

<b>Subject:</b>	<b>Article 4 Direction – Office to Residential</b>		
<b>Date of Meeting:</b>	<b>20 March 2014</b>		
<b>Report of:</b>	<b>Executive Director Environment, Development &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Helen Gregory</b>	<b>Tel: 29-2293</b>
	<b>Email:</b>	<b>Helen.gregory@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>St Peters &amp; North Laine, Regency, Queens Park, Preston Park and Hove Park</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The report seeks authorisation for an amendment to the boundary of the proposed non-immediate article 4 direction (to remove the permitted development rights for change of use from office use to residential use) before it comes into effect.
- 1.2 Since the resolution to make an article 4 direction in July 2013, officers have carried out public consultation and monitored prior approval applications for office conversions. Giving consideration to the views expressed during the consultation (summarised in Appendix 1), it is recommended that the boundary of Central Brighton, New England Quarter and London Road Area is amended to remove most of Western Road and the Brighton Centre area. The revised boundary is set out in Appendix 2b. In accordance with the government guidance for article 4 directions this report seeks authorisation for the re-consultation.

**2. RECOMMENDATIONS:**

That the Policy and Resources Committee:

- 2.1 Authorises the amendment to the boundary of Central Brighton, New England Quarter and London Road article 4 direction area as shown in Appendix 2b for the reasons outlined in this report;
- 2.2 Authorises the re-consultation on the article 4 direction in view of the boundary change for a period of 6 weeks.

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 The July 2013 Policy & Resources report sets out the background in full. In summary in May 2013 the government amended permitted development rights, for a period of 3 years to allow offices to be converted to residential use without the need for planning permission. Following the resolution of Policy & Resources Committee, Brighton & Hove City Council made a non-immediate article 4 direction that, if confirmed, would remove this right and require planning

applications for these changes of uses in the following areas of the city: Central Brighton, New England Quarter and London Road area and two key office sites Edward Street Quarter and City Park.

- 3.2 The use of an article 4 direction is considered justified on the basis that the blanket introduction of permitted development rights will have a significantly harmful impact on the highest growth, highest value sectors of the city economy that are key drivers of private sector job creation. Evidence set out in the council's original exemption request to the government clearly highlighted the importance of central Brighton for media, creative, financial, business and professional services and information communication industries. 64% of the city's total job growth between 1998- 2008 occurred in central Brighton (Centre for Cities 2013). A recent Centre for Cities Report ('Beyond the High Street: Why our city centres really matter' September 2013) holds up central Brighton as an example of a successful city centre due to the centralisation of private sector jobs which has not only driven overall city wide private sector job creation but has also helped to support shops and other commercial activities by creating a sustained weekday footfall. The intention of the article 4 direction would be to control change of use applications within the selected areas of the city through the planning process. This will help to protect the existing office supply that is of the most importance to the functioning of the city both now and in the future. It will also allow the consideration of other planning matters such as provision of affordable housing which can not be considered in prior approval applications.

### **Monitoring of Prior Approval Applications**

- 3.3 Monitoring information indicates that between 1 June 2013 and 6 February 2014 there were 61 prior approval applications, 39 have been decided and 28 approved. If all the approvals are implemented this would result in a loss of 11,863 sq m of B1a office floorspace and a gain in 202 residential units. Of the 28 approvals 9 are in the proposed article 4 direction area and would result in 9,910 sq m loss of B1a floorspace and a gain in 144 residential units. Further detail is set out in Appendix 3.
- 3.4 To put this in context, potential loss would be almost four times the annual average rate of office losses over the 2000-2012 period. This needs to be set against the prevailing availability of office stock in the city which remains low with availability of Grade A accommodation at 1.0% of total available stock (Stiles Harold Williams Office Market Focus, Q4 2012). This potential loss would also increase the shortfall of supply to meet future office requirements. The City Plan has only been able to accommodate 85% of the 112,240 sq m forecast need to 2030. A lack of office space will constrain the city's ability to retain its businesses as they grow and expand. Protecting existing office space is therefore important to help meet future needs and supplement the delivery of new office space.

### **Consultation Comments**

- 3.5 A total of 14 formal written consultation responses were received, 3 in support and 11 objecting to the proposed article 4 direction. A full summary of written responses is set out in Appendix 1. Those in support, including Brighton & Hove Economic Partnership, considered that the council should retain control over the employment sites in the city to ensure a balance of homes and jobs.

- 3.6 Those who formally submitted written objections to the proposed article 4 direction were largely landowners and development interests. The rationale for the article 4 direction was questioned by objectors who felt it went against the government's objectives to free up development and to bring forward additional housing particular given the city's shortfall of housing land supply against its objectively assessed housing needs. Six objectors felt that there was a surplus of small low grade offices in the city, often located above shops, which depress the market for higher grade units and makes provision of new and high grade refurbished offices uneconomic. In their view the article 4 direction would exacerbate this situation. Five objectors suggest amendments to the article 4 direction to exclude certain areas - Western Road and the Preston Park offices - or type of office accommodation - older properties or offices above shops.
- 3.7 Similar issues were raised at a bespoke 'business breakfast' consultation workshop, a well attended and positive event, which was welcomed by the business community. A full summary of the discussion points are included at Appendix 1. A straw poll of the 16 workshop attendees indicated that the council's article 4 direction as currently made was only supported by 1 workshop attendee but if amended to be a nuanced Central Brighton (only) Article 4 direction, this would gain more support.

