

## Agenda Item 10

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<b>Date</b>	25 October 2016

<b>Wards affected</b>	Dorking, Leatherhead, Ashted	<b>Key Decision</b>	Yes
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<b>Subject</b>	Restricting office-to-residential permitted development rights
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### RECOMMENDATIONS

1. To approve the use of Article 4 directions to restrict permitted development rights for the conversion of offices to residential on targeted sites.
2. To use the procedure for service of Article 4 directions without immediate effect under Section 1 of Schedule 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015.
3. To delegate the service of Article 4 directions to the Corporate Head of Service for Planning in consultation with the Executive Member for Planning.

### EXECUTIVE SUMMARY

The introduction of office-to-residential permitted development rights has, until recently, been generally compatible with MVDC's planning aims. The majority of the office stock converted has been incapable or economically unviable of refurbishment to modern standards, and given the surplus of office accommodation in Leatherhead and Dorking its loss has not had a significant impact on economic vitality. At the same time, conversion has provided a significant boost to the housing stock, of mainly one and two bedroom units in sustainable locations in line with the Core Strategy objectives for meeting housing demand.

However, more recently applications for prior approval to convert larger, purpose-built offices have been submitted. If this trend were to continue, it could have an adverse effect on the economy of the District by fragmenting existing office and research parks; lead to the loss of large office buildings; and restrict the availability of good quality secondary office stock.

Assessment of the current and future office market supports the need to protect certain office buildings and locations from conversion to residential use. The approach will be to identify buildings that are likely to be vulnerable to conversion; and whose loss would have an adverse impact on strategic employment sites.

## **CORPORATE PRIORITIES**

### **ENVIRONMENT: A highly attractive area with housing that meets local need**

- In consultation with the community, develop plans for how land is used in Mole Valley. Whilst safeguarding the Green Belt, we will set out proposals for jobs and homes, retail, leisure and commercial development.

### **PROSPERITY: A vibrant local economy with thriving towns and villages**

- Begin the transformation of Leatherhead town centre.
- Promote the culture and economy of the market town of Dorking.
- Promote business opportunities across the district.

## **The Executive has the authority to determine the recommendations**

### **1.0 BACKGROUND**

- 1.1 In May 2013 the Government introduced permitted development rights that enabled office floor space to be converted to residential use. These rights were initially introduced for a period of three years and have since been made permanent.
- 1.2 The permitted development rights are subject to limited controls through the need for applicants to seek prior approval for transport and highways, flooding, contamination and noise prior to conversion taking place.

#### **Effect of office-to-residential permitted development rights in the district**

- 1.3 Since its introduction in May 2013, a watching brief has been kept on the uptake of office-to-residential rights. To the end of the last monitoring period (April 2016) prior approval for office-to-residential conversion has been granted on approximately 6.5% of Mole Valley's office stock; and approximately 3.7% of the District's office stock has actually been converted.
- 1.4 Vacancy rates for office floor space have not changed markedly despite the introduction of the permitted development rights, ranging from 7.1% in 2008 to 9.2% in 2015.
- 1.5 While the quality of the office stock changed through this process has varied, in general it has tended to be low grade space that no longer met modern office requirements. Such buildings may have provided low rental office accommodation, but in the long term were not viable because they were unable to support the cost of refurbishment.
- 1.6 A positive aspect of office-to-residential conversions has been the addition of approximately 190 homes to the District's housing supply. This equates to about one year's housing supply and has made a significant contribution to meeting the five-year housing land supply target.

#### **Recent developments**

- 1.7 Having regard to this evidence, it had not been felt necessary to intervene in the office market. However, very recently there have been examples of larger office accommodation being promoted for conversion:
- Kuoni House in Deepdene Avenue, Dorking
  - Regent House on Station Approach, Dorking

- 1.8 None of these sites provide Grade A office accommodation, but are large in terms of the offices available in Dorking, and contain a major employer in the town (Kuoni) or are well located adjacent to the mainline railway station (Regent House).
- 1.9 If these developments signal a shift towards the conversion of larger, purpose built office buildings, then that trend could have an impact on the economy of Mole Valley and the availability of office accommodation to meet future demand. In such circumstances, it would be prudent to consider intervening in the office market. That intervention would be through the targeted use of Article 4 directions, which remove the office-to-residential permitted development rights for specified sites.

