



Andrew Boff AM

Chair of the Planning and Regeneration Committee



Nicky Gavron AM

Deputy Chair of the Planning and Regeneration Committee

Ministry of Housing, Communities and Local Government
(Sent by email)

15 March 2021

Re: National Planning Policy Framework and National Model Design Code: consultation proposals

We are writing to you as Chair and Deputy Chair on behalf of the London Assembly's cross-party Planning & Regeneration Committee with regard to the proposed changes to the National Planning Policy Framework. We set out our response below to question 3 of the consultation document which concerns Article 4 directions: *'Do you agree with the changes proposed in Chapter 4? Which option relating to change of use to residential do you prefer and why?'*.

The Committee and the wider London Assembly have had longstanding concerns about various expansions of permitted development rights (PDRs) for many reasons, but above all because they bypass democratic scrutiny. The Assembly has passed a range of motions on this, particularly in opposition to the continuation of the office-to-residential PDR.¹ The Committee expressed its view on PDRs in letters to the Secretary of State, dated 17 April 2020² and 24 August 2020.³ Most

¹ London Assembly motions: [24 October 2012](#); [5 November 2014](#); [8 September 2015](#); [4 November 2015](#)

² Planning Committee, 17 April 2020 <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/permitted-development-rights>

³ Planning & Regeneration Committee, 24 August 2020 <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/letter-local-planning-changes-following-covid>

recently, the Committee responded to the consultation on the proposed Class E to residential PDR,⁴ and the Assembly passed a motion asking the Prime Minister and the Secretary of State for Housing, Communities and Local Government to reconsider implementing the proposed Class E to residential PDR.⁵

The Committee's position on PDRs is set out in detail in the above correspondence. This stance was informed following in-depth stakeholder engagement from academics, policy experts, planning leads from local authorities and industry. In short, the Committee has been following the impact of the existing office-to-residential PDR in London for many years and has raised concerns before about the low-quality housing this has facilitated, sometimes also in unsuitable locations; the pressure on local employment space including rising rents and eviction of occupiers; the lack of affordable housing and community infrastructure contributions; and loss of funding for local authorities. These adverse consequences have been observed even while Article 4 directions have been more readily available than they would be if the consultation proposals are adopted. If the proposals under this consultation are adopted, we are concerned that the issues above would become further widespread.

In relation to the proposed Class E to residential PDR, we are concerned that this new PDR may result in similarly low-quality housing and result in adverse consequences for the economy of local high streets and town centres. We are not opposed to mixed-use and residential-led development, but this should be done through the planning system so that proper consideration can be given to access and infrastructure needs and the needs of local communities, with proper consultation.

Article 4 directions enable local authorities to designate areas or types of development to which PDR cannot be applied. We were extremely concerned to note that, depending on the construction of individual Article 4 directions, they may not continue to apply to the proposed Class E PDR.⁶ As we set out in our response to the Class E PDR consultation, should the proposal go ahead, the Committee firmly believes that current Article 4 directions should be continued and extended to cover the proposed Class E PDR, and that boroughs should be able to take out new directions.

Although Article 4 directions are expensive and time consuming for local authorities, they provide an essential and necessary recourse to protect areas where PDRs could be especially detrimental. As well as time, the committee heard at a meeting in 2019 that Article 4 directions have financial implications on local authorities, who require resources for gathering evidence to support Article 4 directions, as well as using officer time to complete these directions. The process for achieving Article 4 exemptions could be reviewed and improved to ensure it is a feasible way for local authorities to continue to protect shops, offices and other uses from inappropriate conversion, and that there is sufficient time for local authorities to enact new Article 4 exemptions before the proposed new rights, if implemented, become active.

The proposals that are set out in this consultation would strictly limit the operation of Article 4 directions, by adding a new test for situations in which Article 4 directions can exempt change of use to residential, and in all cases seek to limit the geographical area to which Article 4 directions can

⁴ Planning & Regeneration Committee, 28 January 2021

https://www.london.gov.uk/sites/default/files/class_e_pdr_response_final.pdf

⁵ London Assembly motion, 4 March 2021

⁶ [Planning Resource](#), 11 February 2021

apply. Despite the burden placed on local authorities in implementing the existing Article 4 directions, they have been essential for protecting areas in London from existing PDRs. We strongly recommend against any effort to make it more difficult for local authorities to maintain existing Article 4 directions or to secure new directions.

Further, restricting all Article 4 directions to the ‘smallest geographical area possible’ may result in local authorities taking a piecemeal approach, enacting numerous new Article 4 directions where one direction could have more efficiently covered the area. This proposal would further increase the time and resource costs for local authorities in developing Article 4 directions. **Therefore, the Committee does not agree with the changes proposed in Chapter 4.**

The consultation sets out two options for constructing a new paragraph 53 of the National Planning Policy Framework:

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

- *where they relate to change of use to residential, be limited to situations where this is essential to avoid wholly unacceptable adverse impacts*
- *[or as an alternative to the above – where they relate to change of use to residential, be limited to situations where this is necessary in order to protect an interest of national significance]*

The Committee is of the opinion that neither of the options is appropriate, as both would more strictly limit the situations in which a local authority could adopt a new Article 4 direction.

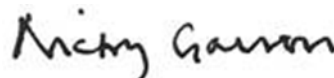
If one of the options must be applied, we recommend that the first option is selected. We expect it would be marginally more practicable for local authorities to meet the test in the first option. However, if the first option is selected, we recommend that the word ‘wholly’ is removed from the text.

Further, to reiterate, we strongly recommend that the existing exemption for the London Central Activities Zone should continue to apply to any new PDR right for Class E to residential conversions, and if there is no general exemption for conservation areas, there should be expedited arrangements for boroughs to be able to apply Article 4 directions to individual conservation areas before the Class E PDR scheme, if implemented, commences.

Yours,



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Regeneration Committee



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