

Report of: Corporate Director of Community Wealth Building

Date: 1 August 2024

Wards: All

Subject: Article 4 Directions: Notification to withdraw Permitted Development Rights for Change of Use from Class E to Dwellinghouses (Class MA) Tranche 2

1 Synopsis

- 1.1 On 1 September 2020, an amendment to the Use Classes Order came into effect creating the new Use Class E (Commercial, Business and Service) which incorporates the following former uses:
 - B1 (business).
 - A1 (shops).
 - A2 (financial and professional services).
 - A3 (restaurants and cafes).
 - Uses from the previous D1 and D2 use classes (indoor sport, recreation, fitness, medical, health, nursery, crèche and day centre).
- 1.2 After the introduction of Class E, planning permission is no longer normally required to change from one Class E use to another use in the same class. Following this, the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 introduced a new permitted development right known as Class MA. This right, which came into effect on 1 August 2021, permits any land or building in Use Class E to be converted to a residential use (Class C3) through the prior approval process. This right can be removed via Article 4 Directions (A4D).
- 1.3 In August 2023 the council implemented Article 4 Directions covering sites in the south of the borough in the Central Activities Zone (CAZ), the CAZ-Fringe, the Vale Royal/Brewery Road LSIS and in Camden Passage and Fonthill Road Specialist Shopping Areas.

- 1.4 This report recommends that the Corporate Director of Community Wealth Building make a decision to introduce six non-immediate A4Ds to remove Class MA permitted development rights in selected sites located shown in Figure 1.
- 1.5 This second tranche of Article 4 Directions focuses on retail and employment locations largely in the centre and north of the borough. In deciding which sites to include with the A4Ds the Council has taken an approach in accordance with the National Planning Policy Framework. Our approach is evidence-based and proportionate, aiming to avoid wholly unacceptable adverse impacts on the areas in question. The Directions cover the smallest possible geographic area.
- 1.6 The Directions will enable local communities to continue to access services, including medical services, and will protect local shops and employment uses which are essential to the vibrancy and success of high streets.
- 1.7 The Directions will also protect some of Islington's most productive and important Class E floorspace that provides locally based economic and employment opportunities.
- 1.8 The Directions will build on and take advantage of the social and environmental benefits that centres have built up over decades and longer. In particular, they will respond to and support key Council objectives in terms of creating a strong and inclusive economy that works for everyone; making sure everyone has a safe, decent and genuinely affordable homes; building fairness by working in partnership with communities; supporting services and opportunities for children; and working towards a greener, healthier borough¹.

