

## READING BOROUGH COUNCIL

### REPORT BY EXECUTIVE DIRECTOR OF ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES

<b>TO:</b>	POLICY COMMITTEE		
<b>DATE:</b>	23 SEPTEMBER 2021		
<b>TITLE:</b>	ARTICLE 4 DIRECTION TO REMOVE PERMITTED DEVELOPMENT RIGHTS THAT WOULD RESULT IN RESIDENTIAL DEVELOPMENT		
<b>LEAD COUNCILLOR:</b>	COUNCILLOR PAGE	<b>PORTFOLIO:</b>	STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT
<b>SERVICE:</b>	PLANNING	<b>WARDS:</b>	ALL EXCEPT MAPLEDURHAM AND THAMES
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#### 1. EXECUTIVE SUMMARY

- 1.1 Permitted development rights are rights that have been granted in legislation to undertake certain developments without the need to apply for planning permission. The Local Planning Authority has the powers to make a direction removing specified permitted development rights within a defined area, known as an Article 4 direction.
- 1.2 This reports recommends making a non-immediate Article 4 direction to remove certain permitted development rights that would result in new residential dwellings across the town centre, district and local centres, core employment areas and a number of other commercial areas. The direction would come into force on 31<sup>st</sup> October 2022.
- 1.3 Appendices:  
Appendix 1: Equality Impact Assessment  
Appendix 2: Draft Article 4 direction  
Appendix 3: Evidence document

#### 2. RECOMMENDED ACTION

- 2.1 That Committee agrees that a non-immediate Article 4 Direction be made covering the area shown in Appendix 2 to remove the following permitted development rights within Schedule 2 of the General Permitted Development Order 2015 (as amended):  
- Part 3 class MA;

- Part 3 class M;
  - Part 3 class N;
  - Part 20 class ZA;
  - Part 20 class AA;
  - Part 20 class AB.
- 2.2 That the Assistant Director of Planning, Transport and Regulatory Services be authorised to make any minor amendments necessary to the direction that do not alter its main purpose, in consultation with the Lead Councillor for Strategic Environment, Planning and Transport, prior to serving notice of the direction.
- 2.3 That Committee agree that relevant groups and individuals should be notified of the making of the Article 4 direction, including use of representative bodies of businesses rather than individual service on all landowners.

### 3. POLICY CONTEXT

#### *Permitted development rights*

- 3.1 There are a number of forms of development which benefit from 'permitted development rights' (PDR) under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (known as the GPDO) and therefore do not require planning permission. These are set out in Schedule 2 of the GPDO. The range of types of PDR are wide, but include minor alterations to houses, some telecommunications development and some development by statutory undertakers and the Crown. In the last ten years, PDR has increasingly been used by the government to allow more major forms of development. Of perhaps the highest profile has been the right to change from offices to residential (formerly Part 3 class O) without planning permission, introduced in 2013, which required instead a much more light-touch 'prior approval' process where only a very limited number of factors can be taken into account.
- 3.2 The use of PDR has been expanded significantly again in 2020 and 2021, with not only additional uses able to change to residential without planning permission as a result of the introduction of the new use class E with associated PDR to convert to residential, but also a suite of new rights allowing upward extension or demolition and rebuild of residential and commercial buildings to provide new dwellings.
- 3.3 The following PDR currently exist that would allow the creation of new dwellings, subject to a prior approval process. References are to Schedule 2 of the GPDO:
- Change of use of commercial, business and service use (use class E) to residential (Part 3, class MA);
  - Change of use of hot food takeaway, betting office, payday loan shop or launderette to residential (Part 3, class M);
  - Change of use of casino or amusement arcade to residential (Part 3, class N);

