



NORWICH City Council

Committee Name: Cabinet

Committee Date: 08/12/2021

Report Title: Article 4 Direction to remove permitted development rights for the conversion of offices to residential

Portfolio: Councillor Stonard, Cabinet member for inclusive and sustainable growth

Report from: Head of planning and regulatory services

Wards: Mancroft, Lakenham, Town Close, Thorpe Hamlet

OPEN PUBLIC ITEM/

Purpose

To confirm the Article 4 Direction to remove permitted development rights for the conversion of offices to residential within Norwich city centre. If confirmed the Direction will take effect from 29th July 2022.

Recommendation:

To confirm the Article 4 Direction to remove permitted development rights for the conversion of offices to residential within Norwich city centre, as identified on the plan attached in appendix 2.

Policy Framework

The Council has three corporate priorities, which are:

- People living well
- Great neighbourhoods, housing and environment
- Inclusive economy

This report meets all three corporate priorities.

This report helps to implement the local plan for the city.

This report helps to meet the business and the local economy objective of the COVID-19 Recovery Plan

Report Details

1. On 22 June 2021 a [report](#) was presented to Sustainable Development Panel recommending that the Council proceeds with the introduction of a non-immediate Article 4 Direction which if successfully introduced will mean that full planning permission is required to change offices to residential within the city centre. Members unanimously voted in favour of recommending to cabinet that the Council proceeds.
2. Following this a [report](#) went to cabinet on 7 July 2021 and cabinet resolved to recommend that the council proceeds with the introduction of a non-immediate Article 4 Direction and that delegated authority is given to the executive director of development and city services, in consultation with the portfolio holder, to make an Article 4 Direction to remove permitted development rights for the conversion of offices to residential within Norwich city centre.
3. The Direction was made on 28 July 2021 and started the consultation process which included press and site notices, placing copies of the notice in the Millennium Library, placing documents on the [Council's website](#) and notifying Norfolk County Council. The Secretary of State for Ministry and Housing, Communities and Local Government (now renamed the Department for Levelling Up, Housing and Communities) was also notified that the Council had made a Direction.
4. The six week consultation period ended on 9 September. In total 14 people responded to the consultation and as expected the response was mixed. Seven respondents supported the introduction of the Article 4 Direction, whilst the remaining seven either objected or provided comments including suggesting how the Article 4 Direction could be amended. A summary of each response is set out in appendix 1. The main issues raised through the consultation are as follows:
 - The Council needs more control as some converted offices have not provided high quality housing.
 - Office to residential conversions damage the long term health of the city centre.
 - Permitted development rights undermines the ability for LPAs to plan effectively.
 - Less office space is likely to be needed in the future especially with more home working.
 - More homes and leisure facilities are needed which could use vacant office space
 - It is important to encourage more people back into the offices so they can support retailers and food businesses.
 - Previous conversions have done little to address affordable housing issues.
 - Offices are better on the outskirts as there are many negatives of having offices in the city centre.
 - This proposal is not joined up with the proposed congestion charge for Norwich.
 - It is best to leave the property market to its own devices.
 - Conversions to residential and educational uses have provided a solution for obsolete office buildings.