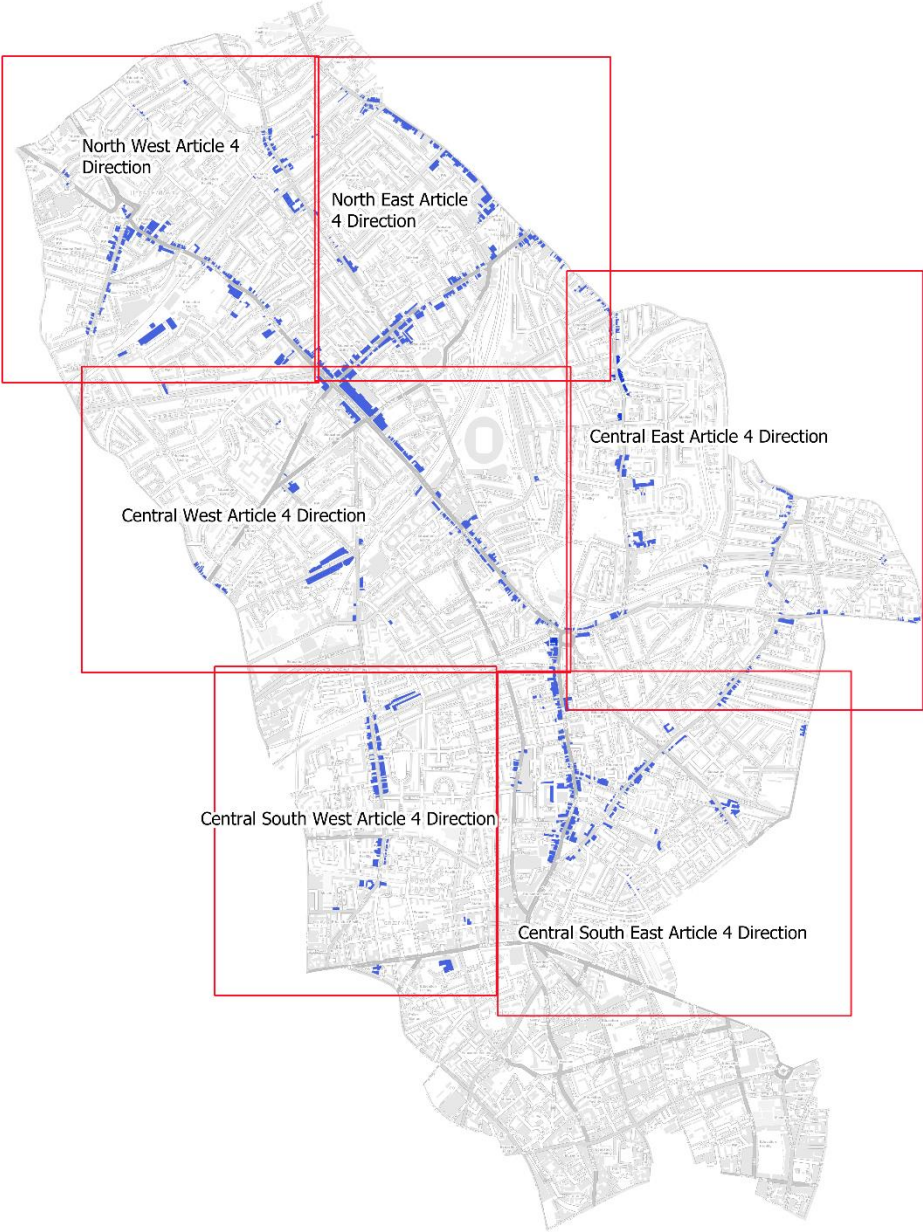
2 Recommendations

The Director of Community Wealth Building is asked to

- 2.1. Make six non-immediate Article 4 Directions to withdraw the permitted development right granted by Class MA, Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 for the change of use of a building or any land within its curtilage from Use Class E to residential (Use Class C3). The areas to which the non-immediate Article 4 Directions will apply are shown on Figure 1 (and the more detailed maps in appendices 1 to 4).

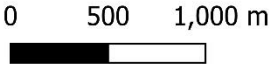
¹ A discussion of the context and objectives of the Local Plan and how the Plan objectives relate to Class MA is set out in Appendix 5 (the objectives in para 1.9 above are those of the Council as a whole).

Figure 1: Overview showing location of proposed Tranche 2 Article 4 Areas



Key for Article 4 Direction Borough Overview

- Tranche 2 (proposed) Article 4
- Islington Borough Boundary
- Direction areas



3 Date the decision is to be taken

- 3.1 1th August 2024.
- 3.2 The Directions will come into force one year later.

4 Background

4.1 Permitted Development rights can be withdrawn through the introduction of Article 4 Directions. The Secretary of State has powers to revoke or amend Directions if they do not comply with national planning policy or guidance. The National Planning Policy Framework (NPPF) (December 2023) sets out guidance on the introduction of A4Ds.

4.2 Para 53 of the NPPF states 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.”*

4.3 When a specific Permitted Development right is removed via an A4D the development needs planning permission and applications need to be assessed against the development plan and all material planning conditions. An Article 4 Direction allows the Council to apply its planning policies in assessing proposals and gives the opportunity for interested parties to comment.

5 Notification of the Secretary of State and other interested parties

5.1 The Council will give notice of its intention to introduce the Directions by following the same procedure as the Tranche 1 Directions:

A. erecting site notices in numerous locations;

B. placing notices in the press;

C. writing to individuals and organisations on the Council's planning consultations database. Given the extent of the Directions it is not practicable to notify all those directly affected due to the difficulty of identifying the owners and occupiers of individual properties and units. This approach has been followed by other London Boroughs.

- 5.2 The Council will notify the Secretary of State that it has made the non-immediate Directions.
- 5.3 Officers will allow at least six weeks for receipt of representations and will consider representations received before asking the Executive to make a final decision to confirm the Directions. Additional time for the consultation is considered necessary in this instance given the consultation is over summer holidays and given that stakeholders are likely to involve more smaller businesses who may need longer to respond.
- 5.4 If a decision is made to confirm the Directions. The council will give notice, following the same process as set out in paragraph 5.1 above.

6 Reasons for seeking Tranche 2 Article 4 Directions

- 6.1 The main land use in the centre and north of the borough is residential. Retail, hospitality and employment uses are located in town centres, local shopping areas and designated areas of employment land. LSAs and town centres also have a significant amount of residential on upper floors and there are one-off retail and employment uses outside designated areas.
- 6.2 Throughout the Borough, residential areas are high to medium density with layouts that make efficient use of scarce urban land like apartment blocks and terraces². The cumulative effect of this is that residents of all ages have access to services and employment in their local area.
- 6.3 High residential density brings benefits in terms of retail, culture, nightlife, economic attractiveness and diversity and transport connectivity. These attributes contribute strongly to the attractiveness of the borough and draw people to live and work in Islington. The Local Plan seeks to support and reinforce this pattern of development, with commercial, retail and hospitality uses throughout the borough providing a vital range of uses which support the residential population and vice versa.

