

Crawley Borough Council

3

Report to Overview and Scrutiny Commission 3 October 2016

Report to Cabinet 5 October 2016

Proposed further Article 4 Direction for Manor Royal (Light Industrial Class B1c)

Report of the Head of Strategic Housing and Planning Services, SHAP/56

1. Purpose

The government has announced its intention to introduce a new temporary permitted development right to allow buildings in light industrial (Class B1c) use to change to residential use (Class C3) without the need to obtain planning permission. This will come into force on 1 October 2017. This report seeks the approval of a further Article 4 Direction to remove permitted development rights in Manor Royal to safeguard the vital function of Manor Royal as a main employment area and to support the supply of business land in Crawley.

2. Recommendations

2.1 The Cabinet will be asked to:

- a) Approve the making of a non-immediate Article 4 Direction under the Town and Country (General Permitted Development Order) 2015 as amended for Manor Royal removing permitted development rights for changes of use from light industrial (Class B1c) to dwelling houses (Class C3) for the area outlined in bold on the plan at Appendix 1.
- b) Delegate authority to the Head of Strategic Housing and Planning Services in consultation with the Cabinet Member for Planning and Economic Development to formally confirm the non-immediate Article 4 Direction following the 12 month notification period, if having fully considered all representations made during the consultation period, they are of the opinion that the Article 4 Direction should be made.

3. Reasons for the Recommendations

- 3.1 There is a strong potential for economic growth in Crawley, with many existing companies seeking to expand their operations, and new companies enquiring about opportunities to locate in the town. However, the borough has a very limited supply of available business land, and the Local Plan identifies a land supply deficit of 35 hectares. The council has already taken steps to protect the business function of Manor Royal by making two Article 4 Directions which remove permitted development rights that had allowed offices (B1a) and storage & distribution (B8) uses to convert to residential (C3).

- 3.2 The Government has now announced its intention to further widen permitted development rights relating to commercial premises and a further Article 4 Direction is required if the Council is to continue to safeguard employment land at Manor Royal.

4. Background

- 4.1 The Council, supported by local business groups, has already approved and confirmed two non-immediate Directions under Article 4(1) of the Town and Country (General Permitted Development) Order 2015. These removed the permitted development rights that had allowed Class B1a offices and Class B8 storage & distribution uses to change to residential (Class C3) through the prior approval process. This means planning permission is now required where a change of use is proposed to residential, giving the council greater control to ensure that development in Manor Royal is properly planned.
- 4.2 The two Directions came into force on 29 July 2016, following a year-long notification period which included a three-month consultation. These, in conjunction with the Local Plan, mean that the council is able to take a strong position to safeguard the supply of business land at Manor Royal.
- 4.3 The Government has recently announced its intention to further extend permitted development rights by making amendments to the Town and Country Planning (General Permitted Development) Order 2015 (GDPO). The amendment introduces a new temporary right (Class PA) to allow change of use from a building in light industrial (Class B1c) use to residential (Class C3) through the prior approval process. This will come into force from 1 October 2017 and last until 31 September 2020.
- 4.4 Manor Royal has a number of B1c operations across the business district, and the proposed amendment to allow such uses to convert to residential use through prior approval has the potential to undermine the operation of the business district. Because the new permitted development rights relating to B1c development have only recently been announced, change of use through this route is not covered by either of the Article 4 directions that are currently in force.
- 4.5 There is concern that unless a further Article 4 Direction is made, the newly proposed permitted development right will place pressures on the B1c light industrial premises in the business district. Therefore, a further Article 4 Direction is proposed to safeguard the vital function of Manor Royal as a main employment area and to support the supply of business land in Crawley.

5. Description of Issue to be resolved

- 5.1 A number of B1c light industrial units are situated in Manor Royal, providing in the region of 87,925 sqm floorspace. B1c units are pepper-potted across the business district in areas including Forge Wood Industrial Estate (Gatwick Road), County Oak Way, Fleming Way, Priestley Way and Whitworth Road. Many of these sit alongside other businesses, including offices and warehouses, which are protected by the Article 4 Directions that are already in force. There is a risk that without a further Article 4 Direction relating to B1c uses, sites may be lost to inappropriate residential use.
- 5.2 The industrial make up of Manor Royal is such that it does not represent an appropriate location for people to live, potentially exposing residents to existing sources of noise, fumes and disruption. Because of the close proximity of B1c uses to other businesses, there is also risk the incursion of unplanned residential uses will constrain the operation of existing uses, undermining the effectiveness of the Article 4 Directions that are already in place.

