

Meeting Executive

Portfolio Area Environment and Climate Change

Date 14 September 2022



CONFIRMATION OF TWO ARTICLE 4 DIRECTIONS TO REQUIRE CHANGES OF USE FROM CLASS E(g)(i) (OFFICES AND CLASS E(g)(iii) (LIGHT INDUSTRIAL) TO CLASS C3 (RESIDENTIAL) TO OBTAIN PLANNING PERMISSION

KEY DECISION

Author Lewis Claridge | 2158

Lead Officer Zayd Al-Jawad | 2257

Contact Officer Lewis Claridge | 2158

1 PURPOSE

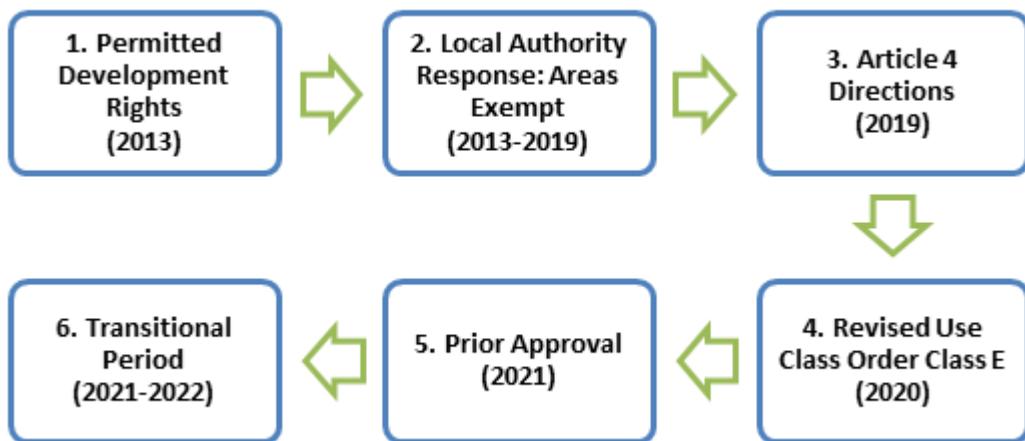
- 1.1 To seek Members' approval of the confirming of two revised Article 4 Directions to remove the permitted development rights in relation to changes of use from office and light industrial uses to residential use in Gunnels Wood and Pin Green.

2 RECOMMENDATIONS

- 2.1 That Executive note the responses from consultation, 20 July to 17 August 2022, on the serving of the notice of the revised Article 4 Directions [Appendix C].
- 2.2 That Executive confirm the Article 4 Directions [Appendix A and B] under Article 4 (l) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), to remove permitted development

rights in relation to changes of use from Use Class E(g)(i) and E(g)(iii) to Use Class C3 (as defined in the Town and County Planning (Use Classes) Order 1987 (as amended)), effective from 1 October 2022.

3 BACKGROUND



Initial Government Reforms – Permitted Development Rights

- 3.1 In May 2013, the Government announced a series of planning reforms to make the process easier to secure residential development, through “permitted development rights”. A permitted development right is the carrying out of certain types of work or development, without needing to apply for planning permission. Various changes of use could be made without the need for a formal planning consent. The most prominent of these was from office, commercial and employment use (previous Use Class B1) to residential use (Use Class C3).
- 3.2 The impact of the 2013 Government arrangements was to create a significant loss in employment space across many local authority areas of the country. The key implications of this net loss included:
- Constraining growth;
 - Forcing businesses to relocate;
 - Limiting overall performance and productivity of businesses;
 - Limiting the attractiveness of Stevenage and Hertfordshire as a place to invest; and
 - Inhibiting good placemaking.

Local authority response to early reforms

- 3.3 As a response to these reforms, many local authorities across the country began to designate areas to protect against the loss of office, commercial and employment space to residential areas. This was achieved through two main methods:

- Areas exempt from the office to residential change of use permitted development right 2013 – where any proposals to change use from B1 office to C3 residential would remain subject to a full planning application (of the initial designated areas, 13 areas within the Gunnels Wood Employment Area in Stevenage were included). These remained in force until May 2019.
- Imposing Article 4 Directions on additional areas in which the local authority deemed worthy of additional protection from change of use from office, commercial and employment to residential. Local authorities had until May 2019 to ensure appropriate Article 4 Directions were in place to replace any areas exempt from the office to residential change of use permitted development right.