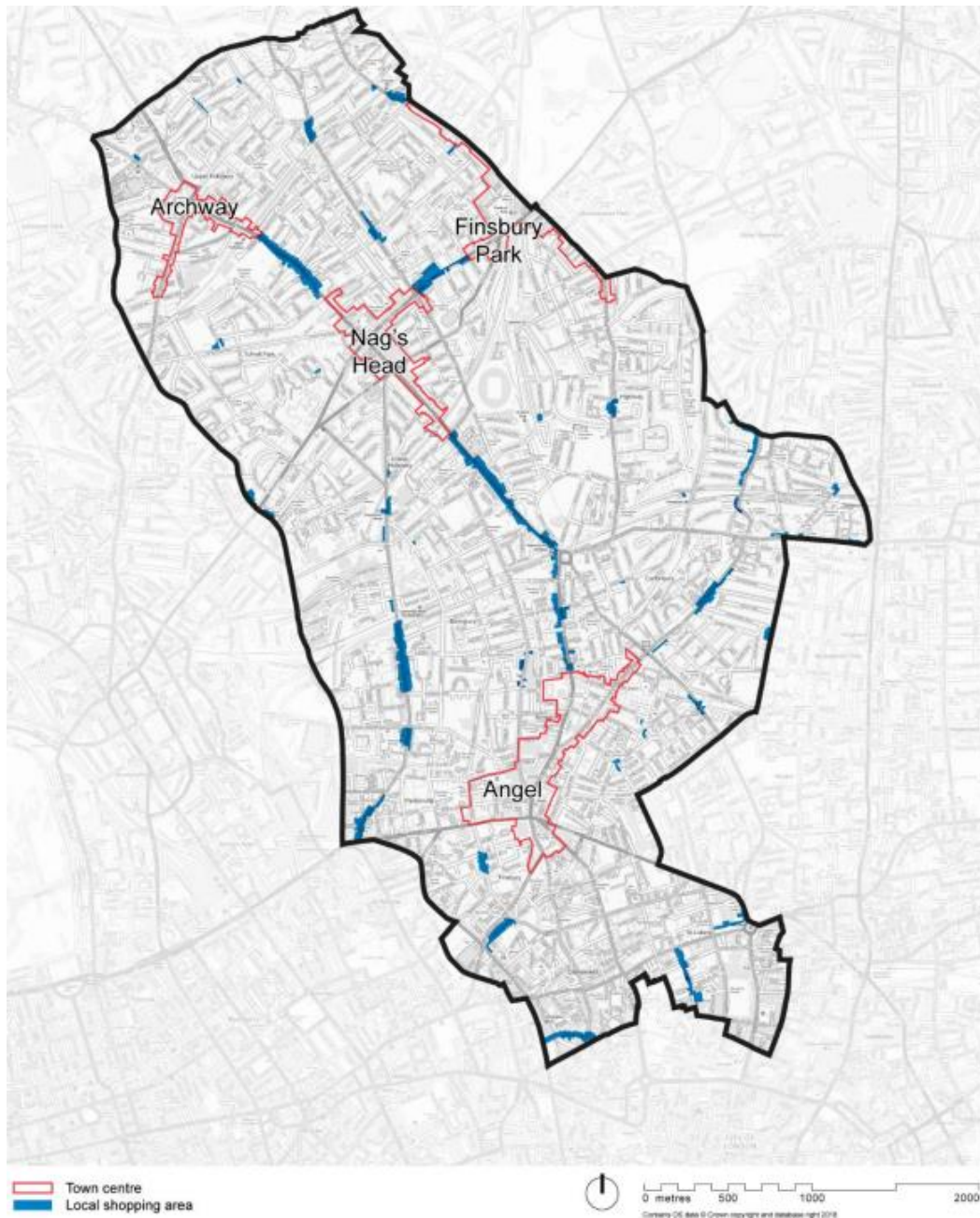
² With average density 14,574.9 per km² Islington is the second most densely populated Local Authority Area in the country. The only more densely populated LA is Tower Hamlets, source: Central Statistics Office Census 2021, Dataset TS006, released 18 November 2022.

Context of the areas covered in Tranche 2

- 6.4 The Borough's four Town Centres are Angel, Archway, the Nags Head and Finsbury Park. Archway, the Nag's Head and Finsbury Park and part of Angel Town Centre³ were assessed in Tranche 2.
- 6.5 The Town Centres are significant focal points for commercial and civic functions in the Borough. They contain retail, services, entertainment and night-time uses. Many also have significant employment floorspace.
- 6.6 Local Shopping Areas (LSA) sit below Town Centres in the retail hierarchy and provide more local services such as convenience retail for daily shopping needs. Some LSAs also have other commercial uses including leisure, hospitality and small public-facing offices such as architects or accountants. There are 40 LSAs in the borough, 34 of them were assessed as part of Tranche 2.

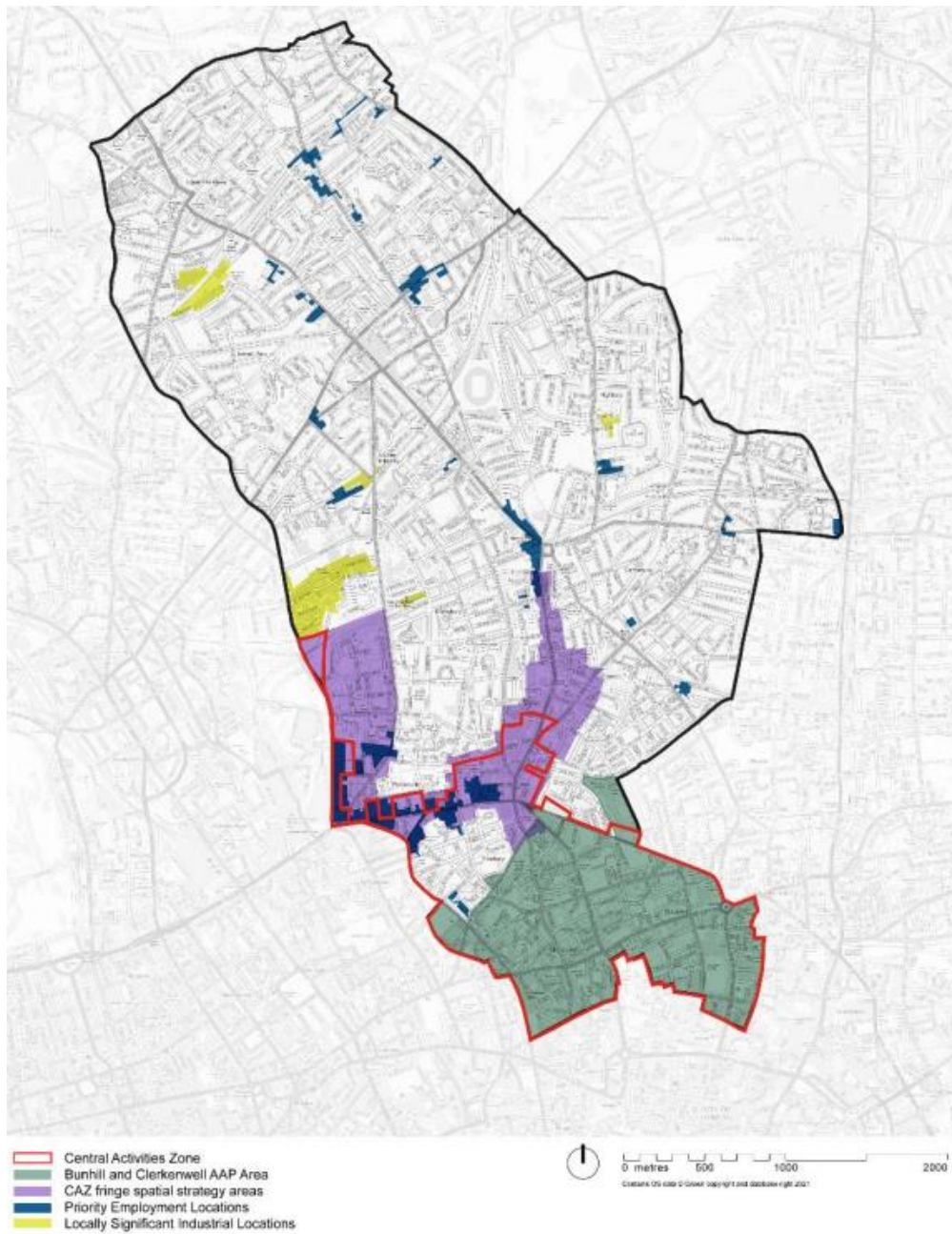
³ Parts of Angel and Finsbury Park town centres were included in tranche 1 as located in the CAZ and specialist shopping areas, for location of tranche 1 sites see figure 1.

