

WELWYN HATFIELD BOROUGH COUNCIL
CABINET PLANNING AND PARKING PANEL – 11 NOVEMBER 2021
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING
AND GOVERNANCE)

ARTICLE 4 DIRECTION – ADDITIONAL STOREYS IN HATFIELD

1 Executive Summary

- 1.1 In recent years, a number of new Permitted Development (PD) rights have been introduced, which allow certain development to be undertaken without planning permission. Many of these are intended to be for development which would be uncontroversial but some others may present issues in certain areas
- 1.2 Article 4 Directions enable local planning authorities to remove specific permitted development rights on identified sites, which means that if any such development is proposed, planning permission must be applied for in the normal way. A number of Article 4 Directions have been enacted by the Council in the last two years. Following consultation and member decision, the Council confirmed an Article 4 Direction to remove the permitted development right enabling offices to be converted to residential uses on the four most significant employment sites in the borough, coming into effect on 12 October 2020. Subsequently, a second Article 4 was approved by members in June 2021 to remove the right to demolish existing employment buildings and replace them with residential on the same employment sites, and this will come into effect in February 2022.
- 1.3 In 2020, the Government introduced a new permitted development right which would allow owners of existing blocks of flats to extend by up to two additional floors for additional flats. This could present an issue in Hatfield due to the heritage assets in the town, in particular Hatfield House and Park, and the possible impact on their character and setting.
- 1.4 Following member approval, an Article 4 Direction which would remove this permitted development right in Hatfield was made on 07 July 2021 with a proposed start date on 07 July 2022. 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 07 July 2022.
- 1.5 Appendix 1 to this report contains a plan of Hatfield, confirming the area to be covered by the Article 4 Direction. Appendix 2 reports on the results of the consultation.

2 Recommendation(s)

- 2.1 That Cabinet Planning and Parking Panel notes the results of the public consultation which took place for six weeks in July and August 2021.
- 2.2 That Cabinet Planning and Parking Panel recommends to Cabinet the confirmation of the Article 4 Direction covering the whole of Hatfield, to start on 07 July 2022.

- 2.3 If unanimously agreed by the Panel, for the decision to be taken by the executive member using their delegated powers under paragraph 18.1(b) of the Cabinet procedure rules.

3 Explanation

- 3.1 In 2020 the Government introduced a new permitted development (PD) right to enable existing blocks of flats to be extended upwards, by up to two additional storeys, in order to provide additional flats.
- 3.2 Building height is a sensitive issue in Hatfield, because of the potential impact on the setting of heritage assets, in particular the Grade I listed Hatfield House and Park. Following concerns raised on this point by Historic England in response to the original planning application on the 1-9 Town Centre site in 2017, two pieces of work were undertaken to understand the issue and potential impacts, and to provide a baseline for potential developers who may encounter this issue. This work informed the revised application for the 1 Town Centre site (application reference 6/2019/2430/MAJ) which was approved by Development Management Committee in April 2020.
- 3.3 As PD rights do not allow for any assessment of impacts from proposed developments, nor whether or not any mitigation measures may be required, this particular Permitted Development right may present an issue in Hatfield. Following consideration at CPPP, Cabinet agreed that an Article 4 Direction removing this PD right for Hatfield as a whole should be made and consulted upon.
- 3.4 Consultation on this new Article 4 ran from 07 July until 23 August 2021. Using details from the Land Registry, owners of blocks of flats of four storeys and above in the town were sent consultation letters. In addition, a letter was sent to estate agents and residential letting agents in the town, with a request that the information be sent onto property owners who they are in contact with. In line with the Council's Statement of Community Involvement a number of statutory consultees and local stakeholders including planning agents were also sent consultation letters. In addition, site notices were posted around buildings of four storeys and above, and a public notice was printed in the Welwyn Hatfield Times.
- 3.5 The consultation attracted 13 responses, from a combination of residents and organisations. A report on the consultation is attached at Appendix 2, but in summary:
- Of those expressing an opinion, all except one were supportive. However, the one where the respondent said that they did not agree with the proposal was followed by comments which suggested support for the proposal. As a result the view of this response is unclear.
 - The bodies who responded and expressed an opinion; two Parish Councils, Historic England, the Gardens Trust and Gascoyne Cecil Estates were supportive of the proposal.
 - A number of other comments were made. A number of respondents felt that the proposal should cover Welwyn Garden City or the rest of the borough as well and another requested another Article 4 to cover minor developments in conservation areas.

3.6 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. No substantive issues were raised which would warrant the Council reconsidering its decision to designate an Article 4 Direction.

3.7 In July 2021, an updated version of the National Planning Policy Framework (NPPF) was issued by Government. In this document, a new paragraph 53 set out clear guidance for local authorities on the use of Article 4 Directions:

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 other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)*
- *in all cases, be based on robust evidence, and apply to the smallest geographical area possible.*

3.8 As can be seen, Government has set out clear tests for the use of Article 4 Directions, in particular those that relate to residential uses, such as this proposal. Officers believe that the potential impact on important heritage assets and the evidence base which is referred to earlier, mean that what is proposed is appropriate and evidence based so that these tests have been met. In addition, the Secretary of State was consulted and no response has been received. However, members should also satisfy themselves in respect of the tests.

3.9 If Members accept the officer recommendation, no changes would be made to the Article 4 and the Direction for Hatfield would be confirmed to start on 07 July 2022.

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 Under the provisions of the General Permitted Development Order 2015 (as amended) the Council can remove permitted developments rights granted by that Order. Where permitted development rights have been removed 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 adopted with the Directions which came into effect in October 2020 and which will come into effect in February 2022. Using this approach again was agreed by Cabinet, as a result if confirmed the provisions of this Article 4 will come into force on 07 July 2022.

- 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.

- 5.2 *There are theoretical future financial implications associated with restricting permitted development rights, positively in the form of protecting business rates income and adversely in the form of reducing opportunities for council tax income growth and new homes bonus. There would also be incremental service costs which would be associated with increases in residential property. The net of this position is not possible to quantify as there could be many different influencing factors and scenarios, including potential impacts on local employment and welfare. The restrictions do not cause a change to the current financial position, and as the restrictions protect employment space, the local economy is supported, so should be viewed positively in protecting the local economy.*

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 is 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 The Article 4 Direction will result in planning applications which need to be determined by development management staff.

11 Health and Wellbeing Implication(s)

11.1 Permitted Development takes place without the need for securing planning permission in the usual way. The Local Plan recognises the importance of good design and placemaking, so the planning application process allows these factors to be taken into account and any resulting development may be more beneficial to wellbeing.

12 Communication and Engagement Implication(s)

12.1 A public and business consultation on these proposals was undertaken in February – March 2021 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:

Hatfield Heritage Assessment (Place Services): <https://www.hatfield2030.co.uk/wp-content/uploads/2019/12/Hatfield-Heritage-Assessment-Place-Services-FINAL-2019.pdf>

Appendices:

Appendix 1 Maps of Hatfield showing "red line" where the Article 4 would apply.

Appendix 2 Consultation report