

READING BOROUGH COUNCIL

REPORT BY EXECUTIVE DIRECTOR OF ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES

TO:	POLICY COMMITTEE		
DATE:	31 OCTOBER 2022		
TITLE:	CONFIRMATION OF ARTICLE 4 DIRECTION TO REMOVE PERMITTED DEVELOPMENT RIGHTS THAT WOULD RESULT IN RESIDENTIAL DEVELOPMENT		
LEAD COUNCILLOR:	COUNCILLOR LENG	PORTFOLIO:	PLANNING AND ASSETS
SERVICE:	PLANNING	WARDS:	ALL EXCEPT CAVERSHAM HEIGHTS
LEAD OFFICER:	MARK WORRINGHAM	TEL:	0118 9373337
JOB TITLE:	PLANNING POLICY MANAGER	E-MAIL:	mark.worringham@reading.gov.uk

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 The Council made an Article 4 direction on 10 November 2021, as agreed by Policy Committee on 23 September 2021 (Minute 35 refers), that would 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. Subject to the Council confirming the direction, it would come into force on 15 November 2022. This report recommends confirming the direction.
- 1.3 Appendices:
Appendix 1: Equality Impact Assessment
Appendix 2: Summary of representations received and proposed response
Appendix 3: Made Article 4 direction
Appendix 4: Climate Impact Assessment Tool

2. RECOMMENDED ACTION

- 2.1 That Committee agrees the responses to the representations to the consultation on the Article 4 Direction, set out in Appendix 2; and

2.2 That Committee agrees to confirm the non-immediate Article 4 Direction made on 10 November 2021 covering the area shown in Appendix 3 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.

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.

3.2 The use of PDR has been expanded significantly in recent years to include a number of routes to deliver new homes, such as conversions from various commercial uses to residential, as well as 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 light-touch 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 which limit the ability to take up the right, and specified 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 are no mechanisms 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 that would have been part of determining a planning application.

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 is 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 National policy also has a particularly high bar for Article 4 directions that control changes of use to residential. There was a Written Ministerial Statement (WMS) (1 July 2021) followed by corresponding changes to the National Planning Policy Framework (NPPF) (20 July 2021) that confirmed this. 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)”*

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.”

4. THE PROPOSAL

4.1 Current position

4.1.1 The Council has long had a number of very significant concerns with the impacts of PDR in Reading, which it has expressed frequently, and include the following:

- The poor quality and lack of outdoor space of dwellings;
- The small size of dwellings, which are dominated by studio or one-bedroom homes;
- The inappropriate location of homes due to matter such as noise and disturbance;
- The loss of valuable employment floorspace;
- The impacts on existing businesses by introducing new residents on adjacent sites;
- The loss of important shops and services;
- Failure to make provision for affordable housing; and
- Failure to make provision for vital infrastructure.

4.1.2 Policy Committee on 23 September 2021 agreed, in the light of these concerns as expressed in more detail in an evidence document provided to Committee, to make an Article 4 direction to remove the PDR of greatest concern within a number of areas of Reading (Minute 35 refers). The forms of PDR to be removed were:

- 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).

4.1.3 The areas covered were:

- 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.

4.1.4 This direction was made on 10 November 2021, specifying that it would come into force on 15 November 2022, after a 12-month lead-in required to avoid the need for compensation. There were a number of notification

requirements, including notifying the Secretary of State, with which the Council complied between 11 and 14 November 2021. Notification resulted in a period of consultation, which lasted up to 13 December. Four representations to this consultation were received, and these are summarised in Appendix 2.

- 4.1.5 The direction cannot come into force unless it is confirmed by the Council, taking the representations to the consultation into account. Of the four representations received, one raises no comments. Two are supportive of the principle but seek inclusion of additional areas. The fourth representation objects to the direction and considers that it does not meet the policy tests. Detailed responses to these representations are set out in Appendix 2, but in general it is not considered that they form grounds not to proceed to confirmation.
- 4.1.6 As set out in paragraphs 3.8-3.12, national policy sets a high bar for Article 4 directions that impact on changes of use to residential, and there is a real possibility of the Secretary of State using his powers of modification or cancellation. Council officers have been in discussions with officials at the Department of Levelling-Up, Housing and Communities (DLUHC) since May about the direction, and officials have expressed concerns that the evidence provided does not show that the smallest possible geographical area has been covered. The discussions between Council officers and DLUHC are ongoing, and a new Secretary of State was appointed in September, which means that there is not expected to be a quick resolution of this issue before 15th November when the direction is due to come into force. As such, there remains a strong likelihood that the Secretary of State will use modification or cancellation powers, which can be used at any time before or after a direction is confirmed.