- 5.3 The council remains committed to developing a clear and transparent planning framework to assist developers, businesses and investors in Manor Royal. By responding to the new prior approval rights with a further Article 4 Direction, the council will again be responding positively to remove uncertainty that is likely to be experienced by businesses. This builds on the council's commitment to support Manor Royal and preserve the important economic role it plays in the town and the wider sub region.

6. Information & Analysis Supporting Recommendation

- 6.1 The National Planning Policy Framework (NPPF) states at paragraph 200 that the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. Local authorities must specify the area protected by an Article 4 Direction carefully and set any boundaries accordingly. The government's on-line national planning practice guidance (NPPG entitled "*When is permission required?*") sets out guidance on the use of Article 4 Directions. The NPPG states that an Article 4 Direction to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. It also states that in deciding whether an Article 4 Direction would be appropriate, local planning authorities should identify clearly the potential harm that the direction is intended to address (paragraph 038).
- 6.2 Through the Local Plan and the two Article 4 Directions currently in force, the council has worked closely with the business community to establish a clear planning framework which pro-actively supports the business function of Manor Royal. There is significant risk that the newly proposed permitted development rights will undermine this work, justifying the making of a further Article 4 Direction.
- 6.3 The introduction of new residential uses and a subsequent need to protect their amenity through environmental legislation creates uncertainty for businesses. Companies remain concerned that their industrial and commercial activities may be compromised by restrictions placed on their operations as a result of introducing a new residential population. These could be by virtue of issues relating to noise, parking, hours of operation, vibration and industrial processes, which whilst previously acceptable, may become a statutory nuisance when noise-sensitive residential uses are introduced to an industrial area.
- 6.4 Whilst there is a significant unmet housing need in the borough, new housing should only be provided in areas that are appropriate for residents to live. The Local Plan 2030 supports this through a number of key policies relating to noise, buffer zones, and general design principles. As the permitted development rights override these considerations, it is considered that, whilst the provision of housing is very important, this need should not be at the expense of ensuring a good standard of living for residents, nor should it override or compromise the importance of maintaining the success of commerce in Manor Royal.
- 6.5 There is demonstrable and evidenced harm that the proposed new permitted development right would harm the proper planning of the area in commercial terms and also having regard to the quality of life of any future residents. A new Article 4 Direction is therefore considered to be an appropriate mechanism based on NPPF and DCLG guidance. This would remove the forthcoming permitted development right, meaning that planning permission is required where a change of use from B1c (light industrial) to residential use (Class C3) is proposed.
- 6.6 The introduction of a new Article 4 Direction at Manor Royal will require applicants to formally submit a free planning application for the specified changes of use covered by the direction. This will allow the council to be involved in a formal decision process,

enabling a case-by-case judgement to be made as to whether a proposed change of use to residential would undermine the economic function of the Business District. This also allows the council to take a view on size and design, considerations that are currently outside the control of the local planning authority.

