West Oxfordshire District Council
Cabinet: Wednesday 27 July 2016

Article 4 Direction Relating to Various Sites in West Oxfordshire
And the Consideration of Representations

Report of the Head of Planning and Strategic Housing

(Contact: Giles Hughes, Tel: (01993) 861658)

(The Cabinet decision on this matter will be a resolution)

1. Purpose

To consider the representations received following the making of an Article 4 (1) Direction on 24th March 2016, withdrawing permitted development rights for changes of use from office to residential on various sites in the District (“the Direction”), and to decide whether or not to confirm the Direction.

2. Recommendation

That the Cabinet confirm the Direction, which will then take effect from the 24th March 2017;

3. Background

3.1. In June, Cabinet considered a number of representations on the Article 4 Direction withdrawing permitted development rights for changes of use from office to residential on various sites in the District. Unfortunately due to an administrative error two of the representations were not reported to Cabinet. Therefore, there is the need to reconsider the issue in light of those representations, and in light of the representations reported earlier.

3.2. This report covers all of the representations made, including those which have reported before. Text in this report relating to the additional two representations is shown in bold.

3.3. In February 2016 Cabinet resolved to make an Article 4 (1) (b) Direction withdrawing permitted development rights for changes of use from office to residential on various sites in the District. The Direction was subsequently made on the 24th March 2016 and will take effect from the 24th March 2017 if confirmed by Cabinet. A copy of the Direction is attached (Appendix 1), and this Direction identifies 61 separate business and employment sites across the District where changes of use from office to residential will require planning permission if the Direction is confirmed and takes effect. Maps showing these sites are included in Appendix 3.

3.4. Article 4 is a power contained within the Town and Country Planning (General Permitted Development) (England) Order 2015 which enables local planning authorities to make a direction withdrawing permitted development rights. To do this local planning authorities have to advertise their intention to remove the permitted development right, serve notice on the owners and occupiers and allow a minimum 21 day period to receive representations. Any representations received need to be considered before a decision is taken on whether or not to confirm the Direction.

3.5. Article 4 directions cannot prevent development which has been commenced, or which has already been carried out. Also, an Article 4 direction will not affect a development where prior approval has already been granted provided that the development is completed within 3 years of the date of the prior approval. It should also be noted that
Article 4 directions do not prevent the owners of buildings from applying for a change of use through a planning application. The Article 4 direction simply removes the permitted development right and means that the Council can assess any applications for a change of use based on their individual merits in the normal way.

3.6. This report sets out the representations which were received on the Direction, and asks Cabinet to decide whether to confirm, or not, the direction.

Context

3.7. Changes to legislation were introduced by the Government, initially as a temporary measure in recognition of the urgent national need for housing, to exempt the change of use of offices to residential from the need for planning permission. Instead there is a ‘prior approval’ process where the only grounds of objection are transport, contamination flood risk, or the impact of noise on occupiers. Issues such as the economic impact of the loss of the employment use, the impact of the residential use on surrounding retained employment uses, or the suitability of the site for residential use in amenity terms are not matters that can be considered under this prior approval process.

3.8. In April 2016 the Government introduced further amendments to permitted development provisions in order to make the permitted change of use of offices to residential permanent. Recent changes have also introduced permitted changes of use from Class B8 Storage and Distribution to residential (until 15th April 2018), and for changes of use from Class B1(c) Light Industrial to residential (prior approval applications can be made after 30th September 2017 until 1st October 2020). If Cabinet wishes, Officers could investigate the desirability of further Article 4 Directions to control these permitted changes of use.

Representations

3.9. In order to publicise the Direction in accordance with the statutory requirements site notices were erected at the 61 different sites and notice letters were sent to all of the owners and occupiers of premises on these sites (approximately 1,400 letters).

3.10. In response to the consultation six representations were received from the following bodies:

<table>
<thead>
<tr>
<th>Respondent No.</th>
<th>Respondent</th>
<th>Site Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Hanborough House Freeholder</td>
<td>Long Hanborough Business Area</td>
</tr>
<tr>
<td>2</td>
<td>Kildrummy Syndicate</td>
<td>The Spendlove Centre</td>
</tr>
<tr>
<td>3</td>
<td>Cromwell Park</td>
<td>Country Estates Limited</td>
</tr>
<tr>
<td>4</td>
<td>Hambridge Investments</td>
<td>Eagle Industrial Estate</td>
</tr>
<tr>
<td>5</td>
<td>Worton Park</td>
<td>Worton Park</td>
</tr>
<tr>
<td>6</td>
<td>Foddy Brothers</td>
<td>South Carterton Industrial Estate</td>
</tr>
</tbody>
</table>

3.11. The contents of the representations are included in Appendix 2. These representations raise the following key points:

- Article 4 (1) Directions must be made in accordance with national Government guidance;
They should only be considered in exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm the local amenity or the proper planning of the area;

Local planning authorities should identify clearly the potential harm that the direction is intended to serve;

Where prior approval powers are available to the Council particularly strong justification is required;

Local authorities should not seek to reverse Government policy which recognises the urgent need for housing;

Demand for commercial office space in West Oxfordshire is limited and there is no shortage of commercial space in the District;

The Council’s Economy Study Update of November 2012 found that there was approximately 21 ha. of employment land supply in Witney, sufficient for needs over the next 15 years;

