

Article 4 directions

On 27th April 2020, Article 4 Directions took effect removing permitted development rights allowing conversion of offices, light industrial and storage or distribution buildings to residential use in Hertsmere.

Frequently Asked Questions

What is the background to the Council introducing planning controls over the conversion of some buildings into residential use?

Planning permission is normally required to change the use of a building between different uses. However, some changes of use do not require a planning application because they benefit from what are known as permitted development (PD) rights. These rights are set out in national legislation.

In recent years, the government has amended the regulations governing PD rights to enable various changes, including the conversion of offices, light industrial and storage/distribution buildings to residential without the need to submit a planning application subject to certain conditions and limitations.

The changes were intended primarily to boost the supply of housing but also to help regeneration through reuse of vacant office space.

What is an Article 4 direction?

An 'Article 4 direction' is a planning tool that can be used in local areas to remove PD rights for a particular type of development. They are used in exceptional circumstances where there are local concerns about the impact of a specific PD right. In Hertsmere, for example, they have been widely used to avoid unsympathetic extensions to houses in conservation areas which would otherwise not require planning permission. A legal process, including public consultation, has to be followed in order to introduce an Article 4 direction.

Why has the council introduced these Article 4 directions?

The Council is responsible for the effective planning of the area and with almost 80% of the borough designated as Green Belt, we want to maintain a balance between housing and employment within our built up areas. We also want to ensure that new homes are delivered in the most appropriate locations.

The conversion of industrial and office buildings into flats can create land use conflicts by siting new homes next to employment land. We are unable to apply our usual planning policies which aim to retain good quality commercial premises and industrial estates, as well as ensuring new homes have sufficient indoor living space, gardens and car parking and securing a proportion of affordable housing. Under the prior approval process, a developer need only show that a proposal is acceptable having regard to highways impacts, contamination risks, flooding risks and noise impact.

The prior approval process is known to have displaced existing businesses and research has shown that we have lost more office and employment floorspace than any other part of Hertfordshire.

Approximately 50% (31,000sqm) of lost office floorspace between 2008 and 2018 has been due to residential conversions and much of this has been under the prior approval process in recent years. The Borough now has less than one year's supply of available office space.

What will be the impact of the Article 4 directions?

The Article 4 directions, together with our Local Plan policies, give the council control of change of use applications within the selected areas. In particular, this will help protect the existing office supply that is of the greatest importance to the functioning of our local economy both now and in the future. It will also allow the consideration of other planning matters such as affordable housing or garden space provision to be considered which would not be possible with the permitted development rights.

Do the Article 4 directions affect the whole borough?

No, the Article 4 directions will only affect identified Employment Areas, Key Employment Sites and Local Significant Employment Sites designated in our Local Plan. These are:

Employment Areas – Elstree Way and Stirling Way, Borehamwood; Cranborne Road and Station Close, Potters Bar; and Otterspool Way, Bushey;

Key Employment Site – Centennial Park, Elstree; and

Locally Significant Employment Sites – Wrotham Business Park; Borehamwood Enterprise Centre and Theobald Court, Borehamwood; Lismirrane Industrial Park, Elstree; Hollies Way, Potters Bar; Beaumont Gate, Radlett; Farm Close, Shenley.

The Article 4 direction maps are available to view on our website at www.hertsmere.gov.uk/article4

Outside these areas, PD rights allowing a change of use from office (B1a) to residential dwelling (C3) subject to a prior approval subject to prior approval will remain. Where a development requires any additional work to an existing building in those locations, applications for planning permission for that work will be required.

When was the decision taken to make an Article 4 direction?

The Council's Executive agreed on 20 March 2019 that officers should make an Article 4 direction that would remove PD rights and associated prior approval process that permits changes of use from offices (Use Class B1a), light industrial (Use Class B1c) and storage and distribution (Use Class B8) uses to dwellinghouses (Use Class C3) in the specified areas.

This was followed by the introduction of non-immediate Article 4s for a 12 month period starting in April 2019. The Article 4s were formally signed/confirmed in April 2020.

What was meant by a non-immediate Article 4 and why where they introduced?

The Council made the decision to first introduce the Article 4 directions as non-immediate (on April 26th 2019), meaning that they would not come into force for 12 months. This was done to allow for a period of transition and provide businesses, landowners and other interested parties an opportunity

to respond to the proposed changes and for the Secretary of State to be notified. It also gave sufficient time for any modifications arising from stakeholder engagement to be considered.

In this time land promoters could still submit prior approval applications for change of use. It was only once the Article 4 directions took effect on Monday 27 April 2020 that certain permitted development rights were removed.

Why has the Council not introduced these sooner?

When the government introduced these additional PD rights, they were intended to be temporary. Local authorities were able to apply for an exemption to exclude certain areas from the PD changes but Hertsmere, like most local authorities who applied, were unsuccessful in securing an exemption. The PD rights have been made permanent now and we have been able to monitor and assess the impact of the changes in Hertsmere. We now consider there to be sufficient justification now to introduce an Article 4 direction.

Have other councils introduced similar Article 4 directions?

Yes, a large number of councils across England have introduced directions to control the conversion of commercial premises into residential accommodation. This includes most of our neighbouring councils such as Watford, Three Rivers and Barnet.

A report published by the Royal Institute of Chartered Surveyors in 2018¹ assessed the impact of extended PD rights across England and recommended that councils should pro-actively respond to their potentially significant impact by introducing Article 4 directions.

When was public consultation?

A formal consultation ran from Monday 26th April 2019 to Friday 7th June 2019 with people being able to submit their responses via our online consultation portal or by post.

Site notices were put up at all of the employment locations, and the directions were advertised in the local newspapers including the Potters Bar Press, Herts Advertiser, Watford Observer and Borehamwood Times. A Hertsmere press release was also sent to all 'news for you' subscribers.

What was the overall response to the public consultation?

Only three comments were received, all of which were in favour of introducing Article 4 directions to all 13 employment locations. The general opinion was that suitable protections need to be put in place to ensure that there is adequate employment accommodation across the Borough, to allow for people to live and work locally. No objections were received.

¹ Assessing the impacts of extending permitted development rights to office-to-residential change of use in England (hyperlink), RICS (May 2018)