### **In response**

- 3.8 Brighton and Hove has a successful and fast-growing city economy. Protecting existing offices space is important to meet future employment needs and to supplement the delivery of new office space. The viability of new office development will ultimately be determined by a number of factors on a site-by-site basis. However, as the council's Employment Land Study (2012) noted, 'Grade A' office space in the City's prime locations is already capable of supporting relatively high rents regardless of some pockets of older, poorer quality stock also on the market. There are also examples of older purpose-built offices being successfully refurbished and upgraded and achieving successful occupation and improved rental levels. This suggests that there is not a simple correlation between total stock of space and rents/viability.
- 3.9 Central Brighton will continue to remain a location where high quality offices will be required for a variety of occupiers. Unmanaged loss of offices could undermine the attractiveness of the area as a central office location and creative industries cluster with few alternative locations elsewhere in the city. There is also a need to ensure there is a diversity and choice of premises for a range of local businesses. There are many local businesses/ start-up companies that need affordable rents and short leases. The submission City Plan policies provide the flexibility through the redundancy test to allow for loss of outmoded and unsuitable office space to be converted to other uses. Where this test has been met the council recognises the benefits of flats above shops in Central Brighton.
- 3.10 The submission City Plan recognises that Preston Park is a secondary office location and policy DA4 New England Quarter and London Road Area positively allocates the stretch of offices for comprehensive mixed use redevelopment. This will allow some re-provision of more modern, flexible office space but also

significant residential development, including affordable housing, to help meet the city's housing need. If these offices are not included in the article 4 direction, the City Plan's aspirations regarding securing affordable housing, open space and townscape improvements could not be secured as these matters cannot be considered in the permitted development prior approval process.

- 3.11 It is considered that as Hove Park and the Amex office site both offer large scale modern office accommodation serving major corporate occupiers it is still appropriate to include these in the article 4 direction. However it is not considered appropriate to extend the article 4 direction to include industrial estate and business estates. This is because they are in industrial or warehouse storage uses (B2 and B8 uses) which are not covered by the particular permitted development right or have mixed B1 business consents where permission for a change of use would be required.

### **Amending the Direction and re-consultation**

- 3.12 Having considered the views expressed during the consultation it is recommended that the boundary of the Central Brighton, New England Quarter and London Road article 4 direction area (shown in Appendix 2a) is amended to remove the stretch of Western Road from west of Regent Hill to Holland Road along with the Brighton Centre area. Western Road is included within the City Plan's Central Brighton area designation because of its regional shopping role. However it is accepted that the character of the area makes it less commercially attractive for office occupiers than other parts of Central Brighton. Brighton Centre and the area immediately to the west do not contain offices and can also be removed. The revised boundary is shown in Appendix 2b.
- 3.13 In accordance with the government guidance for making article 4 directions, material changes to the direction resulting from consultation responses will require re-consultation on the direction. This report seeks authorisation for the re-consultation. There is sufficient time to re-consult on the boundary changes, consider the responses and confirm the direction before it is due to come into force on 25 July 2014.
- 3.14 It should be noted that the Secretary of State has powers to make a direction cancelling or modifying article 4 directions at any time before or after its confirmation. In September 2013 the council responded to a request from the Department of Communities and Local Government (DCLG) for further information in support of the article 4 direction. A Recent Ministerial Statement (6<sup>th</sup> February 2014) appears to indicate that the Secretary of State does not consider the council has applied the direction disproportionately.

## **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 An article 4 direction is considered justified on the basis that the blanket introduction of permitted development rights will have a significantly harmful impact on the highest growth, highest value sectors of the city economy that are key drivers of private sector job creation. This is not considered to be offset by the positive benefits the new rights would bring in terms of delivering new housing.

- 4.2 Consideration of the appropriateness of further amendments to the boundary has been set out in section 3 of the report.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 Consultations have been carried out in accordance with the relevant legislative framework and the aims of the Community Engagement Framework and Standards to ensure the effective representations of communities in planning and decision-making.
- 5.2 As well as the statutory local advertisement and site notices, letters of notification were sent to over 350 business organisations, commercial and planning agents, architect firms and developer/ landowners from the LDF consultee database and the Local Strategic Partnership was informed. Consultation details were also published on the council's website and on the consultation portal and made available at Jubilee and Hove Libraries and Brighton and Hove Customer Service Centres. Consultation ran from 25 July to 17 October 2013. The council's intention to make an article 4 direction was also subject to a number of press articles.
- 5.3 A bespoke consultation event was held with members of the business community in September 2014 representing commercial/ planning agents, developers/ land owners and business interests. This took the form of officer presentations followed by facilitated discussions to gather views on the proposed article 4 direction and the boundaries. This was a well attended and positive event, which was welcomed by the business community. A full summary of responses is included in Appendix 1 to this report.
- 5.4 The 6 week period of re-consultation will follow the same process and accord with government procedures. Those who responded/ attended the workshop will be notified.

