


<b>Cabinet</b>	 <b>TOWER HAMLETS</b>
29 January 2020	
<b>Report of:</b> Ann Sutcliffe, Corporate Director - Place	<b>Classification:</b> Unrestricted
<b>Confirmation of Article 4 directions for the removal of permitted development rights for the change of use from retail (class A1), financial and professional services (class A2) and specified town centre uses (Betting Offices, and Payday Loan shops) to residential (class C3); and the change of use from dwellinghouses (class C3) to small houses in multiple occupation (class C4)</b>	

<b>Lead Member</b>	<b>Councillor Rachel Blake, Deputy Mayor for Regeneration and Air Quality</b>
<b>Originating Officer(s)</b>	Paul Buckenham, Development Manager Marissa Ryan-Hernandez, Strategic Planning Manager Aleksandra Milentijevic, Planning Officer Patrick Harmsworth, Planning Officer
<b>Wards affected</b>	All
<b>Key Decision?</b>	Yes
<b>Forward Plan Notice Published</b>	19 November 2019
<b>Reason for Key Decision</b>	Significant Impact on more than two Ward
<b>Strategic Plan Priority / Outcome</b>	A borough that our residents are proud of and love to live in

## Executive Summary

Under planning law, the use of land or buildings is grouped into different Use Classes. These are defined in the Planning Use Class Order (2010) (UCO). Planning permission is normally needed for the change of use from one use class to the other. However, permitted developments rights set out in the General Permitted Development Order 2015 (as amended) allow certain changes of use to be carried out without a formal approval from the local planning authority. These are known as “permitted development rights”.

Article 4 directions remove permitted development rights (the ability to undertake certain forms of development without a full planning application) where there is a local need or justification for doing so. The process of introducing Article 4 directions and the difference between the non-immediate and immediate Article 4 directions is provided in section 3 of this report.

On 3<sup>rd</sup> April 2019, the Council made a non-immediate Article 4 direction to remove permitted development rights which allow the conversion of retail (class A1), financial and professional services (class A2) and specified town centre uses

(Betting Offices and Payday Loan shops) to residential (class C3) without a full planning application. The direction applies within the borough's town centre hierarchy which includes the Central Activities Zone, the Tower Hamlets Activity Areas, Canary Wharf Major Centre, District Centres, Neighbourhood Centres and Neighbourhood Parades. These boundaries are mapped in the 'made' Article 4 Direction for town centres which is attached as Appendix 1 of this report.

On 24<sup>th</sup> July the Council made a non-immediate Article 4 direction to remove permitted development rights which allow the conversion of dwellinghouses (class C3) to small houses in multiple occupation (class C4) without the need for a full planning application. This direction is borough-wide and applies to all wards.

In order for the Article 4 directions to take effect, they must be confirmed. This report is with regards to the confirmation of the aforementioned Article 4 directions.

Article 4 directions will not be applied retrospectively. As such, only future changes of use as specified in the Article 4 directions would require a submission of a planning application to the Council.

All statutory requirements have been met such that a public consultation on the Article 4 directions and the boundaries to which these apply was undertaken between 15 August and 26 September 2019. This report considers the consultation responses. The Secretary of State has been informed of the directions.

The report seeks approval to confirm the Article 4 directions and for them to take effect one year from the date of their confirmation.

This report is supported by justification reports for both Article 4 directions attached as Appendices 3 for Town Centres Article 4 direction and Appendix 4 for HMO Article 4 direction. Justification reports examine the local context, relevant evidence base and identify the need for Article 4 directions.

An Equalities Impact Assessment Quality Assurance was carried out for both Article 4 directions prior to the consultation. For the Article 4 Direction for town centres, no adverse impact was identified. Both positive and negative impacts were found for Article 4 direction relating to HMOs.

## **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Confirm the Article 4 direction which removes permitted development rights allowing the conversion of retail (class A1), financial and professional services (class A2) and specified town centre uses (Betting Offices and Payday Loan shops) to residential (class C3).
2. Confirm the Article 4 direction removing permitted development rights allowing the conversion of dwellinghouses (class C3) to small houses in multiple occupation (class C4).