- Office to residential conversions have increased the city centre population and boosted the supply of residential properties.
 - Changes to permitted development rights (i.e. now having a size threshold) will protect larger, purpose-built modern office buildings.
 - The NPPF sets out that Article 4 Directions should apply to the smallest geographical area. The extent of the Article 4 Direction should be reviewed to ensure that it complies with the NPPF and so it is much more targeted.
5. It is important that we take these comments into account when deciding whether to confirm the Direction and bring it into force. A number of important issues have been raised through the consultation and whilst there is a lot of support for the Article 4 Direction, some people that feel that there will be a surplus of office accommodation and residential is a good use for this. The Council's response to this is that we are not opposed to office to residential conversions per se, and the Direction will not prevent all offices changing to residential. Instead it will enable the Council to manage it and to consider all material planning considerations including the impact that the loss of offices will have upon our economy as well as ensuring that housing is of good quality. Furthermore in terms of the geographical area, we have drawn the Direction tightly around the city centre, rather than including a large proportion of the authority area. Whilst it does extend beyond the essential core of the primary shopping area, it is felt that this is necessary as many of Norwich's strategic offices fall outside of this area. The advice received from [Ramidus](#)¹ is that virtually any site that is not secured on a long lease could be considered under pressure for redevelopment as residential. The evidence base proposed the A147 (Norwich Inner Ring Road) as the main boundary to an Article 4 Direction with extensions to encompass key business spaces around Carrow Road and Thorpe Road. This boundary will ensure that all space of strategic value can be protected but will allow truly redundant stock within the centre to be converted under a full planning application or will allow offices in more peripheral locations to be converted under prior approval. It is therefore the officer's view that no issues have been raised through the consultation process that should prevent the Council from introducing the Direction.
 6. The Secretary of State wrote to the Council on 8th September to say that they were considering whether to use their powers of intervention and invited the Council to submit further evidence and to set out how the Direction fulfils national policy. Whilst the Council felt that a clear justification for introducing the Direction is set out on our website, we welcomed the invitation to submit further evidence and we wrote to the Secretary of State on 16th September setting out how the Direction accords with the National Planning Policy Framework and further justifying why the Direction is so important to Norwich's economy as well as how it ties in with the Council's wider vision and objectives and some of the other projects that are going on within the Council.
 7. We are still awaiting confirmation from the Secretary of State as to whether they will use their powers of intervention; however officers at the National Planning Casework Unit have confirmed that their consideration does not stop

¹ A review of Office Accommodation in Norwich, Ramidus Consulting Limited, July 2020

our Article 4 Direction process so at this point in time we can still proceed with bringing it into force. There is still however a risk that the Direction could fail.

8. Notwithstanding this risk, it is considered that the Council has a compelling case for introducing the Article 4 Direction and based on the current advice from the National Planning Casework Unit that there is no reason why the Council cannot proceed with confirming the Direction. Therefore it is recommended that cabinet members confirm the Direction so it can be brought into force on 29 July 2022. The Direction cannot be brought into force any earlier than this due to the need to give 12 months notice from the date of making the Direction in order for the Council to avoid compensation claims.
9. If the Secretary of State does choose to use his power of intervention after the Direction is confirmed then we will not be able to bring it into force and a paper would have to be brought back to Sustainable Development panel and Cabinet once officers have reviewed whether there are any other options for proceeding (i.e. reviewing the geographical area).

Consultation

10. Responses to the consultation are set out in paragraph 4 and also summarised in Appendix 1.
11. A paper was taken to Sustainable Development Panel on 16th November 2021 recommending that we should proceed with the introduction of the Article 4 Direction in line with the recommendations proposed within this report. Members attention was drawn to the consultation responses. Members unanimously supported the recommendation to proceed with the introduction of the Article 4 Direction.

Implications

Financial and Resources

12. Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council's stated priorities, as set out in its Corporate Plan 2019-22 and Budget.
13. There will be a financial cost associated with the required publicity for introducing an Article 4 Direction. It is expected that this will be met from existing budgets. The Ramidus study was funded through Towns Deal funding. Giving 12 months notice of bring the direction into force will avoid any compensation claims.

Legal

14. Legal advice has been sought throughout the process. The intention to introduce the Article 4 Direction has already been put on as an advisory note on Norwich's local land charges register so all property searches conducted since the start of November 2021 within the affected area that use this service should be aware of the intention to introduce the Direction. Once confirmed it will also be added to the HM Land Registry. Advisory notes cannot be added

to the national land registry with only land charges being able to be registered.

Statutory Considerations

Consideration	Details of any implications and proposed measures to address:
Equality and Diversity	<p>The LPA is not able to secure affordable housing under prior approval applications. The impact of this report to make an Article 4 Direction will not have any direct impacts but, once the Direction is confirmed and come into force, the Article 4 Direction will enable the LPA to secure affordable housing where it is viable.</p>
Health, Social and Economic Impact	<p>The size and quality of flats delivered through permitted development rights have often been substandard as they are not of sufficient size or provide sufficient natural light or external amenity space to provide a good quality of life for future residents. The impact of this report to make an Article 4 Direction will not have any direct impacts but, once the Direction is confirmed and come into force, removing permitted development rights will enable the LPA to have more controlled over internal and external amenity for future residents for example through requiring flats to meet national space standards.</p> <p>There has been an uncontrolled loss of office accommodation within Norwich since the introduction of permitted development to convert offices to residential and it has been identified within a recent study that Norwich's office economy is in a fragile and vulnerable condition. The impact of this report to make an Article 4 Direction protecting Norwich's office economy will not have any direct impacts but, once the Direction is confirmed and come into force, this will enable the LPA to consider whether the loss of an office building within the city centre is acceptable on a case by case basis. This will allow stock that is truly redundant to change use while, on the other hand, being able to protect space of strategic value. This therefore has the potential to have a positive impact on economic development.</p>
Crime and Disorder	Neutral impact
Children and Adults Safeguarding	Neutral impact

