

## USE OF ARTICLE 4 TO RESTRICT PERMITTED DEVELOPMENT RIGHTS FOR A CHANGE OF USE FROM OFFICE TO RESIDENTIAL

Development & Conservation Advisory Committee - 10 March 2020

Report of Chief Officer - Planning & Regulatory Services

Status For Decision

Also considered by Cabinet - 16 April 2020

Key Decision No

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**Executive Summary:** This report outlines the proposal to serve Article 4 directions, to restrict permitted development rights for a change of use from office to residential, to protect office accommodation in three key areas.

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**This report supports the Key Aim of supporting and developing the local economy**

**Portfolio Holder** Cllr. Julia Thornton

**Contact Officer** Hannah Gooden, Ext.7178

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**Recommendation to Development & Conservation Advisory Committee:** That the recommendation to Cabinet is endorsed.

**Recommendation to Cabinet:** To agree to serve Article 4 directions, to restrict permitted development rights for a change of use from office to residential, as outlined in the report.

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**Reason for recommendation:** To protect office accommodation in three key areas, to support and develop the local economy.

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### Introduction

- 1 Certain types of development, subject to limits and conditions, do not require full planning permission. These forms of development are called 'permitted development'. An Article 4 Direction can be used to remove specific permitted development (PD) rights in all or parts of a local authority's area.
- 2 The proposal is to remove PD rights for a change of use from office use (B1a) to residential use (C3) in three areas (see maps at Appendix A) in the District:

- Land at the junction of London Road and Hitchen Hatch Lane, Sevenoaks (BT Building)
- Land on London Road, in and around the junctions with Pembroke Road and Argyle Road, Sevenoaks (these offices and surroundings)
- Crown Inn, Westerham Trading Centre

3 These three areas were previously exempt from this permitted development right, but the exemption expired in May 2019. The proposal is to continue this exemption through the application of an Article 4 Direction.

## Background

4 In 2013, a new permitted development right was introduced, allowing change of use from office to residential, to boost the nationwide supply of housing. This is via a ‘prior approval’ system, where only a limited number of factors can be taken into account, namely transport and highways issues, contamination and flooding.

5 SDC applied to central government for 11 ‘exempt office areas’, on the basis that the loss of offices in these areas would lead to ‘substantial adverse economic consequences at the local authority level which are not offset by the positive benefits the new rights would bring’.

6 SDC was granted three ‘exempt office areas’ as listed above in May 2013 and shown in Appendix A. Please note that these maps were prepared in 2013 and there have since been a number of developments in these areas.

7 These ‘exempt office areas’ were only granted in a very limited number of locations (London boroughs, Manchester, Stevenage, Ashford, East Hampshire and Vale of the White Horse).

8 These ‘exempt office areas’ expired in May 2019. The intention was that these areas would be ‘re-designated’ via the emerging Local Plan. Draft Policy EMP1 (Supporting a vibrant and balanced economy’) states that:

*‘all office accommodation on allocated sites will be served an Article 4 direction to retain important business space to meet the needs of the District’s economy’*

9 As the Local Plan is currently paused, the intention is to serve Article 4 Directions on the three previously-designated areas, as the first phase of this process, and serve the rest of the Article 4 Directions, once the Local Plan is adopted.

10 Our evidence base, specifically our Economic Needs Study (2016) identifies that the District needs to retain its existing employment base and needs an additional 11.6ha of employment land up to 2035, of which 7.2 ha is needed for office space (B1a/b).

- 11 Our annual monitoring, through our Authority Monitoring Report (AMR) and Community Plan, outlines that the change to permitted development rights allowing change of use from office to residential has had a detrimental impact on the supply of office floor space in the District.
- 12 Since 2013, when the permitted development right was introduced, 8,263 sqm of office space has been lost (which has resulted in 111 new housing units).

### **Process**

- 13 Article 4 Directions and Notices for each of the three sites have been drafted by legal, together with a covering letter to accompany the relevant Notice.
- 14 These will be sent to all properties within the three affected areas and relevant consultees, and affected parties are able to make comments and representations to the Council.
- 15 To avoid any risk of compensation, the Council must give at least one, but no more than two, year's notice ahead of the Directions coming into force.
- 16 Once the Direction comes into force, those who wish to carry out the work previously permitted (office to residential change of use) will need to obtain express planning permission from the Local Planning Authority. This does not mean that planning consent would not be granted, just that wider considerations (including economic impact) can be taken into account in decision-making, rather than the narrow remit of the 'prior approval' process.

### **Other Options Considered and/or Rejected**

- 17 SDC could wait until the adoption of the Local Plan to progress the Article 4 Directions. However, there is a risk that office accommodation in these key areas could be lost during this time as the exemption areas have expired. Alternatively, Article 4 Directions could be served on all office accommodation on allocated employment sites, but it is recommended that this wider approach is first tested via the Local Plan examination.

### **Key Implications**

#### Financial

No additional costs. To avoid any risk of compensation, the Council must give at least one, but no more than two, year's notice ahead of the Directions coming into force. Local Plan implementation funded from Local Plan budget.

#### Legal Implications and Risk Assessment Statement.

Legal involvement and advice in relation to issue of Article 4 Directions. Risks associated with content and production of the Local Plan are set out in the Local Development Scheme.

Equality Assessment

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The preparation and adoption of a Local Plan and its proposed policies will directly impact on end users. The impacts have been analysed via an Equalities Impact Assessment (EqIA).

**Conclusions**

It is recommended that Article 4 Directions are served in the three identified areas, to protect the supply of office accommodation in the District.

<b>Appendices</b>	Appendix A - Maps of 'exempt office areas'
<b>Background Papers</b>	None

**Richard Morris**

**Chief Officer - Planning & Regulatory Services**