



City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for Built Environment
Date:	20 May 2016
Classification:	General Release
Title:	Office to Residential Article 4 Direction
Wards Affected:	All
City for All:	Heritage: protecting office losses to residential
Key Decision:	No
Financial Summary:	This decision enables planning application fees to be charged for office to residential schemes until May 2019, when the current exemption expires.
Report of:	Director, Policy, Performance and Communication.

1. Executive Summary

This report asks the Cabinet Member to withdraw the Office (B1) to Residential (C3) Article 4 Direction.

2. Recommendations

That the Cabinet Member resolves to withdraw the Direction made under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 relating to the restriction of change of use between Office (B1) and Residential (C3) within the Central Activities Zone in the City of Westminster.

3. Reasons for Decision

The Article 4 Direction now duplicates a power conferred on the Council by the Government's extension of the exemption of Westminster's Central

Activities Zone from the permitted development right to change the use from B1(a) office to C3 dwellinghouse. The Article 4 was made prior to the extension of the exemption, and is therefore no longer necessary at this stage.

4. Background, including Policy Context

- 4.1 In July 2015, the Council made a non-immediate Article 4 Direction to withdraw the permitted development (PD) right relating to changes of use from offices to residential within the Central Activities Zone. When this PD right was initially bought in on a temporary basis, the Council was successful in having Westminster's Central Activities Zone (CAZ) exempt from that right. The temporary PD right (and the exemption) were due to expire in May 2016.
- 4.2 During the initial temporary period, the Government consulted on making the above PD rights permanent and removing the exemption. On this basis, the Council made a non-immediate Article 4 Direction so if the exemption did expire and was not replaced, the Council would be able to retain regulatory control over this type of development.
- 4.3 In October 2015, the Government made a number of announcements, including office to residential permitted development rights. Key announcements were:
- making the permitted development right to turn B1 offices into C3 residential permanent,
 - extend the PD rights to the demolition of offices and new build residential,
 - give those who have obtained permission an additional 3 years to implement it, and
 - extend the exemptions (including Westminster's CAZ) until May 2019 in order for local authorities to have time to make an Article 4 Direction to replace the exemption if they choose to.
- 4.4 The exemption of Westminster's CAZ from these PD rights is therefore now extended until May 2019, making the current Article 4 Direction unnecessary. Moreover, as no fee is payable on applications where PD rights have been removed, it is important that the Council only removes those rights when this becomes necessary.

5. Financial Implications

- 5.1 Withdrawal of the Article 4 Direction will ensure that the Council can continue to generate income to support service provision as long as possible. The withdrawal of the Article 4 will allow the Council to charge a fee for planning applications for office to residential until at least May 2019.

6. Legal Implications

- 6.1 The Article 4 Direction was made under the Town and Country Planning (General Permitted Development)(England) Order 2015 and relates to withdrawal of permitted development rights under Schedule 2 Part 3 Class J, in so far as it relates to development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class B1(a) (offices) of that Schedule.

The Article 4 Direction has not been confirmed and therefore legally it has not taken effect. The withdrawal will be formally notified in a similar manner to the notification given when the notice was initially made.

7. Staffing Implications

- 7.1 This decision will ensure fee income to contribute towards the costs of assessing office to residential applications within Development Planning.

8. Business Plan Implications

- 8.1 This supports the Business Plan for Development Planning in Growth, Planning and Housing.

9. Consultation

- 9.1 Formal notification will be carried out commensurate to the notification when the original Article 4 notice was made.

10. Human Rights Act 1998

- 12.1 No issues arising.

11. Conclusions and Reasons for the Proposed Decision

- 11.1 This report asks the Cabinet Member to withdraw the Article 4 Direction which removes permitted development rights for B1(a) offices to C3 dwellinghouses in Westminster's Central Activities Zone. As the Government has now exempted CAZ from these PD rights until May 2019, this Article 4 Direction is now unnecessary.

If you have any queries about this report or wish to inspect one of the background papers please contact: Lisa Fairmaner on 020 7641 4240, fax 020 7641 3050, email lfairmaner@westminster.gov.uk.

Appendices

1. Notice of Cancellation of a Direction Under Article 4(1) Relating to The Central Activities Zone Within the of the City of Westminster
2. Proposed Exemption Area A - Central Activities Zone (Westminster boundary)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/197662/Map_1.13_City_of_Westminster.pdf
3. Original Article 4 Direction withdrawing permitted development rights for B1(a) offices to C3 dwellinghouses in Westminster's Central Activities Zone

Background Papers

1. Town & Country Planning (General Permitted Development)(England) Order 2015

For completion by the **Cabinet Member for the Built Environment**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: **Councillor Robert Davis MBE, DL**

State nature of interest if any

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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled:
Office to Residential Article 4 Direction

Signed

Cabinet Member for the Built Environment

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law , City Treasurer and, if there are staffing implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.