3. Note that if confirmed, the Article 4 directions will come into effect a year after its confirmation by the Cabinet.
4. Confirm that the discretionary fee for planning applications for changes of use that are subject to the proposed Article 4 directions be set at the same level as the equivalent statutory fee.

## **1. REASONS FOR THE DECISIONS**

### 'Town centres' Article 4 direction

- 1.1 The Government introduced in April 2014 a change to the General Permitted Development Order ('GPDO') which allows for a change of use of a building use for retail (class A1), financial and professional services (class A2) or a betting office or pay day loan shop, to a use falling within C3 residential.
- 1.2 The town centre Article 4 direction is supported by a justification report, attached as Appendix 3. The attached report is itself underpinned by national and regional guidance and the Council's adopted and emerging Local Plan evidence base on town centres, which includes the Tower Hamlets Town Centre Retail Capacity Study (2016) and the Tower Hamlets High Street & Town Centre Strategy 2017-2022.
- 1.3 This decision to remove this permitted development right, would enable the Council to use its planning powers through the consideration of planning applications to:
  - better manage proposed changes to retail and financial services in the town centre hierarchy in accordance with adopted and emerging Local Plan policies;
  - to ensure that the borough's town centres are not undermined and subject to fragmentation;
  - to ensure that our identified retail need is met over the local plan period, including a total borough-wide convenience need of 7,941 square metres to 2031;
  - to protect viable local convenience shops and services for the borough's residents and visitors; and
  - to ensure the effective implementation of the adopted and emerging Local Plan town centre policies, as well as the vision and objectives set out in the Tower Hamlets High Street & Town Centre Strategy 2017-2022.
- 1.4 On 3rd April 2019, the Council made a non-immediate Article 4 direction to remove this permitted development right.

### HMO Article 4 direction

- 1.5 On 6 April 2010, an amendment to the Town and Country Planning (Use Classes) Order 1987 (as amended) introduced a definition of small-scale houses in multiple occupation (HMOs) into the planning system.

- 1.6 According to the Planning Use Class Order (2010), there are generally two different types of HMO. The first type is small HMOs under C4 Use Class – Houses in multiple occupation. Small HMOs are dwelling units occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. The second type is large HMOs which are under Sui Generis Use Class. These are properties with seven or more unrelated individuals who (also) share basic amenities such as a kitchen or bathroom.
- 1.7 Amendments were made in April 2010 to the General Permitted Development Order (as amended) to allow a change of use from a small-scale HMO to a dwellinghouse and vice versa without the need to apply for planning permission.
- 1.8 This prospective Article 4 direction is supported by a justification report, attached as Appendix 4. The attached report is itself underpinned by national and regional guidance and the Council's adopted and emerging Local Plan evidence base. In addition, the report considers the impact of HMOs and their spatial distribution.
- 1.9 This decision to remove this permitted development right, would enable the Council to use its planning powers through the consideration of planning applications to:
- manage the existing family housing supply in accordance with adopted and emerging Local Plan policies;
  - manage the creation of HMOs and maintain mixed and balanced communities;
  - ensure that the living conditions of the HMO occupiers are in accordance with the relevant standards;
  - consider potential impacts on the residential amenity of surrounding areas;
  - consider potential impacts physical and social infrastructure in the borough; and
  - promote sustainable travel by minimising the highways impacts arising from HMOs.
- 1.10 The Article 4 direction is a separate regime to the existing licensing schemes for HMOs, including mandatory and additional licensing, however, the owners should seek planning permission first before applying for a license. Need for planning permission will provide another opportunity of controlling layouts and ensuring that health and safety measures are in place which will be achieved through a joint working and information sharing between Environmental Health Licensing and Planning department.

## **2. ALTERNATIVE OPTIONS**

- 2.1 Alternative options for the two Article 4 directions had been considered prior to the making of the Article 4 directions on 3<sup>rd</sup> April (Town centres A4D) and 24<sup>th</sup> July (HMO A4D). It was considered that the chosen option were the most

appropriate according to the evidence base set out in the justification reports (Appendix 3 and 4).

