

New Article 4 (1) Directions Epsom Town Centre – Landowner Comments and Officer Responses January 2016



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Introduction

Landowner Comments & Officer Responses

A. The Kirkgate 19 – 31 Church Street, Epsom

Stiles Harold Williams acting on behalf of Standard Life Investments

Administrative Matters

Firstly, we would like to draw your attention to the procedural matters associated with the introduction of an Article 4 direction in an area.

The permitted development rights from office to housing came in force in May 2013 and remain to expire in May 2016. Introduction of Article 4 direction at this stage is questioned in being reasonable and necessary. The directive applies to 19 different properties within the Epsom Town Centre area, however is not accompanied by any justification as to why particular locations are chosen and how the existing Town Centre has so far been impacted by loss of the office space.

Schedule 3 of the GDPO refers to the need for article 4 direction with immediate effect where authority 'consider that the development to which the direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area'. If such effect would be clear threat to amenities of the area, it would have been apparent earlier rather than identified in the last quarter of the year.

Borough Council Officer Comments

There is no requirement for the Direction itself to include a detailed justification for why particular locations have been identified. For the purposes of clarity the Direction does include a brief justification why the Borough Council took the decision to take this course of action. Further comprehensive information and evidence used to support the serving of the new Article 4 Directions is freely available from the Borough Council's website. This information was prepared in support of the report take before the Licensing & Planning Policy Committee on 10 December 2015.

As clearly demonstrated by the evidence prepared in support of the Article 4 Directions, the Borough Council has been carefully monitoring the impacts of the permitted development regime upon the vitality and viability of the Town Centre since 2013. It is entirely appropriate takes actions on the basis of such evidence, under the principles of the plan, monitor and manage.

Housing Land Supply

Introduction of the GDPO rights have been underpinned by an ongoing housing crisis evident across wider South East. Increased constraints on the area such as Green Belt are evident in Epsom and Ewell and as such every opportunity has to be utilised for locate housing in a sustainable manner. The proximity of the town centre with its amenities and transport connections is priority for this.

Borough Council Officer Comments

The Borough currently has between an eight and half to eleven years supply of deliverable and developable housing sites. This is evidenced by the Local Plan Annual Monitoring Report 2014/ 15. Consequently, there is no evidence of an overriding need within Epsom & Ewell.

The preparation and development of a sustainable housing growth strategy for the Borough is best addressed through the Local Plan process, which allows for the comprehensive consideration and assessment (including the sustainability appraisal process) of the issues raised. It is noted that the permitted development regime does not allow for the assessment of these issues.

In that respect, the suggestion that every opportunity be utilised to locate housing in a sustainable manner is counter-intuitive, as it would appear to suggest that housing be delivered at all costs – with no regard for other key components of sustainable development such as economic vitality, a balanced mix of uses, the provision of affordable housing and the delivery of supporting infrastructure.

Employment Land Supply

Currently there is no evidence of the shortage of employment land in the borough, as highlighted by the East Street Office Demand Study (2013). It specifically identifies a need for flexibility and the need to consult with local businesses and create the right conditions locally for employment growth. This aligns with the provisions of the National Planning Policy Framework for flexible approach safeguarding of employment allocation sites and thus very site specific restriction applied in the case of this Article 4 does not reflect either flexible approach or any form of consultation with the existing employment uses in the area for the benefit of the local growth.

It goes further to state (para 2.42.) that The Council has applied the policies in a flexible manner in terms of the re-use of vacant employment sites, including Town Centre offices, for other commercial/employment uses including education, healthcare and employment generating community activities. Any justification for departure from this approach needs to be provided.

In conclusion, we find that the introduction of the Article 4 has lacked consultation and justification, in contrary to the current national and local

policy documents, thus we urge you to review the boundaries of the proposed area and inclusion of The Kirkgate within.

Borough Council Officer Comments

The Borough Council's Local Plan strategy towards existing employment land and floorspace is clear. This is set out under Core Strategy Policy CS11. Existing employment land and floorspace is at a premium. Given the nature of the Borough the opportunities for new or replacement provision are limited.

Epsom Town Centre is the most sustainable location in the Borough. The Borough Council's strategy for securing sustainable, balanced and mixed growth across the Town Centre area is clearly set out in Plan E Epsom Town Centre Area Action Plan. Our own evidence clearly demonstrates that as the Local Planning Authority, the Borough Council has successfully delivered sustainable growth across the Town Centre. Our approach towards growth has and continues to include the release of employment floorspace where it is supported by evidence. This is in accordance with Plan E Policy E5. The Borough Council recently adopted Development Management Policies Document Policy DM24 reinforces this approach – namely, that the release/ loss of employment floorspace to other uses will not be permitted unless supported by evidence that meets the Policy's criteria. This approach was found sound by the Inspector. The approach has not prevented buildings and sites coming forward for redevelopment where such proposals are supported by evidence.