Figure 2 Town Centres and LSAs



- 6.7 Locally Significant Industrial Sites (LSIS) are the focus for light industrial, B2 general industrial and B8 storage and distribution uses. Local Plan policies seek to safeguard these important areas of industrial land. 5 LSISs were assessed in Tranche 2.
- 6.8 Priority Employment Locations (PEL) provide space that is appropriate to meet the diverse needs of the SME economy. 24 PELs were assessed in Tranche 2.

Figure 3 Employment Land



6.9 A scenario of unrestricted Class MA and significant loss of Class E uses in the above areas would leave large parts of the Borough with a single land use, residential, apart from a small minority of uses or premises that Class MA does not apply to.

6.10 The Town Centres of Islington experienced significant loss of employment space in the period 2014-2019 as a result of a previous PD Right, Class O Office to Residential which no longer applies. Some LSAs and PELs were also impacted by this PD Right.⁴

Structure of report

6.12 Given the importance of the Town Centre, LSA, LSIS and PEL designations these have their own dedicated appendices, which further set out the policy context evidence and provide further detail on the proposed Article 4 Directions. The appendices are as follows:

- Appendix 1: Town Centres;
- Appendix 2: Local Shopping Areas;
- Appendix 3: Employment Locations;
- Appendix 4: KX CAZ Fringe - Limited additional employment sites not included in Tranche 1;
- Appendix 5: Additional Policy Context.

Analysis of Class MA to date

6.13 Class MA has been in place since August 2021. Whilst the council has collated its own data, evidence has also been published in Planning Magazine⁵ on its operation during the following periods of time, which partly overlap:

- January 2023 - December 2023
- October 2022 - September 2023

⁴ Islington Annual Monitoring Report 2018-19 para 5.17: "Since the introduction of the PD rights up until the end of the 2018/19 monitoring period, 69 prior approval schemes have been completed, resulting in a loss of 41,977sqm of office floorspace and the creation of 662 residential units".

Averaged out over the 5 years in question (2014/15, 2015/16, 2016/17, 2017/18 and 2018/19) this amounted to loss of 8,395sqm office space per year. The average number of PD schemes completed per year during the years in question was 14 and the average housing delivery was 132 units.

Typical office density is considered to be 10sqm per office workspace (see Homes and Community Agency (HCA) Employment Density Guidelines, 3rd edition (2015), p. 29). Job losses in Islington as a result of Class O would have been approximately 4,198 in that 5-year period, or an average of 840 per annum.

⁵ In May 2024, January 2024 and July 2023 editions.

- April 2022 - March 2023

January 2023 to December 2023

6.14 The article covering this period contained the following table:

Figure 4 Class MA Applications received and approved

The 22 authorities that approved the most commercial, business and service to residential applications, January 2023 to December 2023

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Rank	Planning authority	Applications granted	Applications received that require prior approval	Approval rate
1	Islington	38	60	63.3%
2	Brighton and Hove	28	34	82.4%
3	Croydon	19	45	42.2%
4=	Wandsworth	14	29	48.3%
4=	North Northamptonshire	14	20	70.0%
4=	Somerset	14	14	100.0%
7	Richmond upon Thames	12	18	66.7%
8=	Elmbridge	11	19	57.9%
8=	Birmingham	11	18	61.1%
8=	Stoke-on-Trent	11	14	78.6%
8=	Milton Keynes	11	13	84.6%
12	Cheshire East	10	14	71.4%
13=	Sutton	9	21	42.9%
13=	Kirklees	9	20	45.0%
13=	Ealing	9	15	60.0%
13=	Hammersmith and Fulham	9	15	60.0%
17=	Sefton	8	16	50.0%
17=	Chelmsford	8	14	57.1%
17=	Dorset	8	12	66.7%

Source: Planning Magazine

6.15 In this period Islington received the most applications in the country (60) and was also in first place among the boroughs that approved Class MA applications (38).

