



City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for Place Shaping and Planning
Date:	25 th January 2019
Classification:	For General Release
Title:	Confirmation of Westminster's article 4 Direction for changes of use from B1(a) (offices) to C3 (dwellinghouses)
Wards Affected:	Bayswater, Bryanston and Dorset Square, Churchill, Church Street, Hyde Park, Knightsbridge and Belgravia, Little Venice, Marylebone High Street, Regent's Park, St. James's Park, Tachbrook, Vincent Square, Warwick, Westbourne, West End.
City for All Summary	The making of the article 4 Direction will support delivery of a City of Opportunity by supporting achievement of the right kind of growth, ensuring adequate workspace to support the City's economic development.
Key Decision:	Yes
Financial Summary:	Any costs arising from confirming and advertising the making of the article 4 Direction for changes of use from B1(a) (offices) to C3 (dwellinghouses) will be met within existing budgets. Following a change to the regulations governing planning fees the Direction will not affect the Council's planning application fee income.
Report of:	Director of Policy, Performance and Communications

1.0 EXECUTIVE SUMMARY

- 1.1 This report seeks approval to confirm a non-immediate direction under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to remove permitted development rights for changes of use from B1(a) (offices) to C3 (dwellinghouses) in the Westminster Central Activities Zone (CAZ) shown in the map attached as Appendix 2 to this report.
- 1.2 The Direction is required because of a Government decision to make permanent what has been a temporary permitted development right allowing change of use from office to residential use without the need for full planning permission. The temporary arrangements included an exemption for offices in the CAZ; this exemption will not be carried forward and this Direction is required to continue the protection it provided for office uses in the CAZ.
- 1.3 This is the final step in putting the Direction in place. It follows previous notification and consultation by way of a Cabinet Member Report dated 1st February 2018, press notices and advertisements. This report details consultation responses received and set out how these have been taken into account in accordance with paragraph 1(9) of Schedule 3 to the General Permitted Development Order 2015.
- 1.4 The effect of the decision will be that from the date the Direction comes into force, applications for planning permission will be required for these changes of use.

2.0 RECOMMENDATIONS

- 2.1 That the Cabinet Member:
- i) Considers the representations made to the proposed non-immediate direction under article 4 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO 2015) to remove permitted development rights granted by Schedule 2 Part 3 Class O of the 2015 Order (as amended) for changes of use from B1(a) (offices) to C3 (dwellinghouses) in the Central Activities Zone (CAZ);
 - ii) Confirms the Direction, as set out in Appendix 1 to the report, to come into force on 1 May 2019; and
 - iii) Approves the giving of notice of the confirmation and date of commencement of the Direction and sending of a copy of the Direction as confirmed to the Secretary of State as required by paragraph 1(11) of Schedule 3 to the GPDO 2015 (Appendix 3)

3.0 REASONS FOR DECISION

- 3.1 Confirming the proposed Direction will help enable the Council to use its planning powers to secure an appropriate balance of uses in the CAZ. In particular, it will help ensure the availability of a range of workspaces to support the delivery of the right kind of growth in Westminster – which brings the maximum benefits for residents, workers, visitors and businesses while minimising detrimental effects City’s sustainable growth – and support delivery of the growth targets set out in the Westminster City Plan.

4.0 BACKGROUND

Permitted Development

- 4.1 Under the Town and Country Planning (General Permitted Development) (England) Order 2015, some changes of use are “permitted development”. This means that planning applications are not required for such changes. In 2013, the Government amended the Order to provide for a temporary permitted development right for the change of use of buildings from office use (which falls in use class B1(a)) to use as a dwellinghouse (class C3). This was intended to last for three years and was subject to an exemption negotiated with Government by the Mayor of London and the central London boroughs that excluded offices within the CAZ identified in the London Plan.
- 4.2 Any developer taking advantage of this permitted development right must give notice to the local planning authority, which can then decide whether its “prior approval” is required on limited grounds – transport and highways impacts, contamination risks on the site, flooding risks and the impact of noise from commercial premises on the intended occupiers of the development. The council would not be able to seek affordable housing or other planning contributions in relation to such changes of use.
- 4.3 In November 2015, the then Secretary of State for Communities and Local Government announced that the temporary B1 – C3 permitted development right would be made permanent. Instead of rolling forward a blanket exemption for the CAZ, the Minister decided that any borough wanting to exclude offices from the permitted development rights would have to do so by using its powers to withdraw them by making a direction under article 4 of the General Permitted Development Order. The permanent permitted development rights will come into force from May 2019, allowing enough time for boroughs wanting to make a direction to do so.

Article 4 Directions

- 4.4 Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) enables local planning authorities to make a

direction (an “article 4 direction”) to withdraw specified permitted development rights across a defined area. To make an article 4 direction the legal requirement is that the local planning authority is “satisfied that it is expedient that development should not be carried out unless permission is granted for it on an application.”

- 4.5 The National Planning Policy Framework (NPPF) (paragraph 53) of the NPPF states:

“The use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area..”

The Government’s National Planning Practice Guidance (NPPG) (paragraph 038) adds that the potential harm that the direction is intended to address should be clearly identified. There should be a particularly strong justification for the withdrawal of permitted development rights which, among other things, relate to a wide area (such as those covering the entire area of a local planning authority).

- 4.6 Article 4 directions can have immediate effect, or take effect after a period of a year (known as “non-immediate directions”). Immediate directions can render councils open to the requirement to pay developers compensation. As the Government has allowed time for boroughs to make article 4 directions before making the office to residential permitted development right permanent, there was no need to make an immediate direction; accordingly the then Cabinet Member approved the making of a non-immediate direction in February 2018.
- 4.7 The General Permitted Development Order gives the Secretary of State powers to make, cancel or modify any article 4 direction made by a local planning authority at any time before or after its confirmation. The NPPG indicates (paragraph 051 reference ID13-051-20140306) that ministers “will not use their powers unless there are clear reasons why intervention at this level is necessary”.
- 4.8 The other London boroughs who have parts of the Central Activities Zone within their boundaries are each preparing directions with an effect similar to this one. Officers are working with their counterparts in other boroughs to help ensure a coordinated approach.

Office losses in Westminster: background

- 4.9 The CAZ is an area of central London identified in the London Plan as the capital’s geographic, economic and administrative core, bringing together the largest concentration of London’s globally oriented business services sectors. Its detailed boundaries are decided by each of the ten boroughs covering the CAZ. The part of the CAZ that falls within Westminster covers many of the most strategically important office markets in central London, including the West End, Victoria and Paddington. These markets are a key part of London’s global business offer and make a substantial contribution to the economic

success of Westminster, London and the United Kingdom – Westminster contributes £54 billion in gross value added to the national economy.

