



Department for  
Communities and  
Local Government

Ms Helen Gregory  
Principle Policy Advisor  
Planning and Public Protection  
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Please ask for: Mrs Maria Bowen  
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Your ref: LDF/A4D/230913

Our ref: NPCU/ART4/Q1445/72478

Date: 22 July 2014

**MODIFICATION OF ARTICLE 4 DIRECTION  
IN RELATION CLASS J OF THE TOWN AND COUNTRY PLANNING (GENERAL  
PERMITTED DEVELOPMENT) ORDER 1995**

Dear Ms Gregory

**Background**

1. As you are aware, with effect from 30<sup>th</sup> May 2013 Class J was inserted into Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order").
2. Class J provides that development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 to a use falling within Class C3 (dwellinghouses) of that Schedule.
3. On 25<sup>th</sup> July 2013 the Brighton and Hove City Council made a direction under Article 4(1) of the 1995 Order disapplying Class J for three specified areas ("the Article 4 direction"). The Article 4 direction comes into force on 25<sup>th</sup> July 2014. On 25<sup>th</sup> July 2013 you notified the Secretary of State of the Article 4 direction.

**Considerations and reasons**

4. In considering the Article 4 direction the Secretary of State has had regard to national policy on Article 4 directions. Paragraph 200 of the National Planning Policy Framework provides that—

*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 (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities).*

5. Para. 050 of the planning guidance provides that the Secretary of State does not have to approve Article 4 directions and will only intervene where there are clear reasons for doing so. The Secretary of State considers there are clear reasons justifying his intervention.
6. Permitted development rights which allow offices to convert to residential use have been an important stimulator to the macro UK economy. Figures published in May 2014 by Knight Frank demonstrate that prior approval applications have been secured for over 3.2 million square feet of office conversions. Despite this positive progress, developers face uncertainty whenever local planning authorities issue non-immediate Article 4 directions. This is particularly the case when prior approval has been granted by a local planning authority but a developer has not completed development before a non-immediate Article 4 direction comes into force.
7. The prior approval process set out in paragraph J.2 of Part 3 of Schedule 2 to the 1995 Order gives Brighton and Hove City Council an opportunity to consider the impacts of the change of use in particular cases. We consider, therefore, it is unreasonable for the Council to disapply the permitted development right by the Article 4 direction in relation to premises which have secured prior approval before the direction comes into force.

#### **Decision**

8. The Secretary of State has decided to modify the Article 4 direction to exclude any offices premises which have secured prior approval before 25<sup>th</sup> July 2014 and we attach a direction to that effect.

#### **Procedural issues**

9. For the purposes of Article 5(16) of the 1995 Order we hereby notify you of the modification of the Article 4 direction.
10. You must publicise the attached notice in accordance with the provisions of Article 5(1) to (3) of the 1995 Order (as required by Article 5(17)). Please let us know when and where the notices are to be published – we assume, given the numbers involved, it may be impracticable to serve the owners and occupiers of the buildings / land affected and accordingly only local advertisement and site display is required pursuant to Article 5(1)(a) and (b) and 5(2). We would suggest the same process is followed as was followed for the notice of making the direction.

Yours sincerely,



Ranuka Jagpal  
Head of NPCU

**DIRECTION UNDER THE TOWN AND COUNTRY  
PLANNING (GENERAL PERMITTED DEVELOPMENT)  
ORDER 1995**

**Modification of the Article 4 direction made by the Brighton and  
Hove City Council on 25<sup>th</sup> July 2013 in relation to development  
consisting of office to residential change of use**

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by article 5(13) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and of all other powers enabling him in that behalf, makes the following direction:

**Interpretation**

1. In this Direction—

“1995 Order” means the Town and Country Planning (General Permitted Development) Order 1995 (as amended); and

“Article 4 direction” means the Direction made by the Brighton and Hove City Council under Article 4 of the 1995 Order on 25<sup>th</sup> July 2013 in respect of development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 from a use falling within Class B1(a) (offices) of that Schedule, namely development which is permitted by Class J of Part 3 of Schedule 2 to the 1995 Order.

**Direction**

2. The Secretary of State hereby directs that the Article 4 direction is modified as follows.

3. In the Schedule to the Article 4 direction, after the words “within its curtilage” insert “(excluding any building or land in relation to which prior approval under paragraph J.2 of Part 3 of Schedule 2 to the 1995 Order has been granted, or under the terms of that Part is treated as granted, before 25<sup>th</sup> July 2014)”.

**Entry into force**

4. This direction comes into force in accordance with article 5(18) of the 1995 Order.

Signed for and on behalf of the Secretary of State for Communities and Local Government

on .....22 July 2014..... [date]

..........[signature]

.....Ranuka Jagpal.....[name]