The viability of building speculative office space is questionable;

Recent changes to the GDPO have extended permitted development rights to allow the conversion of warehouses and light industrial premises to residential, therefore the Direction has no proper planning purpose;

This will reduce the value of property/ investments which should be compensated;

At present there are no exceptional circumstance justifying the inclusion of Cromwell Park in the list of sites, if it comes under pressure for conversion to residential in the future a Direction could be made at that time;

Undeveloped areas of land should be removed from the Direction plan as the Council cannot remove rights where they do not exist;

The Spendlove Centre should be removed from the list;

The Eagle Industrial Estate provides lower specification older industrial units, it does not have any significance as an office location;

Worton Farmhouse is and always has been a residential property and as such the notice does not apply to this property;

The redline boundary of the Article 4 Direction in relation to South Carterton Industrial Estate should be altered to remove land which is within a sui generis use;

The Council’s own offices are not included in the Direction, they should be included; and

The Council must take account of representations from important stakeholders otherwise the consultation process will be a sham.

3.12. The following paragraphs outline the justification for the Direction and address the points made by respondents.

General Considerations

3.13. The National 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 should be clearly identified. There should 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. The Cabinet must be satisfied that it is expedient that the change of use of offices to
dwellinghouses for the sites set out in the Direction should not be carried out unless permission is granted for it on an application.

3.14. An approach to balancing housing delivery against retention of commercial buildings is set out in Paragraph 51 of the NPPF which states that LPAs should normally approve applications for change of commercial buildings to residential use “provided that there are not strong economic reasons why such development would be inappropriate”.

Future Housing and Jobs

3.15. The Inspector examining the West Oxfordshire Local Plan stated in his preliminary findings that in West Oxfordshire the future housing requirement was likely to be in the range between 525 and 660 homes per year. The Inspector also stated that West Oxfordshire should adopt the Committed Economic Growth Scenario from the Strategic Housing Market Assessment (SHMA) as a basis for the Local Plan. The existing SHMA projections linked to this scenario show future job growth of 7,900 jobs over the 20 years to 2031. Therefore there is a need to plan for both significant housing growth and significant jobs growth in West Oxfordshire.

3.16. The Council is currently carrying out further technical work on the emerging West Oxfordshire Local Plan in response to the Inspector’s preliminary findings. This will identify a new housing target and a package of housing sites to meet the District’s housing needs. Housing development is viable across the District and the conversion of office space is not required in order for the District to meet future housing requirements.

Supply of Office Floorspace

3.17. The West Oxfordshire Economic Snapshot (January 2015) identifies that West Oxfordshire has an existing undersupply of office space. It also identifies that build costs for office buildings are high and that the viability for building speculative office space is questionable.

3.18. The Economic Snapshot identifies a potential employment land supply of 28 hectares in the District but notes that only 3.3 hectares of this is genuinely available, in the sense of being immediately available for development, to meet identified demand from large local businesses.

3.19. The loss of office floorspace through changes of use from office to residential will inevitably have a negative impact on the supply of office floorspace in the District as it appears unlikely that new office premises will be built to replace the lost stock.

3.20. The emerging West Oxfordshire Local Plan emphasises the importance of retaining existing employments sites. Para 6.26 states, “There are many existing employment sites throughout the District, the loss of which would undermine the sustainability of our market towns and rural communities and the economic diversity of West Oxfordshire. The Council will therefore seek the retention of all employments sites where there is an ongoing prospect of a suitable business use and will support the expansion and redevelopment of sites of an appropriate scale to enable businesses to expand, adapt and make the most efficient use of this resource.”

3.21. Policy E1 of the emerging Local Plan states that non-employment uses on employment sites will be resisted except in a limited range of circumstances.

3.22. In this context the removal of permitted development rights on selected sites helps the Council to balance the need for housing with the need for jobs and so ensure the proper planning of the area. The loss of employment sites could serve to add to the net commuting to retained centres of employment (in many cases out of the District) and
exacerbate unsustainable travel patterns. These issues cannot be addressed through the prior approval process.

**Impact on Business Activity**

3.23. Experience in West Oxfordshire is that a number of the premises put forward for change of use from office use to residential have been occupied. This has meant that existing businesses have had to move out to make way for a change of use. The shortage of supply means that there is no guarantee that displaced businesses will be able to find suitable alternative accommodation in the district.

3.24. This problem has not been confined to rural areas. Enquiries and prior notifications have been made for office buildings in more traditional business estates. There is the potential for residential units to establish in unsuitable areas where the amenity of the residents will be affected by the surrounding businesses. Many buildings in industrial areas are not suitable in terms of amenity for residential use. Similarly those residents moving onto employment sites may have legitimate (in terms of the impact on their amenity) complaints regarding the lawful use of retained businesses surrounding their house which will in turn put further pressure on those businesses as they seek to address issues raised.

3.25. The removal of permitted development rights on selected sites offers some protection for existing jobs and businesses, and helps the Council minimise conflict between business and residential activities. As such it assists the proper planning of the area. This cannot be achieved through the prior approval process.

**Compensation**

3.26. There is a right to compensation but this only lasts for a 12 month period starting on the date the Direction was made. By allowing a 12 month period between the making of the Direction and its coming into effect the Council would not be liable for compensation should the Direction be confirmed.