The Borough Council's strategy for sustainable growth has been the subject of comprehensive public consultation. The Council's use of Article 4 Directions to support that strategy is established, the first having been served in 2013. The requirement for further consultation is unclear. The Article 4 Directions were publically considered by a Committee of the Council. The Borough Council publicised the Directions with site notices, a notice in the press and with letters served directly to all landowners. All parties interested in the process had the opportunity to respond.

Borough Council Officer Conclusions

The Kirkgate, Church Street, Epsom is a highly valued office building, which is currently fully occupied. The loss of this site, the businesses housed within and their employees would have an adverse impact on the economic vitality and viability of the Town Centre. The agent acting on behalf of the landowner has not presented any evidence to demonstrate that there is no risk of the site being lost through the permitted development regime. Our evidence demonstrates that there is a risk of the Town Centre's occupied and higher grade office sites, such as the Kirkgate, being lost (in an unmanaged way) to residential uses. This would have an adverse impact on the economic vitality and viability of the Town Centre. On that basis, it is recommended that the Council confirms the Article 4 Direction on this site.

- B. Epsom Gateway, Ashley Avenue, Epsom**
- C. Oaks House, West Street, Epsom**
- D. The Wells, 3 – 13 Church Street, Epsom**

Indigo acting on behalf of Threadneedle Property Unit Trust in relation to three sites.

We are objecting on the grounds that there is no sound planning reason to impose this restriction, particularly with regard to the current supply of office floorspace in Epsom and the recognised demand for new homes. In addition, we note that the Council has previously been unsuccessful in introducing an Article 4 Direction across the entire town centre.

We regard the introduction of an Article 4 directions on the three sites to be wholly unnecessary and in contradiction of the guidance set out in paragraph 22 of the National Planning Policy Framework (2012)(NPPF). Paragraph 22 states that “*planning policies should avoid the long term protection of sites allocated for employment use*”. This guidance and the Government’s reasons for introducing this permitted development initiative support the basis of our objection.

Borough Council Officer Comments

For the purposes of clarity the new Directions were served on the basis that they are necessary to deliver and manage the delivery of the adopted Local Plan strategy for economic growth and for Epsom Town Centre. Without the ability to positively intervene and manage the release of viable employment sites there is a significant risk of the Borough Council’s adopted strategy being undermined. This would have adverse impacts upon the continued economic vitality and viability of Epsom Town Centre. Comprehensive information and evidence used to support the serving of the new Article 4 Directions is freely available from the Borough Council’s website. This information was prepared in support of the report take before the Licensing & Planning Policy Committee on 10 December 2015.

Although the Borough Council, like most of the local authorities who originally applied for an exemption, was unsuccessful in its application, the serving of Article 4 Directions to manage the change of use of office buildings has been a successful approach in Epsom & Ewell. This is evidenced by the initial three Article 4 Directions served on sites in 2013. The justification for the latest Directions follows the same rationale as the initial three – albeit that the latest Article 4 Directions are now supported by more comprehensive evidence of risk.

For the purposes of clarity, NPPF Paragraph 22 relates to the long term protection of employment sites allocated (through the Local Plan) where there is no reasonable prospect of the site being used for that purpose. In this case the Article 4 Directions serve as a mechanism external to local plan allocations. In that respect NPPF Paragraph 22 does not apply. It is also noteworthy that in this case, all three office buildings are in occupied and in active use. Furthermore, the Borough Council’s Local Plan policies provide

sufficient flexibility to allow for changes of use where there is evidence to support that change.

As clearly demonstrated by the evidence prepared in support of the Article 4 Directions, the Borough Council has been carefully monitoring the impacts of the permitted development regime upon the vitality and viability of the Town Centre since 2013. It is entirely appropriate takes actions on the basis of such evidence, under the principles of the plan, monitor and manage.

Government Rationale for Office to Residential Permitted Development

The General Permitted Development Order 2015 Class O allows for “a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwelling house) of the Schedule to the Use Classes Order from a use falling within Class B1(a) (offices)”. The rationale for this amendment is to encourage the conversion of office space to help drive the supply of new housing.