More recent Government Reforms

- 3.4 On 1 September 2020, the Government made a series of changes to the “Use Classes Order”, which categorises different types of building uses for planning purposes such as applications to change the use of a building [BD4].
- 3.5 The Government has argued that the main driver of change for this has been the need to enable a repurposing of buildings on high streets and town centres. The new “Class E” allows for a mix of uses to reflect changing retail requirements. It will allow a building to be used flexibly by having several uses taking place concurrently or by allowing different uses to take place at different times of the day. Changes to another use, or mix of uses, within this class will not require planning permission.
- 3.6 From 1 September 2020 onwards, if a building or other land is being used in a way falling within Class A1 (shops), A2 (financial and professional services), A3 (restaurants and cafés) or B1 (business) then it will be treated as though it is being used for a purpose specified in the new Class E. Change of use to another use within Class E will be allowed without the need for planning permission.
- 3.7 New rules allowing commercial premises to be converted into homes were announced on 31 March 2021, as part of a package of measures to revitalise high streets and town centres [BD5]. The new homes will be delivered through a simpler “prior approval” process instead of a full planning application and will be subject to high standards, ensuring they provide adequate natural light and meet space standards.
- 3.8 The Government has introduced legislation for England to bring forward this right to use prior approval from 1 August 2021. The right allows for local consideration by the local planning authority of specific planning matters through the prior approval process.
- 3.9 Any such prior approval proposals will be determined by the local planning authority and, depending on the scale of the proposal, could be subject to Member oversight and approval.

Transitional Period

- 3.10 As a transitional measure until 31 July 2021, the previous Use Class Order was kept in force relative to permitted development.
- 3.11 Government consulted on proposals to include the change of use of Class E floorspace to residential as permitted development, and the Government confirmed that this new permitted development right would be introduced from 1 August 2021.
- 3.12 Transitional arrangements for existing Article 4 Directions, such as the ones in Stevenage, which restrict the conversion of offices to residential use (under Class O of the General Permitted Development Order) were also outlined; those that remained in place on 31 July 2021 would continue to have effect on equivalent development (i.e. the conversion of offices and light industrial under Class E(g)(i) and E(g)(iii) to Class C3 residential use) until 31 July 2022.

Article 4 Directions

- 3.13 An Article 4 Direction is a Direction under Article 4 of the General Permitted Development Order by which a local planning authority can bring within planning control certain types of development, or changes of use, which would normally be “permitted development” (i.e. not require an application for planning permission). Article 4 Directions are made when the character of an area of acknowledged importance would be threatened.

Article 4 Directions for Stevenage

- 3.14 Guidance relating to Article 4 Directions for Stevenage can be found at: <https://www.stevenage.gov.uk/planning-and-building-control/planning-policy/article-4-directions>
- 3.15 Stevenage has three Article 4 Directions, which remove permitted development rights for changes of use from office (previous Use Class B1a) and light industrial (previous Use Class B1c) to Use Class C3 (residential), as well as requiring planning permission for change of use within the residential Use Class C.
- 3.16 The Article 4 Directions were made on 15 June 2017 and were confirmed on 21 December 2017. These are as follows:
 - Change of use from Light Industrial to Residential – only applies to Gunnels Wood and Pin Green Employment areas – came into force on 15 June 2018, expired 31 July 2022.
 - Change of use from Office to Residential – only applies to Gunnels Wood and Pin Green Employment areas – came into force on 30 May 2019, expired 31 July 2022.
 - Houses in Multiple Occupation (HMOs) – requires planning permission to be granted for changes of use from C3 (residential) to C4 (small HMO).
- 3.17 For the purposes of this report, the Article 4 Direction relating to Houses in Multiple Occupation is not under consideration and remains in force.

- 3.18 The Article 4 Direction is not a ban on changes of use to residential; it is a requirement that such changes of use must have planning permission from the Borough Council.
- 3.19 The principle aim of these Directions is to remove these permitted development rights, and allow for local policies, which seek to protect existing employment uses, to be applied to proposals for changes of use from office and industrial to residential dwellings, to ensure employment uses are protected across the town.
- 3.20 The Stevenage Borough Local Plan (2019) continues to be part of the development plan which benefits from the statutory presumption in section 38(6) of the Planning and Compulsory Purchase Act 2004: "*If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*".
- 3.21 The new Use Class "E" will be a material consideration when considering any planning application for development which falls into that Use Class.