- Demolition of single, purpose built, detached block of flats or a single, detached office, light industrial or research and development building and its replacement with a detached block of flats or detached house (Part 20, class ZA);
  - Up to two additional residential storeys on a detached, purpose built block of flats (Part 20, class A);
  - Up to two additional residential storeys on a detached commercial or mixed-use building (in use for retail, financial and professional, restaurant and café, office, research and development, light industrial, betting shop, payday loan shop, launderette) (Part 20, class AA);
  - Up to two additional residential storeys on a two or more storey terraced commercial or mixed-use building (see class AA for uses) or one additional storey on a one storey building (Part 20, class AB);
  - Construction of new residential above a terraced house, two storeys in the case of houses of two or more storeys or one additional storey in the case of a one storey house (Part 20, class AC);
  - Construction of new residential above a detached house, two storeys in the case of houses of two or more storeys or one additional storey in the case of a one storey house (Part 20, class AD).
- 3.4 Each of the above rights has its own set of restrictions and conditions which limit the ability to take up the right, and matters that can be considered through the prior approval process. However, these are far from comprehensive. For instance, there is no ability to specify the type of accommodation (in terms of number of bedrooms), and, for changes of use from use class E, no safeguard against loss of essential services and facilities (other than medical facilities and nurseries). Conditions around vacancy are weak, and there remains no mechanism to seek contributions towards affordable housing. Whilst these conditions and caveats may therefore be of some use, they will by no means address all the potential impacts.
- Article 4 directions**
- 3.5 Under Article 4 of the GPDO, a planning authority can remove specified PDR, and require that a planning application be made. There are a number of existing Article 4 directions in operation in Reading. For instance, for many years, small clusters of houses with patterned brickwork or other features have been subject to Article 4 to remove rights around development in the curtilage of a dwellinghouse. In addition, more recently, Article 4 directions have been put in place in much of Park, Redlands and Katesgrove wards, as well as Jesse Terrace, to control the conversion of dwellinghouses to small houses in multiple occupation.
- 3.6 There are two types of Article 4 direction: immediate and non-immediate. An immediate Article 4 direction, once served on an area, removes the specified PDR with immediate effect. However, under Sections 107 and 108 of the Town and Country Planning Act 1990, the Council would be liable to pay compensation to landowners if permitted development rights were removed less than 12 months before initial notification. For this reason, a non-immediate Article 4 direction, where the direction comes into force at least 12 months after it was initially made, would almost always be the preferred route.
- 3.7 The process for making a non-immediate Article 4 direction would be broadly as follows:

- Article 4 is made (after agreement by the relevant committee) and notice given by advertisement, site notices and by serving notice on every owner and occupier (unless the number of owners and occupiers makes service impracticable). The date the notice comes into force must be specified, and must be at least 12 months after last notice of making the direction to avoid compensation issues.
- There would be a period of at least 21 days for consultation responses.
- At least 28 days after the last notice was served, the Article 4 would be confirmed by the relevant committee, and notice of confirmation served in the same way as the initial notice.
- The Article 4 direction would come into effect on the specified date.

3.8 The Secretary of State must be notified about any Article 4 direction, and has powers to modify and cancel directions. An Article 4 direction can be made only where it is ‘expedient’, and it therefore requires justification. Planning Practice Guidance states that

*“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. The potential harm that the direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to:*

...

- *cases where prior approval powers are available to control permitted development*

...”

3.9 Therefore, any proposal to put an Article 4 direction in place will need to be accompanied by clear evidence to show the harm that results from the PDR.

3.10 The government have also recently further raised the bar for Article 4 directions that control changes of use to residential, with a Written Ministerial Statement (WMS) (1<sup>st</sup> July 2021) followed by corresponding changes to the National Planning Policy Framework (NPPF) (20<sup>th</sup> July 2021). The NPPF states that the use of Article 4 directions should

- *“where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)”*

This test is considerably more stringent than the test in the version of the NPPF before July 2021.