### **3. DETAILS OF THE REPORT**

- 3.1 This report sets out the confirmation of two Article 4 directions. The first sections set out the process of introducing Article 4 directions. The following sections refer to the two Article 4 directions.

#### **Process for introducing an Article 4 Direction**

- 3.2 The process for making and confirming an Article 4 is set out in Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). There are two types of Article 4 directions: non-immediate directions and directions with immediate effect.
- 3.3 An immediate Direction withdraws permitted development rights with immediate effect; but must be confirmed by the local planning authority following local consultation within six months or else the direction will lapse. In addition, a local planning authority may be liable to pay compensation to a landowner when permitted development rights are removed by an immediate Article 4 direction if planning permission is subsequently refused for the development to which the Direction applies.
- 3.4 Non-immediate Article 4 directions come into force/withdraw permitted development rights upon confirmation of the direction of the local planning authority following local consultation. This can be at least 28 days later, but no longer than two years after, the date upon which the consultation period begins.
- 3.5 In relation to the publicising the proposed Article 4 direction, a minimum of not less than 6 weeks is required by the legislation. In addition, there should be site display at no fewer than 2 locations across the borough.
- 3.6 If the period between the first notification of the confirming the Order and the taking effect of the order is less than 12 months, compensation may be payable for any capital losses arising from a refusal of planning permission for development that would otherwise have been “permitted development” (Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Compensation) (England) Regulations 2015).
- 3.7 In light of the above, it is common for planning authorities to allow a period of 12 months to expire between publicising the confirmation of the Order and confirming that the Order has taken effect.
- 3.8 Article 4 directions are not retrospective and do not apply to properties with an already established change of use under permitted development. As such,

planning applications are only relevant to future developments specified in the A4Ds.

3.9 A procedural guidance on Article 4 directions is provided in Table 1.

**Table 1: Procedural guidance on Article 4 directions**

Article 4 direction process	
Stage 1	Check whether an Article 4 direction is appropriate and whether the direction should come into force following consultation or immediately
Stage 2	Draft and make an Article 4 direction
Stage 3	<p>Serve notice on the making of an Article 4 direction by carrying out the following exercises:</p> <ul style="list-style-type: none"> <li>• by local advertisement</li> <li>• by site display at no fewer than two locations within the area to which the direction relates for a period of not less than six weeks</li> <li>• individually on every owner and occupier of every part of the land within the area or site to which the direction relates</li> <li>• by notifying planning authorities within whose area the direction relates to where a two-tier system of planning authorities exists (county and district/local)</li> </ul> <p>Notify the Secretary of State on the same day of the above local public notification.</p>
Stage 4	Determine whether to confirm the direction
Stage 5	<p>If confirmed, direction comes into force on the date specified in the notice that the local planning authority served in stage 3</p> <p>Immediate Article 4 directions – date on the notice in Stage 3</p> <p>Non-immediate Article 4 directions – 28 days up to 2 years</p>
Stage 6	Serve notice and notify the Secretary of State on the confirmation of an Article 4 direction

- 3.10 Table 2 below shows how the Council has satisfied the stages set out in Table 1 in respect of the Article 4 direction regarding town centre uses. Table 3 refers to the Article 4 direction for houses in multiple occupation.

**Table 2: Town Centres Article 4 direction**

<b>Town Centres Article 4 direction</b>	
<b>Stage 1</b>	<u>Completed</u> The relevant evidence base was collated between October 2018 and January 2019, building upon the existing town centre evidence base used to support the emerging Local Plan. It was found that a borough-wide non-immediate Article 4 direction would be appropriate.
<b>Stage 2</b>	<u>Completed</u> The reporting process for the making of a borough-wide non-immediate Article 4 direction for town centres took place between 18 <sup>th</sup> February and 3rd April 2019.  The direction was made on 3rd April 2019.
<b>Stage 3</b>	<u>Completed</u> Consultation took place between 15 <sup>th</sup> August 2019 and 26 <sup>th</sup> September 2019. Further details are set out in the section below.
<b>Stage 4</b>	<u>Not completed</u> The confirmation of the direction is considered in this report.
<b>Stage 5</b>	<u>Not completed</u> Subject to step 4
<b>Stage 6</b>	<u>Not completed</u> Subject to steps 4 and 5

