

**Report for:** Cabinet, 10<sup>th</sup> November 2015

**Item number:** 16

**Title:** Proposed Article 4 Direction Restricting the Conversion of Warehouses to Residential Use

**Report authorised by :** Lyn Garner, Director, Planning, Regeneration and Development

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**Ward(s) affected:** Alexandra, Bounds Green, White Hart Lane, Northumberland Park, Tottenham Hale, Hornsey, Stroud Green, Noel Park & Seven Sisters

**Report for Key/  
Non Key Decision:** Key Decision

## **1. Describe the issue under consideration**

- 1.1 In April 2015 the Government introduced a new permitted development right to the Town and Country (General Permitted Development Order) 2015 that allows, for a temporary period of three years, buildings in B8 Use Class (storage and distribution) to be converted to residential homes (Use Class C3). Buildings with an existing gross floorspace of up to 500m<sup>2</sup> can be converted to residential use and Council's consideration, as to the acceptability of any proposal, is restricted to a very limited number of prior approval planning considerations.
- 1.2 It is considered that this new permitted development right could adversely impact the long-term economic vitality of the borough and significantly compromise the successful implementation of the Council's spatial development strategy as set out in the Local Plan.
- 1.3 The making of a non-immediate Article 4 Direction is therefore proposed to withdraw this temporary permitted development right within the designated employment areas of the Borough, as shown on the plan at Appendix A. The objective in making the Article 4 Direction is to ensure planning applications are considered on their planning merit on a case-by-case basis against the relevant policies of the Local Plan, which seek to retain these key employment sites in employment use, and ensure the achievement of managed growth delivering both new housing and jobs.

## **2. Cabinet Member Introduction**

- 2.1 Throughout the years, the Council has sought to protect our main industrial areas for workshops, manufacturing, storage and distribution, and waste facilities. With the decline in traditional manufacturing, these areas are under significant pressure for release for other strategic needs – namely housing.

However, these employment areas are crucial to the current and future economic vitality and wellbeing of the Borough.

- 2.2 In accordance with national and regional planning policy, our current approach, as set out in Haringey's Local Plan, is to retain and safeguard the best quality industrial sites to meet current needs and to reconfigure our poorer performing industrial land away from warehousing to more intensive employment uses. Through active and sustainable management of the Borough's employment land portfolio we can continue to attract more businesses into Haringey, and create greater job and business opportunities for local residents alongside the provision of new housing.
- 2.3 One of the Council's five corporate priorities is to drive growth and employment from which everyone can benefit. With the introduction of this latest permitted development right, the Council fears that currently occupied warehouses will be converted to flats and existing businesses will be displaced, resulting in local jobs being lost. Moreover, ad hoc residential encroachment into key industrial areas is likely to create commercial uncertainty, deter much needed investment and perpetuate industrial decline. The Council considers that, in a Haringey context, this new permitted development right therefore represents a real and specific threat to the long-term economic vitality of the Borough to the detriment of proper planning and the wellbeing of the area.
- 2.4 It is therefore appropriate for the Council to seek to remove the permitted development right to convert a building in B8 use to residential use within the Borough's designated employment areas.

### **3. Recommendations**

Cabinet is recommended to:

- A) Approve the making of and consultation (for a six-week period in accordance with the Council's Statement of Community Involvement) on a non-immediate Article 4 Direction under the Town and Country (General Permitted Development Order) 2015, to come into effect 12 months after it comes into operation, withdrawing permitted development rights to convert buildings of less than 500sqm in Use Class B8 (Storage and Distribution) to Use Class C3 (Dwellinghouse) for the areas of the Borough outlined in bold on the plan at Appendix 1.
- B) Delegate authority to the Director for Planning, Regeneration and Development, in consultation with the Portfolio Holder for Planning, to formally confirm the non-immediate Article 4 Direction following (1. the expiry of the six week consultation period; 2. the expiry of a minimum statutory 28 day confirmation period) , if having fully considered all representations made during the consultation period, they are of the opinion that the Article 4 Direction should be made.

