

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: 11 January 2022
RRH PDS: 26 January 2022

Decision Type: Non-Urgent Non-Executive Key

Title: CONFIRMATION OF ARTICLE 4 DIRECTIONS TO REMOVE
PERMITTED DEVELOPMENT RIGHTS FOR OFFICE TO
RESIDENTIAL DEMOLITION IN BROMLEY'S DESIGNATED
OFFICE AND INDUSTRIAL AREAS

Contact Officer: Ben Johnson, Head of Planning Policy and Strategy
E-mail: ben.johnson@bromley.gov.uk

Chief Officer: Tim Horsman, Assistant Director (Planning)

Ward: Bromley Common and Keston; Bromley Town; Copers Cope; Cray Valley
East; Cray Valley West; Darwin; Kelsey and Eden Park; Orpington; Penge and
Cator; Plaistow and Sundridge;

1. Reason for report

- 1.1. This report recommends that the Council confirms 18 non-immediate Article 4 Directions to withdraw permitted development (PD) rights which allow the demolition of purpose-built detached buildings used for offices (within former B1a office, B1b research and B1c light industrial uses) together with their replacement with a single detached block of flats or a single dwellinghouse. These Directions would apply to the three Business Improvement Areas (BIA) in Bromley Town Centre; Strategic Industrial Locations (SIL); the majority of Locally Significant Industrial Sites (LSIS); and all three Office Clusters, all as shown in the Bromley Local Plan (January 2019).

- 1.2. The areas selected for the Directions are key areas for the retention and promotion of offices, research and light industrial uses. The Article 4 Directions would accompany the existing Directions which remove Part 3, Class O office to residential PD rights within the Business Improvement Areas and three Office Clusters. It is considered expedient to restrict the operation of the new office to residential demolition PD right in the key areas outlined above due to the strategic importance of these designated areas. The Directions will thereby avoid harmful impacts upon economic development and ensure any development within the areas is properly planned in line with the policies in 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. One representation was received, which made general comments on the Direction covering the Franklin Industrial Estate LSIS, specifically noting numerous benefits of the existing concentration of businesses in the area and the need to protect these. If confirmed, the Directions would come into force on 11 May 2022.
-

2. RECOMMENDATION(S)

- 2.1. **That Members endorse the confirmation of 18 non-immediate Article 4 Directions to withdraw PD rights granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”), Schedule 2, Part 20, Class ZA. The areas covered by the Directions are shown on the map at Appendix 1.**
- 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 confirm the 18 non-immediate Directions covering the areas shown on the map at Appendix 1, to come into force on 11 May 2022.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: No impact
-

Corporate Policy

1. Policy Status: Not Applicable
 2. BBB Priority: Regeneration
-

Financial

1. Cost of proposal: Costs associated with publicising the confirmation will be met from the Planning Policy and Strategy budget.
 2. Ongoing costs: N/A
 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 2021/22
-

Personnel

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

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
-

Procurement

1. Summary of Procurement Implications: N/A
-

Customer Impact

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

Ward Councillor Views

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

3. COMMENTARY

Background

- 3.1. PD rights were introduced in 2020 which permit the demolition of any building comprising a single purpose-built detached block of flats, and any other single detached building comprising premises established for B1(a), B1(b) or B1(c)¹ uses (or for any combination of them); and its replacement by a single building comprising a purpose-built detached block of flats, or a purpose-built detached dwellinghouse. Further information on these PD rights is set out in the Planning Legislation Update report² which was noted at the Development Control Committee (DCC) meeting held on 24 September 2020.
- 3.2. Article 4 Directions allow authorities to withdraw the PD rights that would otherwise apply by virtue of the GPDO. Details of the Article 4 Direction process and relevant legislation and guidance are set out in paragraphs 3.5 to 3.11 of the November 2020 DCC report³ which recommended the Directions.
- 3.3. It is noted that the NPPF was amended in July 2021, which introduced a new requirement for Directions; this requires Directions which relate to a change from non-residential use to residential use to be limited to situations where an Article 4 Direction is necessary to avoid wholly unacceptable adverse impacts. Directions should apply to the smallest geographical area possible. The PPG notes that the potential harm that a Direction is intended to address should be clearly identified. For the proposed Directions, justification to address the NPPF requirements is discussed below.
- 3.4. The November 2020 DCC report⁴ recommended that 18 non-immediate Article 4 Directions⁵ were made to withdraw Part 20, Class ZA PD rights, which allow certain B1a, B1b or B1c buildings to be demolished and replaced with residential use. The proposed Directions related to the three Business Improvement Areas (BIA) in Bromley Town Centre; Strategic Industrial Locations (SIL) at Sevenoaks Road/Cray Avenue, Klinger Industrial Park and Crayfields Industrial/Business Park; 10 Locally Significant Industrial Sites (LSIS); and all three Office Clusters (one of which is included within the boundary of a SIL), all as shown in the Bromley Local Plan (January 2019). DCC agreed with the report recommendations⁶.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) refers to the former Use Classes, prior to the change to the Use Classes Order which came into effect on 1 September 2020. This is a transitional provision and the Government have noted their intention to update the GPDO by summer 2021 to incorporate references to the new use classes.