#### **Article 4 Directions**

- 1.10 The Council has powers under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to withdraw permitted development rights in certain circumstances. Withdrawal of permitted development rights would not prevent a landowner from seeking to convert their building, but it would require them to do so through the submission of a planning application. This power could be used to control office-to-residential permitted development rights.
- 1.11 In order to justify an Article 4 direction, the Council has to demonstrate that the exercise of office-to-residential permitted development rights would:
- harm local amenity, or
  - the proper planning of the area
- 1.12 An Article 4 direction can cover an individual site, or a wider area. Demonstrating harm becomes progressively more difficult the wider the area intended to be covered by an Article 4 direction; or where there are other controls available to the local planning authority. In practice, this means that Article 4 directions have to be targeted at specific sites rather than used as a blanket measure.

#### **Compensation**

- 1.13 There is risk in using Article 4 directions as the Council may become liable for compensation depending on the procedure followed:
- Non-immediate direction – permitted development rights are withdrawn 12 months from service of the direction after a period of consultation. Liability for compensation is limited. If the rights are withdrawn earlier than 12 months after service then compensation may be payable.
  - Immediate direction – permitted development rights are withdrawn immediately, but must be confirmed within six months after a period of consultation. The Council becomes liable for abortive expenditure or other loss or damage attributable to withdrawal of the permitted development rights, if a subsequent application is refused. The ‘other loss or damage’ would include the difference in the value of the site, and would expose the Council to potentially significant financial liability.
- 1.14 For this reason, the use of immediate Article 4 directions is not advocated.

#### **Limitations**

- 1.15 Article 4 directions cannot be applied retrospectively. Also, the Secretary of State has the power to modify or cancel office-to-residential Article 4 directions, although to date that power appears to have been used sparingly, and only where an authority has been unable to justify its actions.

- 1.16 There is no planning fee for planning applications required as a consequence of a direction. It is also the case that serving and consulting on Article 4 directions is a resource intensive task. If the recommendation in this report is followed, then additional resources will need to be contracted in or the current work programme delayed.

## 2.0 ASSESSMENT

### Overview of the current office market in Leatherhead and Dorking

- 2.1 Leatherhead is the main office location in the District, with approximately 120,000 sqm of office floorspace, of which approximately three quarters is grade A or A/B<sup>1</sup>. Dorking provides a secondary office location with approximately 29,000 sqm of office floorspace, of which approximately half is grade A or A/B. There are, in addition, some headquarter offices in more isolated locations, such as Exxon Mobil (Ashtead) and UNUM (Westcott).
- 2.2 There has been an oversupply of office stock in both Leatherhead and Dorking since the recession in 2008/2009. Local commercial agents report that there is approximately 21,400 sqm of vacant office floorspace in Leatherhead and 11,600 sqm in Dorking, equating to a 3 and 5 years supply respectively of long-term average annual office space turnover. However, there are signs that the office market is starting to recover, particularly in Leatherhead, with the oversupply of office floorspace reducing and some speculative refurbishments of office stock to modern standards.

### Drivers influencing conversion of offices to residential

- 2.3 Office occupiers have become more demanding since the 1980s office boom. Occupiers increasingly want highly specified offices that meet modern standards with large open floorplates, high ceilings, good lighting, underfloor cabling networks, and air conditioning. There is a widening rental gap between those office buildings that do meet these modern specifications, and those which do not.
- 2.4 A key driver for landlords in deciding whether to convert their office accommodation to residential is whether the cost of refurbishing the building to achieve a higher specification is economically viable.
- 2.5 Until recently, rental values were at a level where for older 1970s and 1980s office stock, it was deemed more cost effective to convert to residential. However, over the last year rental values have returned to a level where, assuming a building is fairly straightforward to refurbish, it is now more likely to be profitable to keep the building as offices than convert to residential. This is particularly the case in Leatherhead where rental values are rising, but less so in Dorking where for most office stock the tipping point has yet to be reached.
- 2.6 Those office buildings which are incapable of being upgraded to meet modern specifications will continue to be vulnerable to conversion to residential as and when current leases or tenancies come to an end.