**Table 3: Article 4 direction for houses in multiple occupation**

<b>Houses in multiple occupation Article 4 direction</b>	
<b>Stage 1</b>	<u>Completed</u> Evidence was gathered between January and July 2019. It was found that a borough-wide non-immediate Article 4 direction would be appropriate.
<b>Stage 2</b>	<u>Completed</u> Reporting process for the making of a

	borough-wide non-immediate Article 4 direction took place between 15 <sup>th</sup> July and 24 <sup>th</sup> July 2019. The direction was made on 24 <sup>th</sup> July 2019.
<b>Stage 3</b>	<u>Completed</u> Consultation took place between 15 <sup>th</sup> August 2019 and 26 <sup>th</sup> September 2019. Further details are set out in the section below.
<b>Stage 4</b>	<u>Not completed</u> The confirmation of the direction is considered in this report.
<b>Stage 5</b>	<u>Not completed</u> Subject to step 4
<b>Stage 6</b>	<u>Not completed</u> Subject to steps 4 and 5

### **Public consultation**

- 3.11 Stage 3 of Table 1 sets out the minimum statutory requirements for carrying out the consultation exercise on the making of an Article 4 direction. Each of these requirements has been satisfied and as explained below.
- 3.12 The consultation on both Article 4 directions ran from 15<sup>th</sup> August to 26<sup>th</sup> September 2019. While it has been acknowledged that the first part of the consultation included the period of summer breaks, it is not considered that this adversely impacted on the stakeholders' ability to make representations given that the rest of the consultation was the period of time when people are likely to be back from their summer breaks.
- 3.13 Two press notices were advertised on 15<sup>th</sup> August 2019 in the East London Advertiser, each relating to a respective Article 4 direction.
- 3.14 The legislation requires a site notice at no fewer than two locations within the area to which the Article 4 direction relates to. A total of 89 site notices were put up across the borough. 80 site notices were put up in each town centre for this Retail A4D. 9 site notices relating to the 'HMO' A4D were put up in locations that had clusters of HMOs as evidenced in the justification report and in accessible locations around transport interchanges and town centres.
- 3.15 The legislation gives flexibility to the local planning authorities to consider if a requirement to notify each owner or occupier of the property within the area to which an Article 4 direction relates to is impracticable. Given the number of owners and/or occupiers that would have been identified for an individual consultation, it was not deemed practicable to carry out this type of consultation.



- 3.16 On the first day of the consultation, the Greater London Authority and the adjoining and neighbouring local planning authorities were notified of the made Article 4 directions. The Secretary of State was also notified on the same day.
- 3.17 According to the above, all of the statutory requirements were met. In addition, the Ward Councillors were notified of the consultation on the Article 4 directions in the Members' Bulletin.
- 3.18 The additional information and supporting documentation was available on the Council's website from the first date of the consultation.

#### Town centres Article 4 direction

- 3.19 A total of 29 representations were received relation to the public consultation for the 'Town Centre Article 4 direction'. All these responses were in support. This is summarised below:
- Two members of the general public expressed support for the direction.
  - 26 members of the public expressed support for the direction, with specific regard paid to the commercial development and growth of Roman Road as a thriving centre and high street.
  - The Mayor of London expressed support for the introduction of this Article 4 Direction within Tower Hamlets so that the borough can appropriately manage land uses within the Central Activities Zone and town centres. This is in accordance with draft London Plan policy which seeks to protect commercial activity in town centres; and to safeguard the vitality, viability, adaptability and diversification of the CAZ.

