

**REPORT TO:** CABINET

**DATE:** 12 JULY 2021

**TITLE:** RENEWAL OF ARTICLE 4 DIRECTIONS

**PORTFOLIO HOLDER:** COUNCILLOR MICHAEL HARDWARE,  
PORTFOLIO HOLDER FOR STRATEGIC  
GROWTH

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**This is a Key Decision**

**It is on the Forward Plan as Decision number I012706**

**Call-in Procedures may apply**

**This decision will affect all wards.**

**RECOMMENDED that:**

- A** Approval in principle is given for new Article 4 Directions in Harlow Town Centre, Pinnacles, Templefields and Burnt Mill to limit changes from office to residential use, to take account of the new Use Classes and for this to take effect from 31 July 2022, when the existing Article 4 extensions expire.
- B** A new Article 4 Direction is put in place to limit the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 to limit of changes from Retail to Residential use in the Harlow Town Centre.
- C** Cabinet notes that further background work will be undertaken to support the confirmation of the Article 4 directions at the point of enactment and notification to the Secretary of State.

## **REASON FOR DECISION**

- A** In order to ensure that no further loss of employment land takes place which would undermine the ability of the Council to deliver and maintain a supply of employment land to meet the needs and requirements set out in the Adopted Harlow Local Development Plan 2020.
- B** In order to ensure that sufficient retail floorspace is available within Harlow town centre to aid its regeneration and to meet the needs and requirements set out in the Adopted Harlow Local Development Plan 2020.
- C** To ensure the purpose and extent Article 4 Directions can be justified having regard to the need to protect the local amenity and wellbeing of the town.

## **BACKGROUND**

1. At a meeting of Cabinet on 28 March 2019, a report was considered from the Scrutiny Committee of 13 February 2019, in respect of the impact of the revisions to the planning Permitted Development legislation that facilitated the conversion of office to residential use without the need for formal planning permission, and the wider impacts that arose from this. This included the potential creation of poor quality housing and the loss of employment floorspace and the potential this would have to undermine the economic and regeneration strategy for Harlow, as set out in the then emerging Harlow Local Development Plan (HLDP).
2. The application of national permitted development rights for change of use from office to residential could lead to the loss of a further office floorspace and harm economic activity, including the loss of space for SMEs and Start-up businesses. The introduction of unplanned residential use at these locations could undermine the commercial environment and hinder both the activities of existing commercial occupiers and the ongoing commercial redevelopment needed to accommodate future economic and employment growth in Harlow.
3. Members were made aware that under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 an Article 4 Direction can be made by the Council, as local planning authority, or the Secretary of State to withdraw specified permitted development rights across a defined area. Where an Article 4 Direction is in effect, a planning application will be required for development that would otherwise have been permitted development.

4. At that meeting, Cabinet agreed to seek the imposition of Article 4 Directions for the employment areas of The Pinnacles, Templefields (the area not already covered by the Templefields Enterprise Zone (EZ) site Article 4 Directions) and the Burnt Mill Industrial area/offices adjacent to Harlow Town Railway Station, as well as accepting an amendment proposed at the meeting to put in place an Article 4 Direction for Harlow Town Centre area. Cabinet also resolved to notify the Secretary of State of the Councils intention, in accordance with Paragraph 1) (6) of Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
5. Since these Article 4 Directions were put in place the Government has enacted further complex changes to the Permitted Development regime that now facilitates the change of use of retail units to residential use without the need for planning permission, subject only to Prior Approval on a number of limited matters. Both the unplanned loss of employment and retail floorspace could undermine the ability of the Council to secure the growth and regeneration of the town.

### **Harlow Local Development Plan**

6. In December 2020 the Council adopted the Harlow Local Development Plan which was informed by the development of a comprehensive evidence base that considered the social, economic and environmental conditions of the district. This was subject to public examination and scrutiny before a Government appointed Inspector, who found the Plan sound in his report of November 2020.
7. This means that the Council is in the fortunate position of having an up to date Local Plan in place which sets out a future strategy for the growth and regeneration of the town. Policy ED1 of the HDLP identifies the need for an additional 21 ha of new employment land in the district, whilst Policy RS2 identifies the need for an additional 40,200 square metres of comparison retail floorspace and 5,500 square metres of convenience floorspace over the plan period (to 2033). It is important, therefore, that the general principles and policy objectives set out in the Plan are not undermined by recent changes to the Permitted Development regime, particularly in respect of the potential loss of existing employment floorspace in Harlow's Employment areas as identified above, as well as the potential loss of further employment and retail floorspace in the town centre.
8. The Cabinet meeting of 28 March 2019 had been advised that 38,000 square metres of existing employment space had already been lost to residential conversions through permitted development which would lead to a significant

concern if the Council was unable to provide sufficient space for new jobs to match the town's housing growth.

