

Committee: Cabinet

Date: 17 February 2014

Agenda item:

Wards: all

Subject: To confirm Article 4 (non-immediate) to remove permitted development rights for the conversion of offices to residential uses in Wimbledon town centre and Merton's industrial estates.

Lead officer: Direction for Environment and Regeneration, Chris Lee

Lead member: Cabinet Member for Environmental Sustainability and Regeneration
Councillor Andrew Judge

Contact officer: Future Merton Strategic Policy and Research, Tara Butler

Recommendations:

- A. That Cabinet resolves to 'confirm' (adopt) the Non-immediate Permanent Article 4 Direction to remove permitted development rights for the conversion of offices (B1a Use Class) to residential use (C3 Use Class) for Wimbledon town centre and the industrial estates at Willow Lane, Garth Road, South Wimbledon (Morden Road), Durnsford Road, Dundonald Road, Plough Lane and Prince George's Road (Colliers Wood).
 - B. Notes that the Article 4 Direction, once confirmed, will come into force on 06 March 2015.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. In May 2013, government decided to change planning rules to allow established offices to change to residential uses without the need for planning permission throughout England and Wales. Landowners must seek "prior approval" for this change and there are very limited circumstances that councils can consider in assessing these applications.
- 1.2. Since May 2013, more than 40 offices have been approved via "prior approval" for conversion into flats in Merton, some of the highest rates in England and Wales. Applications have been made for occupied offices in Wimbledon and in Merton's industrial estates for prior approval to convert to flats, displacing established businesses.
- 1.3. On 25 November 2013, Council resolved to make an Article 4 and consult on the withdrawal of permitted development rights offices to residential uses in Wimbledon town centre and the industrial estates between 04 December 2013 and 15 January 2014.
- 1.4. Planning officers have considered the representations made on the Article 4 Direction during this consultation period and considers that the overwhelming majority of representations, representing a large proportion of businesses in Merton, would support the introduction of this Article 4 Direction.

- 1.5. It is recommended that Cabinet and Full Council to resolve confirm Merton's non-immediate Article 4 Direction, which will withdraw permitted development rights for offices to convert to flats in Wimbledon town centre and Merton's industrial areas from 2015.

2 DETAILS

- 2.1. For local authorities who wish to introduce an Article 4 Direction, DCLG's guidance sets out the minimum requirements; inclusive from 'making' an Article 4 Direction to it becoming in force.

Consultation Results

- 2.2. Over the nine week consultation period, the council received 13 formal representations. In addition to this, officers took a number of telephone calls and responded to emails from a number of businesses, developers and agents wishing to confirm that their interpretation of the Article 4 Direction was correct.
- 2.3. Though only 13 representations were received, they were submitted by residents, businesses (including owners and managers), business groups and other community representatives. Significantly, some of these representations submitted represent more than one person or business views. For instance:
- Merton's Chamber of Commerce (Business Agency) and the Economic Development Team at Merton Council represent and support all businesses in Merton.
 - Love Wimbledon Business Improvement District (BID) represents 420 businesses that are located in Wimbledon town centre.
 - The South Wimbledon Business Area represents more than 100 business interests on the Morden Industrial Estate.
 - The Willow Lane BID which represents more than 200 business on the Willow Lane Industrial Estate
- 2.4. Out of 13 representations received, 12 submissions supported Merton's Article 4 Direction for the following key reasons:
- Object to the introduction of these new permitted development rights in principal and considered that these changes should be decided on a local basis and subject to planning consent.
 - Concerned that these new PD rights were introduced regardless of local consideration of important areas for businesses and jobs, such as designated town centres and business areas.
 - New PD rights would decrease jobs growth and business opportunities
 - Concerned that the new PD rights would not allow residential units to be created in sustainable areas nor meet minimum size standards.