Consideration	Details of any implications and proposed measures to address:
Environmental Impact	<p>Under prior approval applications no physical alterations can be made to the building. If required these come forward as a separate application. The impact of this report to make an Article 4 Direction will not have any direct impacts but, once the Direction is confirmed and come into force, having one planning application for the change of use and physical alterations will enable the LPA to better consider the impacts of the development in order to ensure that the proposal enhances the built environment. It will also enable the LPA to secure landscaping via a condition which will have a positive upon both the natural and built environment.</p> <p>Under prior approval applications the LPA is not able to require 10% of energy to be from decentralised and renewable or low carbon energy sources. The impact of this report to make an Article 4 Direction will not have any direct impacts but, once the Direction is confirmed and come into force, the Article 4 Direction will enable the LPA to consider energy for all sites of 10 or more dwellings.</p>

Risk Management

Risk	Consequence	Controls Required
<p>Given that the Secretary of State has not yet made a decision on whether to intervene there is a risk that the Article 4 Direction may fail.</p>	<p>Given that the majority of work has already been done, the further financial resource implications are relatively minimal.</p> <p>Publicising the fact that the Council intends to bring the Article 4 Direction into force could lead to a temporary increase in prior approval applications.</p>	<p>Our case is supported by overwhelming evidence and is geographically limited. The National Planning Casework Unit has advised that their consideration of the Direction does not mean that progress on its introduction should be delayed. For this reason it is considered best to proceed at this point in time.</p>

Other Options Considered

15. The alternative option is to not introduce an Article 4 Direction. This option is not recommended as it would prevent the Council from having any future control over the conversion of offices to residential through permitted development rights.

Reasons for the decision/recommendation

16. It is felt that our case is supported by overwhelming evidence and the Article 4 Direction will help project Norwich's office economy.

Background papers: None

Appendices: Consultation responses
Map of Article 4 Direction area

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Appendix 1: Summary of comments received on Article 4 Direction

	Support/Object/Comment	Comments
1	Support	Agree Council needs more control so supports new powers; however need to acknowledge that less office space will be needed in future due to more people working from home.
2	Comment	More offices should be allowed to change to residential. There is a need for residential above retail and the tourist and leisure industry could fill the gap left by office workers. Offices are better on outskirts as cheaper and within walking distance of thousands. Knock on effect of less commuting and better air pollution would also follow.
3	Object	Norwich is also proposing introducing a workplace parking levy and congestion charge along with everything else under the Transport for Norwich banner which restricts access to the city centre by car. This is not joined up thinking. Why would people want to work in city centre offices when there are so many negatives compared to locations where there are fewer restrictions and lower business rates?
4	Support	Some offices already converted do not appear to provide high quality housing. The analyses presented is correct including the significant points regarding the facilities needed by SMEs. The analysis is also correct in identifying key differences regarding walking to work and other points which make Norwich different to other cities. The A4D will give the city the option to refine office conversions.
5	Support	Accommodation created by conversions is often poor quality. Not opposed to office to resi conversion per se. Cities do need to adapt to survive but these powers will ensure that future attempts to create residential accommodation out of redundant office buildings are put to proper and robust scrutiny with the result of creating future housing that stands the test of time and provides exceptional level of comfort and amenity to future residents.
6	Object	It doesn't feel like a consultation given the Direction has already been made. In the absence of a coherent strategy for the centre of Norwich, it would be best to leave the property market to its own devices. Norwich has too much office space given the decrease in need for office space as a result of the pandemic. Need to increase supply of housing.
7	Comment	The demand for office space will be reduced for the foreseeable future, while there is a shortfall of housing, particularly affordable housing. Therefore I see no problem with allowing the continued transformation of offices into residential. If the Council nevertheless