4.10 Westminster has been experiencing a loss of office floorspace since 2005 (pre-dating the temporary permitted development right). This was partly due to the Council’s approach to mixed use policy (which made residential the preferred use across the City and encouraged delivery of residential space alongside commercial development) and the increase in changes in relative value of residential compared to commercial uses. The extent of this loss is such that, as the most recent London Office Policy Review published by the Mayor points out “only Westminster stands out for suffering large scale, residential driven loss of floorspace”.

4.11 In 2016 s revised City Plan mixed use policy was adopted limiting office to residential conversions.

4.12 Table 1 gives an overview of how changes from office to residential use have been experienced in the Westminster’s part of CAZ since 2010. It shows the situation before and after the Council’s change in policy in 2015:

	Year	No of permissions	Net B1 loss sqm	Net C3 gain sqm	Net C3 Units	Of which affordable Units
Pre-PD rights	2010/11	45	-64,689	30,050	103	0
	2011/12	85	-37,577	35,853	241	5
	2012/13	54	-22,210	23,580	153	7
	Total	184	-124,476	89,483	497	12
	Annual Ave	61	-41,492	29,828	166	
Post PD rights	2013/14	73	-31,238	31,805	216	0
	2014/15	84	-64,673	66,008	358	1
	Total	157	-95,911	69,813	574	
	Annual Ave	79	-47,956	34,907	287	
Post WCC policy change	2015/16	55	-26,660	27,080	216	15
	2016/17	65	-54,495	58,219	320	15
	Total	120	-81,155	85,299	536	
	Annual Ave	60	-40,578	42,650	268	
Total completions		461	-301,542	272,595	1,607	43
Permitted not started		128	-127,280	139,396	863	54
Under Construction		97	-109,188	107,544	535	0
Grand total permissions		225	-236,468	246,940	1,398	54

This shows that although the pace of losses has slowed down since the change in policy, losses have continued (it should be borne in mind that these figures are for completions rather than permissions, so the full effect of policy changes will take some time to show up).

- 4.13 The loss of office floorspace and its replacement by residential uses raises the risk that over time the strategic function of the CAZ might be undermined. Up to 2041 employment in Westminster is projected to grow by over 75,000 jobs (with the draft replacement London Plan identifying capacity for 13,000 more jobs in the Paddington opportunity area alone). It will be essential to ensure there is sufficient office space of the right kind, in the right location and available on the right terms (including rent levels) to meet the additional demand.
- 4.14 The effect of the loss of office floorspace to residential use has been to restrict office supply, which in turn has increased rents. As the Mayor's 2017 London Office Policy Review (LOPR) states, commenting on changes since the previous LOPR published in 2012:

The impact of competition from residential development in restricting supply in the West End was noted in LOPR 2012. It observed that as the pressure from residential investors intensified it "would constrain supply even further, and this would in turn inflate rents" and this has turned out to be the case... This outcome has taken place. At end-2015 rents were much higher than in 2011, and availability lower, at 2% nearly as low as ever recorded. Availability of new supply became quite short, at around 45,000 sq m, leading to strong competition for space. While the downturn in the market has corrected this position in 2016 (availability has risen to around 3.5%), the West End remains the market, alongside Midtown, where demand most strongly outstrips supply in market upturns, because the development response is weaker and second hand supply is limited by diversion toward residential.."

In considering these levels of availability, it should be borne in mind that the Mayor has set a benchmark of 8% availability as the level at which occupiers should have a wider choice of accommodation and at which rents will tend to reduce. The LOPR suggests that in the West End a lower benchmark might be set to reflect the fact that supply is even more constrained than in the past and that pace and direction of rental growth is likely to react at a level lower than 8%.

- 4.15 The LOPR identifies a strategic need to improve trends towards a rise in rent levels across central London. This means both ensuring sufficient schemes are brought forward to populate the development pipeline and "resisting the loss of office space to other uses in areas of high demand (eg the West End and Midtown)".
- 4.16 The main driver for these changes has been the difference in values between office and residential uses. This differential applies across central London; research commissioned by the Mayor in 2011 makes the point that this means that "if the potential to convert exists then such conversion to residential use will inevitably be a viable option for any property".
- 4.17 Although office rents have increased more recently the disparity continues – the viability evidence produced by the Mayor to support the draft revised

London Plan suggests that in the commercial areas of Westminster residential uses have an average capital value of £20,000 per square metre and commercial ones an average value of £13,700 per sqm.

- 4.18 The Land Development Index published by Savills shows that since 2008 the price of residential land in central London has grown more rapidly than that for offices and hotel development – it now exceeds its pre-financial crisis peak by more than 30%. This trend confirms the LOPR finding that “office rental growth has not, generally, kept pace with inflation. Its performance has been very different from the rise in residential values, which have consistently exceeded rising prices over the last 25 years”.

Policy context - existing City Plan policy

- 4.19 This was the background to the change to the council’s mixed use policy in 2016. Prior to that being adopted, the then Cabinet Member for Built Environment issued a statement that expressed the Council’s view that the balance of commercial to residential floorspace had tipped too far in favour of the latter across Westminster’s CAZ and that this was causing severe damaging impacts which, if nothing was done to temper the trend, had the potential to worsen:

- Damage to the global competitiveness of the most significant business centre in the UK and, indeed, the world. The trend of losses was undermining the strategic function of the CAZ in favour of housing, which could be delivered in more appropriate locations across London and the UK.
- Severe under-supply of office floorspace in the West End, pushing up rents which, in turn, was harming business activity and the economy.
- Increasing ‘residentialisation’ of commercial areas, eroding their character by reducing employment densities and increasing expectations of residential amenity, impacting on legitimate business activities.

The statement indicated that from 1 September 2015, office losses would not be acceptable other than in the rare cases where a developer could demonstrate the benefits would outweigh the loss of the office space.