#### HMO Article 4 direction

- 3.20 A total of 6 representations were received. Of the responses received during the public consultation for the HMO Article 4 Direction, all were in objection to the Article 4 direction. The representations were from:
- Port of London Authority
  - Transport for London
  - Residents
  - Residential Landlords Association
  - London Property Licensing.
- 3.21 The received representations were structured and analysed according to their relevant topics. The summary of the raised issues and the Council's responses are set out in the table below.

**Table 5: HMO Article 4 Direction – consultation responses**

<b>Topic</b>	<b>Summary</b>	<b>Response</b>
Alternative HMO A4D Option	Encouragement to the Council to adopt alternative Option 2 and introduce A4D in certain	The evidence base found that HMOs tend to be dispersed across the borough albeit the identified

	localities only – rather than borough-wide.	<p>clustering in certain locations.</p> <p>A locality based approach could have the unintended consequence of new clusters establishing if the market responds to different regulatory approaches in different parts of Tower Hamlets.</p> <p>As such, it was considered appropriate to proceed with a borough-wide A4D.</p>
Consultation	The consultation has been carried out for a minimum period and during summertime when people are away. Issues were raised about the consultation not being on the portal.	<p>The Council has exceeded the statutory requirements given that the consultation was running for 6 weeks. In addition, some of the site notices were put up before 15<sup>th</sup> August 2019 which gave stakeholders more time to consider the introduction of the two A4Ds.</p> <p>It has been acknowledged that the first part of the consultation period was during the time when people are likely to be on holidays; however, there remained a period which did not overlap with a key holiday period.</p> <p>Additional information and supporting documents were available on the Council's website from midnight on 15<sup>th</sup> August.</p>
Evidence	A number of issues were raised in relation to the justification report which serves as an evidence base for A4D. These have been summarised below.	
	Table 2 makes no specific mention of HMOs.	Table 2 solely looks at different property tenure types with a particular focus on private rented properties.
	In addition to the student population, HMOs are equally important for young professionals.	This is recognised in paragraph 4.52 and 8.7. A particular focus was provided on the growing number of student population given that Tower Hamlets is home to two universities. In addition to this, the borough is close to other universities situated in the adjoining London boroughs.

	<p>Map 1 shows large HMOs (sui generis Use Class, i.e. properties occupied by 7 or more people).</p>	<p>Map 1 relates to the Tower Hamlets mandatory licensing scheme which incorporates HMOs with more than 5 occupiers. This also incorporates small HMOs with 5 and 6 occupiers; however, no differentiation between the small HMOs (C4) and large HMOs (Sui generis) has been given. Nonetheless, Map 1 is used to understand the spatial distribution of HMOs in general.</p>
	<p>The number of additional licence applications is higher than indicated in the report. Breakdown of single family and HMOs for selective licenses is not stated.</p>	<p>The evidence base was finalised in May 2019 which is only a month after the adoption of the additional licensing scheme. The number referred to in the report relates to the successful additional licenses, not to the actual applications for these.</p>
	<p>Combining the additional and selective licensing scheme would enable more accurate mapping of HMOs across the borough.</p>	<p>As stated above, the additional licensing scheme was in its infancy during the evidence gathering. As such, it was not considered necessary or appropriate to carry out a mapping exercise. This is acknowledged in paragraph 4.23. Selective licensing scheme only exists in the three boroughs and it was not considered necessary to show the information. However, the high numbers of selective licenses was acknowledged in paragraph 4.25.</p>
	<p>The planning data is of limited value. Most planning application relate to large HMOs.</p>	<p>This was acknowledged in paragraph 4.31.</p>
	<p>There is sparse evidence in relation to poor HMO housing conditions.</p>	<p>This was acknowledged in paragraph 4.39; however, paragraph 4.40 acknowledged the potential link between anti-social behaviour and crime and the quality of the management of residential properties.</p>

