

Meeting Executive
Portfolio Area Environment and Regeneration
Date 14 July 2021



REVIEW OF ARTICLE 4 DIRECTIONS AND EMPLOYMENT SITES IN STEVENAGE

KEY DECISION

1 PURPOSE

- 1.1 To provide Members with a summary of the new arrangements imposed by Government relating to planning use class changes, and change of use from commercial and employment use to residential use, via permitted development rights.
- 1.2 To give Members an overview of the existing Article 4 Directions the Borough has in place.
- 1.3 To provide Members an outline of the key employment sites in the Borough and emerging work to identify opportunities for protection of employment space into the future.
- 1.4 That Members note the extended period that the existing Article 4 Directions in Stevenage are in force and to agree to develop the emerging evidence base relating to employment sites.

2 RECOMMENDATIONS

- 2.1 That the new arrangements imposed by Government on use class changes and relating to change of use from commercial to residential use via permitted development rights be noted.

- 2.2 That the extended period that existing Article 4 Directions in Stevenage are in force, to 31 July 2022, relating to:
- (A) Change of use from Light Industrial to Residential use – applicable to Gunnels Wood and Pin Green Employment areas.
 - (B) Change of use from Office to Residential use – applicable to Gunnels Wood and Pin Green Employment areas,
- be noted.
- 2.3 That the evidence base relating to employment sites in the Borough be developed to support the existing Article 4 Directions and further support protection of employment space in the Borough be agreed.
- 2.4 That the comments of the Planning & Development Committee, held on 13 July 2021, regarding the content of this report be taken into account as part of the Executive’s deliberations on the matter.
- 2.5 That delegated powers be granted to the Assistant Director: Planning and Regulation, following consultation with the Portfolio Holder for Environment and Regeneration, to make any subsequent amendments to Article 4 Directions.

3 BACKGROUND

- 3.1 In May 2013, the Government announced a series of planning reforms in order 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.
- 3.2 From this date, various changes of use can 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).
- 3.3 The impact of the 2013 Government arrangements was to create a significant loss in employment space across many local authority areas of the country. A study commissioned by the Hertfordshire Local Economic Partnership (LEP) in 2019, “Loss of Employment Space in Hertfordshire” [BD2], reported that for Stevenage between 2008–2018:
- There was a net loss of 14,500 sq. m office floorspace, 10% of office stock.
 - There was a net loss of 52,000 sq. m industrial floorspace, 9% of industrial stock.
 - There was a net loss of 36,500 sq. m office to residential (75% of all loss).
 - Since 2013, the loss of commercial floorspace to residential via permitted development rights totalled 73%.
- 3.4 According to the report “Loss of Employment Space in Hertfordshire”, 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.

3.5 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 [BD3] – 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.

Article 4 Directions

3.6 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.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

Recommendation 2.1: That the new arrangements imposed by Government on use class changes and relating to change of use from commercial to residential use via permitted development rights be noted.

Recent Developments – Use Class Order Changes, September 2020

- 4.1 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].
- 4.2 In force from 1 September 2020, subject to certain transitional provisions, the core changes include the amendment of the classification of uses of property. Classes A, B1 and D1, applicable to retail, office and non-residential institutions and assembly and leisure uses respectively, are removed and new use classes introduced in their place. The new “Class E” encompasses

commercial, business and service. The residential (C classes), general industrial (B2) and storage and distribution (B8) use classes remain unchanged.

