

REPORT TO: CABINET

DATE: 14 SEPTEMBER 2017

TITLE: HARLOW ENTERPRISE ZONE – ARTICLE 4 DIRECTION

PORTFOLIO HOLDER(S): COUNCILLOR TONY DURCAN, PORTFOLIO HOLDER FOR REGENERATION AND ENTERPRISE

LEAD OFFICER: MALCOLM MORLEY OBE, CHIEF EXECUTIVE (01279) 446000

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This is a Key Decision

It is on the Forward Plan as Decision number I007835

Call-in Procedures may apply

This decision will affect Old Harlow Ward.

RECOMMENDED that:

Cabinet approves the seeking of an Article 4 direction for Kao Park, covered by the London Road South Local Development Order (LDO), and the area of Templefields covered by the Templefields LDO and to formally seek the consent of the Secretary of State to grant this.

REASON FOR DECISION

It is necessary to protect the Enterprise Zone from potential future residential development that is outside of the control of the Council. The Council was granted Enterprise Zone status in 2011 specifically to promote employment use and across the three sites there is the potential to create up to 5,000 jobs. Current legislation on Permitted Development rights could put this at risk if existing buildings on the sites were converted to residential use. This would not only reduce the available space for job creation but also potentially act as a barrier to future business development. The Council must therefore use the necessary tools to preserve the status of its key employment generating sites.

BACKGROUND

1. Members will be aware that the Town and Country Planning (General

Permitted Development) Order 2015 (as amended) [GDPO]. The GDPO permits the change of use of a building from Class B1(a) (offices) to a use falling within Class C3 (dwelling house) conditional only on a developer applying to the Council for a determination as to whether prior approval is required in connection with transport and highways, contamination and/or flood risk.

2. This right has already resulted in the loss of some office buildings within the district, including Temple House on River Way, and Terminus House and Redstone House in the town centre). There is concern that this could occur to any building on the Enterprise Zone sites.
3. These areas have been granted Enterprise Zone Status by Central Government and a LDO governs the development and use of the areas. The LDO does not prevent the change of use from offices to dwelling houses and hence such a change of use could occur in respect of existing buildings under Permitted Development (Class O of Part 3 to Schedule 2 to the GDPO).
4. The Council's aim in respect of these three areas is to provide high quality modern business space for both existing and new businesses within Harlow, especially those concerned with ICT, Life Science and Advanced Manufacturing sectors. It is therefore undesirable for these buildings to be lost to residential purposes.
5. The emerging work as part of the Local Plan shows that within Harlow, and the wider Duty to Co-operate area, there remains a shortage of employment land. Furthermore, the unemployment rate within Harlow is generally higher than in surrounding areas. Therefore, there is a need to generate new employment opportunities and prevent key sites being converted to residential use.

LONDON ROAD NORTH

6. An Article 4 Direction is not necessary for the London Road North site. New buildings do not, as a matter of law, have the benefit of this permitted development right, as the right is restricted to buildings built and in use no later than 29 May 2013. Therefore, there is no need to seek an Article 4 Direction for the London Road North site as the Permitted Development regulations will not apply there since it is a greenfield site with no existing buildings.

ISSUES/PROPOSALS

7. It is important that buildings on the Enterprise Zone sites remain in office type uses and are not converted into residential uses. This can be achieved,

subject to the Secretary of State's approval, by withdrawing the Permitted Development right to change from offices to dwelling houses.

8. This can be achieved by the Council making an Article 4 Direction. The Direction would need to be published and served on relevant owners and occupiers. There would then be an obligation upon the Council to consider any representations. A report would then be made to the Secretary of State, who hopefully would confirm the Direction which would then become law.
9. It should nevertheless be noted that once an Article 4 Direction has been made landowners may seek compensation based on the diminution in the value of their land. The landowner would have to apply for Planning Permission for residential development, and do so within 12 months of the making of the Article 4 Direction.
10. It is considered unlikely that the owners of Kao Park will seek any compensation on the basis that the existing buildings have recently been let on 15 year leases. On this basis if the buildings were for sale, a willing purchaser would almost certainly not include within his offer any hope value based on a residential use. It must nevertheless be acknowledged that the risk cannot be entirely excluded.
11. Similarly, the buildings on Templefields are not ideal for residential use, but some conversions of industrial buildings have occurred. Any claim for compensation would have to be accompanied by an application for residential development within 12 months and such an application is likely to be refused by the Council.
12. It is recommended, notwithstanding the risk of a claim for compensation which is considered to be low, that Officers proceed with the making of an Article 4 Direction

IMPLICATIONS

Place (includes Sustainability)

As contained within the report.

Author: **Graeme Bloomer, Head of Place**

Finance (Includes ICT)

The report sets out the risks of not seeking the direction to existing and potential employment space in Harlow. Should there be any successful applications to convert premises within the Enterprise Zone to residential use in the absence of any Article 4 direction being secured, the potential loss of business rates could significantly impact upon those schemes currently planned to be financed by the

business rates uplift from the Enterprise Zone. The risk of a claim for compensation from property owners should an Article 4 direction be secured has been outlined within the report but until such a claim is made the cost is not quantifiable.

Author: **Simon Freeman, Head of Finance**

Housing

None specific.

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

Community Wellbeing (includes Equalities and Social Inclusion)

The Enterprise Zone will play a key role in attracting new business to the area and therefore increase investment and employment opportunities in the town. Permitted Development rights could put this opportunity at risk if existing buildings on the sites were converted to residential use.

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

Governance (includes HR)

If confirmed the Article 4 Direction will be protected and noted on as public record on the Local Land Charges Register.

Author: **Brian Keane, Head of Governance**

Background Papers

None.

Glossary of terms/abbreviations used

GDPO – Town and Country Planning (General Permitted Development) Order 2015 (as amended)

LDO – Local Development Order