

WELWYN HATFIELD BOROUGH COUNCIL
CABINET – 5 AUGUST 2020
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING
AND GOVERNANCE)

ARTICLE 4 DIRECTION – EMPLOYMENT SITES

1 Executive Summary

- 1.1 In recent years, a significant amount of office space within the borough has been lost through nationally permitted development rights which has enabled this space to be converted to residential uses without the need for planning permission. This has caused a significant reduction in the supply of available space for local business.
- 1.2 Article 4 Directions enable local planning authorities to remove permitted development rights, which means that if any such development is proposed, planning permission must be applied for in the normal way. Cabinet Planning and Parking Panel considered a report on this on 3rd July 2019, and subsequently recommended to Cabinet that an Article 4 Direction which would remove permitted development rights which allow offices to be converted to residential uses on four key employment sites in the borough, should be consulted upon.
- 1.3 Cabinet approved this, so an Article 4 Direction was made on 10 October 2019 with a proposed start date on 12 October 2020. A public consultation was undertaken, and following analysis of the results of this, it is proposed that the Article 4 should be confirmed, so that it will take effect on 12 October 2020.
- 1.4 Appendix 1 to this report contains plans of the areas which are to be covered by the Article 4 Direction. Appendix 2 reports on the results of the consultation.

2 Recommendation(s)

- 2.1 That Cabinet notes the results of the public consultation which took place for six weeks in October and November 2019.
- 2.2 That Cabinet approves the confirmation of the Article 4 Direction covering the most important office sites in the borough, to start on 12 October 2020.

3 Explanation

- 3.1 In 2013 the Government introduced new permitted development (PD) rights to enable offices (B1a) to be converted to residential (C3) uses without the need for planning permission. Initially this was for a period of three years but was subsequently made permanent. Since then, permitted development rights have been extended to permit both light industrial (B1c) and distribution (B8) uses to be converted to residential.

- 3.2 Extensive use has been made of these rights by owners of offices within the borough with 29,853sqm of office space having been lost since their introduction with 435 dwellings completed (to 31 March 2020), with further commitments of losses of 10,020sqm of office space and 226 dwellings, and other developments which have been delivered through securing planning permission, with the principle of development having been first established through Permitted Development. This position has been replicated across the county as a whole and in early 2019 the Hertfordshire Local Enterprise Partnership (LEP) published “Loss of Employment Space in Hertfordshire” which showed that the county as a whole had experienced a net loss of more than 400,000sqm of office space over the ten years from 2008-2018. This was seen to have a number of negative impacts including constraining growth, companies being forced to locate outside of the county, and limiting economic performance.
- 3.3 It should also be noted that residential accommodation delivered in this way does not need to provide affordable housing or Section 106 contributions for education, healthcare, open space etc. which might be expected through the normal planning process.
- 3.4 In order to ensure that the most important office space in the borough was protected and that any proposals to convert to residential could be considered on its merits through the planning application process, following approval from Cabinet on 9 July, the Council issued an Article 4 Direction in October 2019. This covered four sites: Welwyn Garden City Employment Area, Hatfield Business Park (including Bishop Square), Great North Road and Beaconsfield Road in Hatfield, and Sopers’ Road in Cuffley. Maps showing the sites in question is attached at Appendix 1. In order to avoid any possible claims for compensation from landowners over the value of their land, this had a commencement date of 12 October 2020 but was subject to consultation, and requires that the order be confirmed by Cabinet, in order for it to take effect.
- 3.5 The consultation ran from 10 October to 21 November 2019. A consultation letter was sent to occupiers of all commercial properties within the identified area, landowners who had promoted sites in these areas through the Local Plan process, to statutory consultees, commercial property agents, business organisations and other potentially interested parties and stakeholders. In addition, site notices were posted throughout the areas proposed to be covered, public notices were printed in two local newspapers and details were included in the Council’s business newsletter.
- 3.6 The consultation attracted 21 responses from a variety of respondents including members of the public, two departments within Hertfordshire County Council; Minerals and Waste and Public Health, a Town Council and two Parish Councils, landowners and a business organisation. A report on the consultation is attached at Appendix 2, but in summary:
- Of those expressing an opinion, 15 were supportive, and 3 were in opposition to the proposal. This is a majority in support.
 - All of the public bodies who responded were supportive. This included two parts of the County Council; Minerals and Waste and Public Health, Hatfield Town Council and the Parish Councils. In addition, the Federation of Small Business were supportive. As a result, all organisational stakeholders who responded and expressed a view were supportive.

