

Decision Maker: RENEWAL, RECREATION AND HOUSING
PORTFOLIO HOLDER

**FOR PRE-DECISION SCRUTINY AT THE RENEWAL,
RECREATION AND HOUSING POLICY DEVELOPMENT
AND SCRUTINY COMMITTEE AND DEVELOPMENT
CONTROL COMMITTEE**

Date: DCC: 28 January 2021
RR&H PDS: 2 February 2021

Decision Type: Non-Urgent Non-Executive Key

Title: CONFIRMATION OF NON-IMMEDIATE ARTICLE 4 DIRECTIONS
TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR
OFFICE TO RESIDENTIAL CONVERSIONS IN BROMLEY'S
OFFICE CLUSTERS

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Ward: Bromley Town; Cray Valley West; Orpington;

1. Reason for report

1.1 This report recommends that the Council confirms three non-immediate Article 4 Directions to withdraw the permitted development right for change of use from office to residential. These Directions would apply to the three Office Clusters, as shown in the Bromley Local Plan (January 2019) – Crayfield Business Park (Cray Valley West), Knoll Rise (Orpington) and Masons Hill (Bromley Town). If confirmed, the Directions will come into force on 10 July 2021, in order to remove potential liability to pay compensation.

1.2 The areas selected for the Directions are key areas for the retention and promotion of offices, alongside Business Improvement Areas (which are already subject to an Article 4 Direction). This is reflected in their designation as Office Clusters under the Bromley Local Plan. It is expedient to restrict the change of use of offices in these areas by permitted development rights

to avoid harmful impacts upon economic development and to ensure any development within the areas is properly planned in line with the policies of the adopted Local Plan.

- 1.3 In line with the requirements of legislation, representations on the proposed Directions were sought. The Council must take into account any representations made before it confirms the Article 4 Directions. A consultation statement is provided at Appendix 1, which details the single representation received during the consultation; and the Council's response. The representation does not raise any issues that justify non-confirmation of the Directions.
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2. RECOMMENDATION(S)

- 2.1 That Members of the Development Control Committee recommend the confirmation of three 'non-immediate' Article 4 Directions to withdraw the permitted development right granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2 Part 3 Class O, which permits uses falling within Class B1(a) (office) to change use to Class C3 (dwellinghouses). The areas in which the Article 4 Directions will apply are shown in the plans attached at Appendix 2.
- 2.2 That Members refer the matter to the Renewal, Recreation and Housing Policy Development and Scrutiny Committee for pre-decision scrutiny.
- 2.3 That Members note that the Portfolio Holder for Renewal, Recreation and Housing will be asked to authorise the confirmation of the three non-immediate Directions, which will come into force on 10 July 2021 (12 months from the day on which they were made).

Impact on Vulnerable Adults and Children

1. Summary of Impact: None
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1.

Corporate Policy

1. Policy Status: N/A
 2. BBB Priority: Vibrant, Thriving Town Centres Regeneration:
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Financial

1. Cost of proposal: Limited cost associated with 'making' and publicising any Article 4 Direction
 2. Ongoing costs: No Cost
 3. Budget head/performance centre: Planning Policy and Strategy
 4. Total current budget for this head: £0.568m
 5. Source of funding: Existing Revenue Budget for 2020/21
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Personnel

1. Number of staff (current and additional): 10fte
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Article 4 and Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015
 2. Call-in: Applicable: Further Details – Portfolio Decision
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Procurement