To safeguard important office locations, the GPDO under Article 2 (5) identifies land within 17 local authorities that is exempt from Class O. There are no areas within Epsom and Ewell which are exempt by this Article. Paragraph 39 of the government guidance *When is permission required?* (2014) makes it clear that Article 4 directions to remove permitted development rights should be supported by a “particularly strong justification” in cases where “prior approval powers are available to control permitted development”.

Borough Council Officer Comments

Although the Borough Council was unsuccessful in obtaining an exemption, it was successful in serving Article 4 Directions to manage proposals seeking change/ loss of employment floorspace. This is evidenced by the initial three Article 4 Directions served on sites in 2013. The Secretary of State did not challenge our approach – indeed, the Secretary of State and the Planning Minister have endorsed the use of Article 4 Directions where they are supported by evidence. The justification for the latest Directions follows the same rationale as the initial three – albeit that the latest Article 4 Directions are now supported by more comprehensive evidence of risk. The Borough Council contends that there is a very strong case for the continued use of Article 4 Directions to secure the delivery of the adopted Local Plan strategy and to manage the risk to that strategy.

Housing Land Supply

The supply of housing in the south east is increasingly under pressure and as a result national planning policy prioritises the provision of more housing, particularly in sustainable locations within the south east region.

Borough Council Officer Comments

The Borough currently has between an eight and half to eleven year supply of deliverable and developable housing sites. This is evidenced by the Local Plan Annual Monitoring Report 2014/ 15. Consequently, there is no evidence of an overriding need within Epsom & Ewell.

The preparation and development of a sustainable housing growth strategy for the Borough is best addressed through the Local Plan process, which allows for the comprehensive consideration and assessment (including the sustainability appraisal process) of the issues raised. It is noted that the permitted development regime does not allow for the assessment of these issues.

Employment Land Supply within Epsom and Ewell

The Council commissioned *East Street Office Demand Study (2013)* prepared by GVA and which identifies that there is currently an oversupply of employment land in Epsom, with 25,262 sqm available.

Our client's site, Epsom Gateway, comprises of 7,432 sqm of rentable floorspace. These figures show that there is currently 14 years supply of such office space (1,850 sqm+) in Epsom.

Our client's site, Oaks House, comprises 1,610 sqm of rentable floorspace. These figures show that there is currently five years supply of such office space (offices with floorspace between 465 -1,850 sqm) in Epsom.

Our client's site, The Wells, comprises of 1,886 sqm of rentable floorspace. These figures show that there is currently 14 years supply of such office space (1,850 sqm+) in Epsom.

This is more than sufficient supply of office floorspace in Epsom and an Article 4 Direction is therefore not justified. This is supported by the identified need for more sustainable homes in the south east.

Borough Council Officer Comments

The Borough Council's Local Plan strategy towards existing employment land and floorspace is clear. This is set out under Core Strategy Policy CS11. Existing employment land and floorspace is at a premium. Given the nature of the Borough the opportunities for new or replacement provision are limited.

Epsom Town Centre is the most sustainable location in the Borough. The Borough Council's strategy for securing sustainable, balanced and mixed growth across the Town Centre area is clearly set out in Plan E Epsom Town Centre Area Action Plan. Our own evidence clearly demonstrates that as the Local Planning Authority, the Borough Council has successfully delivered sustainable growth across the Town Centre. Our approach towards growth has and continues to include the release of employment floorspace where it is supported by evidence. This is in accordance with Plan E Policy E5. The Borough Council recently adopted Development Management Policies Document Policy DM24 reinforces this approach – namely, that the release/ loss of employment floorspace to other uses will not be permitted unless supported by evidence that meets the Policy's criteria. This approach was found sound by the Inspector. The approach has not prevented buildings and sites coming forward for redevelopment where such proposals are supported by evidence.

Primary research carried out by the Borough Council as part of its local plan and economic development monitoring regimes demonstrates that during the last two years the Borough has lost over 5,000 sqm of office space. Of greatest concern is that most (seventeen of the twenty schemes up to October 2015) of the conversions are located in Epsom Town Centre and that many have involved the loss of medium sized, good quality office stock. This

is precisely the type of stock that is in demand from small-medium sized enterprises (SMEs); again precisely the type of business that the Borough Council is seeking to attract.

Conclusion

In light of Government guidance and policy, the Council's own employment studies and the need for sustainable homes in the south east region, the introduction of the Article 4 directions at the three sites cannot be justified.

We trust this objection will be taken into consideration and that the council will reconsider the Article 4 directions at the three sites and not progress them.