**The Various Sites**

3.27. The Direction applies to the 61 sites listed in the Direction. These sites are key employment areas that include office buildings, or buildings that contain an office element that is not considered ancillary to another business use and could realistically be separated to form a separate planning unit.

3.28. The listed sites include larger business areas with a mix of uses and in some cases undeveloped land. The site boundaries have been drawn to cover cohesive and contiguous employment areas encompassing recognisable planning units. This approach is consistent with the approach adopted by other Councils, such as Oxford City Council, and is considered to be reasonable.

3.29. Cromwell Park in Chipping Norton provides high quality business space and was rated as one of the better employment sites in the District by the West Oxfordshire Economic Snapshot. Although to date there have not been any prior notifications received seeking a change of use to residential on this site, unless the Direction is confirmed, changes of use to residential could happen without planning permission in the future.

3.30. The Spendlove Centre provides high quality office floorspace in Charlbury. There is no other comparable office accommodation in the town and it appears unlikely that it would be replaced in the town if lost to residential use.

3.31. The Eagle Industrial Estate in Witney contains a variety of existing businesses including the Wychwood Brewery. It is a small but relatively intensively developed business area
without separate pedestrian facilities and with no amenity space. If dwellings established in this area, through changes of use from office, the potential loss of office floorspace would be small but the impact on established business activities could be significant.

3.32. **Worton Park** includes a small office and business park set within a larger farm estate. It provides a high quality office environment. The boundary of this site in the Article 4 Direction has been drawn to create a cohesive and contiguous area. Any lawful existing residential property within this area will benefit from existing use rights and is therefore unaffected by the Direction.

3.33. **South Carterton Industrial Estate** contains a variety of businesses, including a number which would not be compatible in a residential area. The boundary of this site in the Article 4 Direction has been drawn to create a cohesive and contiguous area. A change of use from office to residential activity within this area would have the potential to disrupt the existing legitimate businesses in the area. If the respondent is correct, in that their site has a lawful sui generis use, their activities will be unaffected by the Direction.

3.34. The Council buildings at Woodgreen and Elmfield are not included in the Direction. The current planning use of these buildings is a sui generis use and therefore they do not benefit from permitted development rights for changes of use to residential.

Consultation

3.35. The 6 representations received need to be considered before a decision is taken on whether or not to confirm the Direction.

4. **ALTERNATIVES/OPTIONS**

4.1. The options open to Cabinet are to either confirm, or not to confirm the Direction.

4.2. If however the Cabinet wished to amend or modify the Direction, for example to remove a site from the list within the Direction, it would need to decide not to confirm the current Direction and then to authorise the making of a fresh Direction. The Council retains the right to cancel the Direction at any future date. The Council could choose to do this if circumstances change.

4.3. Officers are of the view that it is expedient to remove permitted development rights for changes of use from office to residential on the various sites in the Direction. In summary, uncontrolled changes of use would lead to the following planning harms which would severely compromise the proper planning of the area:

- The stifling of local economic growth by reducing the availability of offices which are already in short supply;
- Problems for businesses forced to vacate with no guarantee they will be able to find alternative premises in the area;
- Residential units created in potentially unsuitable locations;
- Residents suffering unacceptable living conditions would look to the Council to remedy the harms (e.g. through powers in the Environmental Protection Act 1990) thereby adding to the costs and bureaucracy of remaining businesses; and
- Reinforcement of adverse commuting patterns with a consequent impact on the highway network.
4.4. The requirement for prior approval does not provide protection against the negative impacts identified above.

5. **FINANCIAL IMPLICATIONS**

5.1. Once an Article 4 Direction is made and is in force, no fee for any planning application generated is payable and the Council would forego the £80 fee that would have been payable under the Prior Approval process. The overall impact of this on the Planning and Strategic Housing Service budget will be negligible.

5.2. Changes of use from office to residential will lead to the loss of business rates income although this will be counterbalanced to a degree by additional Council Tax revenue.

6. **RISKS**

6.1. If the Direction is not confirmed there is a significant risk that the District’s office stock will be depleted with a significant negative economic impact.

7. **REASONS**

7.1. To sustain vibrant, healthy and economically prosperous towns and villages.

Giles Hughes
Head of Planning & Strategic Housing

(Author: Giles Hughes, Tel: (01993) 861658; email: giles.hughes@westoxon.gov.uk)
Date: 6 June 2016

Background Papers:
1. West Oxfordshire Local Plan 2011, June 2006
2. West Oxfordshire Economic Snapshot, CAG Consultants, January 2015
3. West Oxfordshire Local Plan 2031, West Oxfordshire District Council, March 2015
ARTICLE 4 DIRECTION
WEST OXFORDSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order")

Direction relating to various sites in West Oxfordshire ("the Direction")

West Oxfordshire District Council ("the Council") being the appropriate local planning authority
within the meaning of article 4(5) of the Town and Country Planning (General Permitted
Development) (England) Order 2015, is satisfied that it is expedient that the development of the
description set out in the FIRST SCHEDULE of this Direction should be removed from the category
of permitted development under the Order and should not be carried out at the addresses listed in
the SECOND SCHEDULE unless planning permission is granted for any of them on an application
being made.

