

Report of: **Executive Member for Housing and Development**

<b>Executive</b>	<b>Date: 13 July 2017</b>	<b>Ward(s): All</b>
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**SUBJECT: Confirmation of Article 4 Directions to withdraw Permitted Development right for change of use from light industrial to dwellinghouses**

**1. Synopsis**

- 1.1 The Government has recently introduced a new Permitted Development right to allow light industrial uses (B1(c) use class) to change to residential use (C3 use class) without planning permission. This report proposes that three non-immediate Article 4 Directions made by the Council on 3 November 2016 are confirmed to come into force on 3 November 2017. These Directions will withdraw the permitted development right which allows B1(c) light industrial units to change to C3 residential use without planning permission
- 1.2 The three Directions cover (1) the Vale Royal / Brewery Road Locally Significant Industrial Site (LSIS), (2) the Central Activities Zone (CAZ) within Islington and (3) other B1(c) locations across the borough. The Directions are considered necessary as the Permitted Development right has significant potential to harm local amenity and wellbeing. In particular it could:
- Lead to the loss of viable business space for which there is a significant identified need.
  - Lead to the loss of valuable and viable industrial uses in Islington which provide a range of job opportunities and help to support the Central London economy.
  - Undermine the viability of the remaining business and industrial clusters within the borough by introducing uses that are not compatible with these uses and would compromise their future operation
  - Create amenity issues by introducing residential accommodation in locations and buildings that would otherwise not be suitable.
- 1.3 Protecting light industrial premises falling within B1(c) is important to the borough's economy for two reasons. Firstly, these uses are important in and of themselves as part of the borough's diverse economy; secondly they also provide opportunities for conversion into modern day industrial spaces occupied by creative sector firms, such as film production, music recording facilities and artists' studios.

These often straddle office and industrial uses, referred to as 'hybrid space'.

## 2. Recommendations

2.1 To agree to confirm three Article 4 Directions which will withdraw the permitted development right which allows B1(c) light industrial units to change to C3 residential use without planning permission. The three Directions cover the following areas (see also Maps at Appendix 1):

- (i) the Vale Royal / Brewery Road Locally Significant Industrial Site (LSIS);
- (ii) the Central Activities Zone (CAZ) within Islington; and
- (iii) other B1(c) locations across the borough.

## 3. Background

3.1 In April 2016, the Government amended the Town and Country Planning (General Permitted Development) (England) Order (the GPDO) to grant a new Permitted Development (PD) right to allow Class B1(c) (light industrial) use to change to Class C3 (dwellinghouses) use. As a result of the way this right is drafted in practice it cannot be used until 30 September 2017 (see details of prior approval process below), which gives local planning authorities the opportunity to put in place Article 4 Directions to withdraw the right (see below). The PD right is temporary and will cease on 1 October 2020. The PD right has some restrictions, and prior approval of certain issues is required in order for applicants to make use of the right.

3.2 The PD right is subject to some restrictions. The following are the relevant instances where development is not permitted:

- If an application for prior approval is received by the local planning authority on or before 30 September 2017.
- If the building was not used solely for a light industrial use on 19 March 2014 or, in the case of a building which was vacant on that date, the last known use was light industrial. Any applicant intending to utilise the PD right must submit a statement setting out the evidence they are relying on to demonstrate that the building was used solely for a light industrial use on this date.
- If the gross floor space of the existing building exceeds 500 square metres.
- If the building is a listed building or is within the curtilage of a listed building.

3.3 Prior approval of the following issues is also required:

- Transport and highways impacts of the development.
- Contamination risks in relation to the building.
- Flooding risks in relation to the building.
- Where the authority considers the building is within an area that is important for providing industrial services or storage or distribution services or a mix of those services (which includes, where the development relates to part of a building, services provided from any other part of the building), whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services.

3.4 The Council has power to withdraw this PD right by Article 4 of the GPDO if it is satisfied that it is expedient that development should not be carried out unless planning permission is granted on the application. In determining whether it is expedient the Council should have regard to material considerations including its Local Plan, the National Planning Policy Framework (NPPF) and national Planning Practice Guidance (PPG).

### Article 4 Directions – background and process

3.5 Article 4 Directions allow local planning authorities to remove PD rights that would otherwise apply by virtue of the GPDO. An Article 4 Direction does not prohibit the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that

development. This gives a local planning authority the opportunity to consider a proposal in more detail, i.e. assessing against local planning policies and to apply conditions. The PD right in question requires prior approval of certain issues, but this determination is limited and does not allow for full consideration against adopted Development Plan policies.

- 3.6 As set out in the NPPF and PPG, Government policy/guidance is that the use of Article 4 Directions should be limited to situations where they are necessary to protect local amenity and/or the wellbeing of the area. These criteria are not further defined in the NPPF or the PPG. The PPG notes that the potential harm that the Direction is intended to address should be clearly identified. For the proposed Directions, this is set out below.
- 3.7 Provided that the local authority considers it expedient, an Article 4 Direction can cover an area of any geographic size, from a specific site to a local authority-wide area. It is open to a local planning authority to make a number of different Directions specifying particular areas. In this case the three Directions together cover the parts of the borough with the most significant clusters of B1(c) uses. PPG advises that a Direction removing PD rights where prior approval powers are available to control permitted development should have particularly strong justification.
- 3.8 Article 4 Directions can be made with immediate effect or following a defined period of notice. In this case three non-immediate Article 4 Directions with a 12 month notice period were made on 3 November 2016, with this report recommending their confirmation to come into force on 3 November 2017. A minimum one year notice period before the Direction comes into force is necessary in order to remove the Council's liability to compensate landowners affected by the removal of PD rights. This is discussed further in the financial and legal implications sections below.
- 3.9 During the majority of the 12 month notice period (3 November 2016 – 2 November 2017), the B1(c) to C3 PD right cannot be used as the GPDO does not permit any prior approval applications received before 30 September 2017. There will be a short period – around 4 weeks – where the PD right is in force prior to the Directions coming into force (if they are confirmed). The GPDO allows 56 days for determination of prior approval application and the Directions will take effect during this period. Following the Directions coming into force, the PD right would be withdrawn by the Article 4 Direction and would require a specific grant of planning permission by the Council for the change of use.
- 3.10 The Secretary of State for Communities and Local Government has the power to revoke or modify Article 4 Directions at any time.