4.2 Option Proposed

- 4.2.1 Committee is recommended to confirm the direction as originally made (Appendix 3). In doing so, Committee is also recommended to agree the responses to the four representations received to the consultation (Appendix 2).
- 4.2.2 Although the discussions between DLUHC and Council officers are ongoing, the advice from DLUHC has been to proceed with confirming the direction given the approaching date of coming into force. This is the route that a number of authorities in a similar situation are taking. The Council does not have powers to amend the direction once it is made (either to alter the date of coming into force, or to amend its content or coverage), meaning that not confirming the direction will mean that it remains dormant until such time as it is confirmed. The Council would have up to another year to potentially confirm the direction before it can no longer come into force, and exceeding this would mean needing to start again and make a fresh direction, including the associated 12-month period before it comes into force.
- 4.2.3 Officers' understanding based on discussions is that the Secretary of State will seek to use his powers to modify the direction based on an agreed approach with the Council, albeit that no agreement with the Council is required. This may happen at any point including after the direction comes into force. Confirmation of the direction at this point therefore represents a

pragmatic approach that allows discussions to continue and does not lead to significant further delay to make a new direction. Until such time as the SoS modifies or cancels the direction, it would be in force as originally intended and would mean that proposals for the specified forms of development within the defined areas would require planning permission.

4.2.7 If Committee agrees this recommendation, the notices of confirmation of the direction would need to be served in the same way as notices of making the direction, including by site notice, local advertisement, notification of statutory undertakers that own land within the area, local businesses and the Secretary of State. The direction would come into force on 15th November 2022, and from that date any proposal for development specified in the direction, within the specified area, would require planning permission.

4.3 Other Options Considered

4.3.1 There are only two alternative options that could be considered, as follows.

4.3.2 **Not to confirm the direction:** Not confirming the direction would mean that it simply does not come into force. It would lie dormant until 12th December 2023, after which it could no longer come into force as 2 years had elapsed since the end of the consultation period. In practical terms there would be no incentive for the Secretary of State to either cancel or modify the direction if it has not, or is not due to, come into force, and is likely to mean that the specified forms of PDR would continue to apply in Reading for an indefinite period.

4.3.3 **To cancel the direction:** The Council may, by making a subsequent direction, cancel any direction it has made. There would be no particular benefit at this stage to doing so, unless the Council planned to take a very different approach with a new direction or no direction at all. This would mean that all of the specified forms of PDR would continue to apply across the Borough until such time as a new direction was made, confirmed and came into force.

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, major 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. Appendix 4 contains a Climate Assessment tool showing a net medium positive impact.

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. A local advertisement was placed in the Reading Chronicle on Thursday 11th November 2021, and 53 site notices were displayed within the various parts of 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. It was considered that, with around 4,000 individual addresses within the proposed direction, individual service was impracticable. However, other measures were taken including an e-mail to around 130 active planning agents in

Reading and to 900 contacts via the Reading Central Business Improvement District, which covers the commercial core of central Reading. Local contacts for the High Street Heritage Action Zone, which covers the town centre conservation areas, were also contacted. The e-mail also included known representative organisations such as the Federation of Small Businesses, Caversham Traders, Thames Valley Chamber of Commerce and Thames Valley Berkshire Local Enterprise Partnership. All statutory undertakers known or thought to own land within the area were also contacted.

- 7.2 Four representations to the consultation were received. These are summarised in Appendix 2, together with draft Council responses.

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, and it requires that, after a direction is made, it must be confirmed following a consultation period before it can come into force.

10. FINANCIAL IMPLICATIONS

- 10.1 The costs of making and confirming the Article 4 direction are 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 Confirming the 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 £1,838,858 up to September 2022. 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 (last updated August 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).
- 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 Confirming the 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. If the direction is modified, the costs would be in relation to only serving the relevant notices. If the direction is cancelled, the Council may need to revise the Article 4 direction, involving significant evidence assembly, and serve relevant notices again. These costs would all need to be met from the existing Planning Service budget.

