

**To: The Executive Member Planning and Transport
2 August 2022**

Cessation of Article 4 Direction: Office to Residential Director of Place, Planning and Regeneration

1.0 Purpose of Report

1.1 The purpose of this report is to:

- advise the Executive Member of:
 - changes to the legislation and national policy covering Article 4 Directions; and,
 - evidence gathered on the level of impact of not renewing an existing Article 4 Direction;
- seek the Executive Member's agreement:
 - not to pursue the continuation of the existing Article 4 Direction removing permitted developments right to change offices to residential use within three defined business areas in the Borough without planning permission; and,
 - to carry out further work to assess whether an Article 4 Direction would be justified in specific areas of the Borough to ensure that smaller units remain available to meet local business needs.

2.0 Recommendation

2.1 That the Executive Member:

- i. notes the changes to the GPDO in 2020 and 2021 (as set out in paragraphs 5.4, 5.5 and 5.6).
- ii. notes the evidence of the limited level of impact and risk posed by permitted office to residential conversions and the lack of necessary evidence to support an Article 4 Direction (paragraphs 5.9 and 5.10)
- iii. Agrees that a renewed Article 4 Direction removing permitted development rights for office to residential conversions should not be pursued.
- iv. Agrees that further work is carried out to assess whether an Article 4 Direction would be justified in specific areas of the Borough to ensure that smaller units remain available to meet local business needs.

3 Reasons for Recommendation

3.1 The GPDO has been amended to exclude all office space greater than 1500 square metres of floorspace from having permitted development rights for conversion to residential accommodation. This reduces the risk of loss of important employment space.

3.2 Only 8% of Prior Approvals in the Borough for office to residential conversions in the period 2014 to 2021 were for units less than 1500 square metres.

3.3 In that same period, no prior approval sites for office to residential were in the Western or Eastern Business Areas. One site was in Bracknell Town Centre. There have been no further prior approval applications for sites below 1500 sqm in 2021/22.

- 3.4 Consultation with two leading commercial property specialists dealing with office sales in the Borough conclude that an Article 4 Direction limiting office to residential conversions is no longer required. The units that could be converted have been. Poor quality office stock that was not in demand have been removed.
- 3.5 The NPPF requires (at para. 53) Article 4 Directions “be based on robust evidence and apply to the smallest geographical area possible.” The July 2021 Written Ministerial Statement states that the use of Article 4 directions should be “in very specific circumstances.”

4.0 Alternative Options Considered

- 4.1 The option of renewing the Article 4 Direction has been considered. However, considering the Government’s need for robust evidence to support this (and the lack thereof) this is not deemed practical.

5.0 Supporting Information

Article 4 Directions

- 5.1 The local planning authority may remove some permitted development rights by issuing an 'Article 4' direction. This means that a planning application will have to be submitted for work which normally does not need one.
- 5.2 Article 4 directions are made when the character of an area of acknowledged importance would be threatened.
- 5.3 The GPDO allows for office to residential conversions under Schedule 2, Part 3, Class O. Offices being lost to residential can be detrimental to employment areas, driving up office rates and discouraging new inward investment. Article 4 Directions to take away these permitted development rights are necessary to ensure proper planning to support economic development.

Changes to Use Class Directive and Permitted Development Rights

- 5.4 On 1st September 2020, the Use Classes order was revised to consolidate several previous use classes to one “E” class (Commercial, Business and Service uses). E class now encompasses:
- Cafes and restaurants
 - Clinics and Health Centres
 - Creches and Day Nurseries
 - Day Centres
 - Financial and Professional Services
 - Gyms and Indoor Recreation
 - Light industry
 - Offices
 - Research and Development
 - Shops

5.5 On 21st April 2021, the new 'class MA' of Part 3 of Schedule 2 of the GPDO removed the need for planning permission for changes of use of units within use class "E" to use class "C3" (dwellinghouses), providing certain restrictions are met:

- The cumulative office floorspace must be below 1500 square metres.
- Unit must have been vacant for three months.
- The unit must have been recognised as being in E class use for a minimum of two years.
- Prior approval subject to:
 - Safe site access
 - Impact on flooding
 - Contamination
 - Natural Light
 - Noise impacts
 - Impact on future residents of waste management / storage / distribution on site.

5.6 Written Ministerial Statement on the use of Article 4 Directions was issued by the Secretary of State on 1st July 2021. This stated:

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

- *where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre).....*
- *in all cases, be based on robust evidence, and apply to the smallest geographical area possible."*

The ministerial statement says that it is intended to include this guidance in an updated National Planning Policy Framework later this year.

Existing Article 4 Directions (Office to Residential)

5.7 Bracknell Forest Council has an Article 4 Direction in place restricting the previous office use class (B1a) being converted to dwellinghouses (C3) in certain dedicated employment areas (Southern and Western Business Area, appendix 1 and Eastern Business Area, appendix 2). This direction came into force on 27 February 2018, having been accepted at the Executive Meeting on 18th July 2017.

5.8 Due to the changes in the Use Class Order this Article 4 will cease to be valid from 1st August 2022, allowing developments of use class E to use class C3 in the current protected employment areas. The newly introduced restriction on size of unit will reduce the risk to units below 1500 square metres.

5.9 BFC Prior Approvals for office to residential 2014-2021

| Size | Number of Prior Approvals | Total floorspace lost | Percentage of total |
|-------------------|---------------------------|-----------------------|---------------------|
| Less than 1500sqm | 13 | -5,182 | 8% |

| | | | |
|------------------|----|---------|------|
| 1500sqm or above | 15 | -62,854 | 92% |
| Total | 28 | -68,036 | 100% |

A further two schemes with a total GIA of 25,805.8 sqm have obtained prior approval in 2021/22. Both greater than 1500 sqm.

5.10 Location of Prior Approvals <1500sqm 2014 to April 2022

| Location | Number of Prior Approvals | Total floorspace lost |
|--------------------------|---------------------------|-----------------------|
| Bracknell Town Centre | 1 | -1,290 |
| Rest of Bracknell Town | 3 | -578 |
| Wellington Business Park | 4 | -1,825 |
| Binfield | 1 | -400 |
| Crowthorne | 4 | -1,089 |

Not one of these sites is in the Western or Eastern Business Areas.

Further Action

- 5.11 There is a concern about the potential loss of smaller units (below the 1,500 square metre threshold) and the impact this could have on the ability of smaller and start-up businesses to find suitable accommodation. It is therefore proposed to carry out further research to assess whether it would be possible to identify any locations where there is clustering of such premises and a case could be evidenced for the introduction of an Article 4 Direction.

6. Consultation and Other Considerations

Legal Advice

- 6.1 No legal implications arise from the recommendation contained in this report. The recommendation is in accordance with National Policy and Guidance.

Financial Advice

- 6.2 Given that the expert advice is that there are no longer units that could be converted there are no direct financial implications arising from the officer recommendations.

Equalities Impact Assessment

- 6.3 Given the limited impacts expected from the recommendations it is anticipated that this decision will have no significant impact on equalities.

Strategic Risk Management Issues

- 6.4 The report's recommendations are not considered to have any material impact on the risks identified in the Council's Strategic Risk Register.

Climate Change Implications

- 6.5 Given the limited impacts expected from the recommendations it is anticipated that this decision will have no impact on emissions of greenhouse gases or the environment.

Contact for further information

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Background Papers

Written Ministerial Statement by Robert Jenrick 1st July 2021

Revitalising high streets and town centres

<https://questions-statements.parliament.uk/written-statements/detail/2021-07-01/hcws145>