

REPORT TO: CABINET

DATE: 15 SEPTEMBER 2022

TITLE: RENEWAL OF ARTICLE 4 DIRECTIONS

PORTFOLIO HOLDER(S): COUNCILLOR DAN SWORDS, DEPUTY LEADER
AND PORTFOLIO HOLDER FOR REGENERATION

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**CONTRIBUTING
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This is a Key Decision

It is on the Forward Plan as Decision Number 1013960

Call-in Procedures may apply

This decision will affect the Mark Hall, Netteswell, Little Parndon and Hare Street, and Toddbrook Wards.

RECOMMENDED that:

- A** That Cabinet notes the revised geographical extent of the areas covered by the Article 4 Directions, as defined in Appendix A, together with the supporting statement in Appendix B.
- B** The revised Article 4 Directions be confirmed to limit the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 to limit changes from Use Class E (retail and office) to Residential Use in Harlow Town Centre, Pinnacles, Templefields and Burnt Mill upon receipt of formal confirmation from the Department of Levelling Up, Housing and Communities that they will support the Direction.
- C** Delegated authority is provided to the Director of Strategic Growth and Regeneration in consultation with the Portfolio Holder for Regeneration, to make any minor amendments to the Directions as required by the Secretary of State for Levelling Up, Housing and Communities.

REASON FOR DECISION

- A** To ensure the representations made by the Secretary of State in response to the making of the directions be taken into consideration to ensure that the Directions can be confirmed.
- B** In order to limit the loss of employment and retail floorspace in the town that would undermine the ability of the Council to satisfy and meet the policy requirements set out in the Adopted Harlow Local Development Plan 2020.

BACKGROUND

1. At Cabinet on 21 July 2021 members resolved to approve in principle new Article 4 Directions to be put in place in Harlow Town Centre, Pinnacles, Templefields and Burnt Mill, to regulate changes of Use Class E (office and retail) to residential use. This was to reflect the new Use Classes introduced by Government through changes to existing legislation, and for the Directions to take effect from 14 October 2022, approximately three months after the existing Article 4 extensions expired.
2. The Article 4 Directions aim to protect office and retail floorspace in the areas designated from being converted to residential use, especially when they result in poorly converted and poorly located housing development, in busy employment areas that lack access to key community facilities. In addition, the loss of office and retail floorspace could inhibit the economic development strategy set out in the adopted Harlow Local Development Plan (HLDP) that aims to maintain and secure a range of employment sites that meets the future business and regeneration needs of the town.
3. The imposition of the Directions means that planning permission would be required for changes of use between the classes. This would enable the Council to assess planning proposals on a case-by-case basis against the policies in the adopted HLDP.
4. Following the decision by Cabinet to make the Directions, and in accordance with the regulations, the Council undertook the requisite notifications, including notifying the Secretary of State. The Directions could not, however, be confirmed (come into effect) until 12 months after the decision by Cabinet to make the Directions. This is to reduce the risk of compensation claims being made.

RESPONSE TO CONSULTATION

5. The public notification period took place between 14 October 2021 and 12 November 2021. In response to this exercise two representations were received, both supporting the imposition of Article 4 Directions.
6. In May 2022, however, the Council received a response from the Department for Levelling Up, Housing and Communities (DLUHC), on behalf of the Secretary of

State, advising that the Article 4 Directions could not be supported in their original form. This was because of concerns relating to the geographical extent of the areas covered by the Directions, as well as the need to exclude buildings where the Permitted Development rights no longer applied anyway due to legislation changes. In addition, further information was requested by the DLUHC in order to explain the adverse impacts that would arise in Harlow if Article 4 Directions were not put in place.

7. The DLUHC reiterated that Article 4 Directions should only be proposed where the development they relate to would have wholly unacceptable adverse impacts and that they should only be applied to the smallest geographic area possible. This consideration also reflected current National Planning Policy Framework (NPPF) requirements.
8. A subsequent meeting was held between the DLUHC officials and Council officers on 19 May 2022 in order to consider the concerns expressed by the Secretary of State to determine how these could be effectively addressed. At that meeting it was agreed that the matters that had been raised would be reviewed, and that the Council would provide further information for the DLUHC to consider. The Council subsequently sent revised maps and additional supporting information to the DLUHC on 01 July 2022. They indicated they would be in a position to provide further guidance on the material prepared, before the Council formally agreed to confirm the Directions, and to then undertake the necessary notifications.

CONCLUSION

9. Arising from the comments made by the DLUHC officials the geographical extent of the boundaries covered by the Article 4 Directions were reviewed to ensure further compliance with the requirements of the NPPF. This considered the current uses and activities in the areas to which the Directions applied. The revised boundaries of the areas affected are shown in the attached plans (Appendix A) and are supported by the attached additional statement (Appendix B). This sets out the justification for these areas, having regard to the overarching strategy of the Council for these areas, as set out in the Adopted HLDP (2020).
10. On 11 August 2022 DLUHC officials responded to the Council's recommended changes and supporting statement. Their response stated that DLUHC will begin drafting amended Directions based on the revisions made by the Council. This suggests that DLUHC officers agree with the revisions. This will then be presented to the Secretary of State (SoS) for approval. Officers are currently waiting for the SoS to review and agree the Directions. This report now seeks Cabinet approval for the revised maps subject to agreement from the SoS. Once, and if, the SoS confirms the Directions, officers will complete the process in order for the Article 4 Directions to be confirmed and come into force as soon as possible. Should the SoS require minor modifications to the direction, authority is sought to delegate these matters to officers in consultation with the portfolio holder.

IMPLICATIONS

Strategic Growth and Regeneration

It is important that the Council takes whatever measures it can to protect the town's employment space and prevent further erosion through residential conversions in inappropriate locations. The Council has liaised with the Department of Levelling Up, Housing and Communities on this issue and has confidence that the measures set out here are compliant with national policy objectives as well as local priorities.

Author: Andrew Bramidge, Director of Strategic Growth and Regeneration

Finance

As contained in the report.

Author: Simon Freeman, Deputy to the Chief Executive and Director of Finance

Housing

As outlined in the report.

Author: Andrew Murray, Director of Housing

Communities and Environment

The Council must take whatever action it can to ensure the town's employment spaces are protected and to prevent residential conversions in inappropriate locations.

Author: Jane Greer, Director of Communities and Environment

Governance and Corporate Services

An Equalities Impact Assessment should be completed prior to implementation to identify whether or not there are likely to be any adverse impacts upon specific sections of the community.

Author: Simon Hill, Director of Governance and Corporate Services

Appendices

Appendix A – Maps for: Harlow Town Centre; Burnt Mill; Pinnacles; and Templefields

Appendix B – Supporting Statement submitted to the DLUHC

Glossary of terms/abbreviations used

DLUHC - Department for Levelling Up, Housing & Communities

HLDP – Harlow Local Development Plan

NPPF – National Planning Policy Framework

SoS – Secretary of State