### **4. Reasons for decision**

- 4.1 The Council considers that this new permitted development right, and the effect of the prior approval process, significantly dilutes its planned and managed approach to meeting local employment needs and demands, and does very little to facilitate proper sustainable place-making, on-going business confidence and the delivery of sustainable development, including jobs growth. Having regard to local circumstances, it is not considered that the adverse effects likely to arise as a result of this change to permitted development rights would be offset by the positive benefits the new rights would bring in terms of the potential delivering of any new housing.
- 4.2 The making of this Article 4 Direction is therefore seen as crucial to ensuring the proper long-term planning of the area and to protect local wellbeing, in particular the Council's ability to prevent the loss of uses which contribute to local jobs and the wider strategic aims for the area. The Council considers it appropriate that proponents of schemes to convert warehouses in B8 use to residential use, should submitted a planning application to be considered on its merits on a case-by-case basis in the usual way.

## **5. Alternative options considered**

- 5.1 The only alternative option is not to introduce an Article 4 Direction and to allow the new permitted development right to be exercised across the Borough (i.e. the 'do nothing' option).
- 5.2 While the do nothing option would include a requirement to monitor the up-take and impact of this change on employment locations, this option runs the risk of significantly undermining the strategic objectives of the Local Plan to strike a sustainable balance between the delivery of both housing and employment growth. In the longer-term it may also compromise the ability of the Council to retain its main employment areas in an employment designation, which is considered essential in achieving sustainable development and growth within an urban London borough like Haringey. For these reasons, the do nothing option can be dismissed.
- 5.3 An Article 4 Direction would enable the Council to safeguard the main strategic, homogenous and economically important employment areas within the Borough, ensuring these are not compromised by incremental residential development, the effect of which is likely to undermine business confidence and investment, and result in reverse sensitivities and pressure to respond by the new tenants of these homes to reallocate surrounding employment land and buildings to either residential or more residential compatible mixed uses.
- 5.4 The Regulation allow the Council discretion as to when the Direction will come into force, which must be at least 28 days, but not longer than 2 years, after the end of the consultation period. In addition, there are compensation provisions that apply in circumstances where an application for planning permission, for an application formally permitted, is made before the end of the period of 12 months beginning with the date on which the Article 4 came into operation. Accordingly, the Council would wish to minimise its exposure to this compensation provision and a 12 month notification period is recommended.

## **6. Background information**

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- 6.1 As part of the Government's continuing efforts to reform the planning system, in an effort to boost housing supply and remove perceived bureaucracy, the Department for Local Government and Communities introduced, on the 15<sup>th</sup> April 2015, a new permitted development right to allow, for a three year period, storage or distribution buildings (Use Class B8) to change use to residential (Use Class C3).
- 6.2 Existing buildings with a gross floorspace of up to 500m<sup>2</sup> are able to change to residential use. The right is however, subject to a prior approval process. However, the Council's prior consideration of any proposal is restricted to adverse impacts to the transport and the highways network, air quality and noise impacts on intended occupiers, risks of contamination and flooding, and the impact the change of use would have on existing industrial uses and or storage or distribution uses.
- 6.3 The new permitted development right does not apply to Listed Buildings or land within the curtilage of Listed Buildings or where the site is or forms part of a SSSI, a safety hazard area or contains a scheduled monument.

#### Regulatory Committee

- 6.4 The Regulatory Committee considered the making of the Article 4 Direction at its meeting of 21<sup>st</sup> September 2015. The Committee endorsed the making of a non-immediate direction but requested that the Friern Barnet Employment Site (Pinkham Way) be excluded from the employment sites to which the Article 4 is to apply, on the basis that the site currently has no buildings on it and therefore would not benefit from the permitted development right. This amendment has subsequently been made.

#### Article 4 Direction: regulatory Requirements and Relevant Guidance

- 6.5 The statutory powers and procedures for making an Article 4 Direction are set out in the Town and Country (General Permitted Development Order) 2015. The general test for making an Article 4 Direction, as set out in article 4(1) of the instrument, is that such an action would be 'expedient' i.e. appropriate to the circumstances.
- 6.6 In accordance with the National Planning Policy Framework (paragraph 200), the use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area.
- 6.7 Further guidance is provided within Appendix D to Circular 9/95 which states that there should be a real and specific threat to interests of acknowledged importance and that there should be a particularly strong justification for the withdrawal of permitted development rights relating to: (a) a wide area (e.g. those covering the entire area of a local planning authority) and (b) cases where prior approval powers are available to control permitted development.
- 6.8 The following sections of this report address the above relevant considerations.