	<p>Anti-social behaviour and crime data is generic and provides no implied or causative link to HMOs. This was one of the reasons for selective licensing; however, it is unclear how the proposed HMO A4D would regulate such issues.</p>	<p>Paragraphs 4.45-4.47 analyse the correlation between the private rented properties and ASB and crime. As private rented properties are likely to include HMOs, this was considered an appropriate deduction from the analysed data.</p>
	<p>No data has been provided to demonstrate that HMOs have a higher number of parking permits. It seems likely that many HMO tenants will be car-free. Suggested reducing the maximum number of car parking permits per property.</p>	<p>This might be a likely case in the areas of excellent accessibility to the public transport facilities; however, it is potentially not that likely to be in areas of poor accessibility to the public transport.</p>
Flexibility of the housing market	<p>Landlords are advised about the most appropriate letting model in order to meet housing demand which can be single family let or shared accommodation. The implementation of the A4D would disrupt this flexibility and cause delays in tenancy.</p>	<p>Similarly to the letting model, the A4D seeks to meet housing demand by ensuring there is a mixed and balanced demand and supply of properties of various types and uses to cater for a wide range of potential users. In addition, the A4D seeks to consider the proposed use to ensure that there is no adverse impact on the amenity of the surrounding area.</p>
HMO management	<p>HMOs don't necessarily need to be managed by private landlords. There are examples of these types of properties being managed or leased by Registered Providers.</p>	<p>This is noted. The introduction of an A4D seeks to improve the management of HMOs regardless of their management individuals/ organisations.</p>
HMO types	<p>Particular issues were raised in relation to the management of 2-bedroom residential units and common example of a couple and unrelated friend on a single tenancy.</p>	<p>This would meet the legal definition of an HMO and has been acknowledged. However, the introduction of an A4D would result in various benefits to the local community and occupiers of HMOs.</p>
Management of the HMO use	<p>Properties with an already established HMO use would not entertain family housing as they would lose the HMO use.</p>	<p>This is noted. However, no evidence is available to indicate that this will be an outcome of the A4D. It is considered that the benefits of introducing an A4D including a provision of mixed and balanced demand and supply of properties of various types and</p>

		uses would ensure that the borough can cater for a wide range of potential users.
Planning fees	The introduction of an additional requirement for the submission of a planning application is unreasonable burden and a way for the Council to increase revenue.	The Article 4 direction has not been proposed as a process for the Council to increase revenue. Planning applications fees would be used for the processing and assessment of submitted applications.
Other Regulations	<p>HMO Management Regulations and Housing Health and Safety Rating System power can be used to affect improvements if voluntary co-operation does not have the desired outcome.</p> <p>Since October 2014 and including the changes in May 2015 and April 2019, all letting agents and property managers must belong to a government-approved redress scheme.</p>	<p>This is noted. The Article 4 direction provides a different type of management regime.</p> <p>This is noted; however, private landlords are not generally captured by the definitions given in the scheme as they are not acting on instructions from another party. As such, this statement does not apply to other providers of HMOs.</p>
Rent levels	The additional requirements for the submission of a planning application for the change of use would increase the costs and subsequently result in the increased rent levels. This might harm the most vulnerable in the society.	This is noted. However, the introduction of an A4D would result in various benefits to the local community and occupiers of HMOs.

3.22 The issues raised at the consultation stage are valid considerations and have been thoroughly analysed. While the A4D might have an adverse impact on the financial capital of HMO provides, it would have greater benefits for the local community and HMO occupiers. In addition, it would ensure that the local community has the opportunity to make representations on planning applications which in the case of permitted development rights is not possible. As such, it is recommended to carry on with the confirmation of the Article 4 direction.

3.23 In light of these comments and issues raised, there is an appropriate justification to proceed with the confirmation of the Article 4 direction.

### **Resource implications**

- 3.24 Where an Article direction is in place, an increase in the number of planning applications can be expected for developments that would otherwise have benefited from permitted development.
- 3.25 The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017 introduced the ability for local planning authorities to charge a fee for planning applications where permitted development rights have been withdrawn. Prior to new regulations, an application for development subject to an Article 4 direction would have been exempt from planning fees. The payable fee under the new regulations cannot be higher than the statutory fee payable for planning applications of the same type.
- 3.26 The current statutory fee for a planning application for a change of use is £462.00. The payment of a planning fee, plus any professional fees for incurred in preparing an application, would place an additional burden on an individual or business wishing to make changes that are subject to the Article 4 directions. However this burden would not be disproportionate to the uplift in land values or future revenue income that could be derived from obtaining planning permission.
- 3.27 In general terms, the statutory planning fee income does not entirely cover the cumulative revenue costs to the Council in all aspects of registering, processing, assessing including consultation and determining a planning application. Hence taking these two points together, officers recommend that the fee for planning applications that would have previously been permitted development should be set at the same level as the statutory fee, currently £462.00 and should change in line with any subsequent changes to the statutory fees.