2.5. Anecdotal evidence was also provided in three representations, which illustrated the adverse impact that the new PD rights are having on existing businesses in Merton including:

- Not being able to purchase an office for a new business in a designated employment area (Garth Road) as the landowner intends to convert it into flats.
- The new PD rights affecting existing business lease contract negotiations, ultimately this will displace an existing businesses.
- Potential displacement of 40 businesses from an existing occupied employment building for the creation of 105 residential units in a designated employment area (Willow Lane) on existing business in the industrial estate.

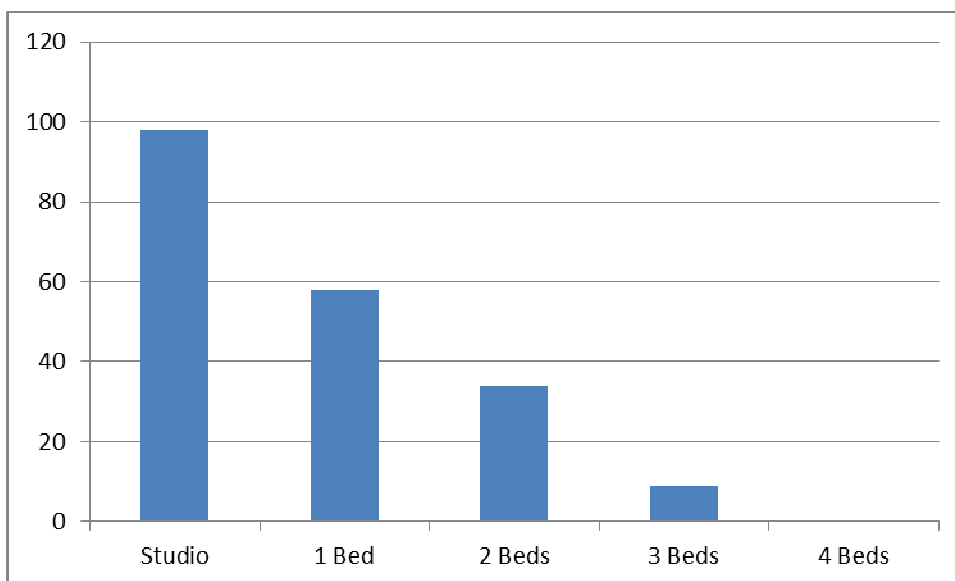
2.6. Only one representation submitted, a business owner of two properties in a designated employment area (the Lombard Business Estate), did not support the introduction of this proposed Article 4 Direction. The reasons provided for urging the council to permit industrial premises to be replaced by low cost apartments include increases in Business Rates and parking restrictions which make these properties difficult to let.

Offices to flats – prior approval in Merton

2.7. Between the introduction of these new rights on 30 May 2013 and 31 January 2014, 43 separate offices have been approved for conversion to residential. If these are all converted, this will create 200 flats. Neither the Mayor of London nor Merton Council’s planning policies can apply to ensure impact on the local economy, a mix of flat sizes, protect nearby residential or business amenity or to ensure minimum space standards for each flat.

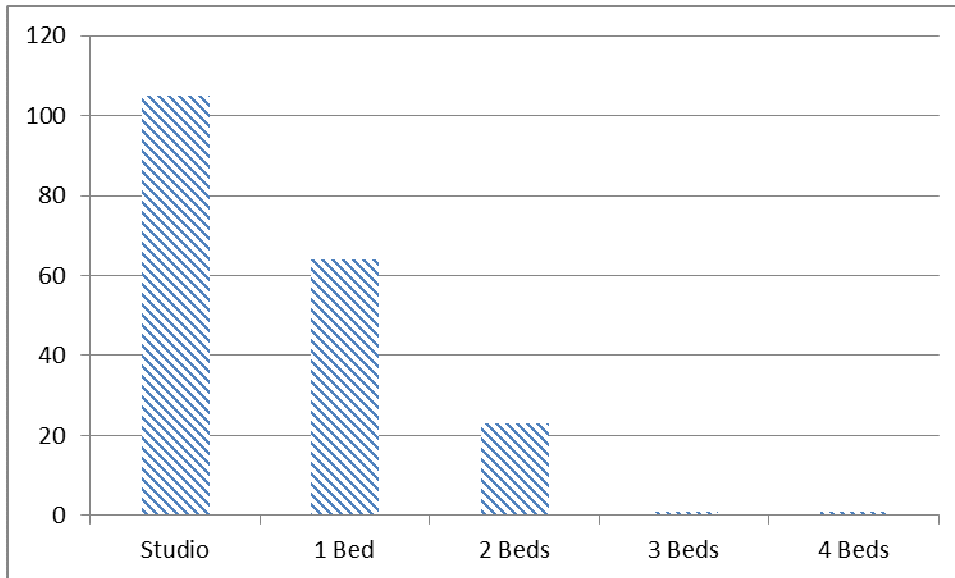
2.8. One of the schemes approved, is for the creation of 71 residential units in an office block in the designated industrial estate at Durnsford Road, Wimbledon Park.