Appropriate to the local circumstances

- 6.9 Table 1 below comes from the most recent Employment Land Review (ELR) for Haringey undertaken by consultants Atkins in February 2015. It shows the breakdown of B-class employment floorspace within the Borough. In particular, it highlights the fact that the vast majority of the Borough's employment floorspace is in warehousing & distribution use (B8), which account for a 49% of all B-class floorspace.
- 6.10 Other key findings from the ELR were: that there is currently a lack of supply of new developments catering for industrial and warehouse uses; even within the existing second hand stock there is limited supply; that local estate agents confirmed that there is strong demand for employment floorspace originating from SME's requiring small, affordable industrial units and local businesses requiring larger warehousing premises; they also confirmed there was high occupancy in the existing protected industrial estates; but an insufficient supply of employment locations with enough capacity to accommodate additional demand.

Table 1: B-class Employment Floorspace within Haringey

<b>Total stock of B-class employment land Location</b>	<b>B1a/b (sqm)</b>	<b>B1c (sqm)</b>	<b>B2 (sqm)</b>	<b>B8 (sqm)</b>	<b>Total (sqm)</b>
Designated Employment Areas	24,401	55,371	52,147	184,834	320,841
Other Employment Areas	43,781	39,508	20,268	40,990	144,547
<b>Total (sqm)</b>	<b>68,182</b>	<b>94,879</b>	<b>72,571</b>	<b>229,912</b>	<b>465,544</b>
Total (%)	15%	20%	16%	49%	100%

- 6.11 While the ELR offers three different potential forecasts of employment growth, with the exception of the trend based scenario, the other two forecasts suggest a need for further B8 floorspace to meet future demand. However, a scarcity of the land within Haringey means the ability to provide additional land for B8 provision is not an option. As a result, supply and choice for warehousing and distribution uses will continue to be constrained and may already be impacting upon development flexibility options offered to future tenants looking to invest in the Borough.
- 6.12 If the trend base forecast happens to play out, and there is further decline in industrial and warehousing employment, this will result in a surplus of B8 employment land over the period to 2031. However, under the same scenario, there is predicted to be significant growth in B1a/b uses, resulting in a net requirement for an additional 8ha of land to meet demand. It will therefore be important that any surplus B8 land is re-used to meet the B1a/b needs of local businesses rather than being lost to housing.
- 6.13 The implications of the above, and the recommendation of the ELR, is that Haringey needs to safeguard its existing employment sites to meet existing and future needs and likely longer-term changes in employment floorspace demand. The Local Plan therefore reflects this recommendation by safeguarding the main employment areas for continued employment use and, outside of designated employment sites, seeks no net loss in B-class floorspace when sites and buildings are redeveloped. The latter offers the opportunity to

improve stock quality and re-orientate large floor plate B8 accommodation into smaller unit sizes better tailored to local market needs for both smaller warehousing and SME's. Any release of surplus B8 employment land should therefore not be to the detriment of successful B1a/b and B2 businesses.

- 6.14 The introduction of the new permitted development right is clearly at odds with the current picture of existing and projected needs for the supply and demand for industrial and warehouse floorspace in Haringey. The implication of the permitted development right, especially if widely taken-up, will be to reduce further the current under provision of B8 floorspace, further constraining the ability to meet local needs and demands. It will also likely compromise the supply of sites needed for projected growth in B1a/b and B2 uses which would typically take up any truly surplus B8 floorspace. It is therefore at odds with local planning policies, which are based on robust and up to date evidence and are consistent with the key tenant of national planning policy to meet objectively assessed local needs for all land use requirements including both housing and employment.
- 6.15 With respect to housing provision, the Borough is and continues to meet its strategic housing target, it has a strong pipeline of supply for the next five years and beyond, and is allocating sufficient sites within its emerging Local Plan to comfortably meet Haringey's objectively assessed housing needs over the life of the existing plan period to 2026 – well beyond the three year temporary period of this latest change to permitted development.
- 6.16 It is therefore clear that the change to permitted development is not consistent with or appropriate to the specific local circumstances being experienced in Haringey, where there is a constrained supply but demand for B8 floorspace and sufficient sites and pipeline of supply to meet strategic housing requirements.

