

## WEST AREA PLANNING COMMITTEE

10 March 2015

### Article 4 Direction (Offices to Residential)

**Recommendation:** Committee is asked to:

1. Consider the public comments received from the Public Consultation stage along with the evidence in this report;
2. Consider the officers comments in response and
3. **Confirm** the Article 4 Direction, which was originally made on the 28<sup>th</sup> March 2014 but will not come into force until 28<sup>th</sup> March 2015.

The effect of this Direction will make it necessary to apply for planning permission to change the use of offices (B1a) to residential (C3) on key protected employment sites.

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### Background

1. In May 2013 the Government introduced some changes to the 'permitted development rights'. The Town and Country Planning (General Permitted Development) (Amendment) Order 2013 (Part 3 Class J) was amended on 30<sup>th</sup> May 2013 to introduce, amongst other measures, a temporary permitted development right which allows the change of use of a building from offices (B1a) to residential (C3), without the need to submit a planning application subject to certain conditions and limitations.
2. These new 'permitted development rights' are temporary and will expire on 30<sup>th</sup> May 2016, although the Government has indicated that this right may be extended and that 'prior approvals' not implemented could be carried forward. The Government has recently consulted on these changes along with a number of other changes to 'PD rights' as part of a Technical Consultation on Planning.

### Article 4 Direction

3. An 'Article 4 direction' is a planning tool that can be used in local areas to remove 'permitted development rights' for a particular type of development. They are used in exceptional circumstances where there are local concerns about the impact of a specific 'permitted development right.'
4. Since the introduction of the 'prior approval' system in May 2013 there has now been some 28 applications made in Oxford in total. Of these only 3 were refused, 2 withdrawn, 1 where approval was granted but not required, a further 17 have now been granted; and 5 are 'pending consideration' at the time of writing this report. A summary of the 'prior approvals' already granted together with those 'pending consideration' is attached as **Appendix A**.

5. These applications received so far suggest a worrying trend since these include a number of important sites that make a significant contribution to the City's employment land supply. The reasons for these applications being made appear to be varied and cover a range of different sized buildings which include both large office blocks and smaller starter / serviced units. An assessment of the potential impact on employment sites is set out in **Appendix B**.
6. The overall loss of all these employment sites is very concerning in relation principally to the delivery of the employment policies within the Core Strategy as the key Local Development Document but also in the context of the recently approved Economic Growth Strategy (EGS). The Protected Employment Sites allocated in the Core Strategy have a critical role to play in the implementation and delivery of the spatial strategy for Oxford. This approach is supported by the EGS strategy and in particular Element Three which emphasises the importance of 'ensuring a sufficient supply of employment land;' and Element Two that recognises the need to support existing and new businesses in Oxford.
7. There are also very real concerns about the type of accommodation created; the suitability of their location for housing and the standard of amenity provided for the new residents. Many of the new residential units will comprise 1 and 2 bed small units and small studio apartments. It appears likely that some 75% of the applications are for small 1-bed units, the majority of which fall short of the adopted standards in the Sites and Housing Plan. Some are as small as 19 square metres and they do not offer a 'balanced mix of dwellings' as required by Core Strategy Policy CS23.
8. In some cases, the location of these new residential units would offer a very poor environment; such as for example Grehan House adjacent to a busy and heavily trafficked road junction. The property fronts Garsington Road and lies next to the main roundabout on the Eastern by-pass that serves BMW; Oxford Business Park; and Tesco's. As such future residents could experience both noise and air pollution problems. The new residential units have a poor environment to live in. The units generally have limited internal space standards; and often no outdoor amenity space or balconies.
9. In this context the Head of City Development considers that these developments and the loss of these key protected employment sites, will cause significant harm to local amenity and the proper planning of the area. The City Council has an adopted Core Strategy (Nov 2011) that seeks to promote economic prosperity for Oxford and supports a policy of 'managed economic growth'. The role played by the protected employment sites in Policy CS31 is essential to the delivery of the economic growth of the City their loss would undermine the Council's effectiveness in implementing this policy approach. In addition the Oxford Strategic Partnership (OSP) approved the Oxford Economic Growth Strategy, which amongst other key recommendations sought to 'ensure an adequate employment land supply' together with the need to 'support existing businesses within the City'. The Key Protected Employment Sites are an essential part of the infrastructure necessary to deliver economic growth.

### **The making of the Article 4 Direction**

10. On the basis of this evidence, set out in detail in a background paper prepared at the time (**Appendix C**), the City Council therefore took the view that it is 'expedient' to implement an Article 4 Direction to make it necessary to apply for planning permission for the change of use of offices (B1a) to residential on the protected employment sites. Whilst the key protected employment sites (**Appendix D**) represent a significant amount of Oxford's existing employment land supply the approach being taken is fully justified. It does not however include all employment sites within the city and is therefore not a 'blanket' order but is 'targeted' and 'site specific'.
11. The Head of City Development under 'delegated officers powers' as set out in the City Council's Constitution authorised the making of an Article 4 Direction to remove the temporary 'permitted development rights' for the change of use from offices (B1a) to a dwelling house (C3) on 24<sup>th</sup> February 2014. The direction was made on the 28<sup>th</sup> March 2014. The City Council made a non-immediate direction that, subject to consultation and a decision to confirm this direction, will come into force on the 28<sup>th</sup> March 2015.

### **Public Consultation on Article 4 Direction**

12. Public Consultation was undertaken with Statutory Consultees, key stakeholders, commercial and residential agents and those potentially affected or having an interest in this Article 4 Direction. The Article 4 Direction was made on the 28<sup>th</sup> March 2014 and public consultation started on the 28<sup>th</sup> March until 23<sup>rd</sup> May 2014.
13. A brief summary of the responses to the public consultation is included in **Appendix E**. An officer's response to the issues raised is set out in **Appendix F**.

### **Role of the Secretary of State**

14. The Secretary of State (SOS) advises that directions should only be made in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area and that the potential harm that the direction is intended to address should be clearly identified. The SOS provides further advice on the impact of removing 'permitted development rights' and the need to show a strong justification to withdraw PD rights.
15. The approval of the Secretary of State is not required for a direction made under article 4(1) relating only to development permitted by any of Parts 1 to 4 or Part 31 of Schedule 2, if the relevant authority consider the development would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area.
16. It is important to be aware that the Secretary of State does however have the power to make a direction modifying or cancelling this Article 4 Direction at any point.

### **Risks and implications**

17. The most significant risk for a Local Planning Authority (LPA) associated with the preparation of an Article 4 Direction is the potential liability for compensation. Compensation liability does not however arise if twelve months' notice of the direction coming into force is given. This is the approach that has been taken.

### **Equalities impact**

18. Consideration has been given to the public sector equality duty imposed by Section 149 of the Equalities Act 2010. Having paid due regard to meet the objectives of that duty and of the proposed Article 4 Direction the view is taken that the duty is met.

### **Financial implications**

19. There are no significant financial implications relating to relation to the potential impacts of implementing the Article 4 and compensation issues, since the confirmation of the Direction has been delayed for 12 months.

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**Date:** 23rd February 2015

### **Appendices**

**Appendix A:** List of all sites subject to 'prior approvals' that have been permitted

**Appendix B:** Examples of employment sites subject to 'Prior Approvals'

**Appendix C:** Background Paper to support the making of the Article 4 Direction

**Appendix D:** List of Protected Employment sites, the subject of this Article 4 Direction

**Appendix E:** Summary of comments received from Public Consultation

**Appendix F:** Officers response to public comments

### **Background Papers:**

- Individual representations received following public consultation



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