² Available here: <https://cds.bromley.gov.uk/documents/s50083418/PLANNING%20LEGISLATION%20UPDATE%20-%20PERMITTED%20DEVELOPMENT%20RIGHTS%20AND%20CHANGES%20TO%20THE%20USE%20CLASSES%20ORDERP.pdf>

³ 'PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTIONS TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR OFFICE TO RESIDENTIAL DEMOLITION IN BROMLEY'S DESIGNATED OFFICE AND INDUSTRIAL AREAS', Development Control Committee 19 November 2020, available from: <https://cds.bromley.gov.uk/documents/s50084645/PROPOSED%20NON-IMMEDIATE%20ARTICLE%204%20DIRECTIONS%20TO%20REMOVE%20PERMITTED%20DEVELOPMENT%20RIGHTS%20FOR%20OFFICE%20TO%20RES.pdf>

⁴ Ibid

⁵ The November 2020 DCC report erroneously noted that 20 Directions would be made; this was based on a miscalculation of the total number of designated employment areas intended to be covered by the Directions. The 18 Directions cover the same areas set out in the November 2020 DCC report.

⁶ Minutes of the DCC meeting held at 6.30 pm on 19 November 2020, available from: <https://cds.bromley.gov.uk/documents/g6909/Printed%20minutes%20Thursday%2019-Nov-2020%2018.30%20Development%20Control%20Committee.pdf?T=1>

- 3.5. The Renewal, Recreation and Housing Policy Development and Scrutiny Committee (RRHPDS) considered the proposed Directions on 16 December 2020⁷. RRHPDS resolved that the Portfolio Holder be recommended to authorise the making of 18 non-immediate Directions⁸.
- 3.6. The 18 Directions were subsequently authorised by the Portfolio Holder and ‘made’ on 11 May 2021.

Representations

- 3.7. Consultation on the Directions was undertaken from 11 May to 22 June 2021 (a period of six weeks). As detailed in the November 2020 report to Development Control Committee, the consultation did not include serving notice on owners and occupiers of every part of land within the area to which the Direction relates, as this level of notification was considered impracticable. Notice was given by local advertisement and site notices in each of the areas covered by Directions, as per the other requirements of the GPDO. Details were also provided on the Council’s website.
- 3.8. One representation was received, which made general comments on the Direction covering the Franklin Industrial Estate LSIS, specifically noting numerous benefits of the existing concentration of businesses in the area and the need to protect these.

Discussion and justification

- 3.9. Paragraphs 3.12 to 3.23 of the November 2020 DCC report⁹ set out the national, London and local planning policy context which is material to any decision of whether it is expedient to make an Article 4 Direction. Since the November 2020 report, the London Plan has now been adopted.
- 3.10. In terms of the justification for the proposed Directions, officers consider that the justification and evidence set out in paragraphs 3.26 to 3.35 of the November 2020 DCC report¹⁰ remains robust and is sufficient to address the updated NPPF requirements with regard to ensuring wholly unacceptable adverse impacts are avoided. The designated areas to be covered by the Directions contain over 100,000 sqm of office and light industrial floorspace. Further loss of space in the designated areas 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. It also means that any potential agglomeration benefits are likely to be lost, which could have a significant impact on the local economy and affect local amenity and wellbeing.
- 3.11. Additional evidence published following the November 2020 DCC report serves to further strengthen the justification for the Directions.