- 4.20 This approach was given effect in changes to the City Plan formally adopted in 2016 (and applied in practice from 1 September 2015 in line with a further policy statement by the Cabinet Member in July 2015). Policy S20 in the adopted City Plan states::

“..changes of use from office to residential will only be acceptable where the council considers that the benefits of the proposal will only be acceptable where the council considers that the benefits of the proposal outweigh the contribution made by the office floorspace including:

1. The degree to which the employment and housing targets set out above, and as referred to in Policies S18 and S4 are being achieved;

2. The extent to which the office floorspace contributes to meeting Westminster's business and employment needs; and
3. The extent to which the mix of type, size and tenure of housing proposed meets or exceeds Westminster's need. Where this is not met due to site constraints and/or viability, the floorspace will be retained as B1 office floorspace.

Other relevant benefits may relate to significant benefits to the value of heritage assets and/or significant townscape improvements, but these and any other benefits will be considered in the context of the priority to retain office floorspace". The policy applies to identified commercial areas of Westminster.

- 4.21 At the time the change in policy was made it was shown that it would be likely to have only a limited effect on housing delivery – in the previous five years permissions for change of use had covered 555 net units, making up only 6% of the total permissions over the period (for almost 18,000 additional units of housing).

Policy context – London Plan

- 4.22 The London Plan sets out the strategic priorities for the CAZ. Policy 2.10 states that the Mayor will and boroughs should:

“(a) enhance and promote the unique international, national and Londonwide roles of the CAZ, supporting the distinct offer of the Zone based on a rich mix of local as well as strategic uses and forming the globally iconic core of one of the world's most attractive and competitive business locations

...

(e) in appropriate parts of the CAZ...ensure that development of office provision is not strategically constrained and that provision is made for a range of occupiers especially the strategically important financial and business services.”

- 4.23 London Plan Policy 4.2 states that the Mayor will and boroughs should support the management and mixed use development and redevelopment of office provision to improve London's competitiveness and to address the wider objectives of the Plan, including enhancing its varied attractions for businesses of different types and sizes. It goes on to say that boroughs should recognise and address strategic as well as local differences in implementing the policy to meet the distinctive needs of the central London office market, sustaining and developing its unique and dynamic clusters of 'world city' and other specialist functions and business environments.
- 4.24 This support for the strategic importance of office provision in the CAZ is carried forward by the Mayor in his draft replacement London Plan. This states (paragraph 2.114) that:

“The Mayor supports a coordinated approach to the introduction of Article 4 Directions by the CAZ boroughs before the exemptions expire in May 2019 to ensure that London’s nationally significant offices in and around the CAZ...should be developed and promoted”

Policy SD5 in the draft London Plan states that new residential development should not compromise the strategic functions of the CAZ. Offices and other CAZ functions should be given greater weight relative to new residential development in core commercial areas of the CAZ including the West End, Knightsbridge, Soho, Covent Garden, opportunity areas and commercial parts of Marylebone and Fitzrovia.

- 4.25 Implementing these policies requires proper consideration of the nature and impact of proposals to convert office to residential use. This is not possible if change of use of offices to residents use is permitted development. An Article 4 Direction is the only means of ensuring the submission and consideration of full applications for planning permission.

The proposed Article 4 Direction

- 4.26 The draft Direction recommended to be confirmed is attached at Appendix 1 to this report.
- 4.27 As with the current temporary exemption from permitted development rights, it is intended that the draft Direction will cover the entire Central Activities Zone. The boundaries of the CAZ are currently under review as part of the revision of the London Plan and City Plan, however the boundary shown in the map in Appendix 2 is that shown in the “Central Activities Zone and the Northern Isle of Dogs” map issued with the draft replacement London Plan in November 2017 with some minor changes to the boundary in the Baker Street/Marylebone areas, in Paddington, at Marble Arch and around Belgrave Square.

5. Issues raised during consultation

- 5.1 The council received 14 representations in support of the article 4 Direction from residents, neighbourhood forums, amenity societies, the Mayor of London, BIDs, the Westminster Property Association, TfL, Local Economic Action Partnership and Theatre’s Trust. A table setting out the full detail of all of the responses received is at Appendix 4. A summary of the supportive comments are below:
- The local authority is best placed to decide on local matters such as the use of buildings in the CAZ.
 - It will maintain a variety of functions in the CAZ.
 - Although residential uses can enhance the community the types of home that are developed from permitted development does not result in that benefit. There is no evidence that the type of residential that would result from permitted development would provide any benefits to Londoners.

- It will ensure availability of work and meeting space in the CAZ which aids the creativity and connectivity of people with ideas starting businesses and contributes to the long term economic success of London.
- It will ensure London's CAZ remains a nationally significant office location.
- It will support the vital economic role played by the agglomeration of office functions across the CAZ.
- Competitive office space needs to be available in locations that can attract good quality staff, customers, clients and investors.
- It will secure the area's long term health as a vibrant and efficient commercial district.
- Acknowledgment that the loss of office floorspace has become a real problem in Westminster.
- It will secure an appropriate balance of uses in the CAZ and economic growth.
- West End only has 3.6 years of supply of commercial space which is very low. Increased rents and limited availability of commercial space will result in the West End no longer being viewed as a desirable place to do business – undermining the global competitiveness of the economy.
- The unique circumstances of London's CAZ and West End require a more planned approach to development than many towns and city centres with surplus office and commercial space.
- Permitted development doesn't allow impacts such as additional loading of public transport networks to be controlled and mitigated.
- Mitigation for noise complaints arising from new residential uses in close proximity to uses such as theatres cannot be mitigated.

5.2 Two statutory consultees – Highways England and Historic England – wrote to say they had no comments to make.

5.3 Two representations were made opposing the proposed Direction:

- Councillor J-P Floru (Hyde Park Ward) stated that he fully supports the government's plans to make the use of an office to a dwelling house a permanent permitted development right. There is a great shortage of residential dwellings in Central London, and ample underused/unused office space above shops and restaurants. The change of use according to market demand should be welcomed. He opposed government intervention to thwart market demand.
- A local resident stated that he believed that the Government is right to permit change of use from offices to residential everywhere, and that the Council should not seek to maintain an exemption.

5.4 The Notting Hill East Neighbourhood Forum suggested extending the boundary to the whole of Westminster and former Councillor Julia Alexander made representations in favour of a minor change to the boundary at Ivor Place.

6. Key Issues

6.1 Those opposing the confirmation of the proposed Direction make three main arguments.

(1) There is a shortage of residential dwellings in Central London to which office to residential changes of use make a contribution.