1. The Council hereby DIRECTS that permission granted by Article 3 of the Town and
   Country Planning (General Permitted Development) (England) Order 2015 shall not apply to
development of the type specified in the FIRST SCHEDULE of this Direction and should be
removed from the category of permitted development under the Order where it falls
within any of the addresses specified in the SECOND SCHEDULE of this Direction (and
delineated and shown edged red on the PLANS attached to this Direction) unless planning
permission is granted by the Council on an application being made to the Council under Part

2. The Council makes this Direction under Article 4(1)(b) of the Order.

3. This Direction shall come into force on 24th March 2017 (subject to confirmation by the
   Council).

Dated the 24th March 2016

Signed:

Giles Hughes
Head of Planning & Strategic Housing
(Council’s authorised officer)
On behalf of West Oxfordshire District Council
Council Offices
Woodgreen
WITNEY
Oxfordshire
OX28 1NB
FIRST SCHEDULE

Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 to a use falling within Class C3 (dwelling houses) of the said Schedule such use being permitted development under Class O of Part 3 of Schedule 2 to the Town & Country Planning (General Permitted Development) (England) Order 2015

SECOND SCHEDULE

List of Sites to which this Direction applies

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Range Road Business Area Witney</td>
</tr>
<tr>
<td>2.</td>
<td>Stewart Milne Timber Witney</td>
</tr>
<tr>
<td>3.</td>
<td>Witney Innovation Centre Witney</td>
</tr>
<tr>
<td>4.</td>
<td>Thorney Leys Business Park Witney</td>
</tr>
<tr>
<td>5.</td>
<td>Station Lane Industrial Area Witney</td>
</tr>
<tr>
<td>6.</td>
<td>Des Roches Square Witney</td>
</tr>
<tr>
<td>7.</td>
<td>Eagle Industrial Estate Witney</td>
</tr>
<tr>
<td>8.</td>
<td>Meadow Court Witney</td>
</tr>
<tr>
<td>9.</td>
<td>Witan Way Offices Witney</td>
</tr>
<tr>
<td>10.</td>
<td>Spinners Court Witney</td>
</tr>
<tr>
<td>11.</td>
<td>New Mill Witney</td>
</tr>
<tr>
<td>12.</td>
<td>Newland Industrial Estate Witney</td>
</tr>
<tr>
<td>13.</td>
<td>Ventura Park Carterton</td>
</tr>
<tr>
<td>14.</td>
<td>West Oxon Business Park Carterton</td>
</tr>
<tr>
<td>15.</td>
<td>South Carterton Industrial Estate Carterton</td>
</tr>
<tr>
<td>16.</td>
<td>Greystones Chipping Norton</td>
</tr>
<tr>
<td>17.</td>
<td>Station Road Industrial Estate Chipping Norton</td>
</tr>
<tr>
<td>18.</td>
<td>Primsdown Industrial Estate Chipping Norton</td>
</tr>
<tr>
<td>19.</td>
<td>Elmsfield Industrial Estate Chipping Norton</td>
</tr>
<tr>
<td>20.</td>
<td>Cromwell Business Park Chipping Norton</td>
</tr>
<tr>
<td>21.</td>
<td>Stones Business Centre Chipping Norton</td>
</tr>
<tr>
<td>22.</td>
<td>South Eynsham Business Area Eynsham</td>
</tr>
<tr>
<td>23.</td>
<td>Elm Place Eynsham</td>
</tr>
<tr>
<td>24.</td>
<td>Long Hanborough Business Area Long Hanborough</td>
</tr>
<tr>
<td>25.</td>
<td>Green Lane Woodstock</td>
</tr>
<tr>
<td>26.</td>
<td>The Quadrangle Woodstock</td>
</tr>
<tr>
<td>27.</td>
<td>The Old Tannery Woodstock</td>
</tr>
<tr>
<td>28.</td>
<td>Blenheim Cowyards Woodstock</td>
</tr>
<tr>
<td>29.</td>
<td>Bampton Business Centre Bampton</td>
</tr>
<tr>
<td>30.</td>
<td>Swerford Heath Farm Swerford</td>
</tr>
<tr>
<td>31.</td>
<td>Chalford Park Barns Nr Chipping Norton</td>
</tr>
<tr>
<td>32.</td>
<td>Whiteways Technical Centre Enstone</td>
</tr>
<tr>
<td>33.</td>
<td>Threshers Yard Kingham</td>
</tr>
<tr>
<td>34.</td>
<td>Langston Priory Kingham</td>
</tr>
<tr>
<td>35.</td>
<td>Mount Farm Churchill</td>
</tr>
<tr>
<td>36.</td>
<td>Radford Farm Radford</td>
</tr>
<tr>
<td>37.</td>
<td>Gate Farm Kidington</td>
</tr>
<tr>
<td>38.</td>
<td>Court Farm Barns Tackley</td>
</tr>
<tr>
<td>39.</td>
<td>Spendlove Centre Charlbury</td>
</tr>
<tr>
<td>40.</td>
<td>Old Pill Factory Charlbury</td>
</tr>
<tr>
<td>41.</td>
<td>Rangers Lodge Cornbury Park</td>
</tr>
<tr>
<td>42.</td>
<td>The Stable Block Cornbury Park</td>
</tr>
<tr>
<td>43.</td>
<td>Southill Business Park Cornbury Park</td>
</tr>
<tr>
<td>44.</td>
<td>Kingstanding Farm Cornbury Park</td>
</tr>
<tr>
<td>45.</td>
<td>Groves Industrial Estate Milton under Wychwood</td>
</tr>
<tr>
<td>46.</td>
<td>Wychwood Business Centre Shipton under Wychwood</td>
</tr>
<tr>
<td>47.</td>
<td>Field Barn Nr Woodstock</td>
</tr>
<tr>
<td>48.</td>
<td>Worton Park Nr Cassington</td>
</tr>
<tr>
<td>49.</td>
<td>Manor Barns Business Centre Finstock</td>
</tr>
<tr>
<td>50.</td>
<td>Blenheim Sawmills Combe</td>
</tr>
<tr>
<td>51.</td>
<td>Home Farm Bladon</td>
</tr>
<tr>
<td>52.</td>
<td>New Yatt Business Park New Yatt</td>
</tr>
<tr>
<td>53.</td>
<td>North Leigh Business Park North Leigh</td>
</tr>
<tr>
<td>54.</td>
<td>The Old Brewery Burford</td>
</tr>
<tr>
<td>55.</td>
<td>Tannery Yard Burford</td>
</tr>
<tr>
<td>56.</td>
<td>Crawley Mill Crawley</td>
</tr>
<tr>
<td>57.</td>
<td>Compton Way Witney</td>
</tr>
<tr>
<td>58.</td>
<td>Bell Lane Depot Cassington</td>
</tr>
<tr>
<td>59.</td>
<td>Stanton Harcourt Industrial Estate Stanton Harcourt</td>
</tr>
<tr>
<td>60.</td>
<td>Aston Works Aston</td>
</tr>
<tr>
<td>61.</td>
<td>Little Clanfield Mill Little Clanfield</td>
</tr>
</tbody>
</table>
I received a recorded delivery Article 4 (I) notice today and comment accordingly as both a local property investor and also developer.