⁷ ‘PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTIONS TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR OFFICE TO RESIDENTIAL DEMOLITION IN BROMLEY’S DESIGNATED OFFICE AND INDUSTRIAL AREAS’. Renewal, Recreation and Housing Policy Development and Scrutiny Committee 16 December 2020, available from: <https://cds.bromley.gov.uk/documents/s50085125/PROPOSED%20NON-IMMEDIATE%20ARTICLE%204%20DIRECTIONS%20TO%20REMOVE%20PERMITTED%20DEVELOPMENT%20RIGHTS%20FOR%20OFFICE%20TO%20RES.pdf>

⁸ Minutes of the RRHPDS meeting held at 6.30 pm on 16 December 2020, available from: <http://cds/bb/documents/g7035/Public%20minutes%20Wednesday%2016-Dec-2020%2018.30%20Renewal%20Recreation%20and%20Housing%20Policy%20Development%20and%20.pdf?T=11>

⁹ Op cit, see footnote 3

¹⁰ Ibid

- 3.12. In July 2021, the GLA published ‘**Strategic evidence to support London borough Article 4 Directions (commercial to residential)**’¹¹; although this evidence refers to Class E to residential PD rights, it also provides relevant support for the removal of other PD rights which involve the loss of commercial floorspace (including office to residential demolition PD rights).
- 3.13. The evidence strongly supports the protection of London's industrial areas and creative production space; London depends on a wide range of industrial, logistics and related uses that are essential to the functioning of its economy and for servicing the needs of its growing population, as well as contributing towards employment opportunities for Londoners.
- 3.14. Over the period 2001 to 2015, more than 1,300 hectares of industrial land was released to other uses and this far exceeded previously established London Plan monitoring benchmarks. Research for the GLA indicates that there will be positive net demand for industrial land in London over the period 2016 to 2041, mostly driven by strong demand for logistics to service growth in London's economy and population.
- 3.15. The London Plan urges boroughs to ensure that the need to retain sufficient industrial capacity is not undermined by PD rights by introducing Article 4 Directions where appropriate. The strategic evidence notes that SIL and LSIS should be considered as areas that are important for heavy industry, waste management, storage and distribution, or a mix of such uses.
- 3.16. The PD rights do allow for consideration of the impact on business and new residents of the development's introduction of, or increase in, residential use in the area in which the development is to take place. However, there may be circumstances where it may be more problematic for local authorities to rely on this clause in the PD rights, such as where a sub-area of a SIL or LSIS has a mix of industrial uses at the lighter end of the spectrum. Given the blurring in practice between these light industrial uses and those which are general industrial, storage or distribution activities, it may be difficult to distinguish between specific industrial uses to gauge any impacts. Article 4 Directions in these areas may be particularly appropriate, given the potential difficulty of relying on the PD rights clause.
- 3.17. The GLA is currently updating the industrial land baseline in London. Emerging estimates suggest that vacancy rates are significantly lower within SIL and LSIS locations than they were when the 2015 baseline study was undertaken.
- 3.18. Estimates suggest that 99.8% of all industrial businesses in London employ less than 250 employees and that 90% of those businesses are micro-businesses employing less than 10 people. The PD rights are likely to have a direct disproportionate impact on industrial SMEs in addition to the indirect impacts on industrial businesses (of any size) located in proximity to PD rights conversions.
- 3.19. Residential land values are predicted to increase over the next 5 years. All Residential value bands, including average values in Residential Band E, are typically greater than average industrial values in inner and outer London. Given the potential for land value speculation, the GLA strategic evidence advocates for local authorities to adopt a ‘belt and braces’ approach and introduce Article 4 Directions for SIL and LSIS where this is necessary and supported by local evidence.
- 3.20. The Directions cover specific office designations within and in close proximity to Bromley's Metropolitan and Major Town Centres. The strategic evidence base document, in section 4.3, details the importance of Town Centre office locations, referencing the London Plan strategically significant town centre office locations which identify Bromley Town Centre as a centre with the

¹¹ Available from:

https://www.london.gov.uk/sites/default/files/strategic_evidence_to_support_commercial_to_residential_article_4s_in_london_july_2021_final_report.pdf

capacity, demand and viability to accommodate new office development, generally as part of mixed-use developments including residential use. The evidence references a report from Knight Frank¹² which recognises Bromley as an ‘up and coming’ centre with regards to ‘innovation-led locations’¹³.