- It is correct to say that there is a need to deliver more housing across London to meet a growing need, particularly for affordable housing. But office to residential changes of use make a relatively small contribution to overall housing delivery and the homes that are provided tend to be of a size (and cost) that means they will not meet local housing needs. The existence of permitted development rights would mean that schemes of this kind make no contribution to affordable housing.
- The confirmation of the Direction will not prevent changes of use; rather they will require the submission of a planning application that will enable the council to decide whether a proposal should be granted consent. In doing this, current City Plan policy S20 will be applied; this allows for change of use from office to residential where the benefits of this can be shown to outweigh the contribution made by the office floorspace, having regard to the extent to which employment and housing targets set in the Plan are being met; the floorspace can be shown to contribute to meeting Westminster's business and employment needs; and to which the mix of type, size and tenure of housing proposed meets or exceeds Westminster's needs. Requiring an application will enable policies on affordable housing, efficient use of space, design and wider amenity aspects to be applied.

(2) There are large reserves of under- or un-used office space above shops and restaurants that can be used for residential purposes.

- City Plan policy S20 would support the granting of planning permission to change offices to residential use should they come forward and the tests set out in the policy are met.

(3) As a matter of principle it is wrong to intervene in the market.

- This is a philosophical point rather than a planning consideration as such, but the importance of understanding market signals and only intervening where there is a clear justification for doing so have been taken into account in taking the proposed Direction forward. This report has outlined the way in which the market has functioned in recent years and what the consequences have been in terms of delivery of a number of wider council economic and social policy objectives. It has also noted the extent to which representatives of local businesses and developers have expressed strong support for the proposed Direction.

6.2 Those supporting the proposed Direction reinforce many of the points made by the council and set out in section 4 of this report. The Heart of London Business Alliance has brought forward additional evidence about the effects

the permitted development rights have had on the West End office market and their potential impacts on delivery of growth targets for the area.

- 6.3 Some of these respondents make additional points about the effects loss of office uses can have on the quality of local neighbourhoods, affecting demand for local retail and food businesses and contributing to the “hollowing out” of neighbourhoods and reducing local vibrancy.
- 6.4 The Notting Hill East Neighbourhood Forum suggested that the proposed Direction should cover the entire borough, rather than the CAZ alone. Officers consider that there is not the strategic policy justification or evidence of problems (such as rising rent levels) to justify this. As noted, national guidance states that there must be particularly strong justification for directions withdrawing permitted development rights for wide areas like the entire area of a local planning authority (see paragraph 7.1).
- 6.5 The other boundary change suggestion was so that it covered properties on both sides of the whole length of Ivor Place, NW1 rather than only that part between Park Road and Gloucester Place. This arose from concerns about a particular building on the part of the street that is not within the current boundary and the impact that a change of use might have on local amenity. She also raised residents’ concerns about the area retaining its mixed use character and not becoming a dormitory with no one around during the day. There is no clear power in the GPDO allowing changes to boundaries of the area to which a direction relates between it being made and confirmed. Past legal advice by leading counsel on other directions made by the council suggested that only the Secretary of State can make modifications at this stage. Accordingly no change to the boundary is being proposed. The position with regard to Ivor Court will be monitored and a further direction made if appropriate.

7. Conclusion

- 7.1 National Planning Practice Guidance suggests a number of issues that should be taken into account in deciding whether making an article 4 direction is appropriate:
- **Their use should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area.** This report sets out the reasons why making the proposed direction is necessary to ensure Westminster’s economic and social well-being by helping ensure availability of workspace to ensure its continued economic success and of opportunities for what is projected to be a growing workforce in Westminster in coming decades.
 - **The potential harm that the direction is intended to address should be clearly identified.** The potential harm that the permitted development right for office to residential use in terms of undermining the national, regional and local strategic importance of the CAZ is set out in this report.

- **There should be a particularly strong justification for withdrawal of permitted development rights relating to a wide area (such as those covering the entire area of a local planning authority).**
Authorities who have sought borough-wide directions for office to residential conversions have had their draft directions rejected by the Secretary of State. The Direction proposed by this report is targeted on the Central Activities Zone where offices have particular strategic importance, described in this report.
- **There should be a particularly strong justification for withdrawal of permitted development rights relating to cases where prior approval powers are available to control permitted development.**
This is a case where the General Permitted Development Order does allow for prior approval powers, but this is only on very tightly constrained grounds – transport impacts, site contamination and flooding. It does not allow for consideration of the wider strategic policy issues set out in this report.

It should also be borne in mind that Government considered there was a sufficiently compelling case for exclusion of offices in the Westminster CAZ to make the original exemption. For all of these reasons it is suggested that the making of a direction in this case is fully consistent with national guidance.

- 7.2 Having considered the representations made and having regard to the relevant national planning policy and guidance officers recommend that the proposed Direction should now be confirmed, to come into force on 1 May 2019.

Next steps

- 7.3 Once the Council has confirmed the Direction by approval of this report the Director of Law will formally sign and date it, thereby formally giving it legal effect.
- 7.4 Notification of confirmation of the Direction must then be served by the council on those parties originally notified of its making, including the Secretary of State. Appendix 3 contains the notification.

8. CONSULTATION

- 8.1 Following the making of the proposed Direction, public consultation was carried out between 20th February and 6th April 2018 in accordance with the requirements of Schedule 3 of the GPDO. Notice was given by newspaper advertisement and site notices. The Secretary of State was also notified.
- 8.2 The proposed Direction was also publicised through:
- Local Advertisement in the local Gazette newspaper.
 - Notices displayed in two locations within each ward in the CAZ for a period of at least six weeks.

- Email notification to all Members.
- Email notification to the consultees specified in the GPDO, including those subject to the statutory duty to cooperate (Section 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012) and the 'specific consultation bodies' as defined in Section 2 of those Regulations
- Email notification to the Mayor of London and the GLA Group.
- Email notification to all consultees registered on the City Plan database (which currently includes around 900 consultees including members of the public, businesses, developers and residents' groups).
- Consultation with the Westminster Property Association
- Internal consultees within the city council, including EMT and senior managers.

8.3 In accordance with government guidance and legislation, the notification documents for the proposed Direction included:

- A description of the development and areas to which the direction relates: for changes of use from B1(a) (offices) to C3 (dwellinghouses) in the Central Activities Zone (CAZ).
- A statement of the effect of the Direction: removing permitted development rights.
- Specifying that the Direction is made under Article 4(1) of the GPDO.
- Specifying a period within which any representations concerning the direction may be made to the LPA.
- Specifying the date on which it is proposed the Direction will come into force: 1 May 2019.
- Giving details as to how the direction and accompanying maps could be viewed i.e. at the council's offices at 5 The Strand, and on the Council's website at: www.westminster.gov.uk

9 FINANCIAL IMPLICATIONS

9.1 Until the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visit) (England) Regulations 2017 came into force, planning fees were not payable for applications for planning permission required only because of an Article 4 Direction. The 2017 Regulations have removed this restriction, meaning that there will be no financial impact on the Council as a result of the recommendation in this report.