Revised Article 4 Directions for Stevenage

- 3.22 The revised Article 4 Direction relating to change of use from light industrial to residential [Appendix A] will replace the expired Article 4 Direction.
- 3.23 The revised Article 4 Direction relating to change of use from office to residential [Appendix B] would replace the expired Article 4 Direction.
- 3.24 In order to ensure a targeted approach to the revised sites to which Article 4 Directions apply, officers surveyed both Gunnels Wood and Pin Green Employment Areas to determine the Use Classes of the businesses and those premises identified as being appropriate for the Article 4 Directions.
- 3.25 The Planning Policy Team have therefore ensured that a targeted, reasonable area be covered in line with the requirements of Government. As such, the Article 4 Directions apply to individual identified premises as opposed to the "blanket" Direction that was previously in force.
- 3.26 The Planning Policy team sought legal advice in May 2022 to confirm the correct wording of both sets of Article 4 Directions.
- 3.27 Not implementing these Directions would mean valuable employment uses could be lost to residential use without the Borough Council having any control over this.
- 3.28 As outlined in previous reports to Executive in July 2021 [BD2] and July 2022 [BD3], there are clearly a wide range of planning policy considerations, consequences and negative impacts if the Council were to simply allow the existing Article 4 Directions to expire. These include:
 - Already a shortage of employment land being provided within the town.
 - Lack of land available and potential reliance on neighbouring authorities to meet the shortfall.
 - Commercial property agents have raised concerns over the lack of available sites for new businesses to take up.

- Allowing unrestricted changes of use could upset the balance between homes and jobs.
- The original masterplan for Stevenage separated employment uses from potentially conflicting uses, such as housing. Gunnels Wood accommodates a number of international businesses and corporate headquarters.
- Conversions to residential are unlikely to provide the high-quality homes we would seek for our residents. The amenity of residents of these new homes would likely be affected by the issues that arise from employment uses such as noise, lighting, HGV access and adverse visual impacts.
- There are industrial buildings that would benefit from regeneration, and potentially intensification, but it is crucial that they remain in employment use.
- A risk of creating towns that lack in local shops, facilities and services.
- An increased need for longer journeys, contrary to the objectives of sustainable development and the aspirations of the Stevenage Borough Local Plan.
- Large scale units such as supermarkets or office blocks could be converted to residential use, without securing Section 106 contributions and therefore more affordable homes. This would mean the Local Plan targets for affordable housing not being met as well as loss of important revenue to reinvest in Stevenage.

Support from Hertfordshire LEP and Hertfordshire Growth Board

- 3.29 The Hertfordshire LEP provided a letter of support [BD6], which, as well as providing full support for the revised Article 4 Directions proposed, includes supporting reference to the many economic opportunities the town has to offer, the global level industries the town supports and emerging economic frameworks the LEP are involved in developing, alongside the Council.
- 3.30 The Hertfordshire Growth Board provided a similar letter of support [BD7].

The need to have up to date Article 4 Directions

- 3.31 Although the new legislation has been in force from 1 August 2021, local authorities were given a maximum of 12 months “transitional period” to ensure that Article 4 Directions are in place that cover targeted, rather than blanket, areas of the local authority area. This is to ensure that control can be retained over those areas or elements of permitted development the local authority seeks to protect from change of use from commercial and employment to residential use.
- 3.32 This means that the Article 4 Directions in Stevenage, which protected our employment areas from residential conversions, expired on 31 July 2022. There is a risk that proposals from 31 July 2022 will be subject to planning applications for change of use.

- 3.33 The consultation which ran from 20 July – 17 August 2022 means that the revised Directions do carry some weight before they are confirmed.
- 3.34 Officers within the Planning Policy and Development Management teams in the Planning & Regulation Unit have been fully briefed on the proposed revised sites to which the Directions will apply and the weight which this has carried from 20 July 2022.

Revised Article 4 Directions

- 3.35 The Council has proposed to implement two revised Article 4 Directions to remove these permitted development rights again, and allow for local policies, which seek to protect existing employment uses, to be considered.
- 3.36 However, rather than a “blanket Direction”, we are identifying specific properties that are currently operating as a Use Class E(g)(i) or E(g)(iii) in order to apply the Article 4 Directions to the smallest possible area.
- 3.37 Implementing an Article 4 Direction is a three-stage process:
 - The Direction is made;
 - Consultation is undertaken for 28 days;
 - Then the Direction is confirmed.
- 3.38 This Executive Report seeks approval to confirm the making of Article 4 Directions to remove the permitted development rights relating to E(g)(i) (offices) and E(g)(iii) (light industry) to C3 (residential) use.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

Recommendation 2.1: That Executive note the responses from consultation, 20 July to 17 August 2022, on the serving of the notice of the revised Article 4 Directions [Appendix C].