#### Necessary for the proper planning and wellbeing of the area

- 6.17 As set out above, within the local market there is high demand for industrial and warehousing premises, but the limited supply of new sites and limited churn in the existing stock due to low vacancy rates, is forcing many businesses to stay put, constraining investment.
- 6.18 Despite Government rhetoric that the change to the permitted development rules is aimed at helping to bring empty and redundant buildings back into productive use, for the right to be permitted, an applicant must be able to demonstrate that building has been in B8 use for a period of at least 4 years before the date the change of use takes place and the building has to have last been in use for a Class B8 use on or before 19<sup>th</sup> March 2014.
- 6.19 This highlights the paradox of the permitted development regime, especially in a Haringey context. For the right to be exercised, it needs to be at the expense of occupied or recently occupied B8 floorspace, this despite demand within the local market to take up this floorspace for continued employment use, ensuring it remains productive. However, the differential land values between B8 floorspace and residential, will see the opportunity to secure a residential use preferred over the retention of a B8 or B-class use. Further, because of the

limited supply and choice in B8 accommodation, existing businesses, displaced as a result of the permitted development, are unlikely to find suitable alternative premises within Haringey and will be forced to move out of the Borough; taking with them much needed local jobs.

- 6.20 The harm to Haringey will be exacerbated by virtue of the fact that Tottenham, Wood Green and Green Lanes, where the bulk of Haringey's employment land is located, are also the areas of the Borough that experience high unemployment, especially among young adults. The businesses within these employment areas provide the main source and opportunity for local employment, and if displaced and forced from the Borough, will only result in local unemployment increasing and further limit future job opportunities to local residents.
- 6.21 Lastly with respect to the harm to the proper planning of the Borough, the Council's policy position is supportive of redevelopment of truly redundant and surplus employment floorspace and sees this as an important constituent to meeting other strategic planning needs such as schools, open spaces and community facilities required as a result of and to support meeting Haringey's significant strategic housing requirement. However, permitted development promotes a default straight to residential use in the absence of any consideration of wider social or environmental needs. This again is at odds with a Borough such as Haringey that is proactively seeking to meet its housing targets but that requires a planned and managed strategy to deliver this in a sustainable way.
- 6.22 Perversely is also the case that, in satisfying the occupied or recently vacated requirement to benefit from the permitted development, the conversion of the b8 floorspace to a residential use, with it higher demands for services and social facilities, will also be exempt from paying the Community Infrastructure Levy, and therefore will not contribute towards the infrastructure provision essential to creating sustainable places to live, work and enjoy.
- 6.23 Having regard to all of the above, it is therefore important, for the proper planning and wellbeing of the Borough, that Haringey maintains a core of industrial and warehousing activities in order to meet local needs and maintain a diverse economy that provides a wide range of employment opportunities for local people now and in the future.

#### Real and specific threats

- 6.24 While a real threat is the displacement of viable local businesses, a more significant and harmful threat is that surrounding businesses may also be adversely affected and potentially displaced as a result of residential encroachment into employment areas and the subsequent need to protect residential amenity through environmental legislation. This could be by virtue of issues relating to noise, parking, hours of operation, vibration and industrial processes, which whilst previously acceptable, may become a statutory nuisance when noise-sensitive residential uses are introduced in to an employment area.

