**Justification for removal of permitted development rights Class MA change of use of Use Class E to dwellings and Class ZA redevelopment of light industrial, research and development and offices within Brent Local Plan Strategic Industrial Locations and Locally Significant Industrial Sites.**

# **Background**

* 1. The Council is proposing that the permitted development rights (PDR) conferred by Class MA of the GDPO to change use from Use Class E (commercial, business and services) to dwelling Use Class C3 and Class ZA of the GDPO for demolition of buildings in light industrial, research and development office (Use Class E(g)(i)(ii)(iii)) and construction of new dwellings in their place. This will apply in the areas that the Council has identified as Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites within the draft Local Plan as shown in Appendix 1. The implications of this are that such development will require planning permission. The Article 4 will be non-immediate and if confirmed following consultation feedback will come into effect from 1st August 2022.
  2. This is because the Council wants to ensure that designated industrial areas are developed in the most effective manner. This will support the role of these areas to be sustained for accommodating a wide range of industrial uses. The principal aim of the Development Plan is that the land in these locations is developed in the most effective manner to be the main areas to support industrial floorspace requirements and ideally increase industrial capacity as set out in the Local Plan to meet identified needs. Where the Council has identified in the draft Local Plan that co-location or residential development within existing industrial locations is appropriate, it wants the best planning solution to be attained, suitably balancing industrial and residential priorities.
  3. Considering the appropriateness of Class MA and ZA types of development through a planning application better delivers the range of development plan outcomes than the prior approval process. It also ensures that the optimum potential of number of high quality homes is built where they are considered appropriate, consistent with London Plan and Local Plan policies applicable to homes.
  4. To date prior approval changes of use, particularly in industrial areas in most cases have provided sub-optimal development and poorer quality homes than would have otherwise have been the case when set against a range of development plan policies. Policy compliant planning permissions address qualitative issues that make for high quality homes that aren’t taken account of through Class MA and ZA. Amongst other things, this includes minimising single aspect homes, ensuring all homes are accessible, including 10% wheelchair adaptable, that homes have appropriate private outdoor amenity space and have a high amenity outlook. In addition it allows policy compliant provision of a range of dwelling sizes as well as affordable homes consistent with needs. It also will allow implementation of policies that maximise on-site renewable energy in the move towards carbon-zero to address the climate emergency declared by the Council.
  5. Prior approval dwellings have also undermined the flexibility of these industrial locations for a wide range of industrial uses as anticipated through London Plan and Local Plan policies, as well as reducing the potential floorspace capacity or volume of space that can be accommodated in replacement industrial premises.
  6. The removal of class MA permitted development rights essentially seeks to extend previous Article 4 directions that covered the whole borough that required planning permission for change of use from office and light industrial to residential. The Council considers that the issues that justified them at that time are even more relevant to today given the subsequent loss of office and large increase in industrial floorspace requirements in the draft Local Plan informed by new evidence outlined below It also addresses the extensive addition of a wide range of uses now captured by the Class E, which outside of light industrial, research and development and offices although not significant in terms of representation in the designated industrial areas, would have similar potential adverse impacts on fettering the flexibility of adjoining premises for a wide range of industrial purposes. The removal of Class ZA is essentially for the same reasons as those for removing Class MA.