- 4.1 Following approval from Executive in July 2022, public consultation commenced on 20 July 2022 (in line with publication dates for the local press) and ran for 28 days, until 17 August 2022.
www.stevenage.gov.uk/planning-and-building-control/planning-policy/consultation-on-two-article-4-directions
- 4.2 The Town and Country Planning (General Permitted Development) (England) Order 2015 sets out the statutory requirements for introducing an Article 4 Direction. In line with this, notice of the Directions were;
 - Published in the local newspaper [Appendix F];
 - Displayed by two site notices in each employment area, two within Gunnels Wood and two within Pin Green [Appendix G];
 - Sent to the occupiers and owners of all affected businesses within Gunnels Wood and Pin Green [Appendix H];

- Made available to view at the Customer Service Centre, the town's two libraries and the Council's website (along with a copy of the Directions);
 - Sent to both the Secretary of State and Hertfordshire County Council (along with a copy of the Directions) [Appendix I & J].
- 4.3 The notice of Directions is available in Appendix D and E. A copy of the Directions is contained within Appendix A and B.
- 4.4 A summary of all consultation comments and responses is provided in Appendix C to this report. No significant objections were raised to the revised Directions during the consultation period. Where comments and objections were raised, the Council has provided a detailed response.
- 4.5 No objections were received from Hertfordshire County Council. The letters received prior to consultation, from the Hertfordshire LEP and Hertfordshire Growth Board, support the Hertfordshire position with regard to the revised Directions.
- 4.6 No objections or comments were received to date from the Secretary of State during the consultation period. However there remains a potential risk that the Directions could still be "called in" by the Secretary of State for further scrutiny before they can be confirmed.

Recommendation 2.2: That Executive confirm the Article 4 Directions [Appendix A and B] under Article 4 (I) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), to remove permitted development rights in relation to changes of use from Use Class E(g)(i) and E(g)(iii) to Use Class C3 (as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended)), effective from 1 October 2022.



- 4.7 If confirmed, the Article 4 Directions would cover individual buildings in the Employment Areas of Gunnels Wood and Pin Green, as identified in Appendix A and B.
- 4.8 A minimum 28-day notice period is required when implementing Article 4 Directions.

- 4.9 A 12-month notification period was used on the previous Article 4 Directions in 2017 and was designed to ensure that the impact of any financial challenge is mitigated. Being as these Directions will apply to premises already covered by the previous Directions, it is unlikely that there will be any financial implications on owners or occupiers.
- 4.10 As such, the Article 4 Directions, if confirmed, would come into effect on 1 October 2022. The Directions were legally sealed prior to the consultation period and are required to be legally sealed again prior to confirmation.
- 4.11 There is a risk that proposals from 1 August 2022 to 30 September 2022 will be subject to planning applications for change of use on sites identified; the consultation from 20 July 2022 meant that the revised Directions do carry some weight before they are confirmed.
- 4.12 Officers within the Planning Policy and Development Management teams in the Planning & Regulation unit have been fully briefed on the proposed revised sites to which the Directions will apply. At the time of this report to Executive, no applications have been forthcoming and would not be determined before the Directions are confirmed.

5 IMPLICATIONS

Financial Implications

- 5.1 Assuming there is 28 days notification of the Directions, there should be little opportunity for challenge resulting in any financial compensation.
- 5.2 Other than staff costs in terms on both consulting upon and reporting the Directions, the principal cost will be staff time processing the any planning applications for these changes of use, which will be un-chargeable. The expected number can be met within existing resources within the Planning & Regulation Unit.

Legal Implications

- 5.3 Once adopted, the Article 4 Directions will remove the permitted development rights in relation to changes of use from Use Class E(g)(i) and E(g)(iii) to Use Class C3 (as defined in the Town and Country Planning [Use Classes] Order 1987, as amended).
- 5.4 Legal advice has been sought in 2021 and 2022 regarding Article 4 Directions in Stevenage.
- 5.5 The Directions were legally sealed prior to the consultation period and are required to be legally sealed again prior to confirmation on 1 October 2022.

Risk Implications

- 5.6 There is a risk that proposals from August to September 2022 will be subject to planning applications for change of use on identified sites; the consultation planned from 20 July 2022 means that the revised Directions carry some weight before they are confirmed. Officers within the Planning Policy and

Development Management teams in the Planning & Regulation unit have been fully briefed on the proposed revised sites to which the Directions will apply.

- 5.7 There remains a potential significant risk that the Directions could still be “called in” by the Secretary of State for further scrutiny before they can be confirmed, even if this occurs after the consultation period 20 July – 17 August 2022.
- 5.8 There are potential risks of not having Article 4 Directions in place, that have been highlighted within this report and in the previous reports to Executive on this subject. These include:
- Constraining growth.
 - Forcing businesses to relocate.
 - Limiting overall performance and productivity of businesses.
 - Limiting the attractiveness of Stevenage as a place to invest.
 - A risk of creating towns that lack in local shops, facilities and services.
 - Local Plan targets for affordable housing not being met as well as loss of important revenue to reinvest in Stevenage.

