

Crawley Borough Council

Report to Cabinet 13 March 2019

Proposed Article 4 Directions for Main Employment Areas

Report of the Head of Economy and Planning, **PES314**

1. Purpose

- 1.1 To propose an introduction of new Article 4 Directions that would apply to specific main employment areas as designated by the Crawley Borough Local Plan 2015-2030. The intention of the Directions would be to remove permitted development rights that currently allow Planning use classes B1a (office), B1c (light industrial) and B8 (storage and distribution) premises to convert to residential use (Use Class C3) through prior approval.

2. Recommendations

- 2.1 The Cabinet is recommended to:

- a) Approve the making of non-immediate Article 4 Directions under the Town and Country (General Permitted Development Order) 2015, removing the permitted development right for offices (Use Class B1a), light industrial (Use Class B1c) and storage and distribution (Use Class B8) to convert to residential (Use Class C3) for the areas outlined in bold on the plans at Appendix A. The Directions will apply to the designated main employment areas at Lowfield Heath, Maidenbower Business Park, Tilgate Forest Business Centre and the majority of the Three Bridges Corridor.
- b) Delegate authority to the Head of Economy and Planning in consultation with the Cabinet Member for Planning and Economic Development to formally confirm the non-immediate Article 4 Directions set out at 2.1(a) above 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 Directions should be made. (*Generic Delegation 3 will be used to enact this recommendation*).
- c) Further to 2.1a above, consider at a future date, the making of Article 4 Direction(s) for the Town Centre. This would be subject to further work to scope the feasibility and expediency of Town Centre Article 4 Direction(s).

3. Reasons for the Recommendations

- 3.1 Crawley's economy has grown by 31% since 2010, and there is strong potential for further economic growth in Crawley. Many existing companies are seeking to expand their operations, and new companies are enquiring about opportunities to locate in the borough. However, a major impediment to continued growth is that Crawley has a very limited supply of available new business land, and the Local Plan identifies a land supply deficit of 35 hectares. Further, the borough of Crawley has lost 61,500 square metres of commercial space to residential development via permitted development rights.

- 3.2 In some cases, main employment areas have been undermined to such an extent by the introduction of residential uses, that the overall employment function of the designated area has been lost. Non-immediate Article 4 Directions are therefore proposed for selected main employment areas, in order to remove these permitted development rights, and protect the important economic function of these locations.

4. Background

- 4.1 Article 4 Directions operate by removing permitted development rights that otherwise enable specified classes of alteration or changes of use to be made to an existing building without the need for planning permission. Where an Article 4 Direction is in place, an applicant will need to apply for planning permission (without a fee being charged by the council) to undertake the alteration or change of use. This enables the council to be involved in the decision making process and allows a judgement to be made on a case-by-case basis in accordance with adopted Local Plan Policies.
- 4.2 The council, supported by local business groups, has already approved the making of three non-immediate Directions under Article 4(1) of the Town and Country (General Permitted Development) (England) Order 2015. These apply to Manor Royal, and remove permitted development rights that had allowed B1a offices, B1c light industrial premises and B8 storage & distribution uses to change to residential through the prior approval process. This means planning permission is 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.
- 4.3 The Directions regarding B1a and B8 use came into force on 29 July 2016, and the Direction relating to B1c use came into force on 16 October 2017. Both were preceded by 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.
- 4.4 Manor Royal is the principal business destination in Crawley, though the Local Plan also designates a number of other main employment areas, which are identified by Local Plan Policies EC1 and EC2 as a focus for economic growth. It has become clear that the economic function of the other main employment areas is being undermined, in some cases fundamentally, by the incursion of residential use through Prior Approval conversions. There is concern that unless additional Article 4 Directions are introduced to protect those main employment areas that are still functional, Crawley's already limited business land supply will be further undermined.

5. Description of Issue to be resolved

National Permitted Development Rights Continue to be Expanded

- 5.1 It should be noted that the prior approval rights that necessitated introduction of the Manor Royal Article 4 Directions remain in force. The right allowing B1a (office) to convert to residential use was made permanent on 6 April 2016, and the Ministry for Housing, Communities and Local Government is consulting on proposals to make permanent the B8 (storage & distribution) to residential prior approval route, which will otherwise expire on 10 June 2019. The B1c (light industrial) to residential prior approval is in place for a temporary period until 31 September 2020. Therefore, there is significant scope for the permitted development rights to negatively impact upon Crawley's designated main employment areas, unless these are protected by Article 4 Directions.