- 6.25 The lack of certainty that is afforded to the protection of neighbouring uses under the prior approval process is therefore of real concern. In particular, within designated employment areas where residential use is typically considered incompatible to the proper functioning and operation of established businesses, if permitted, is likely to undermine the primary purpose of the designation (i.e. to safeguard key employment sites for a broad range of employment activities). Any restrictions that compromise the functioning of these key employment areas therefore risks causing demonstrable harm to the long term economic vitality of the Borough.
- 6.26 A further threat, relevant to the above consideration, is the fact that many buildings within employment areas are made up of a number of B-class uses (i.e. a single building in single occupation is likely to include front of house or back office functions (B1 use), some light industrial (B2 use) and storage and distribution floorspace (B8 use)).
- 6.27 This is highlighted in Table 1 above which shows that a third of the Borough's office stock is actually within the designated industrial sites. To date the office conversions within Haringey's industrial areas has probably not been viable because the office floorspace forms only a small part of the overall building floorspace and is likely to be required to maintain the operation of the other B-class floorspace within the building.
- 6.28 The cumulative effect of the latest permitted change, if used in tandem with the 2013 permitted change from B1 office to residential, could see proposals for substantially more than just 500sqm of employment floorspace being converted to residential within individual employment buildings. Should this scenario come to pass, then the harm to our employment areas would be significantly greater than just that anticipated by the conversion of B8 floorspace alone.
- 6.29 There are also considered to be wider threats to the pace of development across the Borough as a result of the permitted development changes. It is recognised that residential units, delivered as a consequence of prior approval processes can contribute to meeting housing targets. However, since the introduction of the prior approval processes in May 2013, for the conversion of offices to residential flats, there has been very little evidence from across London to confirm that residential starts on site or completions pursuant to prior approval are taking place. Many prior approval processes appear to be used to progress other development options and/or enhance land values, introducing significant uncertainty and ambiguity within the residential and commercial property markets.
- 6.30 There is no evidence to suggest that residential development, pursuant to a grant of planning permission will come forward anymore slowly. There is however a significant potential risk that a flood of residential units promoted through the prior approval processes might well have a detrimental effect on developer confidence when progressing planned residential and mixed use redevelopment within the Borough. This may result in the main stream house buildings delaying their schemes at a time when an acceleration in housing completions is needed to keep pace with demand. Should this occur, it would likely lead to a shortfall in housing provision relative to our annualised housing



target, and impacting upon our ability to demonstrate a 5 year pipeline of housing supply.

- 6.31 In addition, a developer seeking express planning permission to develop land in B8 use for residential purposes, may try to rely on the permitted development right as a ‘fall back’, to be relied upon in order to overcome a policy which seeks to ensure that land in employment use is retained for that use alone. In order to place reliance upon the permitted development right when advancing such a case, it will be necessary to secure prior approval and to begin the use but with a longer term view to promoting a purely residential use on the site through a subsequent planning application.
- 6.32 This is likely to represent a very real risk in a Haringey context as the average unit size in B8 use is only 333sqm, increasing to 411sqm in designated employment areas, as shown in Table 2 below. It is not uncommon for industrial estates to be made up of numerous parcels of land but in a single ownership. Where this is the case, prior approval could be sought for each building with a B8 class use on each parcel of land, effectively establishing a significant quantum of residential floorspace, which once lawfully established, could be used to promote redevelopment of whole estates or parts of them away from employment use. This would be difficult for the Council to robustly defend and replicates the circumstances currently experienced through illegal residential use of warehouses that have subsequently sought to be made lawful through the issuing of lawful development certificates once the period for challenge had lapsed.

Table 2: The average size of different B-class premises within Haringey

<b>Average size of premises (sqm) within the Borough</b>	<b>B1a/b (sqm)</b>	<b>B1c (sqm)</b>	<b>B2 (sqm)</b>	<b>B8 (sqm)</b>	<b>Total (sqm)</b>
Existing Employment Areas	82	103	414	411	228
Other Employment Areas	76	120	230	171	117
<b>Average (sqm)</b>	<b>78</b>	<b>110</b>	<b>338</b>	<b>333</b>	<b>176</b>

- 6.33 While the permitted change of use is intended to only be available for a temporary period of three years, as highlighted above, the effects of this permitted change could be significant, wide in scope, and permanent. Once residential use has been established, the differential land values between a residential and B8 use mean that these buildings and land will never revert back to an employment use. Without removing this permitted right, the Council would risk foregoing future employment opportunities as well as the potential need to use these warehousing sites to meet residents needs for other strategic purposes. While it is accepted that this change to permitted development rights may deliver additional housing, it is considered that this will be at the expense of existing and viable jobs and the proper planning of the area.
- 6.34 Through the planning application process, the Council can, on a case-by-case basis, apply a flexible approach to residential redevelopment of truly redundant employment floorspace but, in doing so, also retain its broader statutory function to consider the strategic needs of the community as a whole when assessing the planning merit of individual proposals.