4.3 The table below provides a brief summary of how uses have been reclassified, from 1 September 2020.

Use	Use Class (until 31 August 2020)	Use Class (from 1 September 2020)
Shops	A1	E
Financial & Professional Services	A2	E
Food & Drink (mainly on the premises)	A3	E
Business (office, research and development and light industrial process)	B1	E
Non-residential institutions (medical or health services, crèches, day nurseries and centres)	D1	E
Assembly and Leisure (indoor sport, recreation or fitness, gyms)	D2	E
Non-residential institutions (education, art gallery, museum, public library, public exhibition hall, places of worship, law courts)	D1	F1
Shop no larger than 280 sq. m (Selling mostly essential goods and at least 1km from another similar shop); community hall, outdoor sport / recreation area, indoor or outdoor swimming pool, skating rink	A2	F2
Public House, wine bar, drinking establishment	A4	Sui Generis (or unique uses)
Hot Food Takeaway	A5	Sui Generis (or unique uses)
Cinema, Concert Hall, Bingo Hall, Dance Hall, Live music venue	D2	Sui Generis (or unique uses)

4.4 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 a number of 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.

4.5 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.

Recent Developments – New Government Arrangements, March 2021

4.6 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.

4.7 The Government is introducing legislation for England to bring forward this right to use prior approval from 1 August 2021. The right will allow for local consideration by the local planning authority of specific planning matters through the prior approval process. These considerations include:

- Flooding
- Impacts of noise from commercial premises
- Provision of adequate natural light to all habitable rooms
- In conservation areas, consideration of the impact of the loss of the ground floor Commercial, Business and Service use
- Impact of the loss of health centres and registered nurseries on the provision of such local services

4.8 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.

4.9 The right also includes a vacancy requirement that will ensure the building changing use has been vacant for 3 months before the date of the application to protect successful businesses in these premises.

4.10 A size limit of 1,500 square metres will be imposed, on floorspace being able to change use under the right. This will allow conversions on medium sized high street sites which are more likely to be suitable.

4.11 Where there is an existing “Article 4 Direction” in force as at 31 July 2021 in respect of the change of use from offices to residential, it will continue to have effect on equivalent development in respect of offices (now within the Commercial Business and Service use “Class E” as referred to above) until 31 July 2022.

Impact of recent Government announcements on Stevenage – Use Class Order Changes, September 2020

- 4.12 The Planning Policy team has sought legal advice and any Article 4 Directions made prior to the changes to the Use Classes Order in September 2020 remain valid; they will continue to ensure that buildings remain within their existing designated planning class.

Impact of recent Government announcements on Stevenage – New Government Arrangements, March 2021

- 4.13 The Council responded to the Government consultation in January 2021, titled “Supporting housing delivery and public service infrastructure” [BD6]. This consultation set out the Government’s intention to introduce a new national permitted development right to create new homes through the change of use of Commercial Business and Service “Class E” uses; and through amending permitted development rights for public service infrastructure including a faster application process for these types of development.
- 4.14 This consultation was followed by the 31 March 2021 announcement of the new arrangements regarding permitted development rights, effective from 1 August 2021.
- 4.15 The Council, in its response to this consultation [BD7], had a number of concerns, including:
- Impact on the Town Centre and wider Stevenage;
 - Increased demands on infrastructure;
 - Impact on housing standards;
 - Economic impact;
 - Impact on democracy and local planning decisions.

Consequences of not extending existing Article 4 Directions for Stevenage

- 4.16 If we were to leave our existing Article 4 Directions to expire, the consequences for Stevenage would potentially match some of the concerns outlined in the Council’s response to the Government consultation in January 2021. This includes:
- 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 [BD1].
 - 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.

“Transitional Period”

- 4.17 Although the new legislation will be in force from 1 August 2021, local authorities have a maximum of 12 months “transitional period” to ensure that correct and up to date Article 4 Directions are in place and that they cover the correct 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.

Recommendation 2.2: That the extended period that existing Article 4 Directions in Stevenage are in force, to 31 July 2022, relating to:

(A) Change of use from Light Industrial to Residential use – applicable to Gunnels Wood and Pin Green Employment areas.

(B) Change of use from Office to Residential use – applicable to Gunnels Wood and Pin Green Employment areas,

be noted.

