



# NORWICH City Council

**Committee Name: Sustainable development panel**

**Committee Date: 14/06/2022**

**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 update members on the introduction of an article 4 direction to remove permitted development rights for the conversion of offices to residential within Norwich city centre.

### **Recommendation:**

To note the delay to the introduction of the Article 4 Direction.

### **Policy Framework**

The Council has five corporate aims, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.
- Norwich City Council is in good shape to serve the city.

The Article 4 Direction, if brought into force, would help ensure housing is of good quality and help retain office accommodation in order to support Norwich's economy. It is therefore considered that it helps address the first four aims.

This report helps to implement the local plan for the city and supports the delivery of the Greater Norwich local plan's policies.

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

## Report Details

1. Following a [report](#) to Cabinet on 7 July 2021, Norwich City Council made an Article 4 Direction on 28 July 2021 in order to remove permitted development rights for the conversion of offices to residential within the city centre. The Cabinet report acknowledged risks and uncertainties around the introduction of an article 4 direction due to proposed changes in the government's approach at that time. Further to making the Direction the Council was required to consult on the Direction and to notify the Secretary of State for Ministry and Housing, Communities and Local Government (now renamed the Department for Levelling Up, Housing and Communities).
2. Following a six week consultation, a report was brought to [SD panel on 16 November](#) recommending that the Direction be confirmed and a report was subsequently taken to [Cabinet on 8 December 2021](#). Further to the Cabinet meeting the Direction was confirmed on 16<sup>th</sup> December 2021.
3. At both the SD panel meeting and at the Cabinet meetings it was set out within the report that the Council had not yet received confirmation from the Secretary of State as to whether they would use their powers of intervention although the National Planning Casework Unit had advised that their consideration should not stop the Article 4 Direction process. This meant that while the Council could proceed, there was a risk that the Direction could fail. Furthermore, whilst the Direction was confirmed on 16 December 2021 it was not possible to bring it into force until 29 July 2022 due to the need to give 12 months' notice to avoid compensation claims.
4. Despite notifying the Department of Levelling Up, Housing and Communities about the proposed Article 4 Direction last year, the Council only recently received email correspondence from the DLUHC on 13 May 2022. This states that they have reviewed the proposed Article 4 Direction and are not convinced that it complies with new national policy where an Article 4 Direction related to change from non-residential to residential use should apply to the smallest geographical area possible. Whilst they feel that the evidence provided is helpful in setting the strategic context and helps demonstrate the condition of the office market in Norwich, they consider that we have failed to take a sufficiently targeted approach to the assessment of the impacts of the permitted development rights in locations throughout the city centre. They highlight that such an approach is necessary to ensure that the Article 4 Direction meets the test that they should apply only to the smallest geographic area possible.
5. DLUHC have offered to meet with the Council to discuss how we could revise the Article 4 Direction. Officers have been in contact with DLUHC and a date for the meeting is currently being arranged. Our evidence base has clearly demonstrated that the uncontrolled loss of office accommodation in Norwich has left the office economy in a fragile state and has also created substandard housing.
6. Whilst it is regrettable that the Direction will no longer be able to apply to the whole of the city centre, provided further evidence is gathered, it is still considered that we can protect those offices of strategic value whilst allowing

truly redundant stock to continue to be converted to residential under permitted development rights. Therefore, it is proposed to undertake a more granular assessment of our city centre and to then proceed on that basis. This additional work will delay the introduction of the Article 4 Direction; however it is hoped that by liaising closely with DLUHC the risk of failure in the future will be reduced. Once the additional evidence has been gathered and a new geographical area identified, this will be reported to this Panel and then through to Cabinet for a decision.

7. There is likely to be an impact on the Greater Norwich Local Plan if the area to be covered by the Article 4 Direction changes. Officers are currently liaising with the GNLP team to address this.
8. The portfolio holder has been briefed and has advised that we proceed on the basis set out within this report.

## Implications

### Financial and Resources

9. 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.
10. There is likely to be a financial cost associated with additional assessments and the need for further publicity for introducing an Article 4 direction. It is expected that this will be met from within existing budgets. The Ramidus study was funded through Towns Deal funding. Giving 12 months' notice of bringing the direction into force will avoid any compensation claims.

## Legal

11. Legal advice has been sought throughout the process. Once brought into force, the Direction will need to be registered as a land charge.

## Statutory Considerations

| Consideration          | Details of any implications and proposed measures to address:  |
|------------------------|--|
| Equality and Diversity | 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. The delay in introducing the Article 4 Direction and reducing the area to which it applies will unfortunately reduce opportunities for securing affordable housing. |

| Consideration                      | Details of any implications and proposed measures to address:  |
|------------------------------------|--|
| 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. The delay in introducing the Article 4 Direction and reducing the area to which it applies will unfortunately reduce opportunities for ensuring good quality housing.</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. The delay in introducing the Article 4 Direction and reducing the area to which it applies may unfortunately allow further uncontrol loss of office accommodation.</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. The delay in introducing the Article 4 Direction and reducing the area to which it applies will unfortunately reduce opportunities for securing renewable or low carbon energy and landscaping.</p> |

### Risk Management

| Risk                              | Consequence  | Controls Required  |
|-----------------------------------|--|--|
| The article 4 direction may fail. | <p>There will be additional financial cost associated with collating further evidence.</p> <p>Publicising the fact that the Council still intends to bring the article 4 direction into force but on revised boundaries could lead to a temporary increase in prior approval applications.</p> | DLUHC have offered to meet with us to discuss how the Direction can be amended. Liaising with DLUHC will minimise the risk of failure. |

## **Other Options Considered**

12. The alternative option is to stop all work on the 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**

13. The paper seeks to update members of the Article 4 Direction. Once additional evidence is gathered a further report will be brought to this panel for discussion.

**Background papers:** None

**Appendices:** None

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