3.11 The WMS clarified this matter further as follows:

*“Article 4 directions should be very carefully targeted, applying only to those locations where they are necessary to avoid wholly unacceptable adverse impacts. For that reason, I want to make clear that the geographical coverage of all Article 4 directions should be the smallest area possible to achieve the aim of the Article 4 direction. In respect of historic high streets and town centres, this is likely to be the irreducible core of a primary shopping area. It is very unlikely to be applicable to a*

*broad area, and is not expected to be applied to an entire local authority area. Local authorities will need to have robust evidence to justify the Article 4 direction and the area it covers.”*

- 3.12 Finally, the WMS makes clear that the Secretary of State will make use of his powers regarding Article 4 directions where necessary.  
*“I will instruct my officials to look closely at all new Article 4 directions to check that they comply with the new policy, and I will consider exercising my power to intervene if they do not.”*
- 3.13 The first key point in the WMS is that there is clearly a recognition that protecting historic high streets is a potentially appropriate use of such directions, but that there is no explicit recognition of any other reason. Whilst the WMS does state that inclusion of whole town centres will not be appropriate to protect high streets, it does not state how directions covering whole town centres will be considered if they are justified by other forms of harm, e.g. loss of key employment space.
- 3.14 The second main point is that the bar will clearly be set extremely high and there is clearly a possibility that the Secretary of State will use powers of modification or cancellation. However, as set out in the evidence document (Appendix 3), officers’ view is that the proposed direction is clearly necessary to avoid wholly unacceptable impacts. The evidence document further examines scope to reduce the proposed Article 4 area and the smallest area possible to avoid these impacts is therefore proposed to be covered.
- 3.15 As the July 2021 version of the NPPF introduces a new test for Article 4 directions relating to change of use to residential, there are no precedents for how the Secretary of State will assess proposed directions to control these changes.

## **4. THE PROPOSAL**

### **4.1 Current position**

- 4.1.1 The current position is that the PDR set out in paragraph 3.3 apply in Reading Borough, and that applicants are only required to apply for prior approval to undertake these developments, during which only those matters specified in the PDR in the legislation can be considered. No Section 106 agreements can be attached to these prior approvals.
- 4.1.2 There has been considerable take-up of some of these PDR in Reading, in particular conversions of office to residential (now superseded by changes from use class E to residential). Up to 31st March 2021, 1,087 new dwellings had been completed by this PDR, and around 55,000 sq m of office accommodation had been lost. A further 560 dwellings had prior approval at 31st March 2021, which would result in the loss of a further 31,000 sq m of office floorspace.
- 4.1.3 There has also been some take-up of the other PDR for conversion to residential from retail and related uses and storage and distribution, but this has been much lower due to the low size limits that applied until recently. Only 28 dwellings have been delivered through these routes, with around

1,500 sq m of floorspace lost, most of which has involved conversion from shops.

- 4.1.4 There have been no approvals so far for the other forms of PDR, for demolition and rebuild and upward extension. These are new PDR, only put in place in 2020, and it is yet to be seen whether there will be significant take-up in Reading.
- 4.1.5 The Council has significant concerns around the implications of these PDR. The Council objected to the original introduction of office to residential PDR almost ten years ago, and has consistently objected to further roll-out of PDR ever since. It applied for an exemption from the office to residential PDR when originally introduced but was not successful. The Council also recently contributed to the Housing, Communities and Local Government Committee's inquiry into permitted development rights, including giving evidence to a hearing.
- 4.1.6 Of the concerns raised in the evidence to the inquiry, the following represent specific planning harm that could justify applying restrictions:
- Dwellings are often of poor quality and rarely provided with essential private or communal outdoor space;
  - PDR for residential accommodation is dominated by small dwellings, both in terms of internal size and number of bedrooms, with 83% of new dwellings provided in Reading through PDR being one-bedroom or studio, and does not match the identified need for different sizes of homes;
  - It results in residents being introduced to areas which are wholly inappropriate as a place to live, for reasons such as noise and disturbance;
  - There has already been a significant loss of commercial floorspace of around 56,000 sq m of floorspace, not all of which was vacant, which reduces the space available to local businesses;
  - PDR can impact existing businesses adjacent to residential PDR by limiting their ability to operate and expand;
  - There is likely to be a loss of essential local shops and services, which will undermine high streets;
  - It fails to make essential provision for affordable housing to meet the high local levels of need, with RBC having potentially missed out on 586 on-site affordable homes and £3.64 million in off-site contributions to affordable housing;
  - There is no mechanism to secure contributions to meeting infrastructure needs generated by the development, with RBC having potentially missed out on £2.17 million towards education and open space infrastructure;
- 4.1.7 The HCLG Committee report was published in July 2021<sup>1</sup>, and among its recommendations was that the further extension of PDR, including the new class MA, be paused and that a review of the role of PDR in the planning system be carried out.
- 4.1.8 In line with the requirements to justify any proposals for an Article 4 direction, the Council has prepared an evidence document (Appendix 3) that looks at these types of harm in more detail in section 5.