As space becomes vacant at Hanborough House, the local commercial agents respond by saying demand for space is limited. This results in lettings being made at rental levels below those achieved some 10 years ago. Whilst sub £10 per sq ft rentals levels prevail, there is little incentive to develop new commercial stock.

Only when commercial demand improves, will new stock come onto the market. The suggestion that a shortage of commercial space exists is untrue. More modern stock would draw businesses to the area.

Shame therefore that low rents prevent the ability to invest in new stock, an admission made in the local planner's consultation document: viability for building speculative office space is questionable.

The Government's announcement on permitted development have sought to provide longer term clarity, in providing an emphasis on residential need. The retraction of designated areas post 2019 further sees a move towards clarity for the property industry. To my mind, the implementation of article 4 (I) directions is a back door mechanism to reverse the democratically elected government's policy. Local authorities think they know best and seek to build bureaucratic powers in order to do so.
<table>
<thead>
<tr>
<th></th>
<th>Property Name</th>
<th>Comment</th>
</tr>
</thead>
</table>
| 2 | 39. The Spendlove Centre | Thank you for your letter of the 27th March 2016 informing us of your intention to put in place an Article 4 Direction to take away our permitted development rights to convert the property from its existing office use into residential use.  
I write to inform you that we object to your proposals and to ask that our property be removed from the list of properties that you propose to affect with the Article 4 Direction.  
We have had empty accommodation within the building for the last 18 months and there is very limited demand for offices. Your proposals are therefore not warranted in respect of our property. This is in contrast of the well-publicised need for further residential accommodation especially in town centres utilising brownfield sites.  
Furthermore by you seeking to remove our statutory permitted development rights you are significantly reducing the value of our property/investment. Should you persist with your proposals and be successful in implementing them we would like to put you on notice that we would expect to be compensated for our losses and any costs associated with recovering our losses from West Oxfordshire District Council. Please could you remove our property from the proposed list of properties to be potentially affected. |
| 3 | 20. Cromwell Park       | On behalf of Country Estates Group, I write to object to the proposed Article 4 (1) direction relating to Cromwell Business Park which seeks to remove the permitted development rights to change the use of the existing offices to residential through the prior approval process.  
Article 4 (1) directions must be made in accordance with national Government guidance given in the National Planning Policy Framework which directs that there must be clear justification for removing national permitted development rights. Specifically, para 200 states:  
‘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 (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.’  
Replacement Appendix D to the Department of the Environment Circular 9/95: General Development Consolidation Order 1995 provides further advice, stating at paras 2.1-2.4 that:  
‘Local planning authorities should consider making article 4 directions only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm the
local amenity or the proper planning of the area.’

‘In deciding whether an article 4 direction would be appropriate, local planning authorities should identify clearly the potential harm that the direction is intended to address.’

‘There should be particularly strong justification for the withdrawal if permitted development rights relating to:

- Cases where prior approval powers are available to control permitted development

It is evident from the above extracts that Article 4 directions should only be considered in exceptional circumstances, and in the case where prior approval powers are already available to the Council, particularly strong justification is required.

While the Council considers there to be a need to protect existing office space across the district due to a number of sites and buildings already having benefitted from a permitted change from office to residential, Cromwell Park itself has to date not been the subject of any such application since either temporary or permanent rights were introduced. It is clear therefore that historically, Cromwell Park has not been considered a location for office to residential change of use, and that situation is very unlikely to change. On a site that has never been the subject of any office to residential application, and therefore is under no pressure to convert to residential, there are no exceptional circumstances that would warrant removal of permitted rights. Furthermore, there cannot be any strong justification as to why Cromwell Park should be included in the list of sites that would fall under the Article 4 (1) direction given that the Council would still have the power to resist any application under prior approval powers.