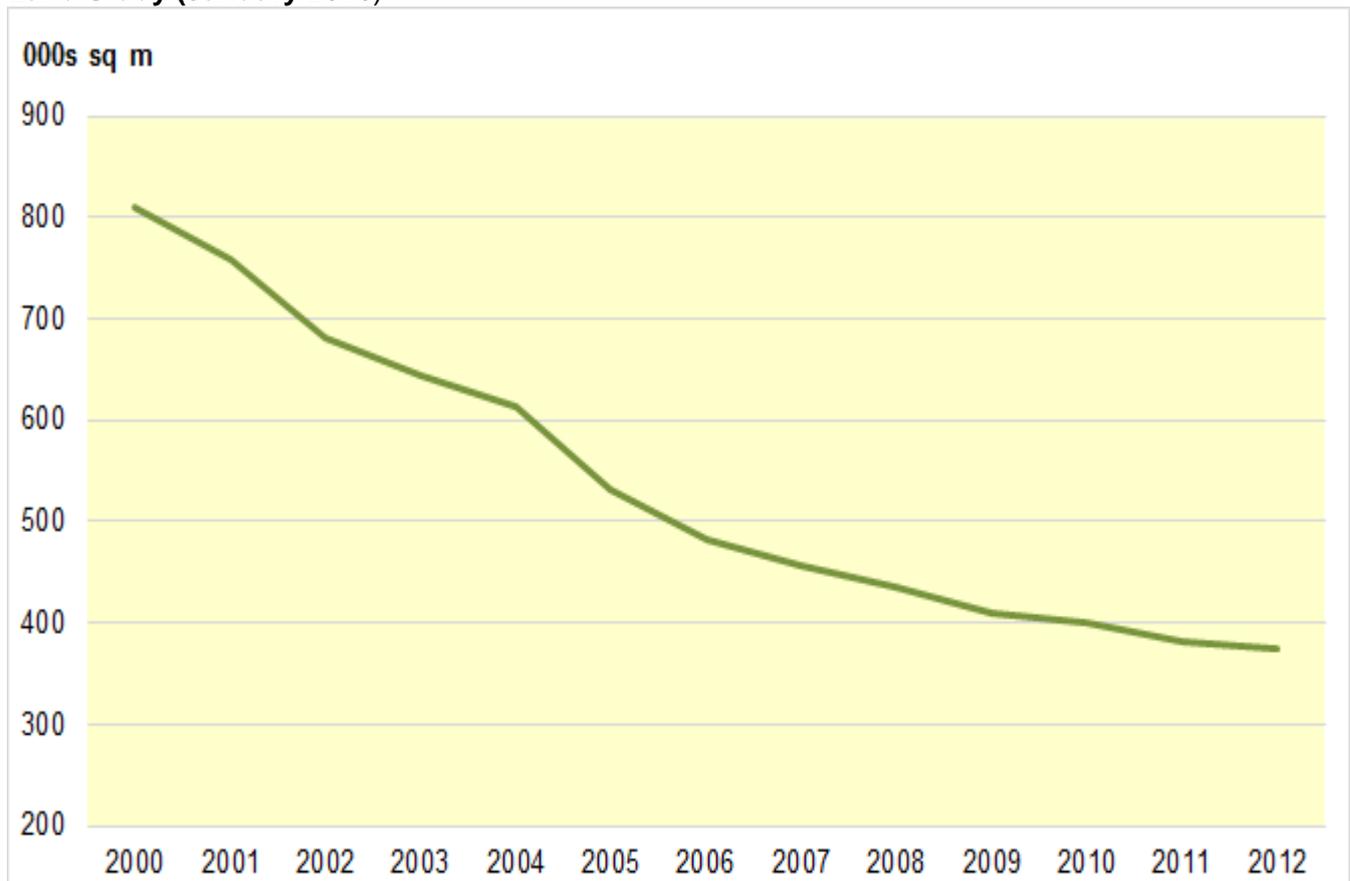
#### Policy and material considerations

- 3.11 In deciding whether an Article 4 Direction is expedient, regard has been had to various national, London-wide and local planning policies and considerations.
- 3.12 The B1(c) to residential PD right was first proposed in the Technical Consultation on Planning published by the Department for Communities and Local Government in July 2014. The aim of this proposal was to make the best use of existing underused light industrial, storage and distribution buildings to create much needed new homes; any Article 4 Direction should therefore not protect light industrial uses which have no reasonable chance of occupation by light industrial uses (demonstrated by high vacancy and/or low demand). The ability of a borough to meet its housing target should also be taken into account when considering the expediency of an Article 4 Direction. The Directions proposed to be confirmed in this report cover areas with relatively low vacancy and high demand for light industrial property, as shown in Islington's Employment Study 2016 (hereafter 'the 2016 study') and other documents. Through the formulation of the areas, the Council have verified that vacancy levels are low.
- 3.13 With regard to whether the Directions would constrain housing delivery, Islington has a strong track record of high housing delivery. In the six year period from 2009/10 to 2014/15, 9,538 residential units were completed, which exceeded the borough's housing target by over 2,500 units (or 36%). In terms of future supply, Islington's five year supply (covering the period up to 2020/21) projects delivery of over 8,200 units, which would exceed the borough's housing target by nearly 2,000 units (or 30%). Therefore, although the Directions may affect the delivery of residential units that may have otherwise

come forward if the Directions were not in place, Islington will still be able to deliver and exceed its current target without relying on delivery through this PD right. In any case, housing should not be delivered at the expense of workspace that is highly sought after, particularly given the shortage of supply of such workspace in the borough.