### Consideration as to the area(s) to be covered by the Article 4 Direction

- 6.35 When making an Article 4 Direction it is necessary to identify the land to which the Direction is to apply. Typically, proposals for the borough-wide blanket removal of permitted development is met with stern opposition from both the development industry and from the Secretary of State, unless the Council can demonstrate exceptional local circumstances.
- 6.36 With regard to B8 floorspace being converted to residential use, it would be difficult for the Council to demonstrate that such development would be wholly inappropriate in all circumstances within the Borough, or that it would require assessment through the planning application process in every instance to be considered acceptable. Especially given the Council's general acceptance to residential use of warehouses within the south of the Borough, even those these were established initially by illegal means. Therefore, for ease of identification and application of the Article 4 Direction, and given their role and function and the fact that they house the vast majority (circa 80%) of the Borough's B and B8-class floorspace (see Table 1), officers consider that it is appropriate to apply this proposed Article 4 Direction to designated employment land in the Borough as shown on the plan at Appendix 1.

### The need for further planning controls beyond Prior Approval considerations

- 6.37 In addition to those already listed above, the change to the permitted development right also introduces some other important impacts, including the inability to control unit sizes, seek an appropriate layout and landscaping, apply privacy and amenity standards, control servicing arrangements such as domestic waste collection or capture any planning obligations such as affordable housing or affordable workspace.
- 6.38 The above are considered by the Council to represent elements of good design and amenity that Haringey residents should expect of all housing regardless of the means by which they are created (new build or conversion and whether by planning process or via permitted development).
- 6.39 As experienced with permitted development for the conversion of offices to flats, not all commercial buildings lend easily to conversion to a residential use. However, unlike offices, most buildings that house B8 uses are generally not fit for habitation, and their conversion to residential accommodation is therefore likely to require significant adaptations to be made to the structural fabric of the building beyond that provided for under the permitted development right.
- 6.40 As employment sites are typically not considered appropriate areas for residents to live, adaptations to the surrounding environment will likely be required. However, having established the principle of a residential use, in assessing subsequent planning applications required to adapt these buildings and their surroundings, Council's hands will be effectively tied to find solutions where normally expected standards cannot be met, which is likely to require uncomfortable compromises to be agreed. However, within designated employment areas, the significant potential for reverse sensitivities means that it will not be possible to arrive at a deliverable scheme if the principle of

conversion and context is divorce from the consideration and scrutiny of necessary adaptations. Such matters can only be appropriately and comprehensively negotiated through a case-by-case consideration via the planning application process.

#### Implications of introducing the Article 4 Direction

- 6.41 Once the Direction is formally confirmed in September/October 2016, planning permission will be required for proposals promoting a change of use from storage and distribution (B8) to residential (C3) within the areas identified on the plan in Appendix 1.
- 6.42 Applicants will be able to formally submit a free planning application for this specified change of use. Nevertheless, this will allow the Council to be involved in a formal decision making process, enabling a case-by-case judgement to be made as to whether, on its own or cumulatively, the change of use to residential would undermine the economic function of the designated employment area. Through the planning application process adjoining landowners and occupiers will also be able to offer their views as to whether, in planning terms, such a proposal was acceptable. If acceptable, it would also allow the local planning authority to form a view on size, design and servicing considerations that are currently outside the scope of matters covered by the prior approval process.

#### Next steps

- 6.43 Notice of the non-immediate withdrawal of the Permitted Development Right has to be published in the manner prescribed in Schedule 3 of the instrument, which includes a requirement to: publish a notice in the local paper; erect at least two site display notices within the areas the Direction relates; where practicable, serve notice on the landowner and occupier of every part of the land within the area to which the Direction relates; and send a copy of the Direction to the Secretary of State. The content of the notice is prescribed by sub-paragraph 4 of the Schedule and specifies a period of at least 21 days within which representations to the Direction can be made. However, in accordance with the Council's Statement of Community Involvement, the period for representations will be extended to at least 6 weeks to allow for more meaningful engagement with existing businesses and other stakeholders including commercial agents and developers active within the Borough. Through the consultation, the Council will ask consultees to comment on whether they support the Article 4 Direction and will also seek views on the boundary of areas within which the Article 4 Direction is to apply.
- 6.44 The Direction, once made, cannot come into force unless confirmed by the local planning authority. In deciding whether to confirm a Direction the LPA 'shall take into account' any representations made during the period of consultation. Any material changes made to the Direction as a result of the consultation will require re-consultation.
- 6.45 The Secretary of State has power to cancel or modify an Article 4(1) Direction made by a local planning authority at any time before or after its confirmation by the LPA.