BACKGROUND PAPERS

None

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 Manager

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 th August 2021
Signed (Lead Officer)	Mark Worringham	Date: 19 th August 2021

APPENDIX 2: SUMMARY OF REPRESENTATIONS RECEIVED AND PROPOSED RESPONSE

The table below includes summaries of the representations received to the consultation. Please be aware that these are not necessarily verbatim comments, rather they are summarised for ease of reference.

Name	Representation	Council Response
Mr Robert Cox	<p>If my understanding is correct the aim is to control the loss of sites which employ people, i.e., businesses of one form or another, to residential accommodation.</p> <p>While it is clear that there is a demand for houses, equally there must also be sufficient employment otherwise the local economy will become unbalanced. Therefore I support this scheme which gives the Council some control over the potential loss of employment within Reading.</p> <p>I am also glad to see that the Council has included controls on the potential construction of new dwellings on the top of existing business premises, whether detached or terraced. Reading has several local centres where the buildings date from the late 19th and early 20th century such as the shops close to me in Christchurch Road included in Area 33 of the map and which could contribute considerably more to the street scene and local heritage interest than they do at present. By ruling out significant changes to the buildings' height and roof form, this Directive could, given some care and attention to the buildings, make it possible to re-generate and support a more inclusive atmosphere to these local areas. The newer centres built since the Second World War will benefit as well since the architectural cohesion can be maintained.</p> <p>If it is not too late I would ask that the small shopping/business area at the southern end of Northcourt Avenue at its junction with Cressingham Road and Sycamore Road also be included in this scheme. Any increase in building heights or loss of local employment would not be beneficial to the area.</p> <p>It is known that 'heritage' is good for business as is an unthreatening environment in and around shopping centres.</p> <p>I support the reasons for this Article 4 Directive and I hope that it achieves its aims.</p>	<p>Noted.</p> <p>In terms of the area at the junction of Northcourt Avenue and Cressingham Road, this currently consists of three shops, a car workshop and a scout headquarters. Whilst the Council agrees that, in principle, proposals to change commercial into residential in all locations should go through the planning application process, national policy sets a high bar in terms of justifying inclusion of areas within a direction. The Council's view was that, in terms of local centres, those that had been defined in the Local Plan and therefore been through a process of evidence collection, consultation and public examination as defined centres would give the most robust basis for decision making.</p> <p>There may be possibilities to extend the direction in the future should this be justified and necessary due to the likely harm in other areas.</p>
Mr Richard Lainchbury	<p>I'd like to say that I fully support this direction, and I don't think these go far enough. They should include more areas where new residential areas are poorly supported.</p> <p>I'd like to see the area around the moorings included as well. This area has a contentious issue with a rather aggressive developer. Converting this plot into housing would cause many issues that are well known to the planning department. This would help put the matter to rest as any changes would allow the council to control development and due process followed.</p>	<p>Noted.</p> <p>It is understood that this response related to the moorings at Mill Green in Caversham. It is not clear that any buildings on this site are within a use that could benefit from the permitted development rights that this direction seeks to address. However, if they could, according to our latest Strategic Flood Risk Assessment (2017), the whole of this site is within Flood Zone 3b, the functional floodplain. Within the prior approval process, the Council is able to take flood risk into account, and it is clear from national policy that residential development in the functional floodplain would not be appropriate. Therefore, adequate tools to address these specific rights in this location already exist.</p> <p>Whilst the Council agrees that, in principle, proposals to change commercial into residential in all locations</p>