- 3.14 Islington is the most densely populated local authority area in the UK, with further significant increases in population projected in future years. Islington is also an important centre for employment; the 2016 study projects an increase of approximately 50,000 jobs in the borough between 2016 and 2036.
- 3.15 As stated above, premises in B1(c) are important in and of themselves – i.e. being an industrial use – but they are also important in providing opportunities to deliver ‘hybrid space’ which will continue to be in high demand as noted in the 2016 study.
- 3.16 The 2016 study shows that there has been strong growth in firms seeking ‘hybrid space’ – normally older, industrial-style stock that has been refurbished not as Grade A office stock, but as studio/light production space within the B1(c) use class. Around 60% of projected jobs growth is expected to be office based, and given the strong growth in ‘hybrid space’ as a form of office accommodation, this type of space will, in practice, be integral to meeting employment projections. ‘Hybrid space’ also accommodates different types of employment, more so than standard B1a office floorspace. This means that a wider range of employment opportunities can be accommodated via ‘hybrid space’.
- 3.17 The 2016 study identifies numerous areas across the borough where this ‘hybrid space’ is prevalent, notably the Vale Royal/Brewery Road Locally Significant Industrial Site, but also in other areas roughly correlating with designated Employment Growth Areas.
- 3.18 The 2016 study also found that the central London office market and its fringe areas (which includes Islington’s section of the CAZ) has seen a rise in the flexible space market including ‘hybrid space’ which appeals to both micro and small companies, and to larger corporate organisations looking for temporary space to house, for example, project teams. Demand for such space is being driven by a growth in SMEs and the impact of digital economy which is transforming business structures.
- 3.19 Almost all ‘hybrid space’ is within older industrial buildings that have been converted. This is an important point in terms of decisions on releasing employment land, because it should not be assumed that space that appears “old” or “tired” has lost economic value.
- 3.20 In order to facilitate sustainable population and employment growth, to maintain and improve the amenity and wellbeing of the boroughs residents and businesses, the Council needs to ensure that sufficient land is available for different land uses, including office and industrial floorspace. This is currently done through the planning system, and the implementation of Local Plan policies. For industrial uses in particular, loss of floorspace in recent years has been excessive compared to benchmarks. The 2016 study highlights the large losses of industrial land in recent years - 436,000sqm (43.6 hectares) between 2000 and 2012, amounting to a 54% loss. The recent GLA Industrial Land baseline data also demonstrates the fall in the boroughs’ stock of industrial land, from around 60ha in 2010 to just 35ha in 2015.

**Industrial property stock (sq m), Islington, 2000-2012, chart taken from LB Islington Employment Land Study (January 2016)**



- 3.21 Islington's Local Plan is made up of several documents which provide the basis for assessing planning applications in the borough; this includes the Core Strategy (adopted February 2011), Development Management Policies, Finsbury Local Plan and Site Allocations (all adopted June 2013). The Local Plan is up-to-date and is fully consistent with the NPPF.
- 3.22 Islington's Local Plan policies positively promote sustainable development to ensure that social, environmental and economic goals are achieved across the lifetime of the plan. One of the fundamental Core Strategy objectives, which underpins Islington's entire Local Plan, is to maintain the growth in employment by ensuring a broad range of opportunities exist for all types and sizes of businesses across all parts of the borough. Policy CS13 of Islington's Core Strategy encourages a diverse and vibrant economic base in the borough, supporting sectors and businesses that can adapt to changing circumstances in order to ensure long term economic sustainability in Islington. This has implications for residents, employers, employees and visitors alike.
- 3.23 Ad-hoc loss of B1(c) business floorspace, coupled with the introduction of residential uses into designated employment areas, could undermine the sustainable development of the borough, particularly in terms of economic and social sustainability, and impact negatively on local amenity and wellbeing of businesses. There is also potential impact on the amenity and wellbeing of future residents.
- 3.24 The Local Plan has detailed policies which resist the loss of B-use business floorspace across the borough. The Local Plan also has heightened protection for business floorspace in designated Employment Growth Areas, the Vale Royal/Brewery Road Locally Significant Industrial Area (designated in the Development Management Policies) and within the CAZ. These designated areas link to the justification for each proposed Article 4 Direction are discussed in relevant sections below.
- 3.25 The B1(c) to C3 PD right would undermine the Council's policy to protect existing, and maximise provision of future, business floorspace. This is an explicit Local Plan policy requirement across various employment designations in the borough. If the Council is unable to ensure protection and maximisation, this means that we would be unable to ensure a good supply of business floorspace to

meet projected employment needs, including the needs of existing local businesses to expand.

