



Department for Levelling Up,
Housing & Communities

Joanna Averley
Chief Planner

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Kim Wright
Chief Executive
Brent Council
Brent Civic Centre
Engineers Way
Wembley
HA9 0FJ

Your reference:
Our reference:

9 February 2024

Dear Kim,

Re. Modification of Article 4 direction in relation to Schedule 2 Part 3 Class MA and of Schedule 2 and Part 20, Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 within site allocations as defined in the Brent Local Plan 2021.

Background

As you are aware, with effect from 1st August 2021 Class MA was inserted into Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the General Permitted Development Order"). Class MA permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 to a use falling within Class C3 (dwellinghouses) of Schedule 1 of that Order.

Class ZA of Part 20 of Schedule 2 to the General Permitted Development Order permits development consisting of the demolition of a building which was in use as a single purpose-built block of flats or the demolition of a detached building which was in use as an office, research and development or light industrial use, or any combination of these uses, on 12 March 2020, and its replacement with a purpose built detached dwellinghouse, with a use falling within Class C3 (dwellinghouses) of Schedule 1 of the Town and Country Planning (Use Classes) Order 1987 to a use falling within Class C3 (dwellinghouses) of Schedule 1 of that Order.

On 28th July 2021, the London Borough of Brent made a non-immediate direction under Article 4(1) of the General Permitted Development Order disapplying Class MA and Class ZA for land within site allocations as defined in the Brent Local Plan 2021. The Article 4 direction was confirmed on 29th July 2022 and came into force on 1st August 2022.

Consideration and Reasons

In considering the Article 4 direction the Secretary of State has had regard to national policy on Article 4 directions. Paragraph 53 of the National Planning Policy Framework provides that-

The use of Article 4 directions to remove national permitted development rights should:

- where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre);*
- in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities);*
- in all cases, be based on robust evidence, and apply to the smallest geographical area possible.*

Paragraph 050 of the Planning Practice Guidance provides that the Secretary of State will only intervene in Article 4 directions where there are clear reasons for doing so. The Secretary of State considers that there are clear reasons justifying his intervention in the Article 4 direction.

The Class MA permitted development right provides new opportunities for the conversion of vacant commercial buildings to support housing delivery, economic recovery. The permitted development right includes a number of national safeguards: all new residential delivered through the permitted development right must meet nationally described space standards, the rights do not apply where the cumulative floor space of the building changing use exceeds 1,500 square metres, the building must have been vacant for at least 3 months, and there are prior approvals for, amongst other things, the ground floor of buildings in conservation areas.

The Class ZA permitted development right also supports housing and delivery and economic recovery and includes a number of safeguards: all new residential units delivered through the permitted development right must meet nationally described space standards; the rights do not apply where the footprint of the building to be demolished exceeds 1,000 square metres or the building is higher than 18 metres; the building must have been vacant for at least 6 months, and there are prior approvals for, amongst other things, the design and external appearance of the new building.

The Article 4 direction, as made, does not take a sufficiently targeted approach in the assessment of the wholly unacceptable adverse impacts of the permitted development right in each location. Such an approach is necessary to ensure that the Article 4 direction applies only to the smallest geographical area possible. The Secretary of State is therefore of the view that the boundaries must now be modified in accordance with the direction attached to this letter.

This will ensure that the Article 4 direction is focused on protecting the most significant industrial areas, where the permitted development right would have a wholly unacceptable adverse impact on the local economy of Brent through the loss of existing employment uses. The modification will also ensure that the Article 4 direction is justified by robust evidence and complies with national planning policy.


Decision

The Secretary of State has decided to modify the Article 4 direction to restrict the Article 4 direction to the areas shown on the attached map and I attach direction to that effect.

Procedural issues

For the purposes of paragraph 1(13) and 1(16) of Schedule 3 of the General Permitted Development Order I hereby notify you of the modification of the Article 4 direction.

Under paragraph 1(17) of Schedule 3, you must give notice of the attached direction in accordance with the provisions of paragraphs 1(1) to 1(3) of Schedule 3 of the General Permitted Development Order. You are required to give notice of this direction as soon as reasonably practicable after receipt of this letter. Although it is a matter for you, it is suggested that you give notice of the direction in the same manner as for the original form of the direction. In due course, please confirm when and where the notice is published or served so we know the date the direction came into force.

A handwritten signature in blue ink, appearing to read 'Joanna Averley', is written over a faint horizontal line.

Joanna Averley
Chief Planner
Department for Levelling Up, Housing and Communities

DIRECTION UNDER THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015

Modification of the Article 4 direction made by the London Borough of Brent on 28th July 2021 in relation to development under Class MA of Part 3 of Schedule 2 and Class ZA of Part 20 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for site allocations as defined in the Brent Local Plan 2021 in the London Borough of Brent

The Secretary of State for Levelling Up, Housing and Communities, in exercise of the powers conferred by paragraph 1(13) of Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and of all other powers enabling him in that behalf, makes the following direction:

Interpretation

1. In this Direction-

" General Permitted Development Order" means the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended);

"Use Classes Order" means the Town and Country Planning (Use Classes) Order 1987 (as amended); and

"Article 4 direction" means the Direction made by the London Borough of Brent under Article 4 of the General Permitted Development Order on 28th July 2021 in respect of development permitted by:

- Class MA of Part 3 of Schedule 2 to the General Permitted Development Order, namely a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order;
- Class ZA of Part 20 of Schedule 2 to the General Permitted Development Order, namely the demolition of a building comprising a single purpose-built detached block of flats, or a single detached building comprising premises in a use falling within offices, or research and development of products and processes or light industrial appropriate in a residential area, or any combination of those uses, and its replacement with a purpose-built block of flats or a purpose-built detached dwellinghouse, together with prescribed operational development.

The Article 4 direction relates to site allocations as defined in the Brent Local Plan 2021.

Direction

2. The Secretary of State hereby directs that the Article 4 direction is modified as follows:
3. Instead of the Article 4 direction applying to land described in the Schedule and the map attached to that direction, it shall apply only to the land specified in this Direction.

4. The specified land is within the orange line boundaries on the attached map.
5. For the avoidance of doubt, any land outside the orange line boundary areas shaded is not covered by this Direction.

Entry into force

6. This Direction comes into force in accordance with paragraph 1(18) of Schedule 3 of the General Permitted Development Order.

Signed for and on behalf of the Secretary of State for Levelling Up, Housing and Communities

On: 9 February 2024

A handwritten signature in black ink, appearing to read 'Joanna Averley', written in a cursive style.

Joanna Averley
Chief Planner