Approved offices to flats May 2013-Jan 2014 – proportion of bedroom sizes



- 2.9. By 31 January 2014, another nine offices were awaiting a decision on prior approval. If all nine schemes were approved, this would create 194 flats including a proposal for 105 studio flats in Clock House, Willow Lane. If approved, this would displace 40 existing businesses. However the government's planning rules on prior approval mean that the council can't take this into account when making their decision.

Undecided offices to flats – proportion of bedroom sizes (nine offices creating 194 flats)



3 ALTERNATIVE OPTIONS

- 3.1. Recommended: confirm the Article 4 Direction. Full council resolves for the Article 4 Direction to be 'confirmed'. Despite one objection received the overwhelming majority of representations, which represent a large proportion of businesses in Merton, supported the introduction of this Article 4 Direction. If the Secretary of State subsequently decides to cancel or modify the Article 4 Direction, the council will have to accept the Secretary of State's decision.
- 3.1.1 If the council resolves to confirm the Article 4 Direction after 06 March 2015, existing offices in Wimbledon town centre and Merton's industrial estates will need to seek planning permission in order to convert to residential uses.
- 3.2. Rejected option: do nothing. In order to retain space for jobs and businesses, minimise impacts on local amenity, provide well designed accommodation for future residents and minimise potential sources of conflict in the borough, this report recommends confirming an Article 4 Direction.
- 3.3. Given the size of some of the developments and considerable difference between land values for commercial and residential uses, the compensation could be considerable. Therefore a non-immediate Article 4 Direction is recommended.
- 3.4. Rejected option: a temporary Article 4 Direction. Local authorities also have the option to introduce a temporary or permanent Article 4 Directions. Currently, the permitted development right is for three years only, however

there is no certainty that the permitted development right will be revoked after three years. It is recommended that Merton Council introduce a permanent Article 3 Direction as it will cover a period longer than three years (should government decide to continue to allow offices to change into residential). If the permitted development right is revoked, the Article 4 can remain but will have no effect.

- 3.5. Rejected option: a whole borough Article 4 Direction. The report recommends that the Article 4 Direction be sought for Wimbledon town centre and the industrial estates of South Wimbledon Business Area, Durnsford Road, Garth Road, Dundonald Road, Plough Lane and Willow Lane.
- 3.6. Government is clear that applicants to be exempt from allowing offices to be converted to residential should be as focussed on as small an areas as the impacts are deemed to effect, and not be sought for large areas where the impacts aren't clearly defined.
- 3.7. Merton's offices are generally concentrated in and around Wimbledon town centre. Merton's Economic Development Strategy 2010 and 2012 refresh recognised the important of Wimbledon town centre as the borough's centre for office-based businesses and jobs. In addition, the Mayor of London's Plan.
- 3.8. However outside Wimbledon town centre, there is less evidence of demand for offices and many purpose built offices have already been converted into other uses. Seeking an Article 4 Direction for the whole borough would be likely to increase the risk of not being able to justify Merton's case against government guidance and the Secretary of State rejecting it.
- 3.9. Government has also started consulting on extending permitted development rights further, including allowing small shops to change to flats without the need for planning permission. Should this go ahead, these changes would be introduced in April 2014.