- 3.26 The Council are currently reviewing the Local Plan, with a view to adopting updated policies by early 2019. Early consultation on the scope of the Local Plan review took place between November 2016 and February 2017. This consultation sought views on a range of policy issues, including options for greater protections for business floorspace across the borough and promotion of 'hybrid' space amongst other types of business space.
- 3.27 Business floorspace also plays an important anchor role in terms of supporting other uses, such as local retail and visitor accommodation. This is particularly the case in clusters of business floorspace. The PD right could undermine the function of these clusters if they lead to the 'pepper-potting' of residential uses within business clusters, including within individual buildings, which could in turn undermine the amenity, vitality and viability of supporting uses which depend on a continued critical mass of business uses.
- 3.28 At the national level, paragraph 20 of the NPPF directs Local Planning Authorities (LPAs) to plan proactively to meet the development needs of business and support an economy for the 21<sup>st</sup> Century. Industrial sectors are changing and restructuring; existing industrial buildings are adapting to provide workspace for 21<sup>st</sup> Century industries, such as film production spaces, music production facilities and artisan food and drink producers (e.g. microbreweries).
- 3.29 The NPPF paragraph 22 states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of continued employment use. Islington's Local Plan employment policies were adopted post-NPPF and are sufficiently flexible to allow release of employment land where criteria are met to justify any loss. The borough-wide protection of employment uses set out in Local Plan employment policies is necessary given the significant losses experienced in the last decade and in order to meet the borough's high employment projections.
- 3.30 The PPG requires local planning authorities to assess economic development needs within their areas to ascertain the levels of quantitative and qualitative predicted employment need. Islington have done this for existing adopted Local Plan policies and (as noted above) have prepared a new Employment Study (January 2016) to identify current employment need to inform the Local Plan review.
- 3.31 At the London level, the London Plan (consolidated with alterations since 2011) policy 4.1 promotes the continued development of a strong, sustainable and increasingly diverse economy across all parts of London, ensuring the availability of sufficient and suitable workspaces in terms of type, size and cost, supporting infrastructure and suitable environments for larger employers and small and medium sized enterprises, including the voluntary and community sectors.
- 3.32 Islington is identified as a borough of 'restricted transfer' of industrial land in the London Plan (2015) – the strongest protection for industrial land. Policy 4.4 of the London Plan encourages boroughs to adopt a rigorous approach to industrial land management to ensure a sufficient stock of land and premises to meet the future needs of different types of industrial and related uses in different parts of London, including for good quality and affordable space. The Mayor's Land for Industry and Transport Supplementary Planning Guidance (SPG) (2012) highlights growing demand for industrial land (including B1(c)) from a range of other important industrial type functions. These include an efficient and sustainable land supply for logistics and some creative industries. Paragraph 2.42 of the London Plan states that loss of industrial capacity must be weighed very carefully against the scope it can provide for relatively affordable workspace, not least in terms of the locational advantages it has in providing services for CAZ. Islington's proximity and accessibility to the CAZ and the value of the remaining industrial space in the borough after significant losses means that the loss of industrial land needs to be carefully considered against relevant local and regional policies.
- 3.33 Policy 4.10 supports new and emerging economic sectors, with a particular aim of ensuring availability of a range of workspaces including start-up space, co-working space and 'grow-on' space. Paragraph 4.53 notes that the London Plan's strategic approach of seeking space for offices and industrial activities will help underpin innovative firms seeking more flexible hybrid, incubator and accelerator premises (which are often within B1(c) use). The 2016 study identified significant clusters of such space

which will be critical to meeting the demand from these new and emerging sectors.

- 3.34 With regard to the CAZ, policy 2.10 of the London Plan sets out that a key strategic priority for the Mayor is to enhance and promote the role of the CAZ as one of the world's most attractive and competitive business locations. Paragraph 2.46 expands on this, noting that the CAZ is expected to grow substantially over the London Plan period (to 2036); and therefore it will be important to ensure an adequate supply of office accommodation and other workspaces suitable to meet the needs of a growing and changing economy. This includes a need to ensure continued availability of workspaces appropriate for the technology, media and telecommunications and other emerging sectors.
- 3.35 The Mayor's CAZ SPG gives further guidance on the London Plan CAZ policies. The SPG identifies a list of strategic functions, and identifies where these have priority over residential development, which in Islington is any area which is not predominantly residential. The SPG notes that a range of property types and requirements will need to be met to support the diversity and dynamism of the CAZ, including provision for flexible and 'hybrid' workspace, and small offices.
- 3.36 The City Fringe Opportunity Area Planning Framework (OAPF) aims to create a positive environment for employment growth in the City Fringe Opportunity Area which falls partly within Islington and includes the Tech City cluster around Old Street Roundabout. Employment floorspace, for the purposes of the OAPF, generally means Class B uses and would also include activity of an industrial nature not falling with Class B1, B2 and B8 use.
- 3.37 The London Industrial Land Supply & Economy Study 2015, prepared by AECOM for the Greater London Authority, is a comprehensive review of the supply of industrial land in London and an assessment of the implications of future restricted supply of industrial land for the London economy. The study identifies B1(c) light industrial space as a core industrial use. Past trends in industrial land release show an accelerated rate of release around three times greater than the GLA's existing benchmark rates of release. Case studies suggest that at a local level, significant shifts to non-industrial uses can undermine the integrity of industrial areas.
- 3.38 The GLA study notes that this accelerated release is approaching the level where it will cause difficulty with the operation of the industrial land market, i.e. it results in less supply in a market with very low rates of vacancy, thereby resulting in less churn and stifling development of new businesses and the ability of existing businesses to expand. The GLA study shows that Islington has extremely low levels of vacancy, well below the frictional target rate of 5% which allows for effective market operation. The vacancy rate for core industrial uses in the borough (which includes B1(c) uses) is 0.7%, while vacancy rates in the LSIS (Locally Significant Industrial Site) is 0.9%. In addition, the GLA study shows that, between 2001 and 2015, industrial rents have increased by 61%, which is another indicator of constrained supply; while the overall amount of vacant industrial land has fallen by 91% over the same period, indicating significant demand for industrial space.

#### Proposed Article 4 Directions – general justification

- 3.39 Islington has a significant and diverse employment function, with concentrations of business floorspace in the south of the borough (corresponding with the CAZ) and in various locations across the rest of the borough. B1(a) office uses are the predominant business use but other subsets of B1, particularly B1(c), make up a significant part of the employment offer across these locations. Identification of B1(c) uses is complicated by the fact that any lawful B1 floorspace is generally able to operate freely within any subset of B1, i.e. B1(a), B1(b) or B1(c), as such interchange does not constitute development in planning terms. This makes it very difficult to map B1(c) uses exactly.
- 3.40 However, an exercise to identify B1(c) locations has been completed utilising information from the Valuation Office Agency (VOA), the Council's business rates data, the 2016 study and the Council's planning permission database. VOA data includes relatively fine-grain categorisation of business premises, which provided a reasonable proxy for identifying the likely use class of these premises. This exercise has informed the proposed Article 4 Direction areas shown in Appendix 1 and is discussed further below.

