

Wards affected:

Abbey North, Abbey South, Barby & Kilsby, Brixworth, Drayton, Hill, Woodford cum Membris

Strategy Group – 14 November 2019

Article 4 Directions – Removal of Permitted Development Rights for change of use from Offices to Dwellings

Strategic Planning Issues

1. Purpose of Report

To seek approval to consult on proposals to introduce Article 4 directions to remove permitted development rights for change of use from Offices to Dwellings.

2. Advice

That it be RESOLVED:	That an Article 4 direction be made and that consultation then be undertaken on the proposed Article 4 direction to remove permitted development rights for changes of use from Class B1(a) offices to Class C3 (Dwelling houses) as set out in the draft direction appended.
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3. Introduction

The change of use of buildings in B1(a) (office) use class to C3 (residential) no longer requires planning permission subject to various conditions. This is because the national permitted development rights were amended. The Government's intention of removing the need for planning permission for a change of use from offices to residential was to help boost the delivery of residential accommodation by making it easier to convert "redundant, empty and underused office space into needed new homes".

In order to help to protect the wellbeing of the area and the economy it is proposed that this permitted development right is removed through the introduction of an Article 4 direction.

4. Information

4.1 Background

The Town and Country Planning (Use Classes) Order 1987 classifies the use of land and buildings for planning purposes. The Town and Country Planning (General Permitted Development) Order 1995 grants permitted development rights to allow certain changes of use between classes without the need for planning permission.

In February 2013 the government announced its intention to revise the permitted development rights and in May 2013, the General Permitted Development Order was amended to introduce a temporary permitted development right allowing the change of use of a building from offices (B1(a)) to residential (C3 use) without the need to submit a planning application. Prior approval of the local planning authority is required in relation to transport and highways, contamination and flooding. Where a development requires any additional work to an existing building, or the building is a listed building, applications for planning permission and, if relevant, listed building consent for that work are required. The permitted development right was initially temporary (set to expire on 30th May 2016) but was made permanent in April 2016.

Local planning authorities have powers to make an Article 4 direction to remove permitted development rights. Paragraph 53 of the NPPF (February 2019) sets out national policy on the use of article 4 directions. It states that local planning authorities should be limited to situations where this is necessary to protect local amenity or the well-being of an area.

4.2 Case for introducing the Article 4 direction

The development plan strategy for the economy is set out in the West Northamptonshire Joint Core Strategy (WNJCS) and the emerging Part 2 Settlements and Countryside Local Plan. The WNJCS through policy E1 seeks to help support a vibrant, successful and developing local economy through retaining existing and allocated employment sites within use classes B1, B2 and B8.

The Settlements & Countryside plan takes this further. It identifies a series of Strategic Employment Areas (SEA):

- Daventry Drayton Fields (incorporating Apex Park and Heartlands)
- Daventry Royal Oak Industrial Estate
- Daventry Marches
- Brixworth
- Crick
- Long Buckby
- Weedon
- Woodford

Within these SEA's proposals for B1 (b,c), B2 and B8 (broadly, industrial and storage and distribution) uses will be supported.

This position is further justified through evidence undertaken for the Part 2 Local Plan, specifically the 'Employment Land in Daventry District, The Demand for Small and Medium Units' (October 2017) undertaken by Peter Brett Associates and Aspinall Verdi. The study confirms that there is extremely limited vacant industrial space demonstrating that the employment areas are performing well and that there

is substantial demand for small-to-medium industrial space. Within these strategic employment areas there are a number of B1(a) offices which play an important and complimentary function to the employment areas.

Furthermore due to the coherent way that Daventry grew from the 1970's there is a clear identity to the employment areas and in general terms a relatively clear distinction between the employment and residential areas. Therefore the conversion of offices within these areas has a risk of not only undermining the employment areas through the loss of employment space but also potential wider knock-on effects of eroding their character and disrupting the function of nearby uses.