4 CONSULTATION UNDERTAKEN OR PROPOSED

Consultation on Merton's proposed Article 4

- 4.1. Merton Council consulted on the proposed Article 4 Direction for six weeks between 04 December 2013 and 15 January 2014. The consultation period was extended to allow people who wanted more time to submit late comments
- 4.2. This consultation included:
 - notification letters being sent to the addresses of circa 1,800 of owners/occupants in Wimbledon town centre and the industrial estates,
 - publishing a notice in the Local Guardian Newspaper,
 - putting a minimum of two sites notices in the boundary of each area that would be affected by this Article 4 Direction;
 - contacting business representatives (such as Willow Lane BID group, South Wimbledon Business Area group and LoveWimbledon)

- notifying the Secretary of State that an Article 4 Direction was recently made;
- a webpage on the council's website
- making the documents available at Merton's libraries

4.3 The comments received and the statement of consultation are available on request and will be published on Merton Council's website.

5 TIMETABLE

5.1. The timetable for 'confirming' and 'implementing' an Article 4 Direction is set out in the table below.

Action	Date
Resolution to confirm the Article 4 Direction (via full council)	05 March 2014
Confirm Article 4 Direction	06 March 2014
Notify residents and business of direction coming into force a year hence	06 March 2014+
Notify Secretary of State of Direction coming into force a year hence via email	06 March 2014
Article 4 Direction comes into force	06 March 2015

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. Costs of a non-immediate Article 4 relate to public consultation and officer time and are likely to be in the region of £6,000, which will be met from existing budgets.
- 6.2. Planning applications required under an Article 4 Direction are exempt from planning applications fees. However, appropriate planning conditions and planning obligations will apply.
- 6.3. Applying the council's planning policies will ensure issues such as impact on the economy and jobs growth, internal space standards, noise, sunlight, daylight and overlooking can be properly assessed and the impacts mitigated where necessary. This approach will help to deliver the council's Economic Development Strategy and Core Planning Strategy and minimise demands on the council's public protection and environmental health teams in the long-term.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995 (DCLG, 2012) sets out government's guidance to creating and implementing a Direction made under Article 4 of the Town and Country Planning (General Permitted Development) order 1995 as amended.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. Applying the council's planning policies via the introduction of this Article 4 will help to improve the quality of development and how it relates to the surrounding area. This approach will help to reduce the potential for conflict between existing residents and businesses and future occupiers, thus helping with community cohesion.
- 8.2. This is supported by the Equalities Impact Assessment (December 2013) which was undertaken as to the impacts of this Article 4 Direction.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. If an Article 4 is confirmed and the council's planning policies are applied, these policies include designing out crime. This was highlighted by the Met Police's representation submitted to this Article 4 Direction consultation.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. The risk to this project is that the Secretary of State would not allow Merton to enact an Article 4 Direction.
- 10.2. This risk is being mitigated by proposing to apply the Direction to Wimbledon town centre and the strategic industrial areas, where there is clear evidence that there is demand for office-based business floorspace and therefore the loss of this floorspace (through continuing with permitted development rights) would undermine local objective to create mixed communities.
- 10.3. The Secretary of State requested further information from the London Boroughs of Islington, Sutton and Richmond who are making similar Article 4 Directions, although the Secretary of State has not exercised his powers to amend their Article 4s
- 10.4. The Secretary of State retains the right to cancel an Article 4 Direction at any time and that Merton Council may be requested to provide further information to support the Article 4 Direction in the future.

11 BACKGROUND PAPERS

- 11.1. Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995
<https://www.gov.uk/government/publications/replacement-appendix-d-to-department-of-the-environment-circular-09-95>
- 11.2. Cabinet Report: Article 4 (non-immediate) to remove permitted development rights for the conversion of offices to residential in Wimbledon town centre and Merton's industrial estates
<http://democracy.merton.gov.uk/Data/Cabinet/20130916/Agenda/Article%20%20DIRECTION%20-%20requiring%20planning%20permission%20for%20offices%20to%20convert%20to%20homes%20-%201294.pdf>

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