9. The implementation of Article 4 Directions on existing employment sites helped to ensure these sites remained available for economic activities in the longer term in order to meet acknowledged regeneration objectives, as well as helping the Council to deliver its Local Plan targets. This also ensured that the unique characteristics of Harlow, as a planned new town, that sought the deliberate separation of employment land uses and residential neighbourhoods, was not undermined. Such separation of uses and activities ensured that business activities were not impeded, whilst at the same time protected residential amenity and ensured that residents, within properly planned residential areas, had access to key community facilities and places of employment.
10. In order, therefore, to enable the Council to monitor and manage such changes in a planned way, necessary to secure the wider strategic objectives in respect of growth and regeneration, as set out in the Harlow Local Development Plan, approval is sought for:
  - a) A new Article 4 Direction in Harlow Town Centre, Pinnacles, Templefields and Burnt Mill from office to residential use, to take account of the new Use Classes and for this to take effect from 31 July 2022, when the existing Article 4 extensions expires.
  - b) A new Article 4 Direction being put in place to limit the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 in respect of changes from Retail to Residential use in the Harlow Town Centre.
11. It is noted that the enactment of Article 4 Directions is not intended to prevent development but rather affords the Council an opportunity to scrutinise proposals, through the consideration of planning applications, so that the impact on its adopted policies can be reviewed and assessed, and that development takes place in a planned way.
12. Following consideration by Cabinet the Secretary of State will be given advanced notification of the Councils intention to pursue Article 4 Directions in respect of these changes of use, to take effect in July 2022.
13. Before, however, these are put in place the impact of these changes to date will be reviewed and updated evidence assembled and reported back to Cabinet in order to ensure the purpose and the extent of the Directions can

be justified, having regard to the need to protect local amenity and wellbeing of the town, as reflected in the objectives, policies and proposals of the Council as set out in the HDLP.

14. In addition the proposal to enact these Article 4 Directions will be subject to public consultation that will take place later in 2021, the outcome of which will, together with updated evidence, will be reported back to Cabinet in July 2022 for ratification and subsequent notification to the Secretary of State.

### **Next Steps**

15. Following Cabinet's consideration of the recommendation to pursue Article 4 Directions, as set out above, it is intended:
  - a) The Secretary of State at the Ministry of Housing, Communities and Local Government be given advanced notification of the Council's intention to pursue Article 4 Directions.
  - b) The Council will undertake a review of the impact of the changes of office to residential use to date, on the policies and proposals of the HDLP, in the areas described above, together with an assessment of the impact of changes of use from retail to residential use in the Harlow Town Centre.
  - c) Public consultation will be undertaken later in the year in respect of the Council's intention to pursue Article 4 Directions.
  - d) The findings of the review work, and the outcome of the public consultation, will be reported back to Cabinet in July 2022 to ensure the purpose and the extent of the Directions is appropriate and can be justified at the point of enactment.
  - e) Following further consideration by Cabinet, formal notification of the Directions will be given to the Secretary of State at MHCLG, as required by legislation.

### **IMPLICATIONS**

#### **Environment & Planning**

As set out in the report.

**Author: Andrew Bramidge, Head of Environment and Planning**

### **Finance (Includes ICT)**

None specific.

**Author: Simon Freeman, Head of Finance and Property and Deputy to the Chief Executive**

### **Housing**

As set out in the report.

**Author: Andrew Murray, Head of Housing**

### **Community Wellbeing**

As contained in the report.

**Author: Jane Greer, Head of Community Wellbeing**

### **Governance (includes HR)**

The Local Planning Authority can use an Article 4 direction under the General Permitted Development Order to withdraw specified permitted development rights across a defined area. Government guidance is that Article 4 directions should only be used in exceptional circumstances where the exercise of permitted development rights would harm local amenity and the proper planning of the area. Provided the Local Planning Authority can justify both its purpose and extent the direction can be made. The use should be limited to situations where it is necessary to protect the local amenity or wellbeing of the area.

The Local Planning Authority when looking to make such a direction should clearly identify the potential harm the direction is intended to address. Councillors should be aware that the direction does not prevent development but means that an application must be made for planning permission prior to any development taking place. In deciding whether or not to make an Article 4 direction the Local Planning Authority should be aware that compensation may be paid in limited circumstances.

**Author: Simon Hill, Head of Governance**

### **Appendices**

None.

### **Background Papers**

None.

### **Glossary of terms/abbreviations used**

EZ – Enterprise Zone

HLDP – Harlow Local Development Plan

MHCLG - Ministry of Housing, Communities and Local Government