9.2 The costs of confirmation of the proposed Direction will be met from existing budgets.

10. LEGAL IMPLICATIONS

10.1 The rules for making and confirming of an article 4 direction are set out in the Town and Country Planning (General Permitted Development) (England) Order, 2015. This legislation defines the classes of permitted development,

exceptions to permitted development and outlines the process for making an article 4 Direction. The compensation arrangements are at sections 107-109 of the Town and Country Planning Act 1990.

11. BUSINESS PLAN IMPLICATIONS

- 11.1 Confirmation of the Direction will support the City Council's ability to use its planning powers to ensure development provides the right kind of growth – that which works for all residents and businesses, now and into the future – delivering opportunities and an improving quality of life for Westminster's people while minimising any negative impacts

12. IMPACT ON THE ENVIRONMENT

- 12.1 Confirmation of the Direction will support the City Council's ability to use its planning powers to ensure that all new development embodies the most up-to-date standards for environmental sustainability and efficiency in use of resources.

13. HEALTH, WELLBEING IMPACT ASSESSMENT INCLUDING HEALTH AND SAFETY IMPLICATIONS

- 13.1 Confirming the proposed Direction will support the City Council's ability to use its planning powers to ensure that all new development fully addresses health and safety implications. It will also enable decisions to be taken to support the economic wellbeing of the city.

14. EQUALITIES IMPLICATIONS

- 14.1 Under the Equalities Act 2010 the council has a "public sector equality duty". This means that in taking decisions and carrying out its functions it must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act; to advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it; and to foster good relations between persons who share a relevant protected characteristic and those who do not share it.
- 14.2 The council is also required to have due regard to the need to take steps to take account of disabled persons' disabilities even where that involves more favourable treatment; to promote more positive attitudes toward disabled persons; and to encourage participation by disabled persons in public life. The 2010 Act states that "having due regard" to the need to promote equality of opportunity involves in particular having regard to: the need to remove or minimise disadvantages suffered by persons sharing a protected characteristic; take steps to meet the needs of persons sharing a protected characteristic that are connected with it; take steps to meet the needs of persons who share a protected characteristic that are different from those who do not; and encourage persons with a protected characteristic to participate in

public life or any other activity in which participation by such persons is disproportionately low.

- 14.3 The courts have held that “due regard” in this context requires an analysis of the issue under consideration with the specific requirements set out above in mind. It does not require that considerations raised in the analysis should be decisive; it is for the decision-maker to decide what weight should be given to the equalities implications of the decision.
- 14.4 Officers have considered the need for a formal equalities impact assessment of the proposed confirmation of the proposed Direction. Their conclusion is that as it will enable the council to ensure a wide range of workspaces for Westminster’s diverse enterprises it will help make it easier for residents to access a range of job and other opportunities. This may in turn help reduce the need to travel, and can promote walking and cycling, which is positive for health and wellbeing. The proposed Direction also ensures protection of Westminster’s strategic office stock, helping to maintain the vitality of the CAZ. This is vital to the economy and competitiveness of Westminster, London and the UK as a whole. Finally, by requiring submission of full planning applications the Direction will enable the City Council to ensure compliance with its policies regarding health and wellbeing and accessibility, which will benefit many of the groups with protected characteristics under the 2010 Act.
- 14.5 No negative impacts have been identified, and it has therefore been concluded that a full EIA is not necessary.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact: Kimberley Hopkins at khopkin@westminster.gov.uk

APPENDICES

1. Draft Article 4 Direction for changes of use from B1(a) (offices) to C3 (dwellinghouses) in the Central Activities Zone
2. Map of area covered
3. Draft notice of the confirmation of the Direction.
4. Consultation responses

BACKGROUND PAPERS

1. London Office Policy Review 2017, Ramidus Consulting for Mayor of London
2. Westminster’s City Plan consolidated with alterations since November 2013 (2016)
3. London Plan, consolidated with alterations since 2011, Mayor of London (2016)
4. Draft replacement London Plan, Mayor of London (2017)
5. Cabinet Member statements on City Council approach to office to residential conversion dated 18th March and 22nd July 2015

For completion by the **Cabinet Member for Place Shaping and Planning**

Declaration of Interest

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

Signed: _____

Date: _____

NAME: _____

State nature of interest if any

.....
.....

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

For the reasons set out above, I agree the recommendation(s) in the report entitled **Confirmation of Westminster’s article 4 Direction for changes of use from B1(a) (offices) to C3 (dwellinghouses)** and reject any alternative options which are referred to but not recommended.

Signed

Councillor Richard Beddoe, Cabinet Member for Place Shaping and Planning

Date

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

Additional comment:

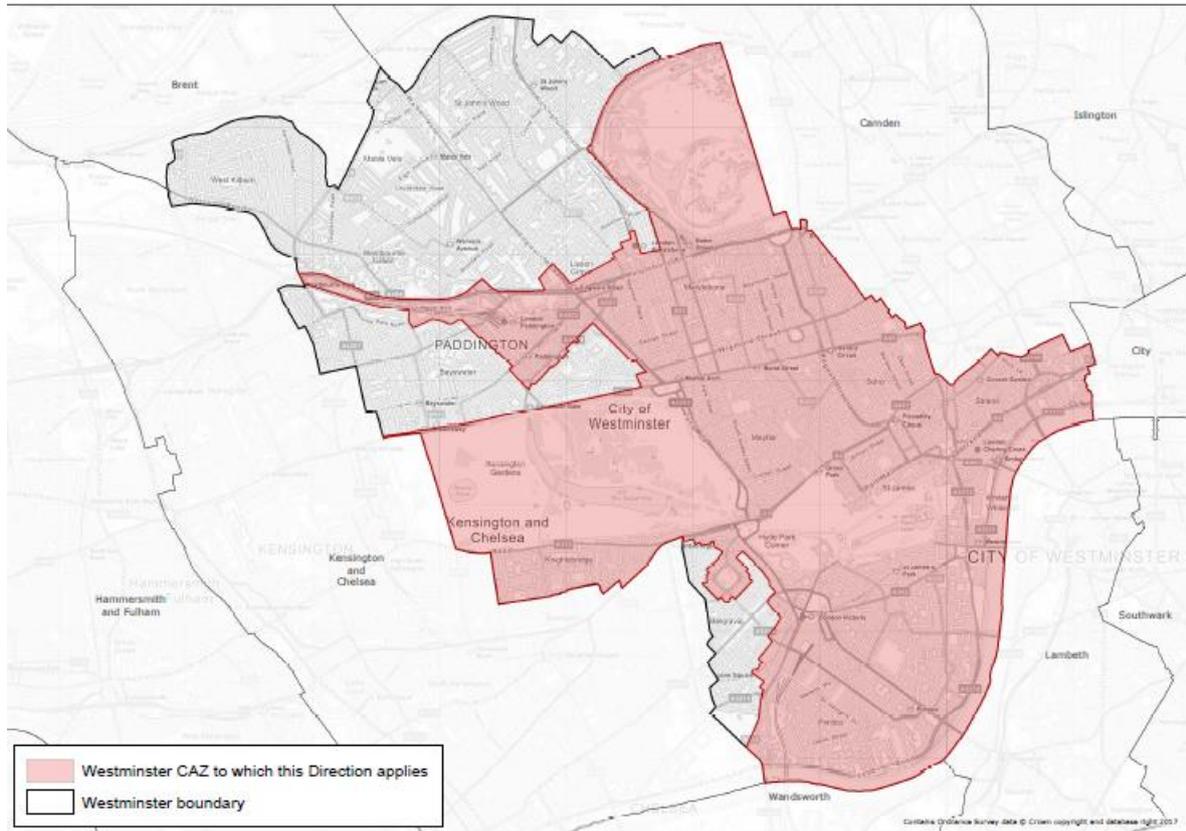
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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, Chief Operating Officer and, if there are resources implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the

decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

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

Appendix 2 – Map A



Appendix 3 – Article 4 notice of confirmation

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

CITY OF WESTMINSTER

NOTICE OF CONFIRMATION OF A DIRECTION UNDER ARTICLE 4(1) RELATING TO THE WESTMINSTER CENTRAL ACTIVITIES ZONE

NOTICE IS GIVEN by the City of Westminster, being the appropriate Local Planning Authority, that it has made a Direction under article 4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

The Direction was made on 9th February 2018 and was confirmed on the xx of xx 2018 and applies to the Westminster Central Activities Zone.

The Direction applies to the development described in the following Class of the GPDO:

Class O in Part 3 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 as it relates to development consisting of a change of use to a building and any land within its curtilage from a use falling within Class B1(a) of the Schedule (offices) to the Use Classes Order to a use falling within Class C3 of that Schedule (dwellinghouses).

The effect of the Direction is that the permission granted by article 3 of the GPDO shall not apply to such development and such development shall not be carried out within that area unless planning permission is granted by the City of Westminster (“the Council”).

A copy of the Direction and of the plan defining the area to which it relates may be seen at the offices of the Council at 5 The Strand, London WC2N 5HR during normal office hours. These can also be viewed on the Council’s website at www.westminster.gov.uk.

This Direction will come into force on 1 May 2019.

Dated this xx day of xx 2019

Tasneem Shawkat

Director of Law

Westminster City Council

5 The Strand

London WC2N 5HR

Appendix 4 – Consultation responses

Consultee	Sector		Comment
Councillor JP Floru, Hyde Park Ward	Councillor	-	<p>"I fully support the government's plans to make the use of an office to a dwelling house a permanent permitted development right.</p> <p>There is a great shortage of residential dwellings in Central London, and ample underused/unused office space above shops and restaurants. The change of use according to market demand (the people's demand) should be welcomed.</p> <p>I oppose government intervention to thwart market demand."</p>
	Resident / Local business	-	<p>"I live and work in Westminster.</p> <p>I believe that the Government is right to permit change of use from offices to residential everywhere, and that the Council should not seek to maintain an exemption."</p>
Notting Hill East Neighbourhood Forum	Neighbourhood Forum	+	<p>"I have consulted our planning group and whilst we support WCC in wishing to retain the directive for the central zone we would like to see it extended to Westminster as a whole. Losing office space, especially to investment demand housing, contributes to further hollowing out and is detrimental to the small businesses which help service our area."</p>
The Thorney Island Society	Non-profit organisation	+	<p>"I am writing to say that we approve of your Article 4 Direction to retain the requirement for planning permission for changes of use from C3 (dwelling houses) to B1(a) (offices) in Westminster's Central Activities Zone and for changes of use from A1 (shops) to A2 (financial and professional services) in the Core Central Activities Zone and the designated shopping centres throughout the city</p> <p>We agree that this is essential to maintain the character of the area and to make the most of the abundance of public transport, which can support a large number of commuters."</p>
Owner of the Burlington Arms	Resident / Local business	+	<p>"Regarding the proposed Article 4 Direction, I wish to say that I support the council's stance on this issue. I own a public house business within the zone. Nearly all of the customers work in the area, and I do not wish to see any more office space changed to residential."</p>
	Resident	+	<p>"I am writing in SUPPORT of the proposed Article 4 Direction removing the PDR for changes of use from offices to housing.</p> <p>As a resident within the CAZ I usually welcome new residential development as additional residents can enhance the community. However most residential development which takes place in the West End does not do this. The developments are usually configured in a way which makes them attractive for short term residential accommodation (1 year or less) and the resulting "residents" do not form part of the mixed, diverse community in the West End.</p>

			<p>At the same time the PDR removes office space, increasing the cost of this space and reducing the ability for new businesses to move in. It is important for the business function of the West End that office space is available at a wide variety of sizes and costs so that the network effect is maximised.</p> <p>The offices also provide a market for many of the retail and food businesses in the area. The West End is attractive because of the mix of offices, housing, retail, leisure and other uses and if any use is allowed to dominate it will lose an important part of its attraction.</p> <p>For these reasons I fully support the proposal to introduce this Article 4 Direction.”</p>
	Resident	+	“I disagree with making this permitted development permanent and support Westminster in maintaining the exemption”
The St Marylebone Society	Local charity	+	<p>“The St Marylebone Society supports Westminster City Council in this matter.</p> <p>This local authority, with its highly competent planning department, carefully considered city Plan, and long term local knowledge, is the best body to decide on such local matters as the use of buildings in the very important Central Activities Zone: the result of the Government-introduced permitted development right allowing the change of use of an office to a dwelling house has resulted in a significant loss of offices in our area.</p> <p>We want to see a variety of functions in central Westminster to maintain the interest and vibrancy of our great city. We do not wish to see such an economically important area ending up with so much residential use that it becomes relatively suburban in character, with innovative ideas and projects moving out. The availability of work and meeting space in the central zone aids the creativity and connectivity of people with ideas starting businesses, and contributes to the long-term economic success of London, and ultimately, the country as a whole.”</p>
Mayor of London	Regional authority	+	<p>“Thank you for consulting the Mayor of London on the City of Westminster’s introduction of a Non-Immediate Article 4 Direction to permanently remove office to residential permitted development rights from 1 May 2019.</p> <p>The agglomeration of office functions across the Central Activities Zone (CAZ), Tech City, Northern Isle of Dogs and Kensington & Chelsea play a vital economic role, supporting a large number of jobs and businesses that account for around 50 per cent of London’s output and 12 per cent of UK output.</p>