- 3.21. Offices and light industrial uses contribute to the range of uses in town centres and high streets alongside retail and leisure uses. Offices can make up a significant proportion of total commercial floorspace in town centres. The report recognises that there are emerging trends that could affect the nature of office working and the extent of remote working, but states that the extent of this and its impact on the need for office space has yet to emerge fully.
- 3.22. The report states that the new PD rights, in the absence of targeted Article 4 Directions, could impact the adaptation of London’s town centres and high streets to be (and remain) vibrant, successful locations for a range of business, culture, civic and community activities complemented by well-planned housing and mixed-use development.
- 3.23. The report recognises that, while town centres and high streets can benefit from additional homes in the area, this should be well planned and should not come forward at the expense of successful commercial and community uses. Residential uses have different characteristics to commercial, business and service uses. Once conversions to residential occur the inherent flexibility of high street premises in commercial and community uses is lost, undermining the ability of the high street to adapt to future circumstances. Too much erosion of commercial and community services via PD rights in town centres and high streets could also create dormitory areas where residents must travel further afield to get to shops and places of work, undermining efforts to support walking and cycling and the creation of a more sustainable city.
- 3.24. The strategic evidence base document also makes clear that Article 4 Directions can be a useful tool for ensuring that development capacity is optimised through site allocations, masterplans and town centre strategies, delivering better outcomes for housing delivery, housing quality and place-making.
- 3.25. A report by GLA Economics - **London's Economic Outlook: Spring 2021 - The GLA's medium-term planning projections (May 2021)**¹⁴ - projects that London’s real Gross Value Added (GVA) growth rate is forecast to be 5.4% this year due to the recovery from the COVID-19 crisis. This growth rate is expected to increase slightly to 6.9% in 2022 before moderating to 3.1% in 2023. London is forecast to see a fall in the number of workforce jobs in 2021 (-3.6% in annual terms) although this will recover in 2022 (2.9%) before accelerating in 2023 (4.2%). Similarly to GVA, London’s household income and expenditure are both forecast to grow in all years of the forecast period. These projections demonstrate that there is likely to be significant demand for office floorspace to facilitate economic growth and accommodate the creation of new jobs.
- 3.26. A further report by GLA Economics - **Macroeconomic scenarios for London’s economy post COVID-19 - Scenarios approach, storylines and projections to 2030 (August 2021)**¹⁵ - outlines three core economic scenarios for London’s economy post-COVID-19 - Scenario 1: Fast economic recovery (an optimistic but plausible scenario); Scenario 2: Gradual economic recovery and Scenario 3: Slow economic recovery. In all scenarios, London’s economy is

¹² Available from: https://content.knightfrank.com/resources/knightfrank.com/commercial/the-next-chapter-2021---the-m25-and-south-east-office-market-report.pdf?utm_source=knightfrank&utm_medium=sitecontent&utm_campaign=m25-offices

¹³ Ibid, defined as “Locations such as these benefit from the agglomeration and clustering of economies and a magnetism that attracts young, creative and entrepreneurial populations.”

¹⁴ Available from: <https://www.london.gov.uk/sites/default/files/leo-spring-2021-final.pdf>

¹⁵ Available from: <https://data.london.gov.uk/download/macroeconomic-scenarios-for-london-s-economy-post-covid-19/4b44a3ba-bc7e-4cef-a443-fcd7636dbd98/Macro%20scenarios%20for%20London%20-%20Approach%20and%20long-term%20projections%20August%202021.pdf>

expected to recover to the pre-crisis level of output by the end of next year at the latest. Under the Gradual return to economic growth scenario, London's GVA reaches pre-crisis levels in Q4 of 2021. Employment recovery is projected to be significantly slower than output recovery, so that pre-crisis employment levels are not reached until Q1 of 2023 in the gradual economic recovery scenario and not before the end of the same year in the slower economic recovery scenario. As with the report noted above, these scenarios help to support the continued protection of office floorspace to facilitate economic growth and accommodate the creation of new jobs.