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<sup>1</sup> [Permitted Development Rights \(parliament.uk\)](https://www.parliament.uk/evidence-to-committees/development-rights)

## 4.2 Option Proposed

4.2.1 Committee is recommended to agree to make a non-immediate Article 4 direction which withdraws the following PDR:

- Change of use of commercial, business and service use (use class E) to residential (Part 3, class MA);
- Change of use of hot food takeaway, betting office, payday loan shop or launderette to residential (Part 3, class M);
- Change of use of casino or amusement arcade to residential (Part 3, class N);
- Demolition of single, purpose built, detached block of flats or a single, detached office, light industrial or research and development building and its replacement with a detached block of flats or detached house (Part 20, class ZA);
- Up to two additional residential storeys on a detached commercial or mixed use building (in use for retail, financial and professional, restaurant and café, office, research and development, light industrial, betting shop, payday loan shop, launderette) (Part 20, class AA); and
- Up to two additional residential storeys on a two or more storey terraced commercial or mixed use building (see class AA for uses) or one additional storey on a one storey building (Part 20, class AB).

4.2.2 It is recommended that this be applied to the following areas:

- The entire town centre, as defined in the Local Plan;
- District and local centres, as defined in the Local Plan;
- Core employment areas, as defined in the Local Plan;
- Other primarily commercial or retail locations; and
- Areas with the poorest levels of air quality.

4.2.3 The draft Article 4 direction is set out in Appendix 2. This specifies the area within which the direction would apply, which includes the town centre, district and local centres, core employment areas and other primarily commercial areas. The draft is subject to potential modification in terms of legal requirements of the wording, and Committee is recommended to delegate these modifications to the Assistant Director of Planning, Transport and Regulatory Services in consultation with the Lead Councillor for Strategic Environment, Planning and Transport.

4.2.4 The intention of the Article 4 direction is not to halt all changes of use or development on commercial sites to residential use. Rather, the direction will give the Council more control over relevant applications through the planning process, to help protect the existing office and industrial supply and to guard against the harm set out in this report. It will allow the consideration of other planning matters such as affordable housing or amenity space provision to be considered with change of use applications, which would not otherwise be possible with the PDR in force.

4.2.5 The justification for this approach is set out in full in the evidence document (Appendix 3). The methodology of the evidence document is broadly as follows:

- Identify all forms of PDR that would result in residential development in Reading;

- Identify broad types of area for assessment purposes (e.g. town centre core, town centre fringe, employment area);
- Assess the claimed benefits of PDR, in particular in terms of boosting housing supply;
- Assess each form of harm that arises as a result of PDR and provide evidence for why it should be addressed through an Article 4 direction and whether there are wholly unacceptable adverse impacts;
- Examine which forms of harm are relevant to which type of PDR and which areas of Reading, and, based on this, outline the broad scope of the direction; and
- Seek to refine the geographical area of the proposed direction by reducing to the smallest possible geographical area.

4.2.6 In brief, the resulting proposed direction does not cover all forms of PDR that would result in residential development, nor does it cover the entire Borough, but it does cover those areas and forms of development where the greatest harm is likely to arise. In particular, it does not address the forms of PDR which would involve new flats on top of existing flats or houses, generally because these have some very distinct implications and the geographical area that would be needed would be very different. It does not prevent the Council from seeking to implement further directions to cover other geographical areas or other forms of PDR in the future.

4.2.7 If Committee agrees this recommendation, the notices of the direction would be served on relevant parties, and notification will also be made by local advertisement and site notices. The relevant parties on whom to serve notice include every owner and occupier in the area, unless it is difficult to locate them or the number makes service impracticable. It is considered that, with around 4,000 addresses within the area, service on every owner and occupier is impracticable. However, the Council will use other means to notify as many owners as possible, including through organisations representing existing businesses such as the Business Improvement District, Chamber of Commerce and Federation of Small Businesses. Notice must also be served on the Secretary of State.