The adopted Local Plan has several policies which aim to maintain and promote business floorspace to meet employment projections, encourage new businesses and support the wider sustainable development of the borough. B1(c) floorspace will be a key part of this, as part of provision of a range of business floorspace including 'hybrid space' which evidence suggests will be the main driver of economic growth over the next two decades. The 2016 Study highlights the importance of maintaining and enhancing these policies, which the council intends to reflect in the Local Plan Review.

- 3.41 The new PD right allows B1(c) use to change to residential use without the need for planning permission. This could lead to a reduction in B1(c) space, which will affect economic growth in terms of lessening supply of floorspace and the range of job opportunities within the borough, and therefore could have a direct impact on the future wellbeing of Islington's businesses and residents. It could also introduce sensitive residential uses into employment areas which could affect the amenity of business occupiers nearby. These potential impacts provide significant justification for implementing Article 4 Directions to remove the B1(c) to C3 PD right in the areas shown in Appendix 1.
- 3.42 As noted above, the intent behind the Government's recent relaxations of the GPDO to allow various commercial uses to convert to residential use is to assist in meeting the vast demand for new housing. However, in Islington we have been delivering significant numbers of new residential units in recent years; Islington's 2015 housing trajectory<sup>1</sup> shows that, in the six financial years between April 2009 and March 2015, 9,538 residential units were delivered in the borough. This exceeded Islington's housing target for this period by over 2,500 units, or 36%.
- 3.43 Further, we have strong five year supply of housing and can therefore expect past strong delivery to continue. Islington's 2015 housing trajectory<sup>2</sup> projects that, between 2016/17 and 2020/21, over 8,200 residential units will be delivered, which would exceed Islington's housing target by nearly 2,000 units, or 30%.
- 3.44 The Council's policies on design and housing standards require that new residential units provide a good level of amenity. The GPDO offers no opportunity to assess the design of prior approval schemes and the impact that the design will have on amenity. Light industrial property is also unlikely to be well insulated and conversion into dwellinghouses may result in those dwellinghouses having a poor level of energy efficiency, which could adversely affect the amenity of future occupiers of any converted units. The Directions proposed in this report will ensure that amenity for future occupiers can be properly assessed through an application for planning permission and appropriate design mitigation measures implemented where necessary, e.g. soundproofing and insulation.
- 3.45 In summary, the new PD right is likely to compromise the ability of the Council to plan properly and ensure uses which contribute significantly to economic growth are protected and local wellbeing is maintained. Introduction of residential premises poses a threat to the continued business use of neighbouring business premises due to potential residents' complaints about noise, delivery traffic, etc. Loss of B1(c) uses and the potential 'contagion' effect on clusters of employment uses due to the pepper-potting of residential uses in these areas poses a threat to the achievement of sustainable development in the borough.
- 3.46 The following three Article 4 Directions are proposed as set out below. These are considered necessary because of the likely adverse impacts that the PD right will have on local amenity and wellbeing, as outlined below and in the general justification above.

Article 4 Direction for Vale Royal/Brewery Road Locally Significant Industrial Area – potential harm to local amenity and wellbeing

- 3.47 Core Strategy policy CS13 identifies the Vale Royal/Brewery Road area as a Locally Significant

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<sup>1</sup> Islington Annual Monitoring Report 2015, available from: <https://www.islington.gov.uk/~media/sharepoint-lists/public-records/planningandbuildingcontrol/qualityandperformance/reporting/20162017/20161213planningpoliciesannualmonitoringreport2015.pdf>

<sup>2</sup> Ibid

Industrial Site (LSIS), to be retained for industrial/warehousing/employment use. Development Management Policy DM5.3 seeks to retain and enhance appropriate uses – including B1(c) – in the LSIS and sets out criteria which needs to be met where loss of such uses is proposed. Introduction of any non-business uses (except for supporting/ancillary services and facilities such as small cafes) will be refused. This approach is integral to maintaining amenity and wellbeing of businesses in the LSIS, as well as those businesses in the rest of the borough who rely on services provided within the LSIS.