Name	Representation	Council Response
		should go through the planning application process, national policy sets a high bar in terms of justifying inclusion of areas within a direction, and the area of the direction has therefore had to be minimised to the smallest geographical area possible.
National Highways	We have reviewed submitted information and have 'No Comments'.	Noted. No change needed.
Universities Superannuation Scheme	<p>USS strongly disagrees with the Council's approach to applying a wide reaching Article 4 Direction to large areas of Reading. This is in direct conflict with Paragraph 53 of the National Planning Policy Framework which requires Article 4 Directions to apply to the smallest geographical area possible. USS therefore requests that the Council does not confirm the Article 4 as proposed. The reasons for this are set out below.</p> <p><u>Mixture of Uses in Town Centres</u></p> <p>USS acknowledges the important role that commercial floor space plays in the local and national economy and is pleased that the Council shares this view. However, USS also recognises the need for new housing and supports the flexibility which permitted development rights provide, particularly the flexibility they offer for the ongoing viability of commercial assets, including the ability for new homes to come forward in sustainable town centre locations.</p> <p>A mixture of uses in town centre locations can help support the vitality and character of the wider area and support its economic performance. The wider social and economic impacts can also be greater, for example by creating mixed communities that support and improve the viability of existing uses in town centres.</p> <p>Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) which permits development for the change of use from Use Class E (commercial) to Use Class C3 (residential) allows commercial buildings to contribute to increasing the housing stock. This can take place as part of a mix of uses, retaining some of the employment space whilst providing complementary residential uses where appropriate. USS believes that these opportunities should not be restricted given the context of a national housing crisis that is particularly prevalent in the South East.</p> <p>Paragraph 38 of the When is Permission Required Planning Practice Guidance (2021) states that Article 4 Directions should be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts. USS considers that this is not the case for the Site. The Site and its structure are well suited to a mixed employment and residential use which could be achieved through Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). This is because of the Site's central location and the large floor plates within Aquis House.</p> <p>Reading Town Centre is a highly sustainable town centre location which already supports successful residential development. Commercial uses could be retained on the ground floor of town centre buildings and could be complemented with residential uses above ground floor level, which</p>	<p>No change proposed.</p> <p>The Council considers that this direction already seeks to cover the smallest geographical area possible to address the wholly unacceptable adverse impacts. This is set out in detail in the supporting evidence document. The area proposed to be covered represents only 12% of the Borough's area, and its coverage has been robustly justified.</p> <p><u>Mixture of Uses in Town Centres</u></p> <p>The Council recognises the benefits of a mix and diversity of uses in town centres, including residential, and has policies in place to achieve exactly that. As set out in the evidence document, an increasing residential presence in the centre of Reading is a long-term trend that pre-dated the office to residential PDR by many years, and has been achieved through the planning application route. The planning application process, where an application is judged against those policies ensuring a mix of uses, is the way to ensure that a mix and diversity is maintained.</p> <p>The Evidence Document demonstrates that PDR has not resulted in a clear boost to overall housing supply in Reading, with overall housing delivery at similar levels before and after introduction of PDR. Nor has it clearly resulted in a particular boost to town centre housing.</p> <p>It is stated that residential uses of upper floors could be allowed whilst retaining the ground floors in commercial use. However, the effect of the current PDR is that, without this direction, the Council would have no control over the retention of even ground floor uses within the centre. As such, allowing continued unrestricted use of PDR within central Reading is likely to lead to a decrease rather than an increase in mix and diversity of uses.</p> <p>The important point to make clear is that an Article 4 direction does not mean that employment uses cannot necessarily be converted to residential, rather it puts in place a mechanism for ensuring that such conversions are appropriate and mitigate their impacts.</p> <p><u>Adjacent Change of Use</u></p> <p>The fact that an adjacent building was considered appropriate for a change of use to residential in terms of contamination, transport, flood risk and noise, the only matters that could have been taken into account at the time, does not mean that an adjacent change of use will be appropriate. Nor does the introduction of the Article 4 direction necessarily mean that such a change of use would be inappropriate. The direction is to reintroduce a mechanism that ensures the impacts can be adequately considered.</p> <p><u>Housing Need</u></p> <p>The Evidence Document demonstrates that the average number of homes completed per year in Reading overall does not appear to have increased as</p>