October 2022 to September 2023

6.16 The article covering this period had the following table:

Figure 5 Class MA Applications received and approved

The 20 authorities that approved the most commercial, business and service to residential applications, October 2022 to September 2023

Rank	Planning authority	Applications granted	Applications received that require prior approval	Approval rate
1	Islington	35	52	67.3%
2	Brighton and Hove	32	37	86.5%
3	Croydon	16	45	35.6%
4=	Birmingham	12	19	63.2%
4=	Stoke-on-Trent	12	13	92.3%
4=	Wandsworth	12	24	50%
7	Elmbridge	11	16	68.8%
8	Milton Keynes	10	13	76.9%
9=	Bournemouth, Christchurch and Poole	9	13	69.2%
9=	Kirklees	9	16	56.3%
9=	Leeds	9	12	75%
9=	Leicester	9	23	39.1%
9=	Reigate and Banstead	9	15	60%
9=	Richmond upon Thames	9	11	81.8%
15=	Dorset	8	11	72.7%
15=	Ealing	8	13	61.5%
15=	Kensington and Chelsea	8	8	100%
15=	North Northamptonshire	8	13	61.5%
15=	Portsmouth	8	8	100%
15=	Tameside	8	9	88.9%

Source: Planning Magazine

- 6.17 Islington received the most applications in the country (52) and also approved the most Class MA applications (35).
- 6.18 The number of approvals (35) was more than double the number granted by Croydon.
- 6.19 The approval rate in Islington was 67.3%, higher than the other London boroughs who received over 20 applications including Croydon (35.6%) and Wandsworth (50%).

April 2022 - March 2023

6.20 The article relating to this period had the following table:

Figure 6 Class MA Applications received and approved

The 20 authorities that approved the most 'class MA' commercial to residential prior approval applications, April 2022 to March 2023

Search in table

Rank	Authority	Applications granted	Applications received that require approval	Approval rate
1	Bournemouth, Christchurch and Poole	23	36	63.9%
2	Brighton and Hove	21	29	72.4%
3	Islington	17	35	48.6%
4	Birmingham	16	26	61.5%
5	Ipswich	14	16	87.5%
6	Reigate and Banstead	13	16	81.3%
7=	Leeds	12	17	70.6%
7=	Leicester	12	23	52.2%
7=	Reading	12	18	66.7%
7=	Wandsworth	12	18	66.7%
11=	Dorset	10	20	50.0%
11=	Kirklees	10	13	76.9%
11=	Tameside	10	12	83.3%
14=	Ealing	9	11	81.8%
14=	Hastings	9	13	69.2%
14=	South Gloucestershire	9	10	90.0%
14=	Worthing	9	10	90.0%
18=	Elmbridge	8	12	66.7%
18=	Harrogate	8	12	66.7%
18=	Stoke-on-Trent	8	8	100.0%

Ranked by the number of applications granted and then by the approval rate. The figures shown in the applications received column includes applications that were granted or refused, and not those that did not require prior approval.
Source: DLUHC - Get the data - Created with Datawrapper

Source: Planning Magazine

6.21 In this period Islington received more Class MA applications than any other London borough and also granted the most, 17. The next highest was Wandsworth with five less. Islington had the third highest number of Class MA approvals in the country.

Assessment

- 6.21 Since the introduction of Class MA in August 2021 LB Islington has, despite its small size, contributed strongly to the use of the right.
- 6.22 Looking at the Planning Magazine data, whilst they are snapshots in time, they clearly demonstrate that Islington had the highest application rates in the country. The only other borough in the national top 3 in all the periods was Brighton and Hove.
- 6.23 In terms of approval rates, the Planning Magazine figures are 63.3%, 67.3% and 48.5%. These are very high levels of approval for an area with extensive Conservation Area coverage and a dense urban pattern.
- 6.24 What these results illustrate is the severity of the pressure to convert commercial uses to residential in Islington. However, unrestricted Class MA rights would continue to put significant pressure on the Class E uses that neighbourhoods need in order to remain vibrant and successful.
- 6.25 In 2021 the Council undertook research around capital values to compare retail and office floorspace against residential sales values. A summary of values is provided below. This evidence highlights that there would be a particularly strong incentive to utilise the Class MA rights.⁶

Table 1 Capitalised office and retail values per square foot compared to residential sales values per square foot⁷

Location	Office (Capitalised Value per sqft)	Retail (Capitalised Value per sqft)	Residential (Capitalised Value per sqft)	Office value vs Residential value % increase
CAZ	£900	£900	£1,250	39%

⁶LB Islington Employment Land Study (2016) para. 2.1.15 points out that residential land values rose sharply against a background of a growing population allowing many owners to realise an uplift in value from office-to-residential conversion. To do this occupied buildings were vacated to allow conversion, thereby displacing economic activity. According to London Councils Islington is among the hardest hit of the London Boroughs and that over half of the floorspace lost to residential through prior approval was occupied.

⁷ These figures are based on research by the Council's Viability Team in 2021 who used the CoStar database to gather evidence on sales and lease transactions for properties in which the PD change of use was most likely to occur, namely 2nd hand offices, as well as on transactions involving retail units in the Borough.

Location	Office (Capitalised Value per sqft)	Retail (Capitalised Value per sqft)	Residential (Capitalised Value per sqft)	Office value vs Residential value % increase
Mid-Borough	£600	£545	£950	58%
North Borough	£400	£435	£825	106%

6.26 The Council has seen no evidence to indicate that the rate of Class MA applications received in 2022, 2023 and 2024 would reduce significantly in future years if no action was taken. On the contrary, the attractiveness of the borough, combined with the types of buildings and high residential land values in comparison with other uses mean that it is particularly susceptible to Class MA.

6.27 In the first quarter of 2024 ten applications were received, which is below the average per quarter rate of 2023 (69 cases would equate to an average of 17 per quarter). This indicates that Tranche 1 may be having some effect where the site is covered by existing Directions. However, there are no protections in the Tranche 2 area and if an A4D is not put in place the loss of many more Class E units is probable over the short to medium term.