- 3.48 With regard to the LSIS the 2016 study highlights that severely constrained supply and sustained take-up are combining to maintain rents at a relatively high level. Local agents report that there is a lack of comparable rental evidence on Brewery Road/Vale Royal, due to a lack of transactions.
- 3.49 Despite the wider context regarding loss of industrial land, industrial land within the LSIS has remained relatively stable. The LSIS operates to near full capacity with vacancy rates well below the frictional vacancy target of 5% (which allows for churn of occupiers). The London Industrial Land Supply & Economy Study 2015 identifies a vacancy rate of 0.9% industrial land in the LSIS. There is evidence of significant demand from potential occupiers to locate in the area.
- 3.50 The 2016 study acknowledges that although the appearance of the LSIS is unprepossessing, in terms of function it is an increasingly rare entity in Inner London which provides space that is crucial to accommodate businesses servicing both the wider borough and central London. In addition to the presence of more traditional industrial operators, new ‘industries’ are now also locating in the LSIS. This is particularly evidenced by the cluster of live event and music oriented businesses (such as recording studios), and also by the number of catering operations. Once lost, such clusters tend to take with them a range of supporting jobs, often nearby, ranging from maintenance staff to janitorial services to sandwich vendors.
- 3.51 In considering how to intensify industrial use and encourage re-provision/modernisation of industrial space in the LSIS, this can be achieved through the provision of ‘hybrid space’ of the type noted elsewhere in this report. The provision of B1(c) space is therefore important to both the current operation of the area as well as future intensification of space to help meet employment growth needs. This is essential to maintain the wellbeing of the area.
- 3.52 The 2016 study recommends that, as a minimum position, planning policy continues to restrict the net loss of employment space in the LSIS, and that efforts should be pursued to intensify employment uses in the LSIS.
- 3.53 The LSIS is Islington’s only significant industrial area. Its proximity close to major road networks and to the CAZ offers significant benefits in terms of logistics and close proximity to outlets selling their products, and therefore associated cost savings. The Land for Industry and Transport SPG notes that land used for industrial purposes outside but close to the CAZ can serve businesses and activities within the Zone, and in particular the office, leisure and retail economies of the West End, City and Canary Wharf. Demand is driven by businesses that need to be close to their customers including food and drink preparation, printing, publishing, local distribution activities such as couriers.
- 3.54 The Council is preparing a Supplementary Planning Document (SPD) for the LSIS. The SPD discussion paper, which was consulted on in Spring 2017, proposes guidance on building heights and urban design principles (informed by a specific building heights study) , but also some guidance on how certain recommendations of the 2016 study can be implemented, such as guidance on suitable typologies of business floorspace particularly for SMEs.
- 3.55 The amenity and wellbeing of businesses in the LSIS is dependent on the industrial function of the area being retained. At a more strategic level, the LSIS contributes to the economic success of the borough and central London, and therefore it helps to achieve a sense of wellbeing for businesses elsewhere in the borough, and also residents who benefit from concentrations of industrial uses being located outside residential areas.
- 3.56 The new PD right poses a real risk to the LSIS, as it removes the Council’s ability to properly assess the impacts of changes of use from B1(c) to C3; this could significantly undermine the level of B1(c) in the

LSIS, and lead to significant impacts on the function of the area, due to the lack of available floorspace but also due to the close proximity of residential uses which could affect the future operation of industrial uses, e.g. due to noise associated with industrial methods or transport of goods. Ultimately this could cause significant harm to local amenity and the wellbeing of businesses in the area. Given the significance of this employment cluster and its function in terms of serving the CAZ, the Council is considering extending the CAZ boundary to include the LSIS through the Local Plan review process, in line with the recommendations from the 2016 study.

#### Article 4 Direction for the CAZ – potential harm to local amenity and wellbeing

- 3.57 As noted above, the CAZ is a unique and important location for business floorspace where strategic functions such as offices and uses connected to creative industries have priority over residential use. Local and London-wide policy and guidance protects B-use floorspace from change of use unless exceptional circumstances are demonstrated. This protection is vital in order to maintain the amenity of local businesses that benefit from the CAZ overarching employment function. The distinct function of the CAZ also maintains local wellbeing in that it enables retention of an employment 'ecosystem' which facilitates jobs growth in line with projections and therefore improves opportunities for local employment. It also ensures that the character of the CAZ, which is synonymous with employment uses, can be retained in line with policy aims.
- 3.58 The function of the CAZ is also extremely important for the rest of the borough. As noted in the 2016 study, the CAZ area performs a critical function absorbing growth from the Central London economy. There are also important economic interrelationships between CAZ and other parts of Islington which offer good quality, desirable and well located office buildings which attract a high number of SMEs. These businesses are dependent, in part, on their proximity to the CAZ and central London, particularly those businesses in the creative and manufacturing sector occupying B1(c) space who supply CAZ businesses.
- 3.59 If the Council lose the ability to properly assess the impact of applications to change the use of B1(c) premises to residential use against local and London-wide planning policy which seeks to protect amenity and local wellbeing, then this could have a significant cumulative impact, primarily due to a loss of jobs (existing and potential) both within the CAZ and also within employment clusters outside the CAZ which rely on its continued successful operation; and a diminution of the character and function of the CAZ. The PD right could lead to the eviction of successful businesses given that the GPDO has no requirement for floorspace to be vacant. Even if businesses that were evicted were able to find alternative accommodation, the diminishing of B1(c) supply means that there is likely to be more demand for existing space, which often has a knock-on effect of increased rents; this acts as a further 'push' factor for businesses which prevents them locating in the CAZ.
- 3.60 The PD right could also lead to the introduction of sensitive residential uses in areas where noise and disturbance may cause adverse impacts for future occupiers. The PD right requires prior approval of several potential impacts, including the impact of introducing residential uses into areas with a distinct industrial/storage/distribution function. The CAZ does feature some areas which could be classed as a cluster of industrial/storage/distribution but the vast majority of B1(c) uses are not within any defined clusters. However, these dispersed B1(c) uses are in close proximity to other incompatible commercial uses which could also have an adverse impact on future residential occupiers and such impacts would not be able to be considered as part of the prior approval assessment.
- 3.61 B1(c) uses, including 'hybrid space', are an important part of the employment offer within the CAZ and are dispersed across the area. The exercise to identify B1(c) units in Islington shows that there are likely to be a number of B1(c) units scattered broadly across the CAZ, with potential for much greater numbers where these have changed from other B1 subsets.
- 3.62 Overall, it is considered that to be in the interests of better planning of the area - in particular in terms of maintaining good levels of amenity and wellbeing - to put in place an Article 4 Direction for the entire CAZ within Islington. This ensures beyond doubt that B1(c) uses are protected. Without an Article 4 Direction, the PD right could compromise the objectives of local and London-wide CAZ policy and mean that adverse cumulative impacts on amenity and wellbeing cannot be properly prevented or mitigated.