Borough Council Officer Conclusions

Contrary to the agent's statement, the Borough Council's approach in serving new Article 4 Directions is in accordance with national and local policy. The approach taken by the Borough Council is entirely consistent with the approach taken when serving the initial three Article 4 Directions on office buildings in 2013. That approach was not challenged by the Secretary of State. The justification for the latest Directions follows the same rationale as the initial three – albeit that the latest Article 4 Directions are now supported by more comprehensive evidence of risk. The Borough Council contends that there is a very strong case for the continued use of Article 4 Directions to secure the delivery of the adopted Local Plan strategy and to manage the risk to that strategy.

Epsom Gateway, Oaks House and the Wells are highly valued office buildings, which are viable and are currently occupied. The loss of these sites, the businesses housed within and their employees would have a very significant impact on the economic vitality and viability of the Town Centre. The agent acting on behalf of the landowner has not presented any evidence to demonstrate that there is no risk of these sites being lost through the permitted development regime. Our evidence demonstrates that there is a risk of the Town Centre's occupied and higher grade office sites, such as these three sites, being lost (in an unmanaged way) to residential uses. This would have an adverse impact on the economic vitality and viability of the Town Centre. On that basis, it is recommended that the Council confirms the Article 4 Directions on these sites.

E. Eastleigh House, East Street, Epsom

shp acting on behalf of Baymont Limited.

Baymount's intentions

Baymount wishes to clarify that it has had no intentions to convert the building from office (Use Class B1) to residential (Use Class C3). The building is occupied and it is Baymount preference that the building is so used for the foreseeable future.

Baymount is aware, however, that the Article 4 has potentially affected its interests and has found it necessary to consider the associated implications for its property.

Borough Council Officer Comments

The Borough Council welcomes the statement that Baymont Limited has had no intentions to convert Eastleigh House from its current office use to residential. However, such a statement provides no guarantees into the medium-long term. Our evidence clearly demonstrates that viable and occupied office space has been lost, in spite of local demand for such space. In those examples, tenants have been displaced, having to find alternative accommodation. Whilst to date displaced tenants have been able to secure alternative accommodation this may not be possible in all potential circumstances. For example, there are limited opportunities for major employers to secure alternative accommodation within Epsom Town Centre.

It is unclear how the new Article 4 Direction has affected the landowner's interest. As their agent acknowledges the inclusion of the building within the current safeguarding zone means that the building has no permitted development rights. The new Article 4 Direction confirms the existing position into the medium-long term in order for the Borough Council manage the delivery of the adopted Local Plan strategy.

The Article 4 Direction - Objections

Baymount objects to the Council imposing the Article 4 on Eastleigh House. It is considered that it is unjustified, unnecessary, untimely and inconsistent with other decisions made by the Council. It considers that the Council's decision to remove national permitted development rights does not follow advice in NPPG, paragraph 200, as their use should be limited and justified.

Borough Council Officer Comments

The decision to introduce new Article 4 Directions is entirely consistent with the Borough Council's Local Plan strategy and policies. The Borough Council has significant experience of using Article 4 Directions as a mechanism to manage the delivery of the adopted Local Plan. The Borough Council already uses Article 4 Directions to manage Conservation Areas, Primary Retail Frontages and viable office stock. The decision to serve new Article 4 Directions was based on comprehensive evidence and monitoring (collated since 2013). In respect of the new Article 4 Directions, the Borough Council

has taken a highly focussed approach. It is noteworthy that the Council has focussed purely on individual buildings and has not sought an area wide Direction. The buildings identified are all viable and are in most cases occupied. The Council believes that its approach continues to be limited and justified.

The Council was not successful when it sought a blanket exemption from the extension of permitted development rights in 2013. Whilst it successfully imposed specific Article 4 Directions on land towards the western end of East Street, the subsequent planning history indicates that such Article 4 has not been necessary. As detailed in the Head of Planning and Building Control's report to the Licensing and Planning Committee on 10 December 2015 (the Report, paragraph 4.7), no application for planning permission has been submitted for development which was otherwise permitted - the alternative uses relating to those properties are not those to which the Article 4 refers. It is evidential, therefore, that there was no need for Article 4 Directions at those properties.