A Significant Loss of Business Floor Space in Crawley

- 5.2 The permitted development rights have already resulted in a significant loss of business floorspace in Crawley, particularly through B1a office to residential conversions. To date, excluding Manor Royal, Gatwick Airport and the Town Centre, there has been a loss of some 27,279 sqm floorspace in Crawley's other designated main employment areas.
- 5.3 The impact of the Prior Approval changes has been very harmful in certain areas. This is particularly the case at Broadfield Business Park, where the effects of residential introduced by prior approval has been such that the employment function of the area has effectively been lost. At Hazelwick Avenue, one office block has already been converted, whilst a further two have prior approval for residential. Given that two of Crawley's main employment areas have been undermined to the point that they are now significantly residential in nature, in the interests of properly planning for the balance of housing and employment in the borough as a whole, it is considered that the council should take steps to address this issue.

Article 4 Directions to Safeguard Crawley's Main Employment Areas

- 5.4 In order to safeguard the remaining designated main employment areas, it is proposed that Article 4 Directions would be justified and appropriate for the main employment areas listed below (as mapped at Appendix A of this report). These locations have, to date, been largely unaffected by the prior approval regime, and continue to operate as functional and viable main employment areas:

- The majority of the Three Bridges Corridor (including Denvale Trade Park, Stephenson Way, Spindle Way).
- Maidenbower Business Park
- Tilgate Forest Business Centre
- Lowfield Heath

Employment Uses Undermined

- 5.5 Of the remaining main employment areas, Broadfield Business Park and Hazelwick Avenue have been significantly undermined by residential conversions. At Broadfield Business Park, 3,593sqm office space has been lost, with only one office building still in employment use. The position is similar at Hazelwick Avenue, where 1,652 sqm office floorspace has been lost at Ocean House. Energy House (2,347 sqm) and Pacific House (1,195 sqm) are both subject to as yet unimplemented prior approvals for conversion to residential, and are being dual marketed for office or residential use. The council-owned office Atlantic House remains in employment use, as do several smaller employment functions.
- 5.6 Part of Three Bridges Corridor, around Russell Way, has been significantly affected by prior approval, with 16,890 sqm office floorspace lost at Sutherland House and the former EDF building. This area is also subject to a Local Plan Policy H2 allocation at the former TSB site for a minimum of 40 residential units. Land at the Squareabout is not included in the proposed Article 4 Direction area. This is because the land does not contain any B-class uses (being occupied by hotels and a restaurant) so is not affected by the prior approval rights covered by the proposed Direction, and it is geographically separated from Stephenson Way by residential.
- 5.7 For each of these areas, it is considered that the impact of permitted development has been so great, and the impact of residential so significant, that the remaining business floorspace is not of sufficient scale to justify protection through an Article 4 Direction.
- 5.8 Of the other main employment areas, Broadfield Stadium & K2 Crawley and The Hawth are non-business employment uses, and are not therefore affected by the current prior approval rights. It is not therefore proposed to introduce Article 4 Directions for these locations.

Gatwick Airport

- 5.9 Gatwick Airport is a designated main employment area in the Local Plan, and a number of business uses fall within the airport boundary. The recently published draft Gatwick Airport Master Plan identifies potential future need for additional office space at the airport, in addition to a significant intensification of freight operations. This is likely to necessitate the retention of existing business floorspace at the airport. Further, there are obligations placed on the airport to reduce the number of residents that are exposed to aircraft noise, and any introduction of residential within the airport boundary would be contrary to this approach. It is therefore unlikely that Article 4 Directions will be required in this location, though this can be explored further if necessary as Gatwick progresses its master plan.

Crawley Town Centre

- 5.10 When the new permitted development right for office to residential was introduced in 2013, the council made an (unsuccessful) application to Government to exempt Manor Royal and Gatwick Airport from the office to residential prior approval right. At this time, it was considered whether exemption should also be sought for the town centre, but this was not taken forward because the Town Centre was recognised as a suitable and sustainable location for residential use. The NPPF and Local Plan continue to support the delivery of residential units in the Town Centre, which is (through prior approvals and planning permissions) contributing significantly to meeting Crawley's housing need. Over 800 town centre dwellings have been completed since 2014/15 and a further 1,200 dwellings have planning permission.
- 5.11 The number of new town centre residential units is anticipated to be more than double the number anticipated for the Town Centre in the Local Plan, in part because of Permitted Development Rights. As emphasised in the council's Town Centre Regeneration Programme, there is need to achieve balanced growth in both residential and commercial space to ensure a sustainable future for the town centre, supporting its growth as a main employment area and helping to avoid it becoming a commuter dormitory. It is also recognised that concerns have been raised in relation to some of the permitted development that has taken place within the town centre. In particular, it is placing significant pressure on infrastructure, for example school places, which is not being offset through developer contributions. Other concerns relate to matters that would normally be addressed were a planning application to be submitted, including affordable housing provision, internal space standards, and bin storage.
- 5.12 An Article 4 Direction would not prevent future residential development in the town centre, but would enable proposals for residential use to be considered through the planning process. This would allow the council to better manage the balance between residential and commercial uses in the Town Centre, and would help to plan for the infrastructure needs that are being generated by an increasing residential population.
- 5.13 Separate work will be undertaken in the coming months to explore the scope and feasibility of potential Article 4 Direction(s) for the Town Centre. The findings of this work will be analysed, and should it be considered that the making of Article 4 Direction(s) for the Town Centre is feasible and expedient, Cabinet will be invited to formally approve the making of the Direction(s).