Name	Representation	Council Response
	<p>would improve the vitality of the area. The permitted development rights should therefore not be restricted.</p> <p><u>Adjacent Change of Use</u></p> <p>The adjacent building that is in USS' ownership, 33 Blagrave Street Reading, was granted prior approval on 15 August 2018 for:</p> <p>“Change of use from Class B1(a) (offices) to C3 (dwelling houses) to comprise of 28 dwellings (17 x 1-bed and 11 x 2- bed) . Prior Notification under Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.”</p> <p>The officers report identified that there were no concerns in relation to Transport and Highways; Contamination; Flood Risk and Noise from surrounding commercial premises. This has established the principle of a change of use being acceptable and it is likely a similar conclusion would be reached for Aquis House. The Council should not be restricting changes of use that are acceptable though a blanket approach Article 4 Direction.</p> <p><u>Housing Need</u></p> <p>The Local Plan (2019) sets a housing target for the Council of 15,847 homes (averaging 689 homes per annum) for the period 2013 to 2036. The Local Plan proposes to provide the majority, but not all, of Reading's housing need. A shortfall of 230 dwellings was identified to be provided elsewhere in the Western Berkshire Housing Market Area. By restricting permitted development rights, the Council is further restricting its ability to deliver its own housing need within Reading Borough Council boundaries.</p> <p>The proposed Direction could therefore impact the delivery of housing within the area which contradicts national planning policy. Paragraph 60 of the National Planning Policy Framework states that <i>“to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed”</i>.</p> <p>It is important to note that residential development delivered through permitted development rights can lead to good quality homes which contribute to solving the housing crisis. Under the Town and Country Planning (General Permitted Development) Order 2015 (as amended), prior approval is required for conversions to residential use. The Council therefore has the ability to prevent conversions that would be unacceptable through the prior approval process without the need for the Article 4 Direction. Furthermore, conversions are subject to extensive conditions set out in Class MA which prevent unacceptable conversions.</p> <p><u>Asset Management</u></p> <p>It is also important to note that it is unlikely commercial assets would be converted to residential uses unless demand for commercial uses reduces considerably. The balance of supply and demand for commercial uses would ensure that commercial space that is in demand is not lost to residential, whilst allowing underutilised commercial space to contribute to solving the housing crisis and to contribute to the ongoing</p>	<p>a result of the introduction of PDR, and it is not therefore considered that removal of these rights will necessarily reduce housing delivery.</p> <p>It is also important to note that the answer to the housing crisis is not to provide a large amount of poor-quality homes. It is appreciated that there is nothing to prevent developments under PDR providing a high quality of accommodation, but equally, as demonstrated in the Evidence Document, there is nothing to prevent PDR development providing an extremely poor quality of accommodation in entirely inappropriate locations. Those developers who provide an appropriate, high quality development can continue to do so by making a planning application.</p> <p><u>Asset Management</u></p> <p>The Council does not share the view that commercial floorspace would only be converted to residential when the demand for commercial floorspace reduces. The evidence so far has been that most office buildings converted to residential in Reading had some form of office occupation before being converted, and therefore did not to pay Community Infrastructure Levy. Some commercial values fall below residential values, as seen in the Evidence Document, but this nevertheless represents important floorspace, including for small and growing businesses.</p> <p>The effect of the direction would, by design, reduce some flexibility for landowners, but the Council's view is that this flexibility should not be prioritised over the wholly unacceptable forms of harm identified in the Evidence Document. With a planning application required, the up-to-date policies in the Local Plan should provide sufficient certainty for landowners about what would be acceptable.</p> <p><u>Conclusion</u></p> <p>It is not agreed that the direction should not be confirmed. The prior approval process does not give sufficient tools to resist development that causes the wholly unacceptable adverse impacts identified, which is why this direction is necessary.</p>

Name	Representation	Council Response
	<p>vitality of town centres. Town centres are susceptible to change in line with economic and cultural circumstances and consequently require flexibility to adapt to these changes.</p> <p>The existing permitted development rights system provides certainty and flexibility for landowners to assist in the future planning of assets. This is in line with Paragraph 82 of the National Planning Policy Framework which identifies that planning policies should “be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.” The continued flexibility allows landowners to respond quickly and effectively to changing demand, ensuring assets can be fully utilised according to changing needs. In comparison, an increase in uncertainty can impact on future investment decisions for such assets. The proposed Article 4 Direction reduces this flexibility, which could stifle economic growth and risks the creation of derelict sites, should demand for the commercial use of these assets reduce in the future. The current permitted development rights reduce this risk significantly.</p> <p>USS considers that sites, such as Aquis House, present attractive and sustainable opportunities for future residential development should the demand for employment floor space reduce in the future. The Site is a good example of a sustainable town centre location that would be well suited for residential redevelopment. The Site would also be suitable for a mixture of residential and commercial uses.</p> <p>Due to the complexities involved in asset management and to ensure that its assets retain the ability to respond to an ever-changing economic climate, USS urges the Council to reconsider confirming the Article 4 as proposed to not restrict management of its asset in the future. USS considers that the most efficient way to manage this is through the flexibility of the current permitted development rights and not through the implementation of the proposed Article 4 Direction.</p> <p><u>Conclusion</u></p> <p>In summary, USS objects to the proposed restrictions of permitted development rights and requests that the Council does not confirm the Article 4 as proposed. Residential uses are often acceptable alongside other town centres uses and the Council should instead use the prior approval process to prevent conversions that would be unacceptable, allowing acceptable conversions to provide much needed housing in the area.</p>	

APPENDIX 3: ARTICLE 4 DIRECTION AS MADE ON 10 NOVEMBER 2021

APPENDIX 4: CLIMATE ASSESSMENT TOOL