- 4.18 Guidance relating to the current Article 4 Directions for Stevenage can be found at: <https://www.stevenage.gov.uk/planning-and-building-control/planning-policy/article-4-directions>
- 4.19 Stevenage currently has three Article 4 Directions in force, which remove permitted development rights for changes of use from office (use class B1a) and light industrial (use class B1c) to use class C3 (residential), as well as requiring planning permission for change of use within the residential use class C.
- 4.20 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 [Appendix A].
 - Change of use from Office to Residential – only applies to Gunnels Wood and Pin Green Employment areas [Appendix B].
 - Houses in Multiple Occupation (HMOs) – requires planning permission to be granted for changes of use from C3 (residential) to C4 (small HMO).
- 4.21 For the purposes of this report, the Article 4 Direction relating to Houses in Multiple Occupation is not under consideration and remains in force.
- 4.22 The Article 4 Direction for class B1c (light industrial) to class C3 (residential) came into force on 15 June 2018.
- 4.23 The Article 4 Direction for class B1a (office) to class C3 (residential) for those areas currently exempt, came into force on 30 May 2019.
- 4.24 The Article 4 Direction is not a ban on changes of use to residential; it is merely a requirement that such changes of use must have planning permission from the Borough Council.
- 4.25 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 industrial to residential dwellings, to ensure employment uses are protected across the town.

- 4.26 Not implementing the Direction would have meant valuable employment uses could be lost to residential use without the Borough Council having any control over this.
- 4.27 Further to paragraph 4.12 of this report, the Article 4 Directions to protect the employment areas (Gunnels Wood and Pin Green) from change of use to classes B1a and B1c to class C3 (residential) will remain in place, despite the changes to the Use Classes Order effective from 1 September 2020.
- 4.28 Use Classes (prior to 1 September 2020) relating to A1 (shops), A2 (financial and professional services), A3 (food and drink, mainly on the premises), D1 (non-residential institutions), and D2 (assembly and leisure) uses are not protected by an Article 4 Direction in Stevenage.
- 4.29 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”*.
- 4.30 Policies within the Local Plan seek to protect A1, A2 and A3 uses (under the use class prior to 1 September 2020) in Policies TC8 (Town Centre Shopping Area), TC9 (High Street Shopping Area) and TC10 (High Street Primary and Secondary Frontages).
- 4.31 Policy TC10 also seeks to control the proportion of A5 uses; these have become unique uses since 1 September 2020. The context in which the policies were drafted was the original use classes of the Use Classes Order (1987). It would be reasonable to continue to apply those policies which refer to A5 though those uses have now become unique uses under the changes.
- 4.32 The new use class “E” will be a material consideration when considering any planning application for development which falls into that use class.

Recommendation 2.3: That the evidence base relating to employment sites in the Borough be developed to support the existing Article 4 Directions and further support protection of employment space in the Borough be agreed.

- 4.33 The Planning Policy team is progressing work on Employment Sites [Appendix C]. This work highlights the designated employment sites in the Stevenage Borough Local Plan as well as any vacant employment sites.
- 4.34 This will form evidence to show the potential for maximising commercial and employment space in the Borough and seek to future-proof space for likely future demand for grow-on space for major industries that have already clustered in the town, as well as other firms either located in Stevenage or with interest in locating in Stevenage in the future.

- 4.35 This will help to strengthen the argument for protecting Stevenage's employment land from change to alternative uses, such as residential, into the future.

Recommendation 2.4: That the comments of the Planning & Development Committee, held on 13 July 2021, regarding the content of this report be taken into account as part of the Executive's deliberations on the matter.

- 4.36 The Planning & Development Committee meet on 13 July 2021, the day before this report is considered by Executive.
- 4.37 Any comments made at Planning & Development Committee on 13 July 2021 will be useful to inform the recommendations of the Executive.

Recommendation 2.5: That delegated powers be granted to the Assistant Director: Planning and Regulation, following consultation with the Portfolio Holder for Environment and Regeneration, to make any subsequent amendments to Article 4 Directions.