#### Article 4 Direction for other B1(c) locations – potential harm to local amenity and wellbeing

- 3.63 Outside of the LSIS and the CAZ, there are numerous smaller-scale clusters of business floorspace which contribute significantly to the overall employment offer in the borough, particularly through the provision of space which supports the SME economy and lower specification, affordable space. The 2016 study notes the potential for further encouragement of such space in these areas in order to help meet the demand for employment space and the overall jobs projections. This is especially important with regard to grow-on space to allow existing businesses to expand, and with regard to businesses who may struggle to find space within the LSIS and the CAZ (due to cost and/or lack of supply). The close proximity of these smaller-scale clusters to the CAZ/LSIS means that they are realistic, viable alternative locations for businesses who cannot locate in the CAZ/LSIS itself.
- 3.64 There is an indisputable interdependence between the CAZ and many of Islington's economic clusters, particularly for B1 SME businesses that either trade with other nearby businesses or hold a competitive advantage due to their proximity to the CAZ. Many SME businesses depend on their Inner London 'fringe' location in order to thrive.
- 3.65 Islington has a burgeoning micro and small business economy and it is clear that many of these businesses are clustered in business centres across the Borough. The locations where these centres are situated should be prioritised for growth and intensification of business uses. Identifying (and protecting) other suitable premises for conversion to this use should also be a priority.
- 3.66 A focused Article 4 Direction is proposed to cover those areas with identified or likely clusters of B1(c). The Council have arrived at the boundaries for this Direction by using VOA data and site surveys. These locations covered by the Direction are distributed throughout the borough including around Archway, Holloway, Finsbury Park and Angel/Essex Road. The map in Appendix 1 shows the exact locations.
- 3.67 The Development Management Policies designates Employment Growth Areas and Town Centres as locations which have local or strategic economic potential or value. These locations accommodate a diverse range of businesses and enterprises, including a significant element of B1 (all subsets). The exercise to identify B1(c) units in Islington shows that there are likely to be a number of B1(c) units correlating with these designated areas, with potential for much greater numbers were these have changed from other B1 subsets.
- 3.68 The Direction will ensure that dispersed B1(c) uses are protected. Without an Article 4 Direction, the PD right could compromise the objectives of local and London-wide policy and mean that adverse cumulative impacts on amenity and wellbeing cannot be properly prevented or mitigated. The Direction will protect space which is generally more affordable, hence protecting this space will maintain a supply of affordable business space for businesses in the borough; this type of space is particularly important for start-up companies and to allow expansion of existing companies.

#### Consultation on Article 4 Directions

- 3.69 In line with planning regulations, the Council consulted on the three Article 4 Directions from 3 November 2016 (the day the Directions were made) to 16 December 2016, a period of six weeks. This is double the minimum period specified in the regulations. In deciding whether to confirm the Directions, the local planning authority must take into account any representations received during the period.
- 3.70 Ten responses were received (see Appendix 2). Five responses (Greater London Authority, Transport for London, Historic England and two local residents) expressed support for the Directions, primarily in order to protect important business space and potentially help sustain and enhance local character and heritage assets. One local resident responded based on a site notice and presumed that it related to a planning application. The points raised were not directly relevant to the Directions themselves but they do highlight the importance of ensuring that potential amenity impacts can be properly considered through the planning permission process.

- 3.71 Four objections were received from developers/site owners, relating to three specific sites included within the 'Other B1(c) Locations' Direction, and the Vale Royal/Brewery Road LSIS Direction. These objections largely expressed concern with lack of flexibility as a result of the Direction and potential impacts on redevelopment of respective sites/areas.
- 3.72 One response was copied to the Secretary of State for the Department for Communities and Local Government and requested that he intervene to modify or cancel the Direction. The National Planning Casework Unit responded on behalf of the Department/Secretary of State, stating that clear reasons for intervention at Government level are not presented by this case; and that it is for the London Borough of Islington to proceed with the matter as it sees fit, taking into consideration the representations made in the representation and any other comments it has received on this matter.
- 3.73 The responses received reinforce the justification for the Directions set out in section 3 of this report.

## **4. Implications**

### **Financial implications:**

- 4.1 Any applicants submitting applications for planning permission which would have been unnecessary, prior to an Article 4 Direction removing PD rights are entitled to apply for planning permission without paying standard application fees. The Article 4 Directions are therefore likely to lead to an increase in the number of planning applications for which planning application fees will not be applicable.
- 4.2 If a local planning authority makes an Article 4 Direction, it may be liable to pay compensation to those whose PD rights have been withdrawn in the event that planning permission is refused for such development. However, no compensation is payable if the following procedure is followed, as set out in section 108 of the Town and Country Planning Act:
- The planning permission withdrawn is of a prescribed description as set out in the Town and Country Planning (Compensation) (England) Regulations 2015 (as amended). Part 3, Class D Permitted Development rights are included in this list.
  - The permitted development right is withdrawn in the prescribed manner.
  - Notice of withdrawal is given in the prescribed manner:
    - not less than 12 months before it takes effect.
    - not more than the prescribed period (two years)
- 4.3 The process followed by the council with regard to these Directions means that no compensation will be payable if the Direction is confirmed to come into force on 3 November 2017.
- 4.4 Costs associated with publishing the confirmation of the Article 4 Directions will be met from the Spatial Planning and Transport Team budget.

### **Legal Implications:**

- 4.5 Legal implications are contained within the body of this report. An Article 4 Direction removes the specified PD right and means that an express grant of planning permission will be required for the change of use. If the Directions are confirmed, the council would not be liable to pay compensation should planning permission which would otherwise have been permitted development be refused or granted subject to conditions, as the non-immediate procedure has been followed and one year's notice of the introduction of the Directions has been given.
- 4.6 Legal Services will advise on the form of the notice and linked procedures which are specified in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The Secretary of State has power to withdraw or modify the Direction at any time. The council has power to cancel the Direction by subsequent Direction.
- 4.7 If confirmed by Executive, the Article 4 Directions will be publicised via the press (local advertisement) and site notices. The GPDO requires the local planning authority to serve notice on the owner and

occupier of every part of the land within the area or site to which the Directions relate, unless they consider that individual service on that owner or occupier is impracticable because it is difficult to identify or locate that person; or the number of owners or occupiers within the area to which the Direction relates makes individual service impracticable.