4.2.8 There will be an opportunity for parties to make representations on the direction within a 21-day period following serving the last notice. These representations will be reported back to Policy Committee which will then need to consider whether to confirm the direction. Confirmation must take place no earlier than 28 days after serving the last notice. This is therefore expected to be considered by Committee again in December 2021 or January 2022.

4.2.9 Subject to confirmation the direction would come into force on 31<sup>st</sup> October 2022, unless modified or cancelled by the Secretary of State.

### 4.3 Other Options Considered

4.3.1 There are a number of alternative options that could be considered, as follows.

4.3.2 **Whole Borough Article 4 direction:** Applying an Article 4 direction to the whole Borough would be the only way to address all of the harmful effects as a result of the PDR. Matters such as the quality and size of the dwellings and

lack of contribution to affordable housing are applicable wherever these PDR developments are located. However, the July 2021 WMS has made clear that whole Borough Article 4 directions covering changes of use to residential are not expected, and it is not considered likely that a direction covering the whole of Reading Borough could be put in place without cancellation by the Secretary of State.

- 4.3.3 **More geographically limited Article 4 direction:** There are various potential approaches to a more geographically limited direction, but it is considered that the most likely version would cover the primary shopping area of the town centre, the key frontages within district and local centres and the core employment areas, all of which are defined in the Local Plan. This would cover around 238 ha, a 51% reduction on the proposed area, representing only around 6% of the Borough's total area. Whilst such a direction is less likely to result in intervention from the Secretary of State, it would not be anywhere near sufficient to cover all wholly unacceptable impacts. It would continue to result in loss of key employment space around the fringes of the town centre core, would place new residents in areas where they will be subject to high levels of noise and poor air quality, and would restrict the operation of existing businesses, as well as failing to make necessary contributions to affordable housing.
- 4.3.4 **Restricting class MA PDR only:** A more straightforward version of the Article 4 direction would deal with class MA only, which covers changes of use from commercial to residential. By far the majority of PDR schemes in Reading have come by this route (or from the PDR that this class replaced, including office to residential) and this is likely to continue to be the case. However, this would fail to recognise the potential impacts that some of the new PDR, only introduced in 2020, could have, as set out in the evidence document, and would continue to result in wholly unacceptable impacts from those forms of development even if they are more limited in number.
- 4.3.5 **Inclusion of upward extension of residential:** There are a number of forms of PDR that allow new dwellings to be created by upwards extension of existing dwellinghouses or blocks of flats. Whilst some of the issues that arise as a result of such PDR are similar (e.g. lack of affordable housing contribution, small size of dwellings), others are much less likely to apply, such as exposure to noise, loss of employment or retail floorspace and impacts on existing businesses. The issues are therefore very distinct, and the applicable geographical area is also therefore very different, so it does not make sense to cover these in the same direction. This does not prevent a future direction being put in place to cover these matters if required.
- 4.3.6 **Immediate Article 4 direction:** An immediate Article 4 direction would prevent relevant PDR from being undertaken with immediate effect, but would mean that the Council is potentially liable to pay compensation to affected landowners. Given the scale and scope of the direction and therefore the potential amount of affected landowners, this is considered to be an unacceptable risk.
- 4.3.7 **No Article 4 direction:** It is considered that the continued harm to the proper planning of the area, as demonstrated in the evidence document (Appendix 3) means that continuing without an Article 4 direction is not acceptable, particularly given recent extensions to PDR that put our high streets at

particular risk. It would mean continued poor quality housing that has a detrimental effect on the local economy, the health of centres and the quality of life of residents and which makes no contribution towards much-needed affordable housing. Some of the effects could be dealt with as part of the conditions of prior approval, but these are very limited in scope and the application fees for such approvals do not fully cover the cost of determining them.

