

OFFICER DECISION RECORD SHEET

PART I

Name of decision maker: Alex Robinson, Assistant Director, Planning

Service Areas: Strategic Planning

Title of Decision: Immediate Article 4 Directions – General Employment Areas within Dacorum

Decision made and reasons:

Decision: To make an immediate Article 4 Directions for properties within Dacorum as shown coloured in red on the attached plans.

Reasons:

1. In March 2021 Government introduced further legislation allowing the change of use from the new Use Class E to residential. Those changes which came into force on 1 August 2021 allow properties such as offices to be converted to residential use subject to certain conditions.
2. Main General Employment Areas across Dacorum are currently protected from Permitted Development Rights for conversion to residential use by existing Article 4 Directions made and confirmed in 2019. Those Article Directions will cease to have effect from 1 August 2022. Without the protection of immediate Article 4 Directions there is substantial risk of irreversible losses to key commercial buildings across Dacorum as the protection afforded by the existing Article 4 Directions lapses on 1 August 2022.
3. This risks a potential significant loss of office floorspace across Dacorum and the loss of the retail and food outlets at Maylands Plaza with resulting substantial adverse impact on the economic and social vitality and vibrancy on areas covered by the new Article 4 Directions. Accordingly, urgent action is considered necessary
4. The Article 4 Directions are limited in geographical extent and are imposed on land and properties shown coloured in red on the attached plans.
5. Further background is provided in the attached report to SLT dated 15 July 2021.

Reports considered:

See attached report to SLT dated 6 July 2022.

Officers/Councillors/Ward Councillors/Stakeholders Consulted:

Strategic Director (Place); Head of Legal and Democratic Services

Leader of the Council and Portfolio Holder for Planning and Infrastructure briefed on 14 July 2022 and supportive of the action.

Deputy Monitoring Officer Comments:

An Article 4 Direction removes nationally permitted development rights.

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Further to Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015, as the local planning authority, the Council is permitted to serve an Article 4 Direction with immediate effect where it is satisfied that the type of development set out in the Schedule should not be carried out unless permission is granted for it on application, because it would be prejudicial to the proper planning of the area and constitute a threat to the amenities of the area.

Schedule 3 sets out that an immediate Article 4 Direction takes effect upon publication and service of the notice and remains in force for six months from the date it is given, until it is confirmed by the Council. The Article 4 Directions will be referred to Development Management Committee to consider if it should be confirmed taking into account any representations received. The Council must notify the Secretary of State on the same day the notice is served. The Secretary of State has the power to cancel or modify an Article 4 direction at any time before or after it is confirmed.

The Council has considered the human rights issues relevant to this matter, in particular Article 1 of the First Protocol which is right to enjoy property and possessions. It is considered that the action proposed in this report represents an appropriate balance between the rights of the landowner (to enjoy land subject to the reasonable and proportionate control by a public authority) and in the interests of those affected by the matter and the wider public interest.

Deputy S151 Officer Comments:

There is no short term financial impact and implementation costs will be met from within existing approved budgets.

There are risks of compensation to those whose permitted development rights have been withdrawn. However, the risks are moderated by:

1. Claims not being automatic and only payable under certain conditions. For instance a claim can only be made if a planning application (made for the type of development allowed under the new permitted development rights) is submitted and then refused by the Council.
2. The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.
3. In essence, the existing Article 4 Directions are being extended which may also reduce exposure to claims to compensation.
4. The current moratorium on development provides some further short term protection against claims until the moratorium is lifted.
5. The reduction in the number of properties to be subject to the new Article 4 Directions will also reduce the pool of potential claimants.
6. There is a time limit for claims for compensation of 12 months from the date that the immediate Direction comes into effect.

Implications:

Value for Money: Legislation introduced in March 2021 came into force on 1 August 2021. This will allow properties such as offices and shops to be converted to residential subject to certain conditions.

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Without the protection of immediate Article 4 Directions there is substantial risk of irreversible losses to key commercial buildings across Dacorum as the protection afforded by the existing Article 4 Directions lapses on 1 August 2022. If a number of proposals came forward it could lead to substantial damage to the viability and vitality of areas across Dacorum such as Maylands Business Park and other general employment areas.

Financial: Funding to prepare and implement the Article 4 Directions is provided from existing base budgets. Any expenditure over the base budget position in 2022/23 will be reviewed and budget approval agreed.

Risk: There are risks of compensation to those whose permitted development rights have been withdrawn. However, the risk are moderated by claims not being automatic and only payable under certain conditions. For instance a claim can only be made if a planning application (made for the type of development allowed under the new permitted development rights) is submitted and then refused by the Council. The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. Nearly all the land and properties covered by the Article 4 Directions are protected by the existing Article 4 Directions which may also reduce exposure to claims to compensation. The current moratorium on development provides some further short term protection against claims until the moratorium is lifted. The reduction in the number of properties to be subject to the new Article 4 Directions will also reduce the pool of potential claimants.

Officer Signature:



Date: 11 July 2021