DIRECTOR DECISION – DD 143

Title: Article 4 direction landowner notification list

Executive summary

OPDC is seeking to make a non-immediate Article 4 direction to remove permitted development rights to change the use from Class E (Commercial, Business and Service) to Class C3 (Residential) within the Strategic Industrial Locationin the OPDC area. Part of the statutory process to take this forward involves serving notice of the Article 4 direction on the owner (and occupier) of every part of the land within the area or site to which the direction relates unless this is impracticable.

Officers are able to access landowner information from HM Land Registry using services provided by TfL Property, but there is a cost (estimated at £20-25k) associated with extracting this data within the timeframe that it is needed. This Director Decision seeks approval for the expenditure of up to £25,000 to pay for this.

Decision

The Director approves:

i. Expenditure of up to £25,000 to access landowner information from HM Land Registry.

Authorising Director

I do not have any disclosable interest in the proposed Decision. It is consistent with OPDC's priorities and has my approval.

Signature: E J Williams **Date:** 11.06.21

PART 1: NON-CONFIDENTIAL FACTS AND ADVICE

1. Background and context

1.1 OPDC (subject to Board approval) is seeking to make a non-immediate Article 4 direction to remove permitted development rights to change the use from Class E (Commercial, Business and Service) to Class C3 (Residential) within the Strategic Industrial Location in the OPDC. To avoid paying compensation to those potentially affected by the withdrawal of their permitted development rights, 12 months' notice must be given before the direction can come into effect. Part of the statutory process to take this forward involves serving notice of the Article 4 direction on the owner (and occupier) of every part of the land within the area or site to which the direction relates unless this is impracticable. The notice will give landowners and occupiers 21 days to make representations to OPDC.

1.2 The OPDC area includes London's largest industrial area, with 1,700 businesses employing over 40,000 people and generating £2.1 billion for the UK economy. It is vital to serving the need of London's population and businesses and supporting the regional and national economy. Business operations in the Strategic Industrial Land (SIL) area would include uses classified as Class E uses, and the new permitted development rights would allow for these to be converted to residential uses without the need for planning permission. This has the potential to erode the industrial floorspace in our area.

1.3 The protection of SIL in the OPDC area is a fundamental part of the overall planning strategy for the area. Future plans to deliver tens of thousands of new jobs and economic growth through industrial intensification would be compromised through the loss of industrial capacity and the introduction of residential uses could severely undermine opportunities to deliver future industrial development and comprehensive regeneration.

1.4 The introduction of new residential uses, in an unplanned and uncontrolled manner using permitted development rights, could also compromise the ongoing operations of neighbouring industrial premises or future industrial development because they will be more sensitive to issues such as noise, odour, 24-hour operational activity of industrial businesses and unlight/daylight impacts.

1.5 Given the scale and importance of our industrial area to the local, London and national economy, the harm identified above poses a significant risk and potential for negative impacts. Therefore, it is considered important to begin the process of putting in place an Old Oak and Park Royal specific Article 4 direction as soon as possible.

1.6 A non-immediate Article 4 direction withdrawing permitted development rights for changes of use from Commercial, Business and Service (E) to residential (C3) would address the potential harm identified above. This would come into force just over twelve months after it is made. A non-immediate direction would allow all consultation views to be taken into account before the direction is confirmed and would eliminate the likelihood of compensation being payable to affected landowners under sections 107 and 108 of the Town and Country Planning Act 1990. The direction would give OPDC more control over change of use applications through the planning process, to help guard against the harm set out above. It will also allow the consideration of other planning matters such as affordable housing or amenity space provision to be considered with change of use applications, which would not otherwise be possible with the permitted development rights in force.

1.7 The plan is for the Article 4 direction to come into effect by 1st August 2022 when, due to government changes, our existing Article 4 direction will cease to have effect. To meet this deadline, taking into account the 12 months' notice, notifications would be sent in July 2021.