## **5. CONTRIBUTION TO STRATEGIC AIMS**

5.1 The Council's vision is as follows:

*“To help Reading realise its potential - and to ensure that everyone who lives and works here can share the benefits of its success.”*

5.2 The recommended action helps to achieve the vision by ensuring that residents of new dwellings in Reading are not detrimentally affected by the poor quality or inappropriate mix of homes, and that development helps to realise Reading's potential through contributing to affordable housing, mitigating the impacts on infrastructure and securing economic growth.

5.3 The recommended action also contributes to the following Corporate Plan themes:

### **Healthy environment**

- Ensuring that new development is subject to the Council's planning policies that seek to address the climate emergency through improved standards of new housing;
- Ensuring that new development is subject to policies that ensure adequate provision of outdoor amenity space and protection from high levels of noise and disturbance and poor air quality, thus helping to prevent impacts on physical and mental health.

### **Thriving Communities**

- Ensuring that new developments contribute towards the provision of much-needed affordable housing;
- Ensuring that new development is subject to policies that secure high standards of accessibility and adaptability of new dwellings.

### **Inclusive economy**

- Prevents developments that could negatively affect economic growth by eroding employment space or resulting in inappropriately located new homes that restrict the operations of existing businesses;
- Protects the health of Reading's high streets that provide a range of services and facilities for the whole community.

## **6. ENVIRONMENTAL AND CLIMATE IMPLICATIONS**

6.1 The Article 4 direction will not necessarily prevent development being undertaken, but will instead ensure that it is considered through the planning application process which will mean consideration against the full range of Local Plan policies and associated documents. As it stands, new-build residential development that benefits from PDR does not need to comply with policy H5 which requires zero carbon homes (defined as being, at a minimum,

a 35% improvement over the emissions rate in the building regulations with a contribution towards carbon offset to cover the remainder). Currently, other matters such as landscaping, tree planting, climate change adaptation and the impacts of poor air quality on residents of the development are unable to be considered for PDR proposals. The recommended action would therefore ensure that the adopted policies in the Local Plan apply, and as such the environmental and climate implications would be positive.

## **7. COMMUNITY ENGAGEMENT AND INFORMATION**

- 7.1 Under the process set out in Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), as soon as practicable after an Article 4 direction is made, notice must be served by local advertisement and at least two site notices within the area. Notice must also be served on the owner and occupier of every piece of land within the area to which the direction relates, unless individual service on that owner or occupier is impracticable because it is difficult to identify or locate that person, or unless the number of owners or occupiers within the area relates makes individual service impracticable. As set out in paragraph 4.2.6, it is considered that, with around 4,000 individual addresses within the proposed direction, individual service is impracticable, but other measures should be taken to reach as many businesses as possible.
- 7.2 The period for making representations must be at least 21 days from the date on which the last notice was served. It is proposed that the specified deadline should be Tuesday 30<sup>th</sup> November, to allow some flexibility in the timescale for serving the notices. Representations must be considered when making the decision whether to confirm the direction, and will therefore be reported back to Policy Committee once the period has closed and when the direction is brought back for confirmation.

## **8. EQUALITY ASSESSMENT**

- 8.1 The Scoping Assessment, included at Appendix 1 identifies that an Equality Impact Assessment (EqIA) is relevant to this decision. The EqIA (also at Appendix 1) identifies that, where there are identified impacts upon specific groups, these are expected to be positive. Compliance with the duties under S149 of the Equality Act 2010 can involve treating some persons more favourably than others, but it is not considered that there will be a negative impact on other groups with relevant protected characteristics.

## **9. LEGAL IMPLICATIONS**

- 9.1 The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (known as the GPDO) grants planning permission to a number of specified forms of development. The forms of development for which permission is granted are set out in Schedule 2 of the GPDO.
- 9.2 Article 4 of the GPDO allows the local planning authority to make a direction that removes specified permitted development rights within a defined area if those rights would be prejudicial to proper planning of their area or constitute a threat to the amenities of the area. Schedule 3 of the GPDO describes the process by which these Article 4 directions are made. Paragraph 1 of Schedule 3 deals with non-immediate directions.