Furthermore, as confirmed by the Replacement Appendix D to the Department of the Environment Circular 9/95: General Development Consolidation Order 1995 at para 5.1, a local planning authority can at any time make a subsequent direction to modify its extent. As such, in the event that Cromwell Park does come under pressure to convert from office to residential, the Council still has the power to modify or replace a direction with immediate effect. Until such time that there is evidence Cromwell Park is under threat of office to residential conversions, to include it within an Article 4 (1) direction fails the primary test of being required only in exceptional circumstances. There are in fact no exceptional circumstances that warrant the inclusion of Cromwell Park within an Article 4 (1) direction.

It should also be noted by the Council that Country Estates Group received a letter relating to the undeveloped area of land at Cromwell Park. It is clear from the Town and Country Planning (General Permitted Development Order) 2015 that undeveloped land does not benefit from any office to residential permitted development rights. That land should therefore be removed from any Article 4 (1) direction plan.
as the Council cannot remove rights where they do not exist in the first place.

In addition, I note that the Council's own offices are not included in the proposed Article 4 (1) direction. I would request that in the event the Council proceed with the Article 4 (1) direction, they should be leading by example and including any office building under the Council's occupation or ownership. This would protect those building from undesirable change of use in the event those buildings were ever sold or vacated by the Council.

To summarise, there are no exceptional circumstances that would warrant removal of permitted development rights to convert offices at Cromwell Park to residential mindful of the fact that historically there is no evidence that the site is under pressure from unwanted changes of use. As such, Cromwell Park should be removed from the list of sites included in the Article 4 (1) direction with immediate effect.
1. Introduction

1.1. This submission is made on behalf of Hambridge Investments ("The Objector"), the freehold owners of the above land and properties, in response to the Council’s proposed withdrawal of permitted development rights to change from B1(a) office use to C3 dwellinghouses. The schedule of sites attached to the proposed Article 4 includes the Objector’s land, but the Direction is to be imposed indiscriminately affecting 61 sites across the District.

1.2. Rumball Sedgwick is a long established practice of town planners and chartered surveyors based in offices at St Albans and Watford. Cumulatively, our staff have decades of experience in the planning process and advise a wide variety of clients across the United Kingdom upon planning and development matters, including development control, enforcement and planning policy representations.

2. Background to The Eagle Industrial Estate

2.1. The Objector has owned the subject land since 1976. The land was formerly the "Eagle Brewery" and when that use ceased the buildings were divided and reused for various employment type occupiers, including offices, manufacturing and storage. Brewing has since resumed on part of the Estate, but in recent times other non-Class B occupiers have become established upon the Eagle Industrial Estate, such as a canine hydrotherapy/grooming facility, a snooker club and a takeaway.

3. The Purpose of Permitted Development Rights

3.1. In cases where there is no harm to amenity the Government pre-grants planning permission for certain forms of development. The Government, recognising the urgent need for more housing introduced the permitted change from Class B1 offices to C3 residential under the terms of "Class J" of the Statutory Instrument (SI) No. 1101 in 2013. This Class was originally only for a temporary period. A very select few employment locations were exempted from the "Class J" provisions, such as strategically important office developments within the Central part of London, or Canary Wharf. In Oxfordshire there were two of these exemptions, although neither was in West Oxfordshire, but it was clearly the Government’s intention that only the most important office locations were to be exempted from the provisions of "Class J".

3.2. When these amendments to the GPDO were originally announced (in January 2013) the coalition government gave its reasoning for the changes, in a press release, as being to “make the best use of developed sites by allowing existing buildings to be quickly brought back into productive use. New permitted development rights will allow office space to be converted into new homes without the need for
item No. 8, Page 15 of 22

planning permission from the local authority. The 2013 press release continued "this new change of use right will provide badly needed homes for local people and will make a valuable contribution to easing the national housing shortage. It will help create jobs in the construction industry and help regenerate our town centres by increasing footfall in high streets".

3.3. SI 2015 No. 596 (The Town and Country Planning (General Permitted Development) (England) Order updated and consolidated the 2013 version and the relevant section for the change of use from offices to dwellinghouses became "Class O". The terms of the 2013 version were unchanged in relation to the relevant considerations for obtaining "prior approval" for this change of use and the same schedule of strategically important areas were exempted. "Class P" of the 2015 Order extended the range of permitted change of use rights to dwellinghouses from Class B8 uses.

3.4. The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 (SI 2016 No 332) which came into force on the 6th April 2016 introduced yet more relevant changes. First of all Article 7 makes permanent the existing temporary right to change a building used as an office into residential use under "Class O", and furthermore, after the 30th May 2019 the schedule of exempt office areas no longer has effect. The 2016 changes also included a new Class ("Class PA") which permits the change of use of "premises in light industrial use to dwellinghouses".

4. The Government’s Stance

4.1. General Policy; the policy throughout the National Planning Policy Framework (NPPF) and elsewhere (see for instance HM Treasury’s "Plan for Growth") is predicated upon providing more housing, removing any obstacles to provision, as well as ensuring that best use is made of existing urban land. This can be seen specifically in the NPPF within paragraphs such as 47 or 51, where it instructs LPAs "to boost significantly the supply of housing". One of the ways that this should be done is for Councils to identify and put into residential use buildings in commercial use. Planning permission for residential use of commercial buildings should normally be granted unless there are "strong [our underlining] economic reasons why such development would be inappropriate".

