

Single Member Cabinet Decision

Executive Forward Plan Reference	E 3125
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Confirmation of the Article 4 Direction on conversion offices to residential in Bath City Centre

Decision maker/s	Cllr Bob Goodman, Cabinet Member for Development and Neighbourhoods
The Issue	Confirmation of a previously made non-immediate Article 4 Direction to restrict Permitted Development Rights (PDR) on the Change of Use from Office to Residential uses in parts of central Bath. If confirmed, the Article 4 Direction will be effective from May 24 th 2019.
Decision Date	16 March 2019
The decision	The Cabinet Member agrees that Bath & North East Somerset Council confirms and brings into force the non-immediate Article 4 Direction dated 28 th February 2018, the effect of which is to withdraw Permitted Development Rights for the change of use from office (Class B1) to residential uses (Class C3) in those parts of central Bath shown in the Direction.
Rationale for decision	<p>The evidence in the Single Member Decision (E2992) to make the Direction in 2018, and the accompanying evidence (Ortus Report) highlights the importance of the Bath office supply to the economic health and prosperity of the area and the wellbeing of its residents. Its health is integral to the Council's objectives in the Economic Strategy as planned for in the Local Plan. The risk of potential loss of offices through PDR is significant. The implications are that this is likely to cause significant harm to the Council's Economic Strategy as supported in the B&NES Local Plan and will inhibit the realisation of the benefits for residents.</p> <p>Therefore, it is concluded that the evidence supports the introduction of an Article 4 Direction over the high and medium risk parts of the Bath Central Area Plus (BCAP). A number of authorities have prepared such measures. The BCAP area is similar to other areas for which Article 4 Directions have removed the PDRs on office to residential changes of use.</p> <p>The evidence combined with the support for the Article 4 Direction among those consultees who responded, and the significant support among Property Agents operating within Bath weighs in favour of confirming the Article 4 Direction.</p>
Financial and budget implications	<p>The National Planning Practice Guidance summarises the position regarding Article 4 Directions and compensation as follows:</p> <p><i>"If a local planning authority makes an article 4 direction, it can be</i></p>

	<p><i>liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently:</i></p> <ul style="list-style-type: none"> • <i>refuses planning permission for development which would otherwise have been permitted development; or</i> • <i>grants planning permission subject to more limiting conditions than the General Permitted Development Order</i> <p><i>The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.”</i></p> <p>The Council pursued a non-immediate Article 4 Direction to significantly reduce the risk of claims of financial compensation from those who could have made a case that they were financially prejudiced by the introduction of an immediate Article 4 Direction. Owners and tenants, and parties with a contractual right to use the land have had over a year to take an action in light of the decision in 2018 to make the Article 4 Direction.</p> <p>Until 2018, the Council could not charge a fee to determine planning applications on proposals formally covered by PDRs. This would have resulted in a decreased income and corresponding increase in resource requirement, assessing a change of use as a full application. However from January 2018, the normal planning application fee will be chargeable.</p> <p>There will also be a one off additional cost of around £1,500 to cover the costs of giving notice when confirming the order. This can be absorbed by the LDF budget.</p>
<p>Issues considered (these are covered in more detail in the report)</p>	<p>Sustainability; Corporate; Other Legal Considerations</p>
<p>Consultation undertaken</p>	<p>In preparing the Single Member Decision Report: Other B&NES Services; Section 151 Finance Officer; Monitoring Officer</p> <p>Article 4 Direction: The Article 4 Direction was formally published for a period of more than 28 days for public consultation in 2018 but has effectively been subject to a 12 month notice period including opportunity for consultation (see details in Section 5 above).</p> <p>The consultation process has complied with, and gone beyond, the minimum requirements for consultation as set out in the legislation and in MHCLG guidance. The results of the consultation process have been summarised in this report.</p>
<p>How consultation was carried out</p>	<p>For the Single Member Decision Report meetings and circulation of drafts with officers and other services. Meeting with Cabinet Member to explain proposals. Draft circulated to the section 151 officer and the monitoring officer by email for comments and approval.</p>

<p>Other options considered</p>	<p>Two options have been considered:</p> <ul style="list-style-type: none"> a) Confirm the Article 4 Direction; b) Do not confirm the Article 4 Direction, meaning that it will not come into force (in that scenario the Council might also decide to then make a further direction to cancel the original direction) <p>The loss of office space is undermining the Council's objectives as expressed in the current planning policy framework. Confirming the non-immediate Article 4 Direction (option a) will address the longer-term loss of office space and thereby avoid the problems this causes. Not confirming the Direction (option b) would demonstrably harm the wellbeing of the district.</p>
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<p>Declaration of interest by Cabinet Member(s) for decision, including any dispensation granted:</p>	<p>None.</p>
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<p>Any conflict of interest declared by anyone who is consulted by a Member taking the decision:</p>	<p>None.</p>
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<p>Signatures of Decision Makers</p>	
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<p>Date of Signature</p>	<p>16th March 2019</p>
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Subject to Call-in until 5 Working days have elapsed following publication of the decision