

TELFORD & WREKIN COUNCIL

CABINET 21 APRIL 2016

ARTICLE 4 - DIRECTION TO REMOVE PERMITTED DEVELOPMENT RIGHTS IN THE BOROUGH'S PRIMARY EMPLOYMENT AREAS

REPORT OF KATHERINE KYNASTON – ASSISTANT DIRECTOR BUSINESS, DEVELOPMENT AND EMPLOYMENT

LEAD CABINET MEMBER – CLLR RICHARD OVERTON

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 For a period up to 30 May 2016 the Government has stated that a change of use of an office building and land within its curtilage or storage or distribution centres to a residential use falling within the Class C3 dwelling houses Use Class (which includes flats and houses) will be permitted development (i.e. the change of use will not require planning permission). The government is now intending to make this permanent, which will have implications for the integrity of these large employment areas and for the Borough's economic growth strategy.
- 1.2 Following these changes under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, part 3, Class O changes of use from office (Use Class B1(a) to dwelling house (Use Class C3) will be permitted subject to 'prior approval'.
- 1.3 Similarly under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, part 3, Class P changes of use from a storage or distribution centre (Use Class B8) to dwelling house (Use Class C3) will be permitted subject to 'prior approval'.
- 1.4 'Prior approval' involves the developer applying to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required e.g. due to transport and highways impacts of the development, contamination risks on the site and flooding risks on the site. If none of these are impacted upon, planning permission is not required and the change of use can proceed without conditions, restrictions or any s106 financial contributions.
- 1.5 Our large employment areas are a key component of our Enterprise Telford offer. In order to help retain the integrity of existing large employment areas, encourage investment, business expansion and job creation and safeguard the living conditions of residential occupiers, it is recommended that the Council removes permitted development rights for the conversion of offices and storage or distribution centres into residential use for the areas of Hortonwood, Stafford Park, Halesfield, Tweedale and Central Park/ Town Centre under Article 4 of the Town and Country Planning (General Permitted Development Order) 2015. This does not mean that such conversions cannot happen but they would require planning approval which would involve consideration of appropriate conditions, restrictions and S106 contributions.

2. RECOMMENDATIONS
2.1 That Cabinet delegate authority to the Assistant Director: Business, Development & Employment to make a Non Immediate Direction under Article 4 (1) of the Town and Country Planning (General Permitted Development Order) 2015 to remove permitted development rights under Schedule 2 Part 3 Class (O) changes of use from offices to dwelling houses and Schedule 2 Part 3 Class (P) changes of use from storage or distribution centre to dwelling houses from the employment areas of Central Park/ Town Centre, Halesfield Hortonwood, Stafford Park, and Tweedale as identified on the attached location plans.
2.2 That Cabinet delegate authority to Assistant Director: Business, Development & Employment in consultation with the Lead Cabinet Member to exercise all the powers conferred on the Council regarding the making, processing and confirmation of the Direction referred to in paragraph 2.1 above.

3.0 SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Co-operative Council priorities?	
	Yes	<i>'Business Winning, Business Supporting'</i>
	Will the proposals impact on specific groups of people?	
	No	<i>Existing businesses and proposed new residents.</i>
TARGET COMPLETION/DELIVERY DATE	Consultation required to enact the non immediate direction will begin in May 2016 with a target date of July 2017 for the Article 4 direction to come into force	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	Failure to implement an Article 4 direction may have the financial impact as outlined in section 3.5 (e) of the report. The recommended non-immediate Article 4 direction will require a public consultation exercise. Estimated costs of the consultation are c£2k, and these will be met from existing budgets. Compensation is not payable under a non-immediate Article 4 direction. JAC 090316
LEGAL ISSUES	Yes	Cabinet has the power to authorise the making of the Article 4 Direction as mentioned in this report. The Direction can be made with or without immediate effect. Given the size of some of the developments and the considerable difference between land values for commercial and residential uses, the compensation could be considerable. Therefore a Non-Immediate Article 4 Direction is recommended. A Non-Immediate direction will remove the permitted development rights after a consultation has taken place. Compensation is not payable. It will be Telford & Wrekin Council's

		decision to make and confirm the Article 4 Direction. However the Secretary of State has residual power to intervene and prevent the proposed Article 4 Direction taking effect.
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes/No	The risk to this project is that the Secretary of State would not allow the Council to enact an Article 4 Direction. This risk is being mitigated by proposing to apply the Direction to strategic industrial areas.
IMPACT ON SPECIFIC WARDS	Yes	Central Park / Town centre: Ketley and Overdale, Oakengates and Ketley Bank Halesfield: Madeley & Sutton Hill Hortonwood: Wrockwardine Wood & Trench, Hadley & Leegomery, Donnington Stafford Park: The Nedge Tweedale: Madeley & Sutton Hill

