensuring any future losses of pubs are fully justified outweigh any uncertainty associated with the need to evidence any applications for the loss of pubs. Furthermore, applications which are necessitated by virtue of the Article 4 Direction will be processed for no fee. This reduces the impact of the Article 4 Direction on pub operators.</p>