9.3 The Town and Country Planning Act 1990 is also relevant. Section 108 deals with compensation arrangements and is applicable to a situation where permitted development rights are removed. Section 108(3C)(c) states that at least 12 months' notice of the withdrawal is required to avoid the ability for compensation claims to be made.

## 10. FINANCIAL IMPLICATIONS

10.1 The costs of making the Article 4 direction will be met from the existing Planning service budget. These costs relate primarily to officer time and the cost of serving notices and local advertisements.

10.2 Making an Article 4 direction will result in the need for an application for planning permission rather than a prior approval process once the direction is in force. After changes to the law in 2017, there is no longer any exemption from planning application fees in an Article 4 direction area. Planning application fees will therefore be charged as permitted by Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017.

10.3 The recommended action is therefore expected to mean an increase in planning fee income. Since the additional PDR were introduced in May 2013 in place of applications for full planning permission, the loss in fee income to the Council was estimated to be £1,639,242 up to July 2021. Fees for prior approvals for relevant developments have recently significantly increased, but still fall short of the equivalent planning application fee, and do not reflect the full costs of assessing the application, particularly as this frequently involves not only planning officer time but also the need for specialist advice on matters such as noise, contamination, transport and flood risk due to the increasing scope of prior approvals. A comparison of fees is set out in Table 1.

**Table 1: Comparison of prior approval and planning application fees (September 2021)**

Type of development	Prior approval fee	Planning application fee
Change of use from commercial to residential	£96 per dwelling	£462 per dwelling (up to 50 dwellings)
Change of use from betting shop, pay day loan shop, launderette, takeaway, casino, amusement arcade to residential	£96 total (unless there are building operations)	£462 per dwelling (up to 50 dwellings)
Construction of new dwellinghouses	£334 per dwelling (up to 50 dwellings)	£462 per dwelling (up to 50 dwellings)

10.4 The recommended action will also mean that, as a planning application will be required to which the Council's adopted planning policies will be applied, a Section 106 agreement is likely to be necessary for most permissions. Up to now, developments subject to prior approval have not included such agreements which has meant that no contributions have been made to affordable housing (either on-site provision or off-site financial contributions). There was also therefore no mechanism for securing other

financial contributions towards matters such as employment and skills plans, or other site-specific infrastructure contributions such as transport, education and leisure (although these matters are usually covered by CIL which remains equally applicable to permitted development). These matters are explored in more detail in the evidence document (Appendix 3).

- 10.5 The proposed Article 4 direction will affect the permitted development rights that can be applied to the Council's own assets. It is not possible to specifically quantify the impacts as a result of the proposed direction, and it is certainly the case that the Council has to date rarely made use of the PDR dealt with in this report. It is worth noting that the Article 4 direction does not prevent changes of use to, or development for, residential, it merely ensures that such developments are considered through a planning application process.

#### Value for Money (VFM)

- 10.6 Making an Article 4 direction would ensure that the full range of planning implications of the specified forms of development can be considered during a planning application process to which adequate application fees apply and which make relevant contributions to affordable housing and local infrastructure, and therefore represents good value for money.

#### Risk Assessment

- 10.7 The only financial risks associated with this report would be in the event that the Secretary of State modifies or cancels this direction, the Council may need to revise the Article 4 direction and serve relevant notices again. These costs would need to be met from the existing Planning Service budget.

#### **BACKGROUND PAPERS**

- Town and Country Planning (General Permitted Development) Order 2015 (as amended)
- Reading Borough Council evidence to Housing, Communities and Local Government Inquiry on Permitted Development Rights
- National Planning Policy Framework
- Planning Practice Guidance
- Housing, Communities and Local Government Committee report on Permitted Development Rights, July 2021

## APPENDIX 1: EQUALITY IMPACT ASSESSMENT

### Provide basic details

**Name of proposal/activity/policy to be assessed:**

Article 4 direction to remove permitted development rights that would result in residential development

**Directorate:** DEGNS - Directorate of Economic Growth and Neighbourhood Services

**Service:** Planning

**Name:** Mark Worringham

**Job Title:** Planning Policy Team Leader

**Date of assessment:** 19/08/2021

### Scope your proposal

**What is the aim of your policy or new service?**

To put in place a legal direction to remove certain permitted development rights in parts of Reading to include the town centre, district and local centres and employment and commercial areas.