Policy, Environmental and Climate Change Implications

- 5.9 The consequences of not maintaining the existing Article 4 Directions in Stevenage include an increased need for longer journeys, contrary to the objectives of sustainable development, climate change and the wider aspirations of the Stevenage Borough Local Plan.

Planning Implications

- 5.10 The Planning & Development Committee met on 22 June 2022 and were presented with a summary of the proposed changes to the Article 4 Directions regarding office and light industrial use. No substantive comments or objections were raised by the Committee.
- 5.11 Once confirmed, the Article 4 Directions will remove the permitted development rights in relation to changes of use from Use Class E(g)(i) and E(g)(iii) to Use Class C3 (as defined in the Town and Country Planning [Use Classes] Order 1987, as amended). Instead, planning permission will be required for these changes of use. Local Planning policies will be used to assess any resulting planning applications.

Economic Implications

- 5.12 An absence of any required size limits for development secured through permitted development rights to change use from any “Class E” building could have some serious impacts on the economy of the borough. This would risk, for example, large scale supermarkets or office blocks being converted to residential use, creating many dwellings without any Section 106

contributions and affordable homes; thus, risking the borough falling short of affordable housing targets as well as loss of important revenue to reinvest in the town.

- 5.13 The latest set of permitted development rights and prior approval process, if sites were left with less protection, would only serve to place additional pressure on local businesses as they continue to recover from the impact of the COVID-19 pandemic and other recent economic pressures as businesses are moved on by landlords seeking to profit from higher residential values.
- 5.14 There could be a potential loss of income for local authorities if developers commence large scale delivery based on schemes that have progressed via permitted development rights, instead of submitting proper applications that can be assessed against the Local Plan, scrutinised and implemented to ensure more sustainable delivery and outcomes for local residents and workers.

Equalities and Diversity Implications

- 5.15 An Equalities Impact Assessment (EqIA) has been completed to assess the consultation process and the proposal to implement the Article 4 Directions [BD8].

BACKGROUND DOCUMENTS

- BD1 Stevenage Borough Local Plan, 2011-2031
<https://www.stevenage.gov.uk/documents/planning-policy/stevenage-borough-local-plan/stevenage-borough-local-plan.pdf>
- BD2 Stevenage Borough Council Executive (14 July 2021) Item 5: Review of Article 4 Directions and Employment Sites in Stevenage
<https://democracy.stevenage.gov.uk/documents/s28776/Item%205%20-%20Article%204%20Directions%20Report.pdf>
- BD3 Stevenage Borough Council Executive (12 July 2022) Item 5: Consultation on Two Article 4 Directions to require changes of use from Class e(g)(i) (offices and Class e(g)(iii) (light industrial) to Class C3 (residential) to obtain planning permission
<https://democracy.stevenage.gov.uk/documents/s32049/Article%204%20Directions%20Report.pdf>
- BD4 Use Classes Order (September 2020)
https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use
- BD5 New Government Arrangements from August 2021 (March 2021) [New freedoms to support high streets and fast track delivery of schools and hospitals across England introduced today - GOV.UK \(www.gov.uk\)](#)
- BD6 Hertfordshire LEP Letter of Support for Revised Article 4 Directions in Stevenage (June 2021)
- BD7 Hertfordshire Growth Board Letter of Support for Revised Article 4 Directions in Stevenage (June 2021) *Unattributed*
- BD8 Article 4 Directions: Equalities Impact Assessment

APPENDICES

- A Revised Article 4 Direction for change of use from Light Industrial to Residential (Gunnels Wood and Pin Green Employment Areas)
- B Revised Article 4 Direction for change of use from Office to Residential (Gunnels Wood and Pin Green Employment Areas)
- C Summary of Consultation Comments and Council Responses to Article 4 Directions Consultation, 20 July – 17 August 2022
- D Notice of Article 4 Direction for change of use from Light Industrial to Residential (Gunnels Wood and Pin Green Employment Areas)
- E Notice of Article 4 Direction for change of use from Office to Residential (Gunnels Wood and Pin Green Employment Areas)
- F Revised Article 4 Directions: Advertisement in Comet newspaper, July 2022
- G Revised Article 4 Directions: Site Notices, July 2022
- H Revised Article 4 Directions: Copy of Consultation Letter to Landowners and Owner Occupiers, July 2022

- I Revised Article 4 Directions: Copy of Consultation Letter to Secretary of State, July 2022
- J Revised Article 4 Directions: Copy of Consultation Letter to Hertfordshire County Council, July 2022