Borough Council Officer Comments

It is correct that the Council was successful in serving an initial series of Article 4 Directions on three buildings during 2013. The Council has followed a similar process with the new Article 4 Directions - albeit utilising more comprehensive evidence and monitoring data. Contrary to the respondents interpretation the Borough Council suggests that the use of the initial three Article 4 Directions has been a success. It is noted that change of use at Adelphi Court, a viable and fully occupied site, have been averted. The redevelopment of Crossways House for student accommodation was secured with no impact on the development's viability. Bradford House currently remains occupied as an office building. Whether these outcomes would have happened in the absence of an Article 4 Direction is unknown. Nevertheless, the Borough Council can cite recent losses of viable higher grade office stock, which would have benefited from an Article 4 Direction – allowing the opportunity for intervention in order to manage change.

If all recent Article 4 Directions are confirmed, the significant number of properties which will not have the benefit of permitted development rights for change of use of offices to residential (either through exemptions of the General Permitted Development Order or Article 4 Directions), will effectively equate to a blanket exclusion over a significant area in this part of the town centre - the very opposite of the Secretary of State's decision relating to the previously blanket exemption. It is considered that no evidence has been provided to demonstrate that there is a real risk on the vitality and viability of the town centre, the implementation of strategy and the provision of balanced communities. Most particularly, there is no specific evidence that control over the change of use of Eastleigh House is necessary to achieve the aims.

Borough Council Officer Comments

The respondent's assertion that the new Article 4 Directions will equate to a blanket-exclusion is incorrect. The new Article 4 Directions have focussed upon a limited number of individual occupied and viable office buildings. The

Borough Council has not sought to introduce an area wide Article 4 Direction across the Town Centre. There is a far greater number of office buildings across the Town Centre, and an even greater number across the wider Borough, that have not been included in this series of new Directions.

Comprehensive information and evidence used to support the serving of the new Article 4 Directions is freely available from the Borough Council's website. This information was prepared in support of the report take before the Licensing & Planning Policy Committee on 10 December 2015.

As clearly demonstrated by the evidence prepared in support of the Article 4 Directions, the Borough Council has been carefully monitoring the impacts of the permitted development regime upon the vitality and viability of the Town Centre since 2013. It is entirely appropriate to take action on the basis of such evidence, under the principles of the plan, monitor and manage. It is noted that the respondent has not prepared any evidence to support their position.

The vacancy rate of office stock in Epsom is high - the GVA 2013 East Street Office Demand Study identifies a substantial level of stock vacancy. Whilst Baymount acknowledges that there have been some proposals to convert office buildings to residential use – the Council's own reports demonstrate that such conversions, if completed in their totality, relate to only 4.8% of the office floor space (page 83, the Report). This compares most favourably to the neighbouring authority areas of Mole Valley (approximately 30% of its office space has been lost) and other areas referred to in that Report (pages 85 and 87).

Borough Council Officer Comments

Epsom Town Centre is the most sustainable location in the Borough. The Borough Council's strategy for securing sustainable, balanced and mixed growth across the Town Centre area is clearly set out in Plan E Epsom Town Centre Area Action Plan. Our own evidence clearly demonstrates that as the Local Planning Authority, the Borough Council has successfully delivered sustainable growth across the Town Centre. Our approach towards growth has and continues to include the release of employment floorspace where it is supported by evidence. This is in accordance with Plan E Policy E5. The Borough Council recently adopted Development Management Policies Document Policy DM24 reinforces this approach – namely, that the release/ loss of employment floorspace to other uses will not be permitted unless supported by evidence that meets the Policy's criteria. This approach was found sound by the Inspector. The approach has not prevented buildings and sites coming forward for redevelopment where such proposals are supported by evidence.

The key factor omitted by the respondent is that a large proportion of office building losses (in Epsom & Ewell) have been viable, occupied and higher grade stock. The losses to date in Mole Valley District have primarily been comprised of tired stock. It is noteworthy that this position has changed and

Mole Valley is now beginning to experience the adverse impacts (particularly in Leatherhead) of viable higher grade stock.

The conversion rate, therefore, is very low in respect of the vacancy and the overall office floor space. Even if all the prior approval conversions are carried out, there is no evidence that this will affect employment opportunities within the area. It is clear from page 84 of the Report that there has been no loss of employment, only employment floor space, and much of that was vacant prior to being changed to residential use. There is only anecdotal information relating to tenant evictions - this is not evidence and cannot be used to assume that tenants of Eastleigh House are at risk.