- Some responses in support of the proposal suggested that the coverage should be extended so that additional areas were protected in this way, including Old Hatfield and the two town centres. Another which was supportive suggested a minor amendment to the boundary of the Welwyn Garden City employment area.
 - Some of those who were supportive cited the importance of retaining employment space and expressed concern about the shortage of business premises.
 - Two responses in support expressed concerns over the potential quality of residential property created as a result of Permitted Development conversions. This included Public Health at Hertfordshire County Council.
 - Two of those who were in opposition cited that converting offices to residential reduced pressure on the green belt in delivering new homes. However, it should be noted that an Article 4 Direction does not preclude offices being converted to residential, merely that any such proposals need to go through the normal planning process and can be determined on their individual merits.
 - Another response opposing the proposal felt that the character of these areas had been changed by the introduction of residential development, so further residential conversions in an area would be suitable and would provide sustainable access to employment for residents.
 - This same response felt that there was insufficient justification for the proposal and that including the whole of the Welwyn Garden City employment area was disproportionate and not based on sound evidence. However, both points do not fully consider the impact on the local economy from the considerable losses of floorspace seen in recent years.
- 3.7 A full consultation report including a summary of the responses, the points raised and the Council response to these points is attached at Appendix 2.
- 3.8 No substantive issues have been raised which would warrant the Council reconsidering its decision to designate an Article 4 Direction. As a result, it is not proposed to make any changes to the proposal, so it is proposed that the Article 4 Direction for the four areas should be confirmed to start on 12 October 2020.
- 3.9 The desire from some respondents to include other areas is noted so it is proposed that losses and proposed losses from other areas continue to be monitored and brought to members when this analysis has been undertaken to consider the merits of other designations.
- 3.10 Whilst the making of the Article 4 Direction and the consultation were carried out prior to the start of the Covid-19 pandemic, it is still considered important that the Direction be confirmed, as this will safeguard the most important office sites in the borough and assist the borough's economic recovery.

Implications

4 Legal Implication(s)

- 4.1 The Council has a legal duty to seek, through the planning system, to deliver sustainable development. Safeguarding the most important employment sites in the borough is a means of seeking this.
- 4.2 Applicants have the right to claim for compensation where a planning application is refused or granted subject to conditions. Compensation may also be sought for abortive expenditure or other loss or damage which can be directly attributed to the extinguishment of permitted development rights. However no compensation is payable if the procedures of the *Town & Country Planning Act (Compensation) Regulations 2013* are adopted; namely that notice of an Article 4 Direction is given not less than twelve months before coming into force. Deferring the start of the Article 4 Direction would avoid this and this approach was agreed by Cabinet, so as a result the provisions of the Article 4 will come into force on 12 October 2020.
- 4.3 The making of the order was a legal process which involved the Article 4 Direction to be officially signed and sealed. Confirmation is a similar process and will again need the document to be officially signed and sealed.

5 Financial Implication(s)

- 5.1 If an Article 4 Direction is in place, any planning application for development which would be Permitted Development does not attract an application fee. It is anticipated that there may be a small revenue cost associated with applications of this type, but this will be met from core budgets.

6 Risk Management Implications

- 6.1 The risks related to this proposal are:
- 6.2 Financial Risk. It is possible for landowners to claim compensation against a planning authority if the value of their asset has been affected by the introduction of an Article 4 Direction. However, deferring the start of the Article 4 taking effect by a year – as was the case in this instance - removes this risk as it ensures that all landowners have sufficient notice of the Council's intentions.

7 Security and Terrorism Implication(s)

- 7.1 There are no known security and terrorism implications in relation to the proposals set out in this report.

8 Procurement Implication(s)

- 8.1 There are no known procurement implications in relation to the proposals set out in this report.

9 Climate Change Implication(s)

- 9.1 Seeking to safeguard the borough's most employment sites will help deliver sustainable development and provide opportunities for residents to work close to home rather than having to travel outside the borough for work. This reduction in the need to travel will help reduce carbon emissions.

10 Human Resources Implication(s)

10.1 It is not expected that there will be any human resource implications in relation to the proposals set out in this report.

11 Health and Wellbeing Implication(s)

11.1 Ensuring a supply of employment close to home can help health and wellbeing outcomes by more easily enabling residents to walk or cycle to work, and by reducing the negative impact of commuting.

12 Communication and Engagement Implication(s)

12.1 A public and business consultation on these proposals was undertaken in October – November 2019 and the results of the consultation have informed this report. A summary of responses is attached at Appendix 2.

13 Link to Corporate Priorities

13.1 The subject of this report is linked to the Council's Corporate Priority is linked to the Council's Business Plan 2018-2021 and particularly Priority 4 to support sustainable economic growth

14 Equality and Diversity

14.1 An EqIA was not completed because this report does not propose changes to existing service-related policies or the development of new service-related policies.

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Background papers:

Loss of Employment Space in Hertfordshire (Hertfordshire Local Enterprise Partnership / Lambert Smith Hampton) February 2019

Appendices:

Appendix 1 Maps of employment areas covered

Appendix 2 Consultation report