Table 3 London Borough of Islington Class MA Statistics

Year	No. of Units granted	Unit mix granted	Office floorspace lost	Retail floorspace lost
2022	14	10 x 1-bed 3 x 2-bed 1 x 4-bed	956sqm	198sqm
2023	88	43 x 1-bed 29 x 2-bed 13 x 3-bed 3 x 4-bed	7,321sqm	342sqm
2024	5	5 x 1-bed	52sqm	226sqm
	107	58 x 1-bed 32 x 2-bed	8,329sqm	766sqm

Year	No. of Units granted	Unit mix granted	Office floorspace lost	Retail floorspace lost
Total		13 x 3-bed 4 x 4-bed		

Class MA Outcomes in Islington

- 6.28 As shown on the table above, Class MA decisions to date involve loss of 8,329sqm office floorspace. This equates to approximately 833 jobs. In the context of the office floorspace previously lost through Class O, a further loss under Class MA would undermine the economy and local employment in the borough, failing to respond to a key objective of the Plan. Policy B1 in the recently adopted Local Plan Delivering Business Floorspace part (c) identifies a need for 443,000m² of additional office space over the plan period. Delivering this identified need was challenging before Class MA was introduced and unrestricted take up of Class MA would make delivery more difficult as even more office space would need to come forward to compensate for losses through PDR.
- 6.29 Class MA has provided a total of 107 residential units in almost 3 years of existence, an average of 36 units per year. Fifty-eight of these units (54%) are one-bedroom units. Under Local Plan Policy H2 this is a “low priority” unit type in the private market. Only 34 units (30%) are 2-bedroom units, the highest priority unit size in this sector. Were the Council able to apply its policies, not only would it be able to protect vital employment space but, should the evidential case be made that the loss of the employment space is justified, the Council would be able to work together with the land owner to ensure any housing delivered is in accordance with the quality, size, design standard and tenure required by the plan.
- 6.30 Considering all of the above matters, the limited A4D proposed under Tranche 2 strikes a balance between protecting essential Class E, which the borough needs and allowing the PD right to be exercised.
- 6.31 In Tranche 2 the Council is taking similar approach to Tranche 1 namely a reasonable, balanced and evidence-based approach. We do not seek blanket coverage, but have instead meticulously surveyed the area to restrict A4D coverage to prevent wholly unacceptable impacts in line with NPPF paragraph 53.