4.8 In this case, the Council has used data from the Valuation Office Agency (VOA) to identify potential B1(c) occupiers. This data breaks commercial premises down into different types of use, and the council has used the following categories as a proxy for B1(c) uses:

- Workshop & Premises
- Industrial (unclassified)
- Factory & Premises
- Business Unit & Premises

4.9 This is considered to be a reasonable method of identifying properties likely to be in B1(c) use. As noted in the body of this report, there may be some other general B1 premises which could actually be B1(c) and the council have determined the boundaries of the Direction for the CAZ based on this potential. However, it is considered impracticable to identify and write to every office occupier within these areas as this would likely total several thousand premises. In addition to writing to specific premises likely to be in B1(c) use, the council will ensure that a large number of site notices are placed throughout the borough, including in the CAZ, in addition to press notices.

#### **Environmental Implications:**

4.10 The Article 4 Directions are likely to have a positive environmental impact as, by re-introducing the need for planning permission for certain proposals, they will allow relevant planning policies to be applied – in particular the Core Strategy, Development Management Policies and Finsbury Local Plan. Light industrial property is unlikely to be well insulated and conversion into dwellinghouses may result in those dwellinghouses having a poor level of energy efficiency. Islington's planning policies look to achieve a high level of environmental standards, and their application may be able to mitigate this. In addition, the retention of local employment sites mitigates against the potential impact of longer commuting distance, with the associated issues of vehicular emissions and congestion.

#### **Resident Impact Assessment:**

4.11 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

4.12 A Resident Impact Assessment (RIA) has been completed and has shown that there are no specific equalities implications relating to the Article 4 Directions.

4.13 The assessment of equality impacts is an iterative process and has been considered throughout the development of the Directions. The initial screening for a Resident Impact Assessment (RIA) was completed on 14 September 2016, in respect of the Article 4 Directions which were then consulted on. This screening did not identify any specific equalities implications.

4.14 The RIA was been revisited in May 2017 following the consultation on the Directions. The representations received raised no negative equality impacts and the conclusions of the September 2016 RIA remain relevant.

## **5. Reasons for the recommendations**

- 5.1 The Government has introduced a new Permitted Development right which allows light industrial uses (B1(c) use class) to change to residential use (C3 use class) without planning permission. Light industrial uses are an important part of the borough's diverse economy. They also provide opportunities for conversion into modern day industrial spaces occupied by creative sector firms. We propose that three Article 4 Directions are confirmed to remove the new PD right in different areas of the borough, in order to protect the amenity and wellbeing of the borough's businesses and residents. These Directions are justified taking into account adopted planning policy and other material considerations and address the criteria for Article 4 Directions set out in the NPPF and PPG, as follows:
- 5.2 **Vale Royal / Brewery Road Locally Significant Industrial Site (LSIS)** – the LSIS is a significant employment cluster and provides an important servicing function for businesses in the CAZ. The new PD right poses a real risk to the LSIS, as it removes the Council's ability to properly assess the impacts of changes of use from B1(c) to C3; this could significantly undermine the level of B1(c) in the LSIS, and lead to significant impacts on the function of the area, due to the lack of available floorspace but also due to the close proximity of residential uses which could affect the future operation of industrial uses, e.g. due to noise associated with industrial methods or transport of goods. Ultimately this could cause significant harm to local amenity and the wellbeing of businesses in the area.
- 5.3 **Central Activities Zone (CAZ) within Islington** - the CAZ is a unique and important location for business floorspace where strategic functions such as offices and uses connected to creative industries have priority over residential use. If the Council lose the ability to properly assess the impact of applications to change the use of B1(c) premises to residential use in the CAZ, then this could have a significant cumulative impact, primarily due to a loss of jobs (existing and potential) both within the CAZ and also within employment clusters outside the CAZ which rely on its continued successful operation; and a diminution of the character and function of the CAZ. The PD right could lead to the eviction of successful businesses given that the GPDO has no requirement for floorspace to be vacant. Overall, it is considered that to be in the interests of better planning of the area - in particular in terms of maintaining good levels of amenity and wellbeing - to put in place an Article 4 Direction for the entire CAZ within Islington. This ensures beyond doubt that B1(c) uses are protected. Without an Article 4 Direction, the PD right could compromise the objectives of local and London-wide CAZ policy and mean that adverse cumulative impacts on amenity and wellbeing cannot be properly prevented or mitigated.
- 5.4 **Other B1(c) locations across the borough** - outside of the LSIS and the CAZ, there are numerous smaller-scale clusters of business floorspace which contribute significantly to the overall employment offer in the borough, particularly through the provision of space which supports the SME economy and lower specification, affordable space. The close proximity of these smaller-scale clusters to the CAZ/LSIS means that they are realistic, viable alternative locations for businesses who cannot locate in the CAZ/LSIS itself. The Direction will ensure that dispersed B1(c) uses are protected. Without an Article 4 Direction, the PD right could compromise the objectives of local and London-wide policy and mean that adverse cumulative impacts on amenity and wellbeing cannot be properly prevented or mitigated. The Direction will protect space which is generally more affordable, hence protecting this space will maintain a supply of affordable business space for businesses in the borough; this type of space is particularly important for start-up companies and to allow expansion of existing companies.

Signed by:



3 July 2017

Executive Member for Housing and Development      Date

## Appendices

1. Maps of areas to be covered by each Article 4 Direction
2. Summary of representations received during consultation (3 November 2016 to 16 December 2016)

Report Author: Ben Johnson  
Tel: 020 7527 2720  
Ben.johnson2@islington.gov.uk