**Who will benefit from this proposal and how?**

This proposal will benefit the whole community (including potential occupants of development) by ensuring that developments that would result in new dwellings are subject to a planning application process that ensures that impacts on the amenity of the area are considered.

**What outcomes will the change achieve and for whom?**

The main outcome will be that developments that would result in residential development are subject to a planning permission process. This will consider all of the many impacts on the amenity of the area and on the potential residents.

**Who are the main stakeholders and what do they want?**

Potential residents - a residential dwelling which does not detrimentally impact quality of life and physical and mental health.

Neighbouring residents - developments that do not detrimentally affect the residential amenity of the area

Neighbouring businesses - developments that do not detrimentally impact their operation.

Developers and landowners - planning processes that offer flexibility and/or provide certainty.

Whole community - developments that contribute towards meeting affordable housing needs and mitigating infrastructure impacts.

**Assess whether an EIA is Relevant**

How does your proposal relate to eliminating discrimination; promoting equality of opportunity; promoting good community relations?

Do you have evidence or reason to believe that some (racial, disability, gender, sexuality, age and religious belief) groups may be affected differently than others? (Think about your monitoring information, research, national data/reports etc)  
Yes  No

Is there already public concern about potentially discriminatory practices/impact or could there be? Think about your complaints, consultation, feedback.  
Yes  No

If the answer is **Yes** to any of the above you need to do an Equality Impact Assessment.

If **No** you **MUST** complete this statement

N/A

**Assess the Impact of the Proposal**

Your assessment must include:

- **Consultation**
- **Collection and Assessment of Data**
- **Judgement about whether the impact is negative or positive**

**Consultation**

Relevant groups/experts	How were/will the views of these groups be obtained	Date when contacted
Landowners	Local advertisement, site notice	October 2021

**Collect and Assess your Data**

Describe how could this proposal impact on Racial groups  
No specific impacts are identified.  
Is there a negative impact? Yes  No  Not sure

Describe how could this proposal impact on Gender/transgender (cover pregnancy and maternity, marriage)  
No specific impacts are identified.  
Is there a negative impact? Yes  No  Not sure

**Describe how could this proposal impact on Disability**

New dwellings provided as a result of permitted development rights do not need to comply with the housing standards set out in policy H5 of the Local Plan. This policy ensures that all new-build homes are to be accessible and adaptable (to ensure that adaptations can be made to a home as residents' life circumstances change), and that 5% of homes on developments of 20 or more dwellings are wheelchair accessible and adaptable. This means that developments through permitted development are unlikely to provide dwellings that meet these standards. The result of the recommended action will be to ensure that compliance with these standards is a condition of receiving permission, and will therefore represent a positive impact in disability.

**Is there a negative impact?** Yes  No  Not sure

**Describe how could this proposal impact on Sexual orientation (cover civil partnership)**

No specific impacts are identified.

**Is there a negative impact?** Yes  No  Not sure

**Describe how could this proposal impact on Age**

No specific impacts are identified.

**Is there a negative impact?** Yes  No  Not sure

**Describe how could this proposal impact on Religious belief?**

No specific impacts are identified.

**Is there a negative impact?** Yes  No  Not sure

Make a Decision

Tick which applies

1. **No negative impact identified** Go to sign off

2. **Negative impact identified but there is a justifiable reason**

You must give due regard or weight but this does not necessarily mean that the equality duty overrides other clearly conflicting statutory duties that you must comply with.

**Reason**

3. **Negative impact identified or uncertain**

**What action will you take to eliminate or reduce the impact? Set out your actions and timescale?**

**How will you monitor for adverse impact in the future?**

Compliance with accessibility requirements will be a condition of receiving planning permission, and this will be capable of being monitored on an annual basis.

Signed (completing officer)	Mark Worringham	Date: 19 <sup>th</sup> August 2021
Signed (Lead Officer)	Mark Worringham	Date: 19 <sup>th</sup> August 2021