1. Summary of Procurement Implications: None
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

Background and planning policy context

- 3.1 In 2013, the Government amended the Town and Country Planning (General Permitted Development) Order (the 'GPDO') to grant new permitted development (PD) rights to change from office use to residential use, subject to a prior approval process. The amended GPDO initially came into force for a 3 year period, but was later made permanent.
- 3.2 In response to these changes, the Council made an Article 4 Direction covering parts of Bromley Town Centre, which came into effect on 1 August 2015. The Direction was, and remains, essential to support economic development in Bromley Town Centre's primary office locations and Business Improvement Areas, as designated in the Bromley Local Plan.
- 3.3 Article 4 Directions allow authorities to withdraw the PD rights that would otherwise apply by virtue of the GPDO. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission be first obtained from the local planning authority for that development. This gives a local planning authority the opportunity to consider a proposal in more detail, i.e. assessing against policies in the Development Plan. The PD right in question requires prior approval of certain issues, but this determination is limited and does not allow for full consideration against adopted Development Plan policies.
- 3.4 As set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), the use of Article 4 Directions should be limited to situations where they are necessary to protect local amenity and / or the wellbeing of the area. These criteria are not further defined in the NPPF or the PPG. The PPG notes that the potential harm that a Direction is intended to address should be clearly identified. For the Directions proposed in this report, justification is set out in the following sections of this report. The draft London Plan explicitly supports boroughs introducing Article 4 Directions to protect significant areas, including office clusters, against losses from PD rights. This supports Bromley's existing Direction in BIAs and the introduction of further Directions in newly designated office clusters.
- 3.5 Provided that the local authority considers it expedient, an Article 4 Direction can cover an area of any geographic size, from a specific site to a local authority-wide area. PPG advises that any Direction removing PD rights where prior approval powers are available to control PD should have particularly strong justification.
- 3.6 Article 4 Directions relating to certain specified PD rights (including Part 3 PD rights) can be made with immediate effect; or they can be made to take effect following a period of notice (non-immediate); this is usually done in order to remove compensation liability. This report recommends that the Council confirms three non-immediate Article 4 Directions to come into force on 10 July 2021; this is 12 months from the day on which the Directions were made, which would mean the Council has no liability to compensate landowners affected by the removal of PD rights. This is discussed further in the legal implications of this report.
- 3.7 If the Directions are confirmed, any change of use from office to residential would require full planning permission.
- 3.8 The Secretary of State for Housing, Communities and Local Government has the power to revoke or modify Article 4 Directions at any time.
- 3.9 There is a range of national, London and local planning policies that are considered material to any decision of whether it is expedient to make and confirm an Article 4 Direction.
- 3.10 At a national level, paragraph 80 of the NPPF sets out that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. It states

that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development

- 3.11 Paragraph 81 sets out a number of requirements which apply to the development of planning policies, including a need to set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth; and to set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period. The policies set out in the Bromley Local Plan, including the policies identifying office clusters, are consistent with these aspects of the NPPF.
- 3.12 Paragraph 81 also states that policies should be flexible enough to accommodate needs not anticipated in the plan, and to enable a rapid response to changes in economic circumstances. The policies set out in the Local Plan are considered sufficiently flexible to respond in such instances.
- 3.13 The PPG requires local planning authorities to prepare a robust evidence base to understand existing business needs, which will need to be kept under review to reflect local circumstances and market conditions. Bromley's Development Plan is underpinned by robust evidence of need (discussed below).
- 3.14 At the London level, the draft new London Plan expects that Outer London will see growth in office employment and notes the importance of ensuring sufficient space to support the growth of new start-up companies and to accommodate SMEs. Development Plans and development proposals should support the provision of space suitable for SMEs in light of strategic and local assessments of demand and supply.
- 3.15 Policy E1 outlines that improvements to the quality, flexibility and adaptability of office space should be supported by new office space, refurbishments and mixed-use developments.
- 3.16 Policy E1 Part E states that existing viable office floorspace capacity outside specific identified locations should be retained. The policy supports borough Article 4 Directions in locally identified office clusters, to ensure that office functions are not undermined by office to residential PDR and to protect local amenity or the wellbeing of an area.
- 3.17 Policy E2 encourages the provision and protection of Class B uses at a range of sizes and rents to meet the needs of a range of enterprises and start-ups.
- 3.18 Local planning policy set out in the Bromley Local Plan identifies the Office Clusters designation and sets out applicable policy which will apply to proposals which come forward in these areas (Local Plan Policy 85). Office Clusters are one of two Local Plan designations which seek the retention and promotion of office premises and floorspace, the other being Business Improvement Areas (which are already subject to an Article 4 Direction as noted above).
- 3.19 Policy 85 explains that the Council will work to retain and manage an adequate stock of good quality office floorspace by safeguarding three areas – Crayfield Business Park, Knoll Rise and Masons Hill – as Office Clusters. Redevelopment proposals in these areas will be expected to re-provide at least the same quantum of office floorspace.
- 3.20 All three office clusters fall within an identified renewal area; Masons Hill falls within the Bromley Common renewal area, and Crayfield Business Park and Knoll Rise both fall within the Cray Valley renewal area. The Local Plan (policies 13 and 14) seeks to maximise opportunities for enhancement and improvement of the renewal areas and requires developments in renewal areas to maximise their contribution to economic, social and environmental improvements.