4.2. Page 45 of the HM Treasury document "Fixing The Foundations" (July 2015) notes that the planning system is "regarded by many as one of the most significant constraints facing the economy, bringing delay and inflexibility" and paragraph 9.17 explains "that delays in processing planning applications may be a significant factor preventing housing supply from responding to upturns in the market".

4.3. Page 73 (paragraph 15.14) of the Treasury’s 2015 document continues: “flexible land markets are
central to harnessing the productivity benefits that cities can offer. A more flexible, responsive planning system will enable people to afford to live and work in successful cities, allow firms to expand and urban economies to adapt to new opportunities”.

4.4. The overall message from this Treasury document is about “Cutting red tape” and reducing unnecessary regulation (paragraph 13.10).

4.5. The Use of Article 4 Directions - National Planning Policy Guidance (NPPG) provides assistance to LPAs on the matter of Article 4 Directions. Paragraph: 037 Reference ID: 13-037-20140306 ("What can an article 4 direction do?") makes it clear that there has to be justification for both the Article 4"s “purpose and extent”. Paragraph 038 (Reference ID: 13-038-20140306) is entitled "When is it appropriate to use article 4 directions?" and states that their use “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 should be clearly identified”.

4.6. This later paragraph of the NPPG continues: “There should be a particularly strong justification [our underlining] for the withdrawal of permitted development rights relating to: a wide area (e.g. those covering the entire area of a local planning authority, National Park or Area of Outstanding National Beauty) and cases where prior approval powers are available to control permitted development.

5. Evidence Base

5.1. As far as can be ascertained from the page of the Council” website concerning the evidence base for the emerging local plan, the matter of West Oxfordshire” employment land supply was last examined in the “Economy Study Update” of November 2012. In respect of Witney this assessment found there was “approximately 21ha of employment land supply (excluding existing vacant premises) which is considered sufficient to meet needs over the next 15 years.

5.2. Interestingly, paragraph 3.9 of the “Economy Study Update “commented in relation to the Objector” land that the Eagle Industrial Estate provided “lower specification older industrial units” There is no mention of this Estate having any significance as an office location.

6. Analysis

6.1. According to the NPPF “Strong economic reasons” must be advanced to resist the use of commercial
buildings to provide the housing. No evidence of any sort is advanced in the brief Notice served upon the Objector to support the need for this proposed control. The Government wants to encourage new housing, especially upon existing urban sites making use of commercial buildings and has deliberately amended the GPDO to facilitate this. The relaxation of the operation of the Use Classes Order is seen as a means of making "valuable contribution to easing the national housing shortage", increasing much needed housing provision without causing harm to amenity or the wellbeing of an area.

6.2. The original assessment of the exempted sites did not include any land within West Oxfordshire. When subsequently reviewed, the schedule still did not make any allowance for West Oxfordshire and as of 2016 even those areas originally considered to be of strategic importance are no longer to be exempted. The Government" view being that the limited exemptions were not necessary.

6.3. The express purpose of the GPDO is to pre-grant permission for development where there is no harm to amenity. The current Government" position (as well as the previous one) is very clear that where permitted development rights are being taken away the “potential harm” must be “clearly identified” and there must be "justification"(backed with real evidence) for the both the “purpose and extent” of the control. However, as mentioned, in this instance absolutely no explanation has been given for either aspect. The only available evidence that we have found suggests that the District has sufficient employment land for at least 15 years. Government requires “particularly strong justification “in cases where GPDO rights are being withdrawn over a "wide area" such as a whole district.

6.4. It should also be noted that the “particularly strong justification", is even required when promoting an Article 4 in a nationally protected area such as a National Park, or AoNB, so it cannot therefore be the Government’s intention that there would be a need for this degree of "wide area" control in the case of an ordinary district authority, that contains no office development of national significance.

6.5. There are now a number of other pre-granted changes of use (such as Classes "P" &amp; "PA") which allow new dwellinghouses within commercial buildings, so that placing a restriction upon the operation of "Class O" alone, is not likely to achieve any proper planning purpose. It will only create a further barrier to housing provision in direct conflict to what the Government is trying to achieve and confirm the opinion expressed in "Fixing the Foundations" that the Planning System is an unnecessarily bureaucratic obstacle to development.

7. Concluding Remarks

7.1. The Government has made it very clear that it wishes to increase the provision of housing and reduce
the burden of "red-tape". The purpose of the GPDO is to reduce unnecessary control and the express intention of the permitted development Class O is to provide more housing.

7.2. The Council has put forward no justification for this Article 4 and there is no evidence of potential harm to amenity or the wellbeing of the area from allowing the provisions of "Class O" to continue to operate as normal. Therefore introducing this control is unnecessary and would serve no good planning purpose.

7.3. The Council must take account of the representations received by important stakeholders such as the Objector as otherwise there is a likelihood that the entire "consultation process" will be seen as a sham. The LPA must not merely go through the motions and then adopt the document. That makes a mockery of the consultation process and undermines confidence in planning. The consequent delay and expense arising from having to make planning applications for what is an acceptable change of use will only serve to confirm the Government’s view that the Planning System is a brake on the economy and an obstacle to growth.