		wishes to continue down the route of requiring full planning permission for conversions, I hope decisions will bear this new trend of new home working in mind as life will not return completely to normal when the pandemic is over.
8	Support	Permitted development rights to allow office to residential conversions undermines the ability for LPAs to plan effectively. The proposed area makes sense as it is the city centre retail and office district. The area beyond the city centre ring road includes key office buildings but would not object to these offices being excluded from the Article 4 area. Office to residential conversions make business sense to owners but it is damaging to the long term health of the city centre economy and ultimately city centre vitality if left unchecked. Control is necessary to ensure that the city's vibrancy can be maintained. The city centre needs more residential as this would support the retail and leisure uses but it is often the buildings most suited to office that are easier to convert rather than the long-term empty ones. There will be a need for the Council to review its policy in relating to residential conversion in light of this article 4 direction. Having more control will allow the city to positively plan, will allow for appropriate office to residential conversions to be scrutinised and allow the council to resist inappropriate development that undermines the Council's aims.
9	Support	Norwich has experienced significant loss of office space over recent years and there is a need for suitable facilities when people return to the office. Not everyone likes home working and decent office accommodation would allow social interaction.
10	Comment	I understand the need to limit PD rights to some extent and to some areas of the city centre but my view is that the article 4 direction goes directly against paragraph 53 of the NPPF which sets out that it should not extend to the whole of the town centre and should apply to the smallest geographical area possible. The Council should reassess the extent of the proposed Article 4 direction to ensure that it complies with the requirements set out in the NPPF.
11	Support	Share concerns regarding the lack of office space within the city centre. Over the past 18 months a number of high street stores have left the city and I am concerned that a further reduction in the presence of office workers in the city centre could lead to more problems for retailers and food businesses in the city centre that rely on the custom of these workers. Furthermore many of the conversions have done little to address housing affordability and has instead encouraged developers to be even more unscrupulous in their pursuit of profit. The Council can look at wider issues when planning

		permission is required.
12	Support	<p>The need and justification to help maintain Norwich's supply of commercial floorspace is set out. The Theatres Trust is concerned about the potentially negative impact that permitted development may have on theatres and other noise-generating cultural facilities where neighbouring and nearby buildings are converted. There are a number of theatres and performance venues that fall within the published boundary. These meet local cultural needs as well as attracting visitors to the city from a wider area, therefore supporting the well-being of local people and significantly contributing to the local economy. It is important that they are supported and protected.</p>
13 & 14	Comment	<p>The Ramidus report appears to consider the Norwich City Council area in isolation rather than the broader 'Greater Norwich' area. The reference to 'market failure' is not appropriate if the entire Norwich area is considered, in view of the successful business park developments outside the city's boundaries. Concentration on the conversion of offices to residential overlooks a significant number of conversions to educational use which have boosted employment. Conversion to both residential and educational uses have provided a solution for obsolete office buildings which are no longer viable for office use. Permitted development has led to the loss of some potentially viable office buildings and it could be argued that earlier intervention, seeking to protect larger, purpose-built modern office buildings might have been appropriate. However this has now been addressed by the recent changes whereby permitted development does not apply to buildings in excess of 1,500 m2. On balance, the impact of the existing pd rights has been positive as it has brought unviable offices into a viable alternative use, it has boosted the supply of residential properties, increased the population in the city centre and has brought about a more balanced office market. The stock and supply of offices in Greater Norwich remains reasonable and capable of accommodating future needs particularly in light of the impact of Covid on office occupancy. With the challenges facing the retail, leisure and office property markets as a result of Covid more flexibility is required. The proposed denial of planning rights to the owners of smaller properties is inequitable. If the Council proceeds with the Article 4 direction it should be more targeted to appropriate buildings. It should be limited to properties within the inner ring road (with the exception of Norvic House and Victoria House). It should not apply to properties near Rosary Road, Thorpe Road, King Street and Carrow Road. It should only apply to purpose-built offices and there should be a</p>

		minimum size restriction so it doesn't apply to buildings of less than 500 sq m.
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Appendix 2: Article 4 Direction area