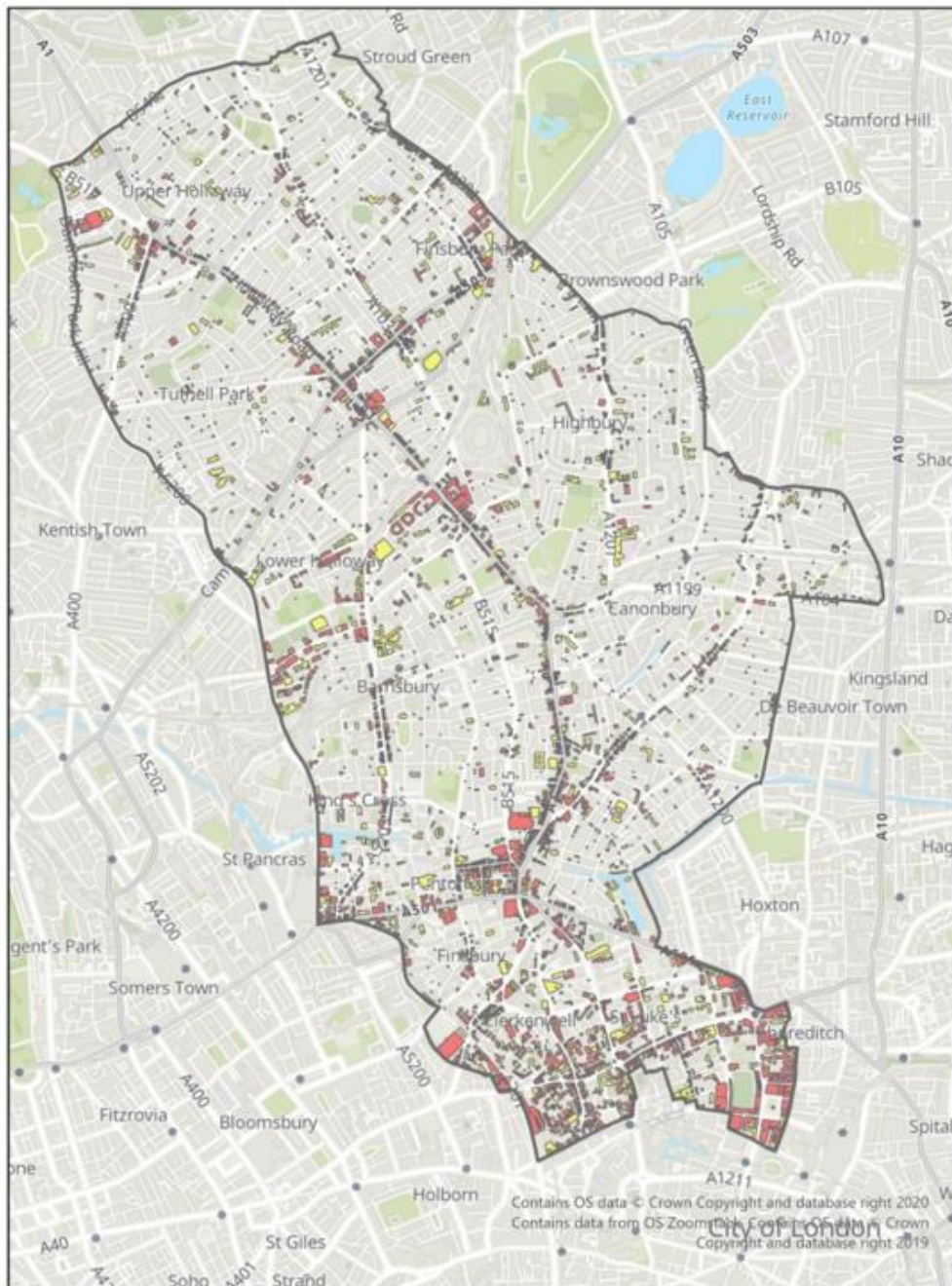
UCL Report⁸

- 6.32 When Class MA was introduced, the Council commissioned the Bartlett School of Planning UCL to prepare a report on how it would impact the borough. In April 2022 the report “Understanding Permitted Development for Commercial-to-Residential Change of Use in Islington” was completed.
- 6.33 This report, which considers the entire Borough, uses Ordnance Survey Points of Interest Data. This dataset is a comprehensive directory which categorises all public and private businesses in Britain into 621 different categories. With data on business rates and the size of individual properties it allows a great degree of granularity and was used by the report authors to calculate eligibility for Class MA.
- 6.34 The report estimated that there is a total of 4,789 commercial units in the borough. Of these, 4,369 were potentially eligible for conversion under Class MA – this is 91.2% of units.
- 6.35 The report concluded, at the time the analysis, there are 3,040 buildings in the Borough with commercial floorspace. Of these, 2,646 have floorspace eligible for conversion under Class MA. This amounts to 87% of commercial buildings.⁹ The total floorspace that could potentially be converted is 1,128,002m². It was a snapshot in time but illustrates the extent of potentially eligible buildings in the borough.
- 6.36 The map below shows the properties potentially eligible for Class MA. In terms of location, these align with the Town Centres, LSAs, LSISs and PELs. The borough’s character, high land values and high eligibility for class MA make it particularly vulnerable to harmful impacts from this PD right. This is something we have experienced from other permitted development rights in the past and is borne out by the high numbers of PDRs received and approved.
- 6.37 The map helps to illustrate that class E uses eligible for potential conversion are prevalent in the centre and north of the borough and there is a need to consider A4Ds for these locations.

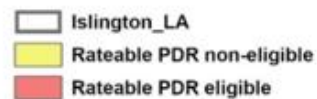
⁸ The report predates the tranche 1 directions.

⁹ Eligibility is based on use of the building. Listed status was not taken into consideration by the report authors so the real figure would be lower.

Figure 7 UCL Report Map



Islington Borough



6.38 This report makes it clear that the majority of commercial units in the Borough are likely to be eligible for Class MA. Tranche 1 has provided some protection in the CAZ, the CAZ Fringe and Specialist Shopping Areas. Tranche 2 is necessary to prevent wholly unacceptable adverse impact in the centre and north of the borough.

Methodology for analysis

- 6.39 In preparing the Directions officers have carried out detailed surveys of all Town Centres, Local Shopping Areas, Locally Significant Industrial Sites and Priority Employment Locations. Relevant and material evidence has also been taken into account. This includes social and economic factors such as demographics, indices of deprivation and locational issues such as access, transport and open space. This evidence is set out in detail in the appendices.
- 6.40 To comply with NPPF Paragraph 53 a Class MA A4D needs to apply to the smallest area possible and robust evidence needs to be provided to demonstrate that the Direction is necessary to avoid 'wholly unacceptable adverse impacts'.
- 6.41 The Class MA criteria and conditions provide some protection for Class E units. However, paragraph 53 sets a high bar for the acceptability of A4Ds for change from non-residential to residential use. In addition, the Class MA criteria have recently been updated and the vacancy requirement (3 months) (MA.1-1(a)) and the floorspace limit (1,500sqm) MA.1-1(c) have both been removed.
- 6.42 Historically, the development pattern in the centre and north of the borough has evolved slowly with commercial uses emerging in response to locational factors such as geography, public transport accessibility, street pattern, social make-up of residents, nearby employment uses or proximity of landmarks such as open spaces or religious and cultural buildings.
- 6.43 Each designation has followed its own evolution influenced by its unique circumstances. Officers decided that the most effective starting point for gathering robust evidence on such a varied set of designations is by surveys, so visited every designated area and carried out plot-by-plot surveys. These were used to complete standard templates and GIS maps.
- 6.44 In the templates, officers assessed the characteristics of each designated area, in terms of number of units, accessibility, vacancy, mix of uses and how it would relate to Class MA criteria. The templates with the full list of headings are attached at Appendices 1-4.
- 6.46 These templates are up to date, extremely granular in nature and include site-specific assessment against Class MA criteria. Because of this the templates form the most important evidence of this A4D submission.
- 6.47 A range of other evidence has also been utilised, both primary and secondary which is summarised below and in further detail in the appendices:
- Ward Profiles by OCSI Consultants (Local Insight) (2021) [Wards | Islington Council](#);
 - Annual Town Centre and Local Shopping Area retail surveys;

- Local Shopping Areas Access and Environmental Quality annual checks;
- Planning application data from the Council's Northgate M3 records;
- Local Shopping Areas Review and Healthcheck (2015);
- Planning history records – to check: land use; whether prior approval was granted on given sites; whether pd rights had been removed by condition;
- Indices of Deprivation census data by Lower Super Output Area (<https://dclgapps.communities.gov.uk/>)
- Local evidence studies that informed the Local Plan including the LB Islington Employment Land Study (2016), Islington Employment Land Study – Review of B-use Premises and Permitted Development Rights (2016), Islington Retail and Leisure Study (2017);
- Strategic evidence produced by the Greater London Authority;
- GLA strategic assessment of Industrial Land;
- Research commissioned from University College London (UCL) to help identify the number and type of potential eligible buildings to PDR