## **6. CONCLUSION**

- 6.1 In response to consultation comments, this report seeks authorisation for an amendment to the boundary of the proposed non-immediate article 4 direction to remove the permitted development rights for change of use from office use to residential use before it comes into effect and for this boundary change to be subject to a six week period of consultation.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 The costs of making the article 4 direction will be met from the existing Planning Strategy and Projects and Development Control revenue budgets. If the article 4 direction is confirmed there is likely to be a financial impact on the planning service. This is because no fee would be payable for planning applications for a change of use arising as a result of the removal of permitted development rights. A nationally set fee would be payable for the prior approval process which the DCLG estimate would cover the cost of work involved but it is not known if this would actually be the case.

- 7.2 For every new residential property created the Council will receive new Homes Bonus Grant for six years. This is based on the national average council tax for the band of property created. As an indication, this is currently £1,294 per year for Band C properties. If properties move from office to residential use there will be a switch of funding to the Council from business rates to council tax. It is not possible to quantify the overall impact of this as there are many variable factors.

*Finance Officer Consulted: Jeff Coates*

*Date: 06/02/2014*

Legal Implications:

- 7.3 Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 provides (inter alia) that where the local planning authority considers it expedient to do so a direction may be made requiring that a planning application must be submitted for development which would otherwise be “permitted development” under that Order. A direction made under article 4 is subject to consultation and, under Article 5 (9) of the Order, any representations received during consultation must be taken into account by the local planning authority in determining whether to confirm the direction. Material changes to the direction resulting from consultation will require that the direction undergoes re-consultation.

*Lawyer Consulted:*

*Hilary Woodward*

*Date: 4/2/14*

Equalities Implications:

- 7.4 The proposed article 4 direction will help to address the need to retain affordable office space within the identified areas, it will help businesses and protect jobs; and where loss of offices is considered acceptable will allow for an element of affordable housing to be secured.

Sustainability Implications:

- 7.5 Making an article 4 direction will help the local planning authority to manage the conversion of offices to residential in the city’s primary office area and thereby help deliver the City Plan strategy for balancing housing and employment needs and sustainable economic development. By protecting businesses and jobs in the city in accessible locations it will also reduce the need to travel by car. The article 4 direction will allow issues of sustainability to be addressed through planning applications.

Corporate / Citywide Implications:

- 7.6 An unmanaged loss of office could have a substantial adverse economic consequence to the city economy in terms of business competitiveness, jobs growth, undermining investment in business space and in particular a harmful impact on burgeoning growth sectors. This is not considered to be offset by the positive benefits the new rights would bring in terms of delivering new housing.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Summary of Consultation Responses
2. Current and proposed revised article 4 direction boundary – Central Brighton, New England Quarter and London Road Area.
3. Monitoring of Prior Approvals – offices to residential

### **Documents in Members' Rooms.**

none

### **Background Documents**

1. 11 July 2013 Policy & Resources Committee – Removal of Permitted Development Rights Offices to Residential  
([http://present.brightonhove.gov.uk/Published/C00000689/M00004685/AI00034519/\\$20130702150021\\_004171\\_0017372\\_PolicyandResourcesReportforArticle4directionOfficetoResidential.docA.ps.pdf](http://present.brightonhove.gov.uk/Published/C00000689/M00004685/AI00034519/$20130702150021_004171_0017372_PolicyandResourcesReportforArticle4directionOfficetoResidential.docA.ps.pdf) )
2. 7 March 2013 Economic Development & Regeneration Committee Report – Application for Exemption from Office to Residential Permitted Development Rights  
([http://present.brightonhove.gov.uk/Published/C00000705/M00004042/AI00032529/\\$20130221102002\\_003545\\_0013975\\_ReportTemplateCommittee.docA.ps.pdf](http://present.brightonhove.gov.uk/Published/C00000705/M00004042/AI00032529/$20130221102002_003545_0013975_ReportTemplateCommittee.docA.ps.pdf) )
3. Request for Office to Residential Permitted Development Rights Exemption – Supporting Evidence Report for Brighton & Hove February 2013  
([http://present.brightonhove.gov.uk/Published/C00000705/M00004042/AI00032529/\\$Enc.%20%20for%20Exemption%20Application%20from%20Office%20to%20Residential%20Permitted%20Development%20Rights\\_v1.pdfA.ps.pdf](http://present.brightonhove.gov.uk/Published/C00000705/M00004042/AI00032529/$Enc.%20%20for%20Exemption%20Application%20from%20Office%20to%20Residential%20Permitted%20Development%20Rights_v1.pdfA.ps.pdf) )
4. Employment Land Study Review 2012  
([http://www.brightonhove.gov.uk/sites/brightonhove.gov.uk/files/downloads/ldf/BH\\_Employment\\_Land\\_Study\\_Review\\_Final\\_Report.pdf](http://www.brightonhove.gov.uk/sites/brightonhove.gov.uk/files/downloads/ldf/BH_Employment_Land_Study_Review_Final_Report.pdf) )