- 4.38 It may be necessary that there will need to be amendments to wording on the Council's website relating to Article 4 Directions, to reflect the changes in Use Classes Order from September 2020 and the Government announcements from March 2021.
- 4.39 It is recommended that any such amendments be approved via delegated powers.

5 IMPLICATIONS

Financial Implications

- 5.1 There are no financial implications associated with this report.

Legal Implications

- 5.2 Legal advice has already been sought regarding the existing Article 4 Directions made, prior to the changes to the Use Classes Order in September 2020 (see paragraph 4.12).
- 5.3 There may be potential to seek further legal advice regarding the Article 4 Directions in force in relation to the period leading up to 31 July 2022 and the position beyond 31 July 2022.

Risk Implications

- 5.4 There are potential risks that have been highlighted within this report. 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.

Planning Implications

- 5.5 This report highlights the extent of the changes to the planning system since 2013 in order to deliver significant increase in the country's housing stock. This report highlights the impact on local planning interventions to protect office and commercial space in order to mitigate the potential negative impacts on local authority areas.
- 5.6 The comments of the Planning & Development Committee have been invited regarding the content of the report.

Policy, Environmental and Climate Change Implications

- 5.7 The consequences of not maintaining the existing Article 4 Directions in Stevenage (see paragraph 4.16) 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.

Equalities and Diversity Implications

- 5.8 There are no equalities and diversity implications associated with this report.

Community Safety Implications

- 5.9 There are no community safety implications associated with this report.

Economic Implications

- 5.10 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 a large number of 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.
- 5.11 The proposed permitted development rights would only serve to place additional pressure on local businesses as they look to recover from the impact of the COVID-19 pandemic as businesses are moved on by landlords seeking to profit from higher residential values.
- 5.12 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.

Other Implications

- 5.13 The Council's response to the Government consultation "Supporting housing delivery and public service infrastructure" included the potential impact on democracy and local planning decisions.
- 5.14 The Council was of the view that the proposals to introduce wide ranging permitted development rights to allow the change of use of important town centre and employment uses to residential, would cause an undermining of democracy and local planning decisions.
- 5.15 The Council was of the view that should the proposals be implemented (and will now be implemented from 1 August 2021), any prior approval regime should be more in line with the current permitted development rights that already exist for specific uses before they were amalgamated into Class E.
- 5.16 The Council was of the view that some "limited" permitted development rights may be acceptable; however there needs to be a level of protection for certain designations such as primary frontages, conservation areas, etc.

BACKGROUND DOCUMENTS

- BD1 Stevenage Borough Local Plan 2011–2031 (May 2019)
<https://www.stevenage.gov.uk/documents/planning-policy/stevenage-borough-local-plan/stevenage-borough-local-plan.pdf>
- BD2 Lambert Smith Hampton: “Loss of Employment Space in Hertfordshire” (February 2019)
<https://www.hertfordshirelep.com/media/rmphd5mk/loss-of-employment-space-in-hertfordshire-february-2019.pdf>
- BD3 Areas Exempt from Office to Residential Change of Use Permitted Development Right (May 2013)
<https://www.gov.uk/government/publications/areas-exempt-from-office-to-residential-change-of-use-permitted-development-right-2013>
- 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)
<https://www.gov.uk/government/news/new-freedoms-to-support-high-streets-and-fast-track-delivery-of-schools-and-hospitals-across-england-introduced-today>
- BD6 Government Consultation; Supporting Housing Delivery and Public Service Infrastructure (December 2020)
<https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure>
- BD7 Government Consultation: Supporting Housing Delivery and Public Service Infrastructure – Stevenage Borough Council Response (January 2021)

APPENDICES

- A Article 4 Direction for change of use from Light Industrial to Residential (Gunnels Wood and Pin Green Employment Areas)
- B Article 4 Direction for change of use from Office to Residential (Gunnels Wood and Pin Green Employment Areas)
- C Employment Sites in Stevenage (draft April 2021)