			<p>The CAZ boroughs contain about three quarters of London’s total office stock and over a fifth of the total in England & Wales. The conversion of offices to residential uses in this area could therefore significantly affect local amenity and the wellbeing of the area, due to loss of employment opportunities, reduced economic growth, and the loss of nationally and internationally significant businesses.</p> <p>The Mayor strongly supports the City of Westminster’s introduction of this Article 4 Direction so that the CAZ remains a nationally significant office location. Draft new London Plan policies SD5 Offices, other strategic functions and residential development in the CAZ and E1 Offices encourage boroughs to introduce Article 4 Directions to remove office to residential permitted development rights across the whole of the CAZ.</p> <p>The Mayor has produced strategic evidence (link below) to support Article 4 Directions - office to residential in London’s nationally and internationally significant office locations.</p> <p>https://www.london.gov.uk/sites/default/files/strategic_evidence_to_support_london_nationally_si gnificant_office_locations_final.pdf</p>
Northbank BID	BID	+	<p>“The Northbank BID would like to support Westminster City Councils application to make an Article 4 Direction to remove permitted development rights for changes of use from C3 (dwelling houses) to B1(a) (offices) in Westminster’s Central Activities Zone. We support the requirement for a full planning application for this kind of development so that Westminster City Council can protect mixed uses in the Central Activity Zone, to prevent a loss of office floor space.</p> <p>The Northbank Business Improvement District (BID) is one of London’s largest business improvement districts and represents over 350 local businesses in central London. The BID footprint sits wholly within the designated area. The Northbank commissioned, Arup to do an economic report which recognised the area’s strength as a convergence of economic, social and knowledge and the opportunities that they bring. The area contributes up to £3.5 billion to London’s economy and 6.5 per cent of Westminster’s GVA. It has an employment density of almost 1,000 jobs per hectare –more than three times the Westminster average. The BID is working with stakeholders and partners to improve public realm and investment in infrastructure and technologies.</p> <p>The strategic function for inner London as a centre for a thriving economy is built on the business agglomerations, dynamic clusters, cultural hubs and educational centres as well efficient transport links and infrastructure. Central London is the optimal location for business to start and grow. Competitive office space needs to be available in a location that can attract good quality staff, customers,</p>

			clients and investors. A variety of sizes and offered with appropriate terms to accommodate businesses at all stages of growth: from start ups, SME and larger enterprises will continue to bring a thriving economy with employment and good quality of life.”
Westminster Property Association	Property Association	+	<p>“Westminster Property Association (WPA) represents the leading owners, investors, professional advisors and developers of real estate in the City of Westminster. A copy of our membership list is enclosed.</p> <p>On behalf of the Association, I am writing in support of Westminster City Council’s Article 4 Direction to remove permitted development rights for changes of use from offices (B1a) to homes (C3) in Westminster’s Central Activities Zone.</p> <p>The Association has provided long-standing support for preventing the conversion of office space to residential uses in the centre of Westminster in order to secure the area’s long term health as a vibrant and efficient commercial district.”</p>
Heart of London Business Alliance	BID	+	<p>“I am writing on behalf of Heart of London Business Alliance in support of Westminster City Council’s intention to introduce an Article 4 Direction for the Westminster Central Activities Zone (CAZ) to continue the current removal of permitted development rights. By way of background, Heart of London Business Alliance serves as the voice for 500 businesses and 100 property owners in the Piccadilly & St James’s and Leicester Square areas. Our purpose is to support the commercial wellbeing of the businesses and organisations we represent, and ensure our areas remain integral to London’s West End offer as a place for people to visit, live, trade and work.</p> <p>The six hectares of the West End generates £51 billion GVA annually; more than the £43.9 billion of the City and as much as the whole of Wales. It accommodates over 650,000 jobs and is expected to generate at least 77,000 new jobs by 2036. It draws in unparalleled international investment in retail, entertainment, hospitality, healthcare and the creative industries. The hyper-connectivity and exceptional levels of productivity of the West End plays a crucial role in London’s economic success.</p> <p>The loss of office space has become a real problem in Westminster and the West End in particular. The 2017 London Office Policy Review (LOPR) states that, of all London boroughs, “only Westminster stands out for suffering large scale, residential driven loss of floorspace.”² The introduction of an Article 4 direction once existing protections for office to residential conversion lapse is vital. It will enable Westminster City Council (WCC) to continue to use its planning powers to secure an appropriate balance of uses in the CAZ, and encourage economic growth.</p> <p>There is no evidence that the type of residential space that would be brought forward in these extremely high value areas would provide any benefit to Londoners or meet any housing need without severely compromising viability. Indeed, the Council agrees that “units of housing being delivered tend to be large...and it is questionable whether this represents optimisation of the number of residential units on development sites as required by policy S14 of the Westminster City Plan.”³</p> <p>The Council’s own figures show that over 300,000 square metres of office space has been redeveloped or converted to residential properties in Westminster’s CAZ since 2010. This has resulted in a demand for commercial space in the area that far outstrips supply, which, in turn, has resulted in dramatic rent increases. Between 1990 and 2015, prime commercial rents in the West End have increased by 600%, compared to just 180% in the City of London and 350% across London.⁴</p>