4. POLICY IMPLICATIONS

- 4.1. As set out in the main body of this report, there could be significant adverse impacts on local amenity resulting from office to residential demolition in specific areas linked to Local Plan designations, if the proposed Article 4 Directions are not confirmed to come into force. This could undermine elements of the Development 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 areas subject to the Directions cover a very small proportion of the total area of the borough, which leaves a significant amount of land where PD rights would continue to apply. The potentially significant impacts on local amenity, identified in this report, would outweigh this potentially limited impact on housing supply, in terms of the deciding whether it is expedient to confirm the Article 4 Directions.
- 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 Article 4 Directions 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 recognised that minimum space standards will be required for new housing developed through PD rights, but, important as these standards are, this will not guarantee the development of high quality housing; only full application of Development Plan policy can do this.
- 4.4. Prior approval permissions have often been used as a 'fallback' position, whereby developers secure prior approval permission and then subsequently apply for full planning permission for a more comprehensive development on the same site, noting that if this permission was not granted then there is an extant prior approval that can be delivered. Fallback positions can be material considerations in the determination of planning applications although the weight given would depend on whether the applicant has secured the prior approval permission; it is not enough to just highlight that prior approval permission could be sought, as there is no guarantee prior approval will be granted. Where prior approval permission has been granted, an applicant would also need to demonstrate that there is a realistic intention to implement the prior approval, for the fallback to be given weight. It is noted that development granted through the office to residential PD rights must be completed within three years of the date of grant of prior approval, which will factor into any consideration of the weight given to a fallback position.
- 4.5. The impacts of the COVID-19 pandemic are currently uncertain, but it is noted that it could have significant impacts on housing supply in particular. However, such impacts are not yet evident, for example through higher commercial vacancies or impacts on housing delivery statistics. 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.

- 4.6. The Article 4 Directions would accompany the existing Directions which remove Part 3, Class O office to residential PD rights within the Business Improvement Areas and three Office Clusters¹⁶.

5. FINANCIAL IMPLICATIONS

- 5.1. This report recommends 18 non-immediate Article 4 Directions are confirmed to come into force on 11 May 2022. As a 12-month notice period to be given prior to the Directions coming into effect, compensation liability is removed.
- 5.2. Costs associated with confirming the Article 4 Directions will be met by Planning Policy and Strategy and 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. There is a requirement to give notice of confirmation to owners and occupiers of every part of land within the areas to which the Directions relate, unless the local planning authority considers that the number of owners or occupiers within the area to which the direction relates makes individual service impracticable. The proposed Directions together encompass around 1,500 properties (which includes instances where there are numerous properties within a single building). This level of notification is considered to be impracticable, hence individual notice will not be given (which is consistent with the approach taken as part of the notification process when the Directions were first made). Notice will be given by local advertisement and site notice, as per the other requirements of the GPDO.
- 6.3. The GPDO requires notice of the proposed Directions to be given as soon as practicable after the Directions have been confirmed.

Non-Applicable Sections:	IMPACT ON VULNERABLE ADULTS AND CHILDREN PERSONNEL IMPLICATIONS PROCUREMENT IMPLICATIONS
Background Documents: (Access via Contact Officer)	Bromley Local Plan 2019 - https://www.bromley.gov.uk/download/downloads/id/4768/bromley_local_plan.pdf London Plan (adopted 2 March 2021), available from: https://www.london.gov.uk/sites/default/files/the_london_plan_2021.pdf

¹⁶ These existing Directions will be replaced by new Directions which remove Part 3, Class MA PD rights (although the Directions are yet to be confirmed). These PD rights effectively replace Part 3, Class O PD rights, hence the need for new Directions to be made to replace them. Further details are provided in the following Development Control Committee report which proposed Directions to remove Part 3, Class MA PD rights: <https://cde.bromley.gov.uk/documents/s50088962/PROPOSED%20NON-IMMEDIATE%20ARTICLE%204%20DIRECTIONS%20TO%20REMOVE%20PERMITTED%20DEVELOPMENT%20RIGHTS%20FOR%20USE%20CLASS%20E%20T.pdf>

	<p>National Planning Policy Framework (July 2021) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf</p> <p>National Planning Practice Guidance - https://www.gov.uk/guidance/when-is-permission-required</p> <p>The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020 - https://www.legislation.gov.uk/uksi/2020/756/contents/made</p> <p>‘PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTIONS TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR OFFICE TO RESIDENTIAL DEMOLITION IN BROMLEY’S DESIGNATED OFFICE AND INDUSTRIAL AREAS’, Development Control Committee 19 November 2020, available from: https://cds.bromley.gov.uk/documents/s50084645/PROPOSED%20NON-IMMEDIATE%20ARTICLE%204%20DIRECTIONS%20TO%20REMOVE%20PERMITTED%20DEVELOPMENT%20RIGHTS%20FOR%20OFFICE%20TO%20RES.pdf</p>
--	--