## 7. Contribution to strategic outcomes

- 7.1 The making of an Article 4 Direction, to withdraw the permitted development right to convert B8 use floorspace to residential use within key employment areas, supports and is consistent with the Council's strategic policies and **Corporate Priority 4 (Growth)** aimed at promoting Haringey as a secure and economically viable employment market, alongside other interventions to retain, promote and grow local businesses and jobs, including education and training initiatives.

## 8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

### Finance

- 8.1 The cost of making the Article 4 Direction is estimated at £5k, largely relating to publicity and land registry costs, these costs can be contained within existing budgets.
- 8.2 Removal of the need for a Planning application will have reduced the Council's income in this area, as with alterations taking place under permitted development rights, no Planning Fee would have been payable. However, there would also have been in corresponding reduction in workload within Planning and hence the overall position would have been expected to be broadly neutral.
- 8.3 By introducing an Article 4 direction, the Council will need to process some applications but will be limited in the amount of fees it is allowed to charge. However, the shortfall in income is not expected to be significant bearing in mind the number of applications made and should be outweighed by the wider benefits of this policy.

### Procurement

- 8.4 There are no procurement issues currently associated with the making of the Article 4 Direction. However, if further justification is deemed necessary to enable the Direction to be confirmed, specialist consultancy services may need to be procured to gather any additional information. Such costs will need to be met but the Planning Policy budget and will need to accord to Council's procurement protocols.

### Legal

- 8.5 The Assistant Director of Corporate Governance has been consulted on the preparation of this report and comments as follows.
- 8.6 Article 4 confers a wide power, and a Direction made under it can cover the entire geographical area of an LPA, and also permitted development rights with a temporary effect (such as the proposed change). There are two main types of Article 4 Direction:

- a. Non-immediate Directions, where permitted development rights are only withdrawn following local consultation and the subsequent confirmation of the Direction by the LPA; and
  - b. Immediate Directions made under Article 6, where permitted development rights are withdrawn with immediate effect. Immediate Directions must then be confirmed by the local planning authority following local consultation within six months, or else the Direction will lapse.
- 8.7 The non-immediate route recommended mitigates the Council's exposure to legal and financial risk.
- 8.8 There is no statutory appeal against the making of an Article 4 Direction. However, such a decision would be open to challenge by way of judicial review. Provided the Council takes into account all relevant considerations (and does not take into account any irrelevant considerations or otherwise act irrationally), and adheres to the confirmation process, a successfully judicial review of the proposed Article 4 Direction, made on the basis that the authority wishes to consider applications on a case-by-case basis, is unlikely.
- 8.9 The proposed six week consultation period, and the period required to consider any representations received, and the 12 month notification period, may lead to applications coming forward during the process of bringing the Article 4 Direction into effect. These applications must be dealt with in accordance with the prior approval requirements. An Article 4 Direction could not prevent the carrying out of development which has received prior approval before the date the Article 4 Direction comes into force. It is not possible to safeguard against this risk.

#### Equality

- 8.10 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:
- I. tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
  - II. advance equality of opportunity between people who share those protected characteristics and people who do not;
  - III. foster good relations between people who share those characteristics and people who do not.
- 8.11 The Council is committed to increasing education and economic opportunity in the east of the Borough and to tackling the high levels of unemployment particularly among young BAME communities and disabled residents. The Council runs and supports a number of programmes aimed specifically at supporting those who are long term unemployed back into work. Although, the Article 4 Direction is not aimed at directly having a positive impact on these protected characteristic, it will have an indirect positive impact by way of protecting existing employment and business areas which may lead to retaining

or providing greater local job and business opportunities for these protected characteristic.

- 8.12 Having regard to the above and the implications of making the Article 4 Direction as set out in sections 7 & 8 of this report, it is highly unlikely that any specific group or groups within our community will be disproportionately impacted as a result of the making of the Article 4 Direction. A full equalities impact assessment is therefore not warranted.

## **9. Use of Appendices**

- 9.1 Appendix 1 provides a plan showing the areas within the Borough to which the proposed Article 4 Direction is to apply.