Outside of some of the Strategic Employment Areas there is also office provision within Daventry town centre, Policy EC1 of the Part 2 Local Plan seeks to direct main town centre uses to this location with the aim of creating a vibrant town centre. The loss of office space in the town centre to residential presents similar risks to that facing employment areas. The part 2 local plan policy supports residential use above ground floor level but this is specifically proposed to provide some flexibility and help the vitality and viability of the town centre. In contrast the permitted development right has the potential to introduce a greater level of residential, including at ground floor level which could present a significant risk to the vitality and viability of the town centre. Furthermore it is important to protect the level of office space as employees can provide an important contribution to the trade of existing shops.

It is however important to consider the 'controls' provided in the GDPO. Under the provisions of class O, the only 'controls' the local planning authority has relate to:

- (a) transport and highways impacts of the development,
- (b) contamination risks on the site,
- (c) flooding risks on the site, and
- (d) impacts of noise from commercial premises on the intended occupiers of the development.

Whilst (d) seeks to provide some safeguard in relation to amenity this will obviously only apply at a given point in time and even if it is considered to be acceptable at that point in time if the nearby commercial occupier were to change or change its operation (outside of the need for planning consent) there would be a significant risk that the residential use could then impact on the operation of the commercial premises. Item (d) also does not consider the impact of smells or other business activities which might harm residential amenity.

The safeguards identified above do not allow the principle of protecting employment space to be taken into account despite the clear position take in the WNJCS and the emerging part 2 Local Plan. There is sufficient residential land identified to meet the housing requirements in the WNJCS, particularly with the allocations identified in the Settlements & Countryside Local Plan. As at 1st April 2019 Daventry District has a 6.8 year housing supply.

There is a further potential harm in that the ability to convert offices premises to residential might also undermine the delivery of the sites allocated for residential in the part 2 Local Plan.

Additionally under class PA of the GDPO light industrial premises can also change to residential without the benefit of planning permission. For the reasons identified above an Article 4 direction removing this permitted development right would have been sought. However, this permitted development right will expire after the 1st October 2020 and given that the suggested direction is not required to be undertaken immediately and is unlikely to come into force until late 2020 or early 2021 (due to the 12 month notice period) it is not considered worthwhile for action to be taken in this regard.

Consequently it is recommended that an Article 4 direction to remove permitted development rights to convert from offices to residential should be introduced that would cover the following Strategic Employment Areas and also Daventry Town Centre.

- Daventry Drayton Fields (incorporating Apex Park and Heartlands)
- Daventry Royal Oak Industrial Estate
- Daventry Marches
- Brixworth
- Crick
- Woodford

It is not proposed to introduce the Article 4 direction to DIRFT and the Long Buckby and Weedon SEA's as evidence indicates that all the B1(a) offices that exist are ancillary to a B2 or B8 use and would therefore not qualify for conversion under this permitted development right.

The introduction of an article 4 direction would not automatically mean that offices could not be converted to residential. This would merely require planning permission, allowing the policies of the development plan to be taken into account in making a decision alongside other material considerations.

The Council can introduce either an immediate or non-immediate direction. An immediate direction which comes into effect immediately opens up the possibility of the Council having to pay compensation if an application is refused or approved with conditions. Whilst the case for an Article 4 direction is justified it is not considered to be justified for bringing into immediate effect. Therefore it is recommended that a non-immediate direction be introduced.

4.3 Consultation arrangements

In order to progress a non-immediate Article 4 Direction, the Council has to give notice of its intentions, and consult for a period of not less than 21 days. The Direction can be brought into effect up to two years from this notice, and to avoid the need to provide compensation, which could have financial implications for the Council, this can only be brought into effect 12 months after the date specified in the direction when the consultation period begins. It is suggested that the consultation be for a period of six weeks to align with the statutory period for development plan documents. This will enable affected parties to respond. To avoid the Christmas holiday period and allow sufficient time to prepare the necessary material the consultation is proposed to be undertaken from early January.