4.0 PLANNING CONSIDERATIONS AND JUSTIFICATION FOR THE ARTICLE 4(1) Direction

- 4.1 In 2013 the Government introduced a number of temporary changes to the General Permitted Development Order to allow changes of use of various buildings, without the need to apply for planning permission for a period of three years. The changes included permitting changes from office and distribution use to residential use.
- 4.2 Under the prescribed legislation, a number of criteria must be met, and in some cases an application for prior approval must be made to the local authority. However, the prior approval procedure is very limited in terms of what can be considered and excludes the normal planning considerations that would apply if a formal planning application was made. Under the prior approval procedure, the local planning authority is only able to assess the highway impacts of the development, the flooding risks on the site; and the risks through contamination of the land. Development must then be substantially completed within three years. The local authority is unable to consider any other matters, including the local plan, the standard of living accommodation, the impact on surrounding uses or proposed occupiers. Assuming a development meets the limited prior approval tests there is no application of conditions or S106 contributions.
- 4.3 The temporary period for these permitted development rights comes to an end on the 30 May 2016. However the Government has announced its intention to make these measures permanent; and to allow those that already have consent a further three years to complete the development. In addition these rights will also allow the demolition of office buildings and the erection of new buildings specifically for residential use. Additional uses will also be added enabling the change of use of light industrial buildings and launderettes to dwellings.

- 4.4 Telford's background is as a New Town with specifically planned large areas for employment across the borough; these are identified as Central Park/Town Centre, Halesfield, Hortonwood, Stafford Park and Tweedale. This has effectively created zones of employment that have a variety of uses within them; this includes uses that are considered incompatible with residential neighbours due to contamination, noise, dust, odour, vibration, traffic impacts, and unneighbourly hours of operation. Specifically new uses that have such implications are also directed to these areas for future investment, whether by extension to existing facilities or new development.

Within these designated areas, businesses can expand or new ones be created with relative freedom knowing there are limited constraints. These areas have been provided with good road infrastructure to accommodate the volumes and types of traffic movements, including HGVs, associated with such employment areas. These areas are also located on the edge of Telford's urban area away from local facilities and services, such as shops. Public transport services are not equivalent to those provided to residential areas. These employment locations are however easily accessible to a good primary road network and to the M54 and the regional/national motorway network, which adds to the attraction to business and investors. These factors and the extensions to a number of these sites e.g. Hortonwood and T54 is a key element of the Council's Enterprise Telford pledge to investors and attraction as an inward investment destination.

- 4.5 To allow offices and storage or distribution buildings to be converted to residential houses or flats under permitted development, would present several problems:

a) It would create conflicts of use

To locate new residents in areas surrounded by industrial uses or storage/distribution centres, that by their very nature could cause noise and disturbance to residents, could adversely impact on the amenity of new residents and on how those businesses operate, thus creating potential conflict of uses for both existing and new business and residents. At a worse scenario it would be the business that may be the statutory nuisance and as such be forced to close, change its operations or relocate. This would adversely impact on the Borough's economic strengths of being able to attract big businesses with relatively few constraints. It could also impact on other Council services, such as Environmental Health who monitor statutory nuisances.

b) It would displace business activities

If existing industrial/business buildings are allowed to convert to residential under permitted development the process would lead to businesses being displaced to other areas of the Borough that may be more difficult to accommodate large businesses. Telford benefits from a vast supply of quality plots, vacant land or opportunities for businesses to extend for economic growth on these industrial estates. To have to find alternative locations for new or expanding business in locations not designed for them would restrain the borough's economic potential, in addition to constraining land that is owned/managed by the HCA and/or the Council. Furthermore it may deter businesses from coming to Telford.