3.21 Policies 16 and 17 relate specifically to the Bromley Common and Cray Valley renewal areas respectively.

Proposed Article 4 Directions – justification and evidence

3.21 The three proposed Directions will cover the following areas which correlate with the designated Local Plan office clusters:

- Crayfield Business Park - this area is sited to the north of New Mill Road and comprises a group of two storey buildings and associated car parking. The Office Cluster comprises approximately 7,500sqm of office floorspace.
- Knoll Rise - this area is located to the north and south sides of Knoll Rise in close proximity to the junction with Orpington High Street. It comprises over 6,000sqm of office floorspace.
- Masons Hill - this area comprises office buildings on Masons Hill, Homesdale Road and Wimpole Close. The combined office floorspace in the area totals over 6,000sqm.

3.22 Maps of the proposed Article 4 Direction areas can be found at Appendix 2.

3.23 The Directions are considered necessary as the PD right has the potential to cause significant harm to local amenity and wellbeing. The areas identified above contribute significantly to the borough's commercial function. The PD rights compromise the ability of the Council to plan properly, and to ensure uses which contribute significantly to economic growth are protected, and local wellbeing is maintained. In practical terms, without the Directions, there is a very real potential for the loss of jobs and the loss of employment capacity to accommodate future jobs. This is not just due to the loss of individual premises but also the cumulative impacts from loss of multiple premises, which would undermine the core business function of the office clusters.

3.24 The designation of the Office Clusters was evidenced within the 'Local Plan Background Paper – Key Office Clusters' and this document formed part of the evidence base for the examination of the Local Plan. This review paper identified the changes in office stock and identified a gradual decline in office floorspace in the borough between 2005 and 2012.

3.25 Criteria based on accessibility, total floorspace, vacancy level, and age were used to assess prospective sites and the three Office Clusters were identified as areas to be safeguarded for continued office use to meet projected employment demand in the borough.

3.26 The office clusters all fall within renewal areas and consideration was given to their contribution to these areas, particularly economic contributions. Further, the Knoll Rise cluster is in Orpington town centre, which bolsters the multi-functional commercial role of this area. Crayfield Business Park forms part of the strategically important Cray Business Corridor, identified as an economic growth area in the Local Plan.

3.27 Knoll Rise and Masons Hill have PTAL ratings of 4/5, meaning they have easy access via sustainable transport modes. Crayfield Business Park has a low PTAL rating but is located in close proximity to London Distributor Roads and Strategic Routes. In general, the proximity of the office clusters to key transport links provides expansive reach to these locations, via various transport modes, from across the borough.

3.28 The designations and policy preparation were supported by an evidence base including several economic and employment land studies. These studies included the following employment-based requirements for additional floorspace for the borough:

- Bromley Retail, Office Industry and Leisure Study (DTZ 2012): 121,000 sqm, between 2006 and 2031

- Stimulating the Economy Study (GL Hearn 2013): potentially over 250,000 sqm, between 2011 and 2031
- Planning for Growth in Bromley – Cray Business Corridor Study (URS 2014): 28,800 sqm, between 2013 and 2031

3.29 In addition to this local evidence base, studies are routinely prepared at a strategic level to inform the Greater London Authority's planning work including the draft new London Plan. Recent studies have included the following employment-based floorspace requirements specific to Bromley borough:

- London Office Floorspace Projections (Peter Brett Associates 2014): range of 78,000-103,000 sqm, between 2011 and 2036
- London Office Policy Review 2017 (CAG and Ramidus 2017): 122,009 sqm GIA, between 2016 and 2041. This is a significant increase on the previous London Office Policy Review (published in 2012) which projected around 80,000sqm between 2011 and 2036. The projected quantum is not disaggregated within the borough but it is considered that a significant proportion would be delivered in designated areas where office use is prioritised.
- The latest GLA London's Economic Outlook Forecast (Autumn 2020) forecasts that although the growth in workforce jobs will be subdued in the medium-term, London will see a rebound in the number of workforce jobs in 2022, reflecting the projected GVA rebound following the impact of COVID-19 crisis
- The GLA has also released the final Evidence Base report for London's Local Industrial Strategy. This presents clear, robust and comprehensive evidence on London's economy with a view to supporting the overall objective of achieving inclusive growth in London.