The regulations require that all owners and occupiers are served notice unless it is impracticable because it is difficult to identify or locate that person, or by reason of the numbers of owners and occupiers. There would be a significant number of owners to identify or locate across the identified SEAs and the town centre and it is not considered practicable to notify them all. Therefore it is suggested that a notice be sent to all of the properties. In addition there is a requirement for a local advertisement and site notices. A consultation notice would also be sent to all parish councils within which the town centre and the identified SEAs are located.

4.4 Confirmation of Article 4 directions

Once the consultation period has expired, the Council must take into account any representations made during the specified consultation period, and then either confirm, modify or cancel the direction. A direction cannot be confirmed until a period of at least 28 days has elapsed from the latest date on which any notice of the direction was served or published, or longer if directed by the Secretary of State.

If confirmed, the Council must give notice of the date of confirmation to those stated above, and send a copy of the direction to the Secretary of State. Once confirmed, a direction takes immediate effect and remains in force in perpetuity. In order to avoid the risk of compensation being payable, it is suggested that the direction does not come into force until 12 months after the notice was served.

It is important to acknowledge that the need for notifying property owners of the Article 4 Direction could result in a short term increase in applications seeking to implement the permitted development right because it may increase awareness of the issue. However this risk needs to be balanced against the benefits of serving the Article 4 Direction for the proper planning of the area.

5. Implications

5.1 Financial – The costs for consultation on the proposed Article 4 directions would be met from existing budgets.

5.2 Personnel – The work on the Article 4 direction would be carried out by the Local Strategy Service within the staffing resources available.

5.3 Legal/Constitutional – The office to residential permitted development rights were introduced by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

5.4 Environmental – Making an Article 4 direction would help the Council deliver the strategy for balancing housing and employment needs, sustainable economic development and by protecting businesses and jobs in the District. The Article 4 direction would also allow issues of sustainability to be addressed through planning applications.

5.5 Policy – Introduction of the Article 4 directions would ensure that the relevant policies in the Settlements & Countryside Local Plan (as submitted and when adopted) and West Northants Joint Core Strategy are able to be applied. Likewise

relevant policies in the West Northamptonshire Strategic Plan, when prepared, would be capable of being applied.

The introduction of the direction should also support Corporate Strategic Plan Objective 1 (Improve our Business Economy, Learning and Skills), Priority B1 (Develop Daventry Town), Measure B1.1 (Increase in commercial floor space with planning permission excluding town centre retail and leisure), Measure B1.3 (Development of new Daventry Town Centre vision), Priority B2 (Maximise economic opportunities in the rural area), Priority B3 (Facilitate and develop opportunities for employment and learning), Priority B4 (The District is recognised as being open for business), Measure B4.2 (Number of major planning applications determined by the Council within statutory or agreed time (percentage)), Objective 2 (Protect and Enhance our Environment), Priority E1 (Reduce adverse environmental impact), Objective 3 (Promote Healthy, Safe and Strong Communities and Individuals), Priority H2 (Encourage a safe and healthy lifestyle), Priority H3 (People have the housing they need), Measure H3.2 (Number of new homes delivered to meet population growth)

5.6 ICT – No new or modified Council ICT would be required to undertake consultation on the Article 4 direction.

5.7 Crime and Disorder – The introduction of the Article 4 direction should not have an impact on crime or disorder.

5.8 Human Rights – The introduction of the Article 4 direction would affect the First Protocol Article 1 rights on the protection of property, but only in ways which are permitted under the Convention.

5.9 Equalities – The introduction of the Article 4 direction should not differentially impact on people with any of the protected characteristics under the Equality Act 2010. As it merely requires planning permission to be obtained for conversion from offices to residential use, conversion can still be permitted where in the planning balance it should be. This allows for any equalities issues to be addressed.

6. Conclusions

The need to protect the economy of the District, particularly in the identified employment areas and the town centre is an important one. The making of an Article 4 direction to remove permitted development rights to convert offices to dwellings would help to safeguard the economy through allowing a proper application of development plan policy to any such applications. Therefore it is suggested that a non-immediate Article 4 direction should be introduced and the necessary consultation should be undertaken.

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Background papers:
None

Previous minutes:

None

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Appendix – Proposed Article 4 Direction