# **Need to maximise replacement employment space**

* 1. The need to re-provide the maximum viable amount of business use floorspace (particularly office, light industrial and research and development space) is required to sustain identified Brent and wider London employment floorspace needs. Meeting these needs is consistent with recently adopted [London Plan](https://www.london.gov.uk/sites/default/files/the_london_plan_2021.pdf) Policies E4 ‘Land for industry, logistics and services to support London’s economic function’ and Policy E7 ‘Policy E7 Industrial intensification, co-location and substitution’. It also will assisting in delivering [draft Brent Local Plan](https://www.brent.gov.uk/media/16418933/brent-local-plan_combined_post-examination-_inspectors-mods_compressed.pdf) policies BE1 ‘Economic Growth And Employment Opportunities For All’, BE2 ‘Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites (LSIS)’ as well as maximising the anticipated dwellings numbers in those industrial areas identified for Intensification and some co-location in that policy and other planning outcomes within draft Local Plan policies.
  2. It is consistent with the Secretary of State’s position in his direction DR4 on the London Plan industrial land policies, that within the National Planning Policy Framework “Paragraph 161 states that the authority must assess ‘the existing and future supply of land available for economic development and its sufficiency and suitability to meet the identified needs.’”. The Council’s draft Local Plan policies reflect and have been justified and supported by independent examination using up to date evidence base studies as required by the NPPF.
  3. Prior to introducing Article 4s to remove permitted developments for change of use of office to residential, Brent has had a significant reduction in its office floorspace. The amount of office floorspace in Brent (including OPDC area) was identified as approximately 277,000 sq.m in the [Brent 2015 Employment Land Demand Study](https://www.brent.gov.uk/media/16415887/eb_e_10-brent-employment-land-demand-study.pdf). About 25% (74,000 sq.m.) of office is located in designated industrial areas. Since then prior approvals either completed or started to the end of financial year 2020 have resulted in the loss of about 77,000 sq.m. (28%) of Brent’s office floorspace (excluding OPDC area). Initially this predominantly removed older, poorer quality stock some of which was vacant. In the period from 2017, due to the disparity between office and residential development values however, there was a shift in activity. This resulted in the significant loss of occupied floorspace. This has led to a displacement of firms and shortage of lower cost office floorspace. This has been detrimental to the economic base of the area, with locally based companies struggling to find replacement office floorspace and increasing contact with the Council in to identify and retain existing alternative premises.
  4. The 2015 Study identified an additional office floorspace need of 42,361 sq.m. for the period 2015-2029. This does not take into account the subsequent losses resulting from prior approvals. The London Plan evidence base “[London Office Policy Review 2017](https://www.london.gov.uk/sites/default/files/london_office_policy_review_2017_final_17_06_07.pdf)” undertaken by CAG and Ramidus Consulting identified a composite projection of 44,000 sq.m. of additional office floorspace need in the period 2016-2041. Again this does not account for the loss of office floorspace that has subsequently occurred through prior approval development. As such, both most recent studies of office floorspace needs indicate a substantial increase in floorspace to meet needs, albeit over slightly different periods.
  5. Notwithstanding this, the Council’s [Draft Brent Local Plan Viability Assessment 2019](https://www.brent.gov.uk/media/16415881/core_gen_01-viability-assessment.pdf) undertaken by BNP Paribas essentially concluded that the provision of new office floorspace would be unviable, unless supported by enabling development. It identified in an [addendum](https://www.brent.gov.uk/media/16416888/brent-local-plan-viability-addendum-office-development.pdf) produced in September 2020: “To generate positive residual land value for a new build office development, rents would need to increase to £34 per square foot and significantly higher than this to generate residual values which exceed existing use values on sites. The increased rents required for new office developments to exceed existing use values would be significantly higher than locally available office space…..transport links…are significantly inferior in comparison to those available at Canary Wharf and Stratford…to…achieve similar rent levels.”
  6. As such, the Council does not foresee it likely that the market will positively respond to meeting the objectively identified need within the borough by building sufficient new office floorspace. To protect from the loss of viable office within designated industrial areas, it will require planning permission for change of use or redevelopment for residential. This will seek to retain such space. Where residential might be appropriate, for instance in those LSIS locations identified for co-location, the Council will seek re-provision of the maximum viable employment floorspace on sites consistent with the range of uses set out in London Plan Policy E4(a).
  7. A similar scenario exists for industrial uses. The [London Industrial Land Demand Study (LILDS) 2017](https://www.london.gov.uk/sites/default/files/ilds_revised_final_report_october_2017.pdf) undertaken by CAG et al for the Greater London Authority (GLA) and supporting the London Plan 2021 identified the need for Brent to provide the equivalent of an additional 46.3 hectares of industrial land (or 300,950 sq.m. of industrial floorspace). The Council’s own evidence base [West London Employment Land Evidence 2019](https://www.brent.gov.uk/media/16415889/eb_e_11-west-london-employment-land-evidence.pdf) (WLELE) undertaken by GL Hearn concludes a significantly lower amount, but nevertheless an increase of a minimum of 0.6 hectares industrial (or 3,900 sq.m. of industrial floorspace). Policy BE1 of the Brent Local Plan as a compromise between the LILDS and WLELE, seeks to exceed 0.6 hectares. Nevertheless, against a sustained loss of industrial land and floorspace over the last three decades, no new additional sites being identified in the Brent Local Plan for industrial land and a reliance on the largely untested approach of intensification of industrial floorspace on sites with existing industrial premises, achieving any growth will be a challenge. This will be all the more so if unfettered loss of light industrial and research and development premises is allowed to occur within site allocations through permitted development, when policies in the Local Plan seek its maximum re-provision.
  8. The Brent Local Plan Viability Assessment 2019 and September 2020 Addendum which considered a wider variety of industrial typologies identified that totally industrial floorspace schemes were predominantly unlikely to be viable. Nevertheless, when residential floorspace was added, development providing industrial floorspace was invariably viable. As such it is a key element of the Local Plan’s strategy for provision of additional industrial floorspace in the borough that on designated industrial sites, that the maximum amount of industrial floorspace is re-provided (0.65 plot ratio – or the existing whichever is higher) on site. This will help the Council better meet needs for industrial floorspace than if unfettered change of use is allowed to happen.