3.30 Despite the variety of projections, these studies have shown a consistently strong employment-based demand for additional office floorspace for the life of Bromley's Local Plan. The latest strategic study, the London Office Policy Review 2017¹ highlights that vacancy rates in Bromley have been consistently low (under 5%) and availabilities have remained low up to 2015. The LOPR outlines that small office units in particular should be protected in Bromley (figure 6.4).

3.31 Figure 9.14 of the LOPR 2017 compares the trend-based and employment-based projections at borough level. For many boroughs, the employment-based method generates a higher projection than past trends. In boroughs such as Bromley, Ealing, Harrow and Westminster, the employment-based method shows positive growth in stock, whereas past trends show office floorspace has declined significantly. The trend-based method has undoubtedly been affected by substantial office losses through PD, as noted in paragraph 6.2.18 of the LOPR. Much of these losses involved the loss of occupied premises; figure 7.13 shows that PD approvals in Bromley (as of the end of the 2015 FY) involved the loss of over 10,000sqm of occupied space which disrupts over 1,000 jobs. PD rights have, or have the potential to, cause significant adverse impacts on the office function of identified office clusters. Therefore, the Directions are considered essential to prevent such impacts occurring and thereby causing significant adverse impacts on the amenity of local businesses and the local economy.

3.32 Since the introduction of the PD rights in 2013, 120 prior approvals have been granted in the borough (excluding lapsed and duplicate applications)², which involves the loss of around 50,000sqm of office space. 77% of these prior approvals (approximately 39,000sqm) have

¹ https://www.london.gov.uk/sites/default/files/london_office_policy_review_2017_final_17_06_07.pdf

² As of May 2020.

completed to date; no completions have taken place within the office clusters as designated in the adopted Local Plan. There are extant approvals totaling over 1,000sqm of office losses within the office clusters (all at Masons Hill).

- 3.33 Overall, the Office Clusters contain around 23,000 sqm of office floorspace. The extant approvals in the Masons Hill cluster are not considered to undermine the function of the office clusters. The Council has considered whether the boundaries of the proposed Masons Hill Direction should cover a smaller area than the designated clusters because of the extant approvals, but considers that the Directions should cover the clusters as designated in the Local Plan. It is noted that extant prior approvals are not affected by subsequent Directions, as noted in the GPDO. However, if the extant prior approvals are not completed in line with the conditions set out in the GPDO, they will lapse and the Directions would then preclude any further PD for as long as they remained in force.
- 3.34 Further loss of space in the clusters could reduce opportunities for fledgling businesses to secure space, and could also mean that existing businesses looking to grow are not retained as they may be forced to look outside the borough for additional space.
- 3.35 The introduction of residential premises could also pose a threat as it increases the risk of noise and disturbance complaints due to locating incompatible uses next to one another, and hence causing negative impacts on the amenity of these businesses.

Consultation on the Article 4 Directions

- 3.36 The Council consulted on the A4D from 10 July to 4 September 2020, a period of 8 weeks. This is significantly more than the minimum period specified in Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order (the GPDO); the Council considered that as the consultation period overlapped with the typical summer holiday period, it was important to allow for extra time for receipt of representations. In deciding whether to confirm the A4D, the local planning authority must take into account any representations received during the period.
- 3.37 Consultation was undertaken in line with the requirements set out in the GPDO. As part of the consultation, the Council sent letters to around 100 owners/occupiers of properties within the Office Clusters.
- 3.38 One representation was received. The representation relates specifically to the Mason's Hill Direction and considers that the Direction is not justified and is inconsistent with the aims of national planning policy. The full representation is provided in Appendix 1. Officers consider that the representation does not raise any issues which would justify not confirming the Mason's Hill (or other) Directions, as explained in response to the representation in Appendix 1.