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<sup>1</sup> Grade A office accommodation is either new or refurbished space that is finished to a high specification in order to achieve premium rents within a locality. The buildings will typically have raised floors, suspended ceilings, a lift, and air conditioning or similar. Grade B office accommodation is finished to a good or fair standard, and typically lacks one or more of the specifications for Grade A accommodation.

### **Effect of residential conversion on office market**

- 2.7 It is difficult to predict future office demand, especially given the current uncertainties surrounding Brexit. However, central London rental values have remained high and continue to drive office occupiers out into alternative locations around the M25. Assuming there are no major shocks demand is expected to recover to the long-term average.
- 2.8 Given the amount of vacant office floorspace in both Leatherhead and Dorking, it is estimated that there is enough grade A and A/B supply in the market to accommodate demand over the short and medium terms. As office rental values continue to recover, the likelihood of grade A office accommodation, or buildings capable of refurbishment to grade A specification, being converted to residential will decrease.
- 2.9 It should be noted however that once existing stock is refurbished, there is limited scope for new office development in both Leatherhead and Dorking. This situation will need to be taken into account as part of a longer term view in Local Plan review; and is a factor to consider in retaining existing office stock of suitable quality.
- 2.10 Although the majority of companies require high quality office space, there is a market for smaller office occupiers who require modern office stock but do not necessarily require grade A. This type of accommodation is likely to remain vulnerable to conversion because even if it is capable of being refurbished to provide a reasonably good standard of office accommodation, it will not achieve the rental values that are needed to compete with residential values for some time. For this reason, there is a risk that the supply of good secondary office space is likely to become constricted in the medium term.
- 2.11 Poorly specified office accommodation, or office premises unable to be refurbished to even a reasonable standard, are increasingly unlikely to be able to compete for tenants in the office market. Where tenancies or leases have ended, the majority of these premises have already been converted or have obtained prior approval for conversion. These premises include the offices above shops or older office stock in Dorking such as Haybarn and Lawster Houses, and in Leatherhead, such as Connect and Trident Houses. Even where they remain in office use, there is little economic justification for seeking their retention as office space; and the use of Article 4 directions would conflict with the Government's intention introducing more flexibility in the planning system.
- 2.12 Those sites considered to be of strategic importance to the continued economic health of the District are the grouping of offices on the larger business parks, with consequent benefits for employment, servicing and transport; those which, because of their size make a significant contribution to employment and the local economy; and those buildings which provide good quality secondary office accommodation.

### **Office sites at risk of conversion**

- 2.13 The recent example of offices coming forward for conversion, together with the assessment given above, does provide sufficient justification to warrant restricting office-to-residential permitted development rights in appropriate circumstances. The appropriate circumstances are where:
- The office building is vulnerable to conversion
  - The loss of office accommodation would have an adverse impact on the strategic economic health of the District

- Continued use of the building in office use is necessary for the proper planning of the area

2.14 Sites meeting these criteria will be identified by officers, and targeted action taken to serve Article 4 directions where appropriate in consultation with the Executive Member for Planning. Views will also be sought from the relevant ward member(s). Priority will be given to those sites where it is known that leases may be expiring soon. The rate of service will need to take account of available resources.

### **3.0 OPTIONS**

- 3.1 To approve the use of Article 4 directions to withdraw office to residential permitted development rights in a targeted manner (recommended).
- 3.2 To adopt different criteria to those set out in paragraph 2.13 above leading to service of Article 4 directions on a wider or narrower range of offices. Such an approach would need to be justified by evidence.
- 3.3 Not to serve any Article 4 directions.

### **4.0 CORPORATE IMPLICATIONS**

#### **Monitoring Officer commentary**

The Monitoring Officer confirms that all relevant legal implications have been taken into account in the report.

#### **S151 Officer commentary**

The S151 Officer confirms that all relevant financial risks and implications have been taken into account. Any additional resourcing requirements will be met from within existing budgets.

#### **Risk Implications**

The risk implications are set out in paragraphs 1.13-1.16.

#### **Equalities Implications**

None.

#### **Employment Issues**

None.

#### **Communications**

Service of Article 4 directions will require notification of all interested parties (land owners, leases, tenants), and a consultation exercise in each case, prior to confirmation. The form of consultation is prescribed by regulation.

### **BACKGROUND PAPERS**

None.