# **Permitted development rights undermining most effective use of designated industrial areas**

* 1. The unplanned introduction of new dwellings into industrial areas will compromise the likely ability of adjacent industrial units to be used for the wide range of processes considered appropriate in London Plan Policy E4 criterion A. Prior approval conditions for Class MA listed in MA.2., such as (g) focus on the impact of the amenity of the occupants of the residential units, rather than on the NPPF’s ‘agent of change’ principles associated with the potential impact of the dwellings on the wider functioning and flexibility of the designated industrial areas within which they will sit. The same is the case for conditions within ZA.2. such as (i) which could be read to focus on the impacts on existing business, rather than the range of businesses which the areas are safeguarded for as set out in Policy E4 Criterion A. The requirement for planning permission removes the ambiguity associated with these conditions that might waste the time of applicants, by indicating that in the majority of cases, due to the application of policy in BE2, the Council is likely to have an ‘in principle’ issue with residential development in the majority of designated industrial locations.
  2. Notwithstanding impacts on potential uses of adjacent industrial premises, it is also likely to compromise the ability of adjacent sites to be maximised in terms of their intensity of use for additional floorspace, for example appropriate separation distances for privacy and amenity, e.g. natural light/sunlight penetration between the window of residential dwellings and commercial premises are larger than between industrial uses. This will limit the extent of coverage or heights of redeveloped or extended buildings in these industrial area and the additional floorspace needed to meet borough requirements.

# **Brent Delivery Against Meeting Housing Need**

* 1. The Council does not seek to underplay the importance of finding opportunities to provide new homes. Its draft local plan reflects the need to plan for a significant number of additional homes consistent with NPPF requirements. Meeting the need for additional homes is one of the Council’s main priorities set out in the Brent Corporate Plan ‘[Building a Better Brent Borough Plan 2021-22](https://www.brent.gov.uk/media/16417953/borough-plan-2021-22.pdf)’. The Local Plan however balances this against a range of other local priorities to create a place that meets its residents’, businesses’ and visitors’ needs.
  2. It should be noted that Brent has an excellent track record of housing delivery. The latest [MHCLG Housing Delivery Test 2020](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/953303/HDT_2020.ods) results indicated completions of 120% against development plan requirement targets. The draft Local Plan identifies in Appendix 4 sufficient projected delivery to meet longer term needs. More detail is set out in its associated [housing trajectory](https://www.brent.gov.uk/media/16418921/summary-version-of-trajectory-final_jan_21_pha_23.pdf). This shows a significant buffer of 24% against Brent’s London Plan minimum housing requirement for the period of 2019/20-2028/29 of 23,500 dwellings. On this basis the Council feels that its Local Plan policy approach which takes account of local circumstances and locally specific evidence base documents, balancing up a range of sustainable development factors should take precedence over a national approach of permitted development rights (PDR). These PDR are not reflective of an understanding of individual places. They potentially unfairly penalise localities that have taken difficult decisions and positively addressed meeting housing need, treating them the same as those that haven’t.

# **Conclusion**

* 1. All the reasons outlined above for the Council provide a convincing case for ensuring that permitted development rights for allocations are removed, to avoid wholly unacceptable adverse impacts whilst providing for better outcomes consistent with the proper planning of Brent.