## **10. Local Government (Access to Information) Act 1985**

- 10.1 The following documents are of relevance to this report:

*General Permitted Development Order 2015*

[http://www.legislation.gov.uk/ukxi/2015/596/pdfs/ukxi\\_20150596\\_en.pdf](http://www.legislation.gov.uk/ukxi/2015/596/pdfs/ukxi_20150596_en.pdf)

*Haringey Employment Land Review 2015*

<http://www.haringey.gov.uk/housing-and-planning/planning/planning-policy/local-development-framework-ldf/local-plan-evidence-base#Employment%20Land%20Review>

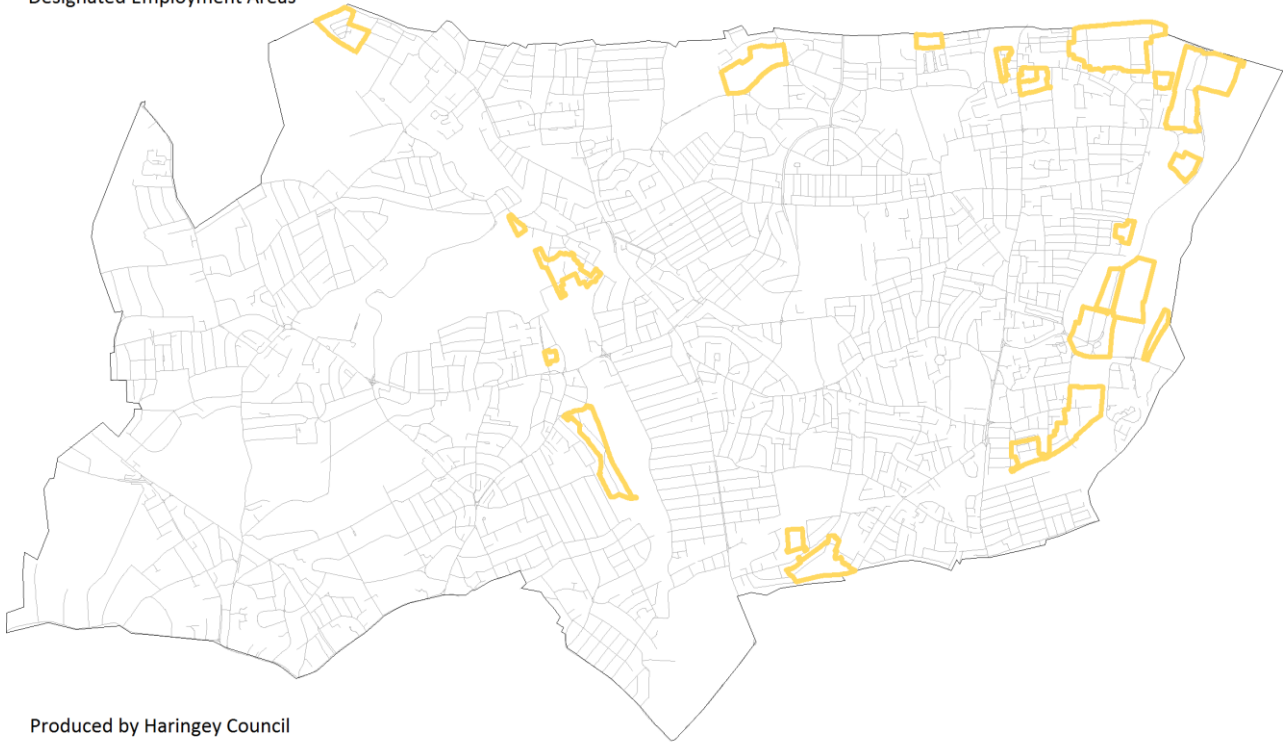
*Haringey Local Plan*

<http://www.haringey.gov.uk/housing-and-planning/planning/planning-policy/local-development-framework>

- 10.2 With respect to external links – Haringey Council is not responsible for the contents or reliability of linked web sites and does not necessarily endorse any views expressed within them. Listing should not be taken as endorsement of any kind. It is your responsibility to check the terms and conditions of any other web sites you may visit.
- 10.3 We cannot guarantee that the above links will work all of the time and we have no control over the availability of the linked pages.’

# Appendix 1: Areas to which the Article 4 Direction is to apply

Designated Employment Areas



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