### **Conclusion**

- 3.28 The evidence has been gathered as part of the process of making Article 4 directions. It should be noted that the evidence is still up-to-date and relevant. As such, the evidence ensures that the confirmation of the Article 4 directions is reasonable and justified.
- 3.29 As detailed in the report above, the Council has carried out the consultation exercise and considered the responses. This provides the opportunity to the Council to consider the confirmation of the two Article 4 directions.
- 3.30 As a result of confirming the Article 4 directions, the Council will have the opportunity to consider the impact of the subject changes of use to ensure the vitality and viability of the town centres (in relation to the town centres Article 4 direction); and the creation of HMO clusters and living conditions of HMO's occupiers (in relation to the HMO Article 4 direction).

- 3.31 One of the main benefits of the Article 4 directions is to ensure that the local community has the opportunity to make representations on planning applications which in the case of permitted development rights is not possible.
- 3.32 As such, the Cabinet is recommended to proceed with the confirmation of the Article 4 directions to come in force one year from the confirmation date.

#### **4. EQUALITIES IMPLICATIONS**

- 4.1 The implications of the proposed Article 4 directions on the protected characteristics outlined in the Equalities Act 2010 have been considered using the Council's Equality Analysis Quality Assurance Checklist (EqIAAC).
- 4.2 For the 'Town Centres' Article 4 direction, no adverse impact was identified.
- 4.3 In terms of HMO Article 4 direction, positive impact was found on people of all age due to the improvements to the management of HMOs and ensuring that there is a minimised impact on the amenity of the surrounding area.
- 4.4 Both positive and negative impacts were found on single people and people on lower incomes due to the potential of HMO A4D resulting in improved accommodation, but potentially in fewer future HMOs depending on the outcome of planning applications. However, there is no strong evidence to indicate the likeliness of the negative impact or the anticipated degree.
- 4.5 One representation was made at the consultation stage regarding the negative impact on the identified groups.
- 4.6 The potential impacts would be monitored through the planning register to track impact on people with certain protected characteristics. The outcome of the monitoring will be used to inform any future changes to policies or the Article 4 direction itself.

#### **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration.
- 5.2 In order to bring forward an Article 4 direction in accordance with Regulation (10) of the Town and Country Planning (General Permitted Development) (England) Order 2015 direction the following tasks must be completed:

- The change of use to be addressed by the Article 4 direction to be clearly set out
- Identification of the geographical boundaries to which the Article 4 direction will apply, and for that information to be mapped and recorded and made available on the Council's website
- Compilation of robust and up-to-date evidence to support the Article 4 direction, and the information to inform a clear justification to be included with decision-making reports and be published alongside the Article 4 direction (Appendix 2 & 3 – Justification reports)
- Consideration of whether an immediate Article 4 direction is required, and if so for an assessment to be completed to identify the likely financial liability and risks to the Council from doing so
- Undertaking public consultation for a period of at least six weeks and notifying the Secretary of State
- Reviewing of the representations
- Reporting cycle to consider the confirmation of the Article 4 direction
- Confirmation of the Article 4 by Cabinet
- Publication of a notice of the confirmed Article 4 direction including maps and supporting information on the Council's website at least one year before the Article 4 direction takes effect.
- Publication of a notice on the Council's website when the Article 4 direction takes effect.

5.3 The Council has met the statutory requirements as discussed above. A consultation has been carried out and the received responses have been considered.