6. Information & Analysis Supporting Recommendation

- 6.1 The National Planning Policy Framework (2018) states at paragraph 53 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 well-being of the area.

- 6.2 Through the Local Plan and the three Article 4 Directions currently in force, the council has worked with the business community to establish a clear planning framework which pro-actively supports economic growth in Crawley and seeks to maximise the available business land supply. The permitted development rights are undermining what is a severely constrained and finite employment land supply.
- 6.3 The introduction of new residential uses places an 'agent of change' into areas that have been specifically designated for business, creating significant uncertainty for current and future occupiers. There remains concern that future industrial and commercial activities may be compromised by restrictions placed on operations as a result of introducing a new residential population. This could be by virtue of issues relating to noise, hours of operation, vibration and industrial processes, which whilst previously acceptable, may represent a statutory nuisance should noise-sensitive residential uses be introduced to an industrial area.
- 6.4 Prior approval rights are therefore resulting in demonstrable and evidenced harm to what is an already constrained employment land supply pipeline in Crawley. This is creating considerable commercial uncertainty for businesses operating within the designated main employment areas. The introduction of Article 4 Directions is therefore considered to be an appropriate mechanism to ensure the continued economic well-being of Crawley and its designated main employment areas, as per NPPF guidance.
- 6.5 In terms of housing supply, the Council is meeting its Objectively Assessed Housing Need, and has a minimum five year housing land supply. This has been achieved through maximising the use of land within Crawley borough and working with neighbouring authorities through Duty to Cooperate to ensure that the remaining unmet housing needs are met. It is considered that 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 supply of employment land.
- 6.6 The introduction of new Article 4 Directions at the recommended main employment areas 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 making process, enabling a case-by-case judgement to be made as to whether or not a proposed change of use to residential would undermine the economic function of the main employment area. This also allows the council to take a view on internal space standards and design, considerations that prior approval places 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. As has been the case with previous Article 4 Directions, it is therefore recommended that the non-immediate route is pursued.
- 6.8 The legal process to implement a non-immediate Article 4 Direction requires a 12 month formal notification period that includes a 21 day minimum statutory consultation period. The council again proposes to extend this to a 3 month consultation period, during which businesses and stakeholders will be invited to comment on whether the

proposed Article 4 Directions are supported, and to provide feedback on the boundaries proposed. In addition to statutory local advertisement and site notices, direct consultation will be undertaken with specific interested parties. These include business groups, owner/occupiers of businesses in the relevant main employment area and key local developers. Consultation details will also be published on the council's website.

7. Implications

- 7.1 The non-immediate route mitigates the council's exposure to legal and financial risk and is therefore the recommended route.
- 7.2 There would normally be an £96 planning fee for the determination of Prior Approval B1a/B1c/B8 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 Directions will help to retain the supply of business land, ensuring that there is a good mix and supply of premises within the main employment areas, helping to support businesses and protect jobs. It will also build upon the positive impacts of the three existing Manor Royal Article 4 Directions. If the potential loss of business floorspace in main employment areas 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 the main employment areas as locations in which to live.
- 7.4 Legal advice will be sought on the drafting and making of the Article 4 Direction(s).

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 Land Trajectory January 2018 (in Authority Monitoring Report 2016/17

<http://www.crawley.gov.uk/pw/web/PUB337348>

Northern West Sussex Economic Growth Assessment 2015

<http://www.crawley.gov.uk/pw/web/pub242262>

Manor Royal Article 4 Directions (B1a office, B1c light industrial, and B8 storage & distribution to C3 residential)

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

General Permitted Development Order 2015 (and amendments)

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

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