		<p>Currently, when taking into account newly completed developments, those in construction and those with planning permission, the West End only has 3.6 years' supply of commercial space. This is extremely low compared to the City of London's 8.9 year supply, and the 9.5 year supply in Central London as a whole⁵. There is a real risk that increased rents and limited availability of commercial space will result in the West End no longer being viewed as a desirable place to do business. The market is already extremely competitive, with disruptive challenges to much of the retail and leisure sectors. Furthermore, ever higher levels of tax and regulatory burdens are being piled onto businesses including the unprecedented hike in business rates last year.</p> <p>The West End generates £17 billion per annum, including 8% of all National Non-Domestic Rates. Furthermore, The West End is primarily responsible for London's status as the world's most popular international visitor destination, attracting 18.7 million visitors in 2014, spending £11.8 billion and supporting 300,000 jobs⁶.</p> <p>Permitted development rights for office to residential conversion in the West End would undermine this globally important economy, and conflict with the requirements of the London Plan that the strategic function of the CAZ should be "promoted and enhanced".</p> <p>The Elizabeth Line, the transformation of Oxford Street, Crossrail 2 and many other significant transport and public realm schemes will see the West End become better connected and, as a result, demand for commercial space will increase even further. The draft London Plan has employment projections of 619,300 jobs across Greater London by 2041 with an estimated need for 3.5 million sq. m. of office space in the CAZ and Northern Isle of Dogs.</p> <p>In 2016, reports were commissioned by New West End Company and Westminster Property Association to determine what level of additional commercial space would be required to accommodate the proposed jobs growth target for the West End. The first concluded that to house the full 77,000 additional jobs a total of 1.9 million sqm of new commercial accommodation would be required. The second showed that to accommodate 30,000 jobs in the Oxford Street district (around 40% of the total) 750,000 sqm of net new commercial space would be required⁷.</p> <p>While building new housing is absolutely vital for our city and the City of Westminster, the unique circumstances of London's CAZ and the West End require a more planned approach to development that permitted development rights allow. Furthermore, unlike many town and city centres with surplus office and commercial space "the West End remains the market, alongside Midtown, where demand most strongly outstrips supply."⁸ Therefore, Heart of London fully supports the introduction of an Article 4 direction, to remove permitted development rights for changes of use from B1(a) (offices) to C3 (dwellinghouses) in the Westminster Central Activities Zone.</p> <p>We do believe, however, that the introduction of an Article 4 direction is just the start, and that there is a need for a proactive policy to be developed, to plan for an increase of commercial space in the West End. It is important that a pragmatic approach is taken to core West End commercial development, with flexibility around the need to provide new residential space, and use off-site or in-lieu contributions in order to sustain the strategically important commercial activities of the CAZ.</p>
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			As Westminster develops its new City Plan, we look forward to working with the Council to ensure that the economic competitiveness of a world-class West End is appropriately balanced with the need for new homes.”
Transport for London	Regional authority	+	<p>“Depending upon the location and scale of development a change of use from Use Class B1a (Offices) to C3-4 (Dwellings (all)) could result in adverse transport impacts such as additional loadings on public transport or a different use of accesses onto the TLRN. These impacts would be easier to control and mitigate via a planning application. In addition, compliance with London Plan policy could be better ensured if the prior approval route was not used for a change of use. Lastly changes of use from offices to noise and vibration sensitive housing could result in complaints about the effect of nearby transport operations and the request for controls notwithstanding that the residents have moved into the area.</p> <p>For these reasons the proposal to implement article 4 in this area would be supported by TfL in this instance. Therefore, TfL does Not Object to the Article 4 direction and has no further comments.”</p>
LEAP- London Economic Action Partnership	Local enterprise partnership	+	<p>“Thank you for consulting us on your ‘Article 4 Direction for changes of use from B1(a) (offices) to C3 (dwellinghouses)’ as part of the ‘Duty to co-operate in relation to planning of sustainable development’ as set out under Section 33A of The Planning and Compulsory Purchase Act 2004.</p> <p>We can confirm that the LEAP strongly supports the City of Westminster’s introduction of this Article 4 Direction in order to support the CAZ’s role as a nationally significant office location.”</p>
Theatres Trust		+	<p>“Thank you for consulting the Theatres Trust on the above Article 4 direction, which the Trust supports. Westminster’s need for this Article 4 direction to help maintain its supply of offices as a strategic function within the Central Activities Zone (CAZ) is clearly set out within the accompanying Cabinet paper. Your approach to maintaining the existing exemption beyond its cessation in May 2019 is supported by the Mayor of London, having been articulated through the CAZ SPG (2016), City Fringe Opportunity Area Planning Framework (2015) and Policy SD5.F of the draft London Plan (2017). We note that similar directions have been made by other CAZ authorities such as City of London and Tower Hamlets.</p> <p>From the Trust’s perspective we are concerned about the potentially negative impact this form of permitted development may have on theatres where neighbouring buildings are converted, for example noise complaints arising from new residents or disruptive building works taking place during performance times. This is of particular concern within Westminster, with its cluster of theatres forming not just a key part of the local economy but also contributing tremendously to London’s overall cultural and tourist offer.</p> <p>Therefore, we welcome this Article 4 direction and look forward to further communication as it moves towards confirmation and taking effect.”</p>
Pimlico Neighbourhood Forum	Neighbourhood Forum	+	<p>“Thank you for the opportunity to respond to this consultation on the proposed Article 4 Direction.</p>

			<p>The whole of the Pimlico Neighbourhood Forum area lies within the Central Activities Zone. In the development of Pimlico, while we are keen to see the provision of residential properties, we are also keen to maintain the vibrancy of the smaller nonresidential properties, primarily retail, but also office and other commercial</p> <p>properties. We fear that the area could become rather dead if such properties were to become progressively residential. Additionally, the few larger office buildings would raise substantial planning matters (not to say a loss of planning gain) if they were to be able to change use without obtaining planning consent. We believe our</p> <p>view is wholly in line with the existing City Plan.</p> <p>We therefore wish to support the making of this Article 4 Direction.</p> <p>This response has been agreed by the Pimlico Neighbourhood Forum steering group.</p> <p>I am copying this response to all Councillors in Warwick, Tachbrook and Churchill Wards.”</p>
OD SE Spatial Planning Team Highways England	Highway authority, traffic authority and street authority	O	<p>“Thank you for your letter dated 21st February on the above consultation. Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.</p> <p>Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN).</p> <p>After looking through the information provided, there are no comments that Highways England would like to make at this time. The Westminster Central Activities Zone is located away from the SRN and at this time it is deemed that this Article 4 Direction will not result in any material impact on the SRN.”</p>
Historic England		O	<p>“Further to your notification of an Article 4 Direction, to control changes of use from offices to Dwelling houses within the Central Activities Zone, this is to confirm that Historic England does not wish to submit comments.”</p>