Borough Council Officer Comments

Our evidence clearly demonstrates that viable and occupied office space has been lost, in spite of local demand for such space. In those examples, tenants have been displaced, having to find alternative accommodation. Whilst to date displaced tenants have been able to secure alternative accommodation this may not be possible in all potential circumstances. For example, there are limited opportunities for major employers to secure alternative accommodation within Epsom Town Centre. The changes to the permitted development mean that the Council is unable to intervene to prevent the loss of occupied and viable office stock. The Borough Council's existing policies provide sufficient flexibility to comprehensively assess proposals for conversion where such developments are appropriate.

At paragraph 7.1 the report refers to the 'worst case scenario - that most office stock could be lost in 5 years. However, permitted development rights have been in place for 3 years, resulting in limited loss of office accommodation overall. There is no reasonable prospect that the 'worst case scenario' will occur. Baymount considers that there is more likely to be potential for office accommodation to be retained, if the supply decreases, as the remaining office space will become more attractive and viable to accommodate the demand within the area. The vacancy rate demonstrates that supply currently outstrips demand. Eastleigh House is not at risk from loss as it is currently occupied.

Borough Council Officer Comments

The Borough Council's evidence demonstrates that there has been an acceleration in the loss of viable office – as conversion becomes a more attractive short-term proposition for landowners. Whilst the Borough Council respects the wishes of landowners to optimise the value of their assets, such activity should not be at the expense of the longer term economic viability and strategic planning of the Borough.

The Borough Council acknowledges that a potential outcome is that demand for office stock increases and that viability/ value of office uses rises. However, in the absence of other mechanisms for intervention, the introduction of new Article 4 Directions is considered to be an appropriate measure to manage change. The respondent has presented no evidence (for

example case studies) to demonstrate how office markets can be relied upon to self-regulate. In the absence of such evidence, the Borough Council is justified in using Article 4 Directions as a legitimate intervention.

The main concern of the Council is the potential loss of high quality office accommodation (paragraph 7.1 of the report), although it is choosing not to seek to control all Grade A office buildings (sections 7 and 8 of the Report). It refers to an (unidentified) amount of high grade office accommodation lost to residential use, and states that this was not the purpose of allowing changes from office to residential without permission. However, it is now clear that the Government considers that the temporary change to permitted development rules to be successful as it is now in the process of extending the relaxation of control. It is clear that the Government is placing significant weight on the provision of housing; significantly greater evidence of potential harm to the well-being of the area than fear of losing control should therefore be made by the Council.

Borough Council Officer Comments

The Borough currently has between an eight and half to eleven year supply of deliverable and developable housing sites. This is evidenced by the Local Plan Annual Monitoring Report 2014/ 15. Consequently, there is no evidence of an overriding need within Epsom & Ewell.

The preparation and development of a sustainable housing growth strategy for the Borough is best addressed through the Local Plan process, which allows for the comprehensive consideration and assessment (including the sustainability appraisal process) of the issues raised. It is noted that the permitted development regime does not allow for the assessment of these issues.

The Report raises issues which are not justification for imposing the Article 4:

- Affordable housing - the provision of affordable housing is a significant flagship policy of the Government and it is clear that an outcome of the provisions of Class O would be the provision of 'uncontrolled' housing only. This must have been considered as part of decision by Government to allow permitted development for office to residential conversion. This is a national point already weighed in the balance by the creation of Class O. It is not a local point and there is no local justification for it.

There is no justification in the Report that affordable housing provision is below that which should be provided in the Borough, or that the permitted changes of use will prevent the implementation of policies for affordable housing elsewhere on other allocated / windfall sites, for which permission is required and for which affordable housing can be secured.

Housing policies (Core Strategy, CS8) demonstrate that windfall housing is required to meet housing supply in the area - policies presume in favour of development of previously built land, including conversion. No evidence is provided in the Report that conversions are leading to rising house prices.

It is clear, however, that the conversions are contributing towards increasing housing supply, providing a range of housing types, generally in smaller units, in sustainable locations and in close proximity to places of employment which are significant benefits as the mixed and balanced communities created are those sought by the Council. The provision of a wide range of housing, in sustainable locations, therefore meets the requirements of the Council.

Borough Council Officer Comments

The provision of affordable housing is a key corporate priority for the Borough Council. It is a key strand throughout our housing growth strategy. The high level of demand is supported through our Local Plan evidence base.

Although the Borough Council has been successful in securing affordable housing demands remains very high, particularly in respect of homelessness prevention. Our latest Annual Monitoring Report projections suggest that delivery of new affordable housing beyond the next five years will become unreliable. Given that context it is entirely justified for the Local Planning Authority to consider this as a strategic issue.

The respondent is factually incorrect in stating that the windfall housing is required to meet housing land supply – that statement is not supported by our