7.4. We would be grateful if the Council will continue to notify us of the progress of this consultation.
|   | 48. Worton Park, Worton | Please accept this correspondence as a representation regarding the following communication we have received:

Notice of article 4 (I) Direction relating to Worton Farmhouse, Worton, Witney, OX29 4SY.

This property in question (the farmhouse) is and always has been a residential property. I’m sure the relevant planning history will support this. As such we feel the notice does not apply to this property. |
On behalf of our client, Foddy Brothers, I am writing to make representations in relation to the Notice of a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 relating to South Carterton Industrial Estate, issued by West Oxfordshire District Council (herein referred to as the Council) in a letter dated 24 March 2016.

The Direction relates to development consisting of the change of use of a building and any land within its curtilage from a use falling within Class B1 (a) (offices) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 to a use falling within Class C3 of that Schedule being development described as permitted development in Class O of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 and not being development comprised with any other Class.

The Council submitted a Plan (Map No15, South Carterton Industrial Estate, Carterton) which indicates that the aforementioned Direction relates to the entire South Carterton Industrial Estate, as indicated by the redline boundary.

It is pertinent to note Article 4 (1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 states:

If the Secretary of State or the Local Planning Authority is satisfied that it is expedient that development described in any Part, Class or paragraph in Schedule 2, other than Class K or M of Part 17, should not be carried out unless permission is granted for it on an application, the Secretary of State or (as the case may be) the Local Planning Authority, may make a direction under this paragraph that the permission granted by article 3 does not apply to —

a) all or any development of the Part, Class or paragraph in question in an area specified in the direction; or
b) any particular development, falling within that Part, Class or paragraph, which is specified in the direction, and the direction must specify that it is made under this paragraph.

Furthermore, the Planning Practice Guidance (PPG) states at paragraph 038 (Reference ID: 13-038-20140306):

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 should be clearly identified.

As set out within Article 4 (1) of the Town and Country Planning (General Permitted Development)
(England) Order 2015, a Direction should only be implemented if it is expedient to do so. The PPG further advises the removal of permitted development rights should be limited to situations where this is necessary to protect amenity or the wellbeing of the area.

The Council states the direction is being introduced for the following reasons: 
*The Council has been approached both formally and informally by people wanting to apply the permitted development right to change offices to residential units on some of our key employment sites. The loss of office buildings and their change of use to residential uses are likely to have a series of economic and other consequences including:*

- Stifle local economic growth by reducing the availability of offices which are already in short supply
- Create problems for businesses forced to vacate with no guarantee they will be able to find alternative premises in the area
- Mean residential units may be created in potentially unsuitable locations
- Mean residents may suffer unacceptable living conditions and would look to the Council to remedy the harms (e.g. through EPA powers) thereby adding to the costs and bureaucracy of remaining businesses
- Reinforce adverse commuting patterns with a consequent impact on the highway network
- Reduce the potential rateable income to the Council

Our client owns part of the North East corner of the area identified by the redline boundary on the Plan (Map No15, South Carterton Industrial Estate, Carterton) - immediately to the West of Lancaster Place and to the South of Marlborough Close. This site currently has a Sui Generis use in accordance with the Town and Country Planning (Use Classes) Order 1987.

Class N, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, defines the permitted development rights for developments falling within a Sui Generis use. Class N sets out only specified Sui Generis uses (amusement arcade or centre or a casino) are permitted a change of use to a use falling within Class C3 (dwelling house). The land to which our client owns is not an amusement arcade or centre or a casino, therefore it does not benefit from permitted development rights. As such, an application for planning permission would be required for any or operational development or a change of use that takes place on site.

Therefore, the site to which our client controls could not benefit from the permitted development rights which the Direction is seeking to restrict. As such, the Direction issued for the land within our clients’
ownership is neither suitable or appropriate given an application for planning permission would be required to make any material change of use or for the undertaking of development on site.

Furthermore, any future application for planning permission in this location has the ability to control those aspects which the Direction seeks to specifically prevent.

It is our firm opinion that a direction made under Article 4 (1) in relation to our client’s land does not meet the requirement of being ‘expedient’ as set out in Article 4 (1) of the Town and Country Planning (General Permitted Development) (England) Order 2015. In addition, the direction does not appear to meet the guidance set out within the PPG, as with specific reference to land within our clients’ ownership, it cannot be considered necessary to protect local amenity or the wellbeing of the area – this protection is already afforded by virtue of the need for planning permission to undertake operational development or for a change of use. The implementation of the direction is neither suitable or appropriate given the following reasons:

- The site is not currently within a B1(a) use;
- The lack of permitted development rights for Sui Generis Uses, and specifically the lack of a permitted development rights for a change of use to B1(a) or any other class without the need for an application for planning permission to change the use;
- The element of control already afforded to the Council through the determination of an application for planning permission to ensure any change of use does not have a ‘series of economic consequences’; and
- The Council has the ability to restrict permitted development rights through any application for planning permission should it been deemed necessary to do so.

For the above mentioned reasons, our client requests that the redline boundary of the Article 4 Direction in relation to South Carterton Industrial Estate is altered to remove land within our clients’ ownership which is within a Sui Generis use.