- 6.7 There are two potential types of Article 4 Directions; immediate and non-immediate. The immediate route allows an Article 4 Direction to be put in place immediately by the Local Authority, but there are significant risks attached to the approach, as it exposes the Council to significant legal and financial risk because substantial compensation rights are afforded to land owners. For this reason the immediate approach is generally not used by Local Authorities other than in emergency situations where the development presents an immediate threat to local amenity or prejudices the proper planning of an area (NPPG paragraph 045).
- 6.8 The proposed changes to the GDPO will not come into force until 1 October 2017 and it is therefore recommended that a non-immediate Article 4 Direction, which is subject to public consultation and does not have the same level of legal or financial risk, should be progressed. The Article 4 Direction would apply in the Manor Royal area as per the boundary set out in Appendix One, which is consistent with the geographic area of the two Article 4 Directions already in force.
- 6.9 The legal process to implement a non-direct Article 4 requires a 12 month formal notification period that includes a 21 day minimum statutory consultation period. The council again propose to extend to this to a 3 month consultation period, during which businesses and stakeholders will be asked to comment on whether the new Article 4 Direction is supported, and to provide feedback on the boundary proposed. In addition to the statutory local advertisement and site notices, direct consultation will be undertaken with specific interested parties. These include commercial agents, owner/occupiers of businesses in the Manor Royal area and key local developers. Consultation details will also be published on the council's website.
- 6.10 The new B1c (light industrial) to C3 (residential) permitted development rights come into force on 1 October 2017 as set out in The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016, which amend the GDPO 2015. Because there is a statutory 1 year notification period where a non-immediate Article 4 Direction is proposed, the Article 4 Direction could not come into force until 6 October 2017 at the earliest.
- 6.11 Were a prior approval application to be validated in advance of the Article 4 Direction coming into force, a decision would be made on the basis of any Direction in force at the date of the determination, as opposed to the date of the application being validated. The Council has a period of 56 days (8 weeks) in which to determine prior approval applications, and applications for a determination as to whether such approval is required, including a statutory 21 day (3 week) notification period during which the application cannot be determined. This means that were a prior approval application to be submitted and validated on 1 October, the Council could not determine the application until the statutory three-week consultation has been completed, by which point the Article 4 Direction could, if approved, be brought into force.
- 6.12 The existing Article 4 Directions have been soundly supported by business groups including Coast to Capital Local Enterprise Partnership, Gatwick Diamond Initiative, Gatwick Diamond Business, Crawley Local Economy Action Group, Manor Royal Business Improvement District Company and Crawley Chamber of Commerce, as well as individual businesses. These groups have also stated their support for protecting the business function of Manor Royal through a further Article 4 Direction relating to B1c light industrial uses.

7. Implications

- 7.1 The non-direct route recommended mitigates the council's exposure to legal and financial risk and is therefore the recommended route.
- 7.2 There would be an £80 planning fee for the determination of Prior Approval B1c to residential applications. When an Article 4 Direction comes into force, any planning application required solely due to the Article 4 Direction would not incur a fee, and therefore an amount of planning application income will be lost.
- 7.3 The proposed Article 4 Direction will help to retain the supply of B1c light industrial space within Manor Royal, ensuring that there is a good mix and supply of business premises within the identified area, helping to support businesses and protect jobs. It will also ensure that the positive impact of the two Manor Royal Article 4 Directions already in force is not undermined, If the potential loss of light industrial space is not managed this could have a substantial adverse economic consequence on the town and the wider sub region with regards to a competitive economy, jobs growth, and undermining investment in business space. This is not considered to be offset by the positive benefits the new rights would bring in terms of the potential delivering of any new housing, particularly given the inappropriateness of Manor Royal as a location in which to live.
- 7.4 In progressing the two existing Manor Royal Article 4 Directions, the council had sought external legal advice. With the council having now been through the process, the proposed Article 4 Direction can be progressed in-house. Minor costs will be involved in undertaking statutory consultation and notification with stakeholders

8. Background Papers

Crawley Borough Local Plan 2015

<http://www.crawley.gov.uk/pw/web/PUB271853>

Employment Land Trajectory February 2015

<http://www.crawley.gov.uk/pw/web/pub242264>

Employment Growth Assessment 2015 <http://www.crawley.gov.uk/pw/web/pub242262>

Manor Royal Article 4 Directions (B1a office and B8 storage & distribution to C3 residential)

http://www.crawley.gov.uk/pw/Business/Manor_Royal_Business_District/PUB261224

General Permitted Development Order 2015

http://www.legislation.gov.uk/uksi/2015/596/pdfs/uksi_20150596_en.pdf

Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016

http://www.legislation.gov.uk/uksi/2016/332/pdfs/uksi_20160332_en.pdf

Report author and contact officer: Anthony Masson, Senior Planning Officer. 01293 438761 anthony.masson@crawley.gov.uk

Appendix One: Proposed Manor Royal Article 4 Boundary