1.8 OPDC does not have access to up to date landowner information, but TfL Property can provide us with this data from HM Land Registry. There is a cost associated with this service and given the potential number of property titles in the proposed Article 4 direction area, the cost is estimated to be between £20-25,000. This will comprise of a small fee paid to TfL Property for their services to provide the data request to HM Land Registry, on a cost recovery basis, and a fee paid directly to HM Land Registry for the title documentation.

2. The proposal and how it will be delivered

2.1 The expenditure will pay for access to landowner information from HM Land Registry. TfL Property will be managing the delivery of this data from HM Land Registry.

3. Objectives and expected outcomes

3.1 The objective of securing expenditure is to ensure that we have the information we need to notify landowners about the Article 4 direction. This is part of the statutory process for implementing a non-immediate Article 4.

4. Strategic fit

4.1 Access to this data is needed to ensure we can notify landowners in the proposed Article 4 direction area in line with the legal procedures set down for implementing a direction.

5. Project governance and assurance

5.1 TfL Property will be arranging the delivery of this data from HM Land Registry.

Risks and issues

5.2 A key risk would be any prolonged delay to extracting this information as this would in turn affect the timescales for notification and the implementation of the Article 4 direction.

6. Equality comments

6.1 OPDC must have ‘due regard’ to the need to eliminate unlawful discrimination, harassment and victimisation as well as to the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.1

6.2 Under Section 149 of the Equality Act 2010, as a public authority, OPDC must have ‘due regard’ to the need to eliminate unlawful discrimination, harassment and victimisation as well as to the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.

6.3 OPDC Officers have given due regard to their duty in respect of section 149 of the Equality Act 2010. The notifications served to landowners using the HM Land Registry data will specify a representation period giving them an opportunity to submit comments. These representations must be taken into account before the Article 4 direction can be confirmed by OPDC.

7. Other considerations

7.1 There are no other considerations.

8. Conflicts of interest

8.1 No one involved in the preparation or clearance of this Form, or its substantive proposal, has any conflict of interest.

9. Financial comments

9.1 The total cost is expected to be up to £25,000 and will be met through the 2021/22 Planning Directorate’s Planning Policy budget.

10. Summary timeline

10.1 Landowner information is expected to be available w/c 28th June 2021.

Appendices

- None

Other supporting papers

The protected characteristics and groups are: age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation and marriage/ civil partnership status. Fulfilling this duty involves having due regard to: the need to remove or minimise any disadvantage suffered by those who share a protected characteristic or one that is connected to that characteristic; taking steps to meet the different needs of such people; and encouraging them to participate in public life or in any other activity where their participation is disproportionately low. Compliance with the Equality Act may involve treating people with a protected characteristic more favourably than those without the characteristic. The duty must be exercised with an open mind and at the time a Decision is taken in the exercise of the OPDC’s functions.

- None

PUBLIC ACCESS TO INFORMATION

Information in this Form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA). OPDC aims to publish the Form within three working day of approval.

If immediate publication risks compromising the implementation of the Decision (for example, impacting a procurement process), it can be deferred until a specific date (when it will be published). Deferral periods are kept to the shortest length strictly necessary.

Part 1 – Deferral

Publication of this Part 1 is to be deferred: **No**

The deferral is until: N/A

This is because: N/A

Part 2 – Confidential information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in or attached to any separate Part 2 Form, together with the rationale for withholding the information at this time.

There is a separate and confidential Part 2 Form: **No**

DECLARATIONS

Drafting officer: Lauren Laviniere has drafted this Form in accordance with OPDC procedures, including for handling conflicts of interests, and confirms that: ☑

Advice: The Finance team have commented on the proposal. ☑

CONFIRMATIONS

Section 106 funding: N/A

SMT review: This Decision was circulated to the **Senior Management Team** for review on Friday 11 June 2021

Chief Finance Officer

Financial and legal implications have been appropriately considered in the preparation of this Form.

Signature: **Date:** 11.06.21