

## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	Priority 1 – Improve the health and wellbeing of our communities  Priority 2 – Enhance the quality of people's lives  Priority 3 – Enable a flourishing local economy
Consultation:	The Article 4 Direction will be publicised and consulted upon. Notice of the Article 4 Direction shall be given: <ul style="list-style-type: none"><li>• By local advertisement;</li><li>• By site notices at no fewer than two locations within the area to which the direction relates for a period of not less than six weeks; and</li><li>• Individually to every owner and occupier of every part of land within the area or site to which the direction relates (unless it is impracticable because it is difficult to identify or locate them or the numbers of owners and occupiers would make individual service impracticable).</li></ul>
Legal:	Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 allows a local planning authority to make an Article 4 Direction to remove permitted development rights.  An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the Council for that development.  For all Article 4 Directions, the legal requirement is that the Council be satisfied that it is expedient that development that would normally benefit from

permitted development rights should not be carried out unless permission is granted for it on an application. The NPPF also states that national permitted development rights should only be removed in situations where it is necessary to protect local amenity or the wellbeing of the area.

The Government guidance also states that in deciding whether an article 4 direction would be appropriate, the Council should identify clearly the potential harm that the direction is intended to address and that there should be a particularly strong justification for the withdrawal of permitted development rights relating to a wide area or where a prior approval regime exists.

The consultation that is to be undertaken must comply with legal requirements and it must be undertaken in accordance with the following principles: that is it undertaken at a formative stage, provides adequate information for an intelligent response and adequate time for a response. To complete the process, decision makers must conscientiously take into account the views expressed by those who have taken part in the consultation when making their decision. Consultation responses are not binding on decision makers but need to be taken into account. Material changes to the direction resulting from consultation will require re-consultation.

The Secretary of State must be notified of the making and confirmation of any Article 4 Direction and has the power to make a direction modifying or cancelling such a direction at any point.

Regulation 5 of The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and

	<p>Site Visits)(England)(Amendment) Regulations 2017 removed the exemption from planning fees that previously applied for applications required as the result of an Article 4 direction.</p> <p>We will advise tenants / owners of our right and potential intention to invoke Article 4 immediately on the site (in the covering letter to the notice), should the Government decide to extend PDR to the demolition of commercial buildings following the Green paper consultation in November 2019.</p>
Financial:	<p>The making and consultation on an Article 4 Direction is covered by the Council's existing budgets and resources. The consideration of Prior Approval applications under the current regime and the consideration of any planning applications arising following confirmation of the Article 4 direction are covered by fee income and service budgets. Compensation could be sought as per the opinion expressed below</p> <p><i>A claim for compensation can be made to the LPA if planning permission is refused or granted subject to conditions other than those conditions imposed by the GPDO (<a href="#">section 108</a>, TCPA 1990). The claim for compensation can include abortive expenditure and other loss or damage directly attributable to the withdrawal of the permitted development right. This can include the difference in the value of the land if the development had been carried out and its value in its current state, as well as the cost of preparing the plans for the works</i></p> <p>The use of a non-immediate Article 4 Direction means the Council should avoid compensation costs. This is because compensation, for certain withdrawn permitted development rights, may only be claimed if</p>

	<p>an application for planning permission is submitted within 12 months following the effective date of the direction. Therefore, the introduction of a non-immediate Article 4 Direction with a 12-month notice period will give rise to no claims for compensation. These specified permitted development rights are currently set out in the Town and Country Planning (Compensation) (England) (Amendment) Regulations 2016 and include Class PA of Part 3 of Schedule 2 of the GPDO 2015.</p> <p>By indicating our intention to invoke Article 4 in the case that PDR is extended, we intend to 'give notice' thus starting the 12 month notice period required to avoid compensation costs. We cannot officially give notice, however, of invocation of Article 4 relating to a directive which does not yet exist.</p>
Human Resource:	There are no human resource implications arising from the contents of this report.
Risk Management:	<p>There is a risk that the publicity associated with the Article 4 Direction may encourage some Prior Approval applications to convert employment premises to residential use in the transitional period before the Direction comes into effect. The risk of this is currently considered to be outweighed by the potential compensation risk of imposing an immediate Article 4 direction. This will be monitored.</p> <p>The potential risk of the PDR extension to demolition is much greater. Most of our employment land stock is in the form of workshops, which are unsuitable for conversion to residential. An extension of PDR to allow demolition and redevelopment renders all our commercial stock vulnerable.</p>

Health and wellbeing – issues and impacts:	
Equality Impact Assessment required:	No. There are not expected to be any direct equality implications as a result of making an Article 4 Direction.
Environmental Sustainability:	None specifically.