6.45 The following sources of information were also taken into consideration:

- Data sets such as the London Building Stock model to identify areas/buildings that are predominantly commercial/residential, mapping data sets, Google Streetview;
- Where authorised Class E use was established, officers assessed the likelihood of conversion in full/part in light of the current occupiers, layout and design of the building, if it is subdivided with multiple tenants or could be, or if it is occupied by a single tenant, and if external alterations would be needed for conversion to residential use.
- Site Allocations and Local Plan Spatial Strategies were assessed to determine the extent to which Class MA should apply to allocated sites, as well as help assess how likely it would be to be used and potential impacts;

6.46 Based on this detailed, wide-ranging and recent evidence, officers identified the sites and blocks where the loss of Class E would have a wholly unacceptable adverse impact and where the land was not considered to be protected by Class MA conditions or other exclusions.

6.47 As a result of the Council's approach, the Directions cover the smallest possible geographic area; the overwhelming majority of the land in Islington, around 95%, has been excluded

from A4D. The Tranche 2 A4D accounts for around 2.04% of the borough, whilst Tranche 1 was estimated to account for 3.2% of the overall land area of the borough.

7 Implications

7.1 Financial Implications

7.1.1 If a local planning authority makes an A4D, it may be liable to pay compensation to those whose permitted development rights have been withdrawn in the event that planning permission is refused for such development.

7.1.2 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 withdrawn permitted development right is of a prescribed description as set out in the Town and Country Planning (Compensation) (England) Regulations 2015 (as amended).
- The permitted development right is withdrawn in the prescribed manner.
- Notice of withdrawal is given in the prescribed manner i.e. not less than 12 months and no more than two years before it takes effect.

7.1.3 It is proposed that the non-immediate procedure is followed with regard to the Directions proposed in this report. This will remove the council's liability to compensate land owners.

7.1.4 The costs associated with publishing and consulting on the A4D together with associated legal costs will be met from the Planning and Development budget. These costs are not currently included in the Planning and Development budget. Based on the experience of Tranche 1 this is likely to lead to a pressure of around £10,000 overall - covering both the non-immediate decision and confirmation after 12 months.

7.2 Legal Implications

7.2.1 An A4D removes the specified permitted right and means that an express grant of planning permission will be required for the change of use. If the non-immediate procedure is followed then the A4D would, if confirmed, come into force one year from the date of the publication of the notice. The council would then not be liable to pay compensation should planning permission be refused or granted subject to conditions.

7.2.2 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 extensive powers to withdraw or

modify the geographic coverage of the Direction at any time. The council has power to cancel the Direction by subsequent Direction.

- 7.2.3 Once approved under delegated authority, the A4Ds 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. In this case, it is considered that it would be impracticable for the council to identify and individually notify all parties potentially affected by the proposed A4Ds.
- 7.2.4 The Council will give at least six weeks for interested parties to make representations on the Directions, which exceeds the minimum requirements set out in legislation.
- 7.2.5 Following the consideration of all representations received, the A4Ds will then be reported to the Council's Executive committee.

7.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

- 7.3.1 The A4D is likely to have a positive environmental and net-zero impact as, by re-introducing the need for planning permission for certain proposals, this will allow the Local Plan to be applied, with its policies relating to environmental sustainability and reducing carbon emissions – especially from heating. Rather than the light-touch prior approval process, developers would need to comply fully with the Council's sustainability policies to secure planning permission. As these plans and policies are updated to align with Vision 2030, the Energy Act 2023 and the requirement of heat network zoning and a potential refresh of the council's climate strategy this would help the Council achieve its Climate Action ambitions.

7.4 Equalities Impact Assessment

- 7.4.1 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.

7.4.2 No negative equalities impacts were identified for Tranche 2 of the Article 4 Direction, or the previous Tranche 1. In preparing this report, as Equalities Impact Assessment screening exercise was carried out which identified neutral impacts and no negative equalities impacts. This was checked by the Council's Equalities Team. A full Equalities Impact Assessment Report is not required in relation to this proposal.

8 Conclusion and reasons for the decision

8.1 The Class MA prior approval process is light touch in nature and in the absence of A4Ds the Council would have limited control of changes of use from Class E to residential. Significant amounts of Class E floorspace would potentially be at risk of being lost.

8.2 Tranche 1 of the Article 4 came into force in August 2023 relating to the CAZ, Vale Royal LSIS and two Specialist Shopping Areas. The proposed A4Ds for the centre and north of the borough would enable the Council to assess proposals for change of use from Class E to residential against adopted policies. The evidence presented above and in the appendices demonstrates that this is necessary to avoid a wholly unacceptable adverse impact on the borough in terms of loss of jobs, economic activity, loss of local retail and community services and making efficient use of land.

8.3 The proposed A4Ds are limited to situations where it is necessary to avoid wholly unacceptable adverse impacts and to protect local amenity and the well-being of the area. The A4Ds cover the smallest geographic area possible and, as set out above and in appendices 1-5 are based on robust evidence. As a result, the making of the proposed A4Ds is fully in accordance with paragraph 53 of the NPPF.

9 Record of the decision

9.1 I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Authorised by:

Corporate Director of Community Wealth Building

Date:

Appendices:

- Appendix 1: Town Centres;
- Appendix 2: Local Shopping Areas;
- Appendix 3: Employment Locations;
- Appendix 4: KX CAZ Fringe - Limited additional employment sites not included in Tranche 1;
- Appendix 5: Additional Local Plan Policy Context.

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