5.4 It is recommended to proceed with the confirmation of the two Article 4 directions.

## **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

6.1 The two Article 4 directions will increase the number of planning applications. A statutory fee of £462 will be collected for each of these applications, which will cover the cost of review.

6.2 These Article 4 directions will not materially impact on the income collected by LBTH. It is felt that imposing planning restrictions around HMO's will not impact on the number of applications and therefore income collected within the Licensing team.

## **7. COMMENTS OF LEGAL SERVICES**

7.1 The report seeks approval to confirm two Article 4 Directions and for them to take effect one year from the date of their confirmation. Article 4 Directions are made under the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GDPO") and have the



effect of removing the right to carry out the specified development without the need for planning permission. In this case the direction will remove permitted development rights for the change of use from retail (class A1), financial and professional services (class A2) and specified town centre uses (Betting Offices, and Payday Loan shops) to residential (class C3); and the change of use from dwelling houses (class C3) to small houses in multiple occupation (class C4) remove permitted development rights for the conversion of dwelling houses to small houses in multiple occupation (HMOs), in the areas covered by the order.

- 7.2 The procedure for making an Article 4 direction that will not have immediate effect is set out in Schedule 3 of the GPDO. This provides that as soon as practicable after the direction is made, the LPA are required to give notice by local advertisement. Site notices must also be erected within the areas to which the direction relates and notice must be served on relevant owners and occupiers (unless an exception applies). A minimum period of 21 days must be given for any representations to be made. The article 4 Direction can then be confirmed. Subject to confirmation, the direction can come into force any time after 28 days have elapsed from the date of notice being given, but the direction must come into force within 2 years.
- 7.3 The Council must also send a copy of the direction and the notice to the Secretary of State on the same day as the notice of the direction is first published by local advertisement. It should be noted that the Secretary of State has power to make a direction cancelling or modifying such a direction made under article 4 by a local planning authority at any time before or after its confirmation.
- 7.4 In deciding whether to confirm a direction, the Council must take into account any representations received during the consultation period.
- 7.5 Section 108 of the Town and Country Planning Act makes provision for compensation to be payable where an application for planning permission (that would formally have been permitted development) is refused or is granted subject to conditions different from those in the GDPO. However, as the changes are 'prescribed development' within regulations, so long as 12 months' notice is given before the Article 4 direction takes effect, no compensation will be payable.
- 7.6 Pursuant to section 9D of the Local Government Act 2000 all functions of an authority are executive functions unless they are specified as not in either the 2000 Act or the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). Whilst some planning functions cannot be the responsibility of the Executive, the making of an Article 4 direction is not a specified function and it is therefore an Executive decision. This means that either the Mayor or the Mayor in Cabinet can make the Order (first stage) or delegate this first stage to an officer. The Mayor or Mayor in Cabinet can then confirm the Order(second stage) at which point the confirmation is a key decision..

7.7 When considering the recommendations in this report, regard must be given to the public sector equalities duty to eliminate unlawful conduct under the Equality Act 2010. The duty is set out at Section 149 of the 2010 Act. It requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimization and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. As noted in the One Tower Hamlets section below, an equalities analysis has been carried out and concludes that the project does not appear to have any adverse effects on people who share protected characteristics and that no further actions are recommended at this stage. The equalities analysis should be updated after the consultation period and before a decision is taken whether or not to confirm the direction.

## **8. ONE TOWER HAMLETS CONSIDERATIONS**

8.1 An Equalities Assessment has been prepared and is included as Appendix 3. Officers will continue to work with the Council's Equalities team to ensure actions are undertaken to mitigate the likely impacts on the equality profile of those affected by the Article 4.

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### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- NONE

#### **Appendices**

1. Appendix 1: *Made* Town centres Article 4 Direction
2. Appendix 2: *Made* HMO Article 4 Direction
3. Appendix 3: Justification report and Equality Analysis Quality Assurance Checklist for Town centres Article 4 direction
4. Appendix 4: Justification report and Equality Analysis Quality Assurance Checklist for HMO Article 4 direction

#### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information) (England) Regulations 2012**

- NONE

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