- c) Unsustainable locations
The scale of these existing employment areas means that residential use within them is inappropriate. Allowing the permitted development change of use will result in residents living in areas that are not highly sustainable, that lack local facilities and services and often lack public transport so residents would be reliant on the car. In addition, in the evenings residents would be marooned on an industrial estate with no night time activities and no sense of community.
- d) Inadequate parking
Often parking provision required for houses/flats would exceed the parking provision provided for an office or storage/distribution centre. Whilst this can be a consideration when assessing whether to grant Prior Approval there could be inadequate parking provision with a knock-on effect on the surrounding roads. Furthermore there may be an impact to safety, from the conflict between the two types of traffic, taking account of residential uses that will see children walking to the family car, and the presence of the regular HGV movements within the same car park may prejudice this safety.
- e) Pressure on Council Services and finances
Development coming forward from the permitted development rights would be exempt from consideration to the impact on existing infrastructure, and as such there would be no conditions or obligations through S106 agreements towards education/ leisure /community facilities/ or highways infrastructure. As a consequence the Council would be forced to meet its statutory duties such as providing education facilities, without any additional resources that are normally funded through the planning system. And other facilities which are not statutory would not be provided to the detriment of the new residents.

4.6 The Council is also aware that the prior approval process is being used across the country to:-

- a) Terminate offices leases or invoking break closures in order to convert offices into flats as there is a certainty that redevelopment can take place
- b) Force the renegotiation of higher rents
- c) Allow former offices that have been granted permission for residential, but not yet built, to reapply for prior approval thus avoiding planning conditions, S106 obligations or other improvements required normally through planning permission.

4.7 In considering the problems posed by the permitted development rights, officers have considered the options to address this:

- a) Do nothing:
Whilst this would be the cheapest option in the short term, in the long term there would be an impact on the Council to retain businesses, and provide appropriate facilities such as classrooms, pedestrian crossings, outdoor play space would be required to be provided through the Council's budgets, impacting on those services directly and wider areas indirectly.
- b) A whole borough wide Article 4 direction or an area based approach:
Government is clear that for applications to be exempt from permitted development rights to convert to residential, they should be as focused on small areas as the impacts are deemed to less effect, and not for large areas where impacts are not clearly defined. As set out above,

allowing the historically planned large employment areas of Telford (namely Halesfield, Hortonwood, Stafford Park, Central Park/ Town Centre and Tweedale) to change to residential will bring significant issues to both the existing business and the proposed residents.

Other industrial premises or sites elsewhere in the borough would not be subject to this Article 4. These are of a much smaller scale and are often located as part of mixed development, where conflicts and impact on the Borough's economy will be less marked.

Therefore it is recommended to remove permitted development rights from the employment areas of Hortonwood, Stafford Park, Halesfield, Tweedale and Central Park/ Town Centre.

c) An immediate Article 4 direction:

This removes the permitted development rights with immediate effect but must be confirmed by the local planning authority following local consultation within six months or the direction will lapse. Compensation is payable for the loss of permitted development rights.

d) A Non-Immediate Article 4 direction:

This removes the permitted development rights after public consultation has taken place. Compensation is not payable. It is therefore recommended that this approach is adopted

4.8 It is therefore proposed to apply for a Non- Immediate Article 4 direction for the employment areas of Hortonwood, Stafford Park, Halesfield, Tweedale and Central Park/ Town centre.

4.9 In making the recommendation for the Article 4 direction to these employment areas, the Council is obliged to undertake a public consultation for a period of 6 weeks. All premises within the areas must be contacted as part of this process. Consultation will also involve notifying the Secretary of State who has the right to prevent the Council from implementing an Article 4 direction.

4.10 The period of producing the Article 4 direction is set out in the table below. A Non-Immediate Article 4 direction takes 1 year and 8 weeks to be introduced. The time scale is dictated by the consultation period and also the 12 month gap between the Order being confirmed and the Order taking effect to ensure that compensation is not an issue.

Time	Action
Following Cabinet approval	Make the Article 4 Direction
Following Cabinet approval	Notify Secretary of State regarding introductions of an Article 4 Direction (by email)
May 2016	Notify residents and businesses of consultation regarding introduction of an Article 4 Direction by newspaper advertisement, area notices and letters.
+6 weeks minimum	Consultation closes
+ 2weeks after consultation closes	Council consider consultation responses. Any material changes to the draft Article 4 will require re-consultation
+8weeks	Confirm the Article 4 Direction
0	Notify residents and businesses of direction coming into force a year hence
0	Notify Secretary of State of direction coming into force a year hence
+1 year and 8 weeks	Article 4 Direction comes into force

5.0 IMPACT ASSESSMENT – ADDITIONAL INFORMATION

5.1 Under the proposals to remove permitted development rights the impact of conversions on specific wards would be fully considered and respective Ward Members and Town /Parish Councils would be able to consider the implications of the development, and ensure appropriate contributions and/ infrastructure is sought within the immediate areas to mitigate against any additional pressures.

6.0 PREVIOUS MINUTES

None

7.0 BACKGROUND PAPERS

None

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