4. POLICY IMPLICATIONS

- 4.1 As set out in the main body of this report, there could be significant adverse impacts on local amenity and wellbeing resulting from the loss of office floorspace, if the proposed Article 4 Directions are not put in place. This could undermine elements of the Development Plan, particularly economic policies set out in the Local Plan and draft new London Plan.
- 4.2 The proposed Directions will restrict housing supply to a degree, but this is likely to be of limited impact in terms of restricting the amount of new residential units created, and hence the effect on the Council's ability to meet housing targets is limited. The clusters cover 0.026% of the total area of the borough, which is an incredibly small proportion and leaves a significant amount of land where PD rights would continue to apply. The potentially significant economic impacts on designated office areas, identified in this report, would outweigh this potentially limited impact

on housing supply, in terms of the deciding whether it is expedient to pursue Article 4 Directions for the office clusters.

- 4.3 The quality of the housing created must also be considered alongside any impact on housing supply. The creation of new housing is not just a numbers game; it is essential that new housing is fit for purpose in order to ensure sustainable development, for example ensuring appropriate sustainable design measures to mitigate climate change. PD rights have become synonymous with poor quality, small homes. As an Article 4 Direction would require planning permission to be secured for such developments in the future, this will ensure delivery of higher quality residential units and assist with the delivery of sustainable development in the borough. It is noted that the Government have amended the GPDO to introduce a requirement for new housing created through PD rights to meet minimum space standards; while this is a positive step in terms of ensuring better quality homes, there are other design requirements in the Development Plan that would not be required through the GPDO.
- 4.4 The clusters themselves have a distinct commercial function and are not considered to be the most suitable areas for delivery of housing. Regardless of this, while the Directions would remove PD rights, they would not remove the potential for housing in the office clusters entirely, for example as part of a mixed-use redevelopment, as policy 85 does not preclude housing in principle. Requiring housing to come through the full planning permission route is more likely to deliver sustainable development which has economic, social and environmental benefits, in line with the objectives of the Development Plan.
- 4.5 The impacts of the COVID-19 pandemic, particularly in the medium and long-term, are still uncertain, but it is noted that it could have significant impacts on the local economy and housing supply in particular. However, such impacts are not yet evident, for example through higher office vacancies. If impacts do materialise, this does not necessarily have implications for the Directions, as these impacts could be a material consideration in a future planning application. However, the PPG notes that it is important for local planning authorities to monitor any Article 4 Directions regularly to make certain that the original reasons the Directions were made remain valid. Therefore, the impact of the COVID-19 pandemic, as well as other positive and negative impacts, will be an ongoing consideration to help determine whether the Directions should remain in place.

5. FINANCIAL IMPLICATIONS

- 5.1 This report recommends three non-immediate Article 4 Directions are confirmed to come into force on 10 July 2021, which will ensure that compensation liability is removed. Where compensation can be claimed based on abortive expenditure or other loss or damage directly attributable to the withdrawal of PD rights; this could include differences in land value between office and residential, which could be substantial.
- 5.2 Costs associated with confirming the Article 4 Directions will be met by the Council's legal services department.

6. LEGAL IMPLICATIONS

- 6.1 Article 4 (1) of the GPDO allows local Planning Authorities to withdraw certain PD Rights. The procedure for putting in place an Article 4 Direction is set out in Schedule 3 of the GPDO. The Council's legal services department will be responsible for confirming the Directions, in line with the statutory requirements set out in the GPDO.
- 6.2 The GPDO requires notice of confirmation of the proposed Directions to be given as soon as practicable. Due to the current COVID-19 restrictions, it may not be practicable to give notice as per the GPDO requirements. In such instances, the Council will seek to issue notice following

the lifting of the COVID-19 restrictions. This is considered to be a practical and pragmatic approach as advocated in the Chief Planners Letter of 20 March 2020³.

Non-Applicable Sections:	<p>IMPACT ON VULNERABLE ADULTS AND CHILDREN</p> <p>PERSONNEL IMPLICATIONS</p> <p>PROCUREMENT IMPLICATIONS</p>
Background Documents: (Access via Contact Officer)	<p>Bromley Local Plan 2019</p> <p>The Publication London Plan, December 2020</p> <p>National Planning Policy Framework</p>

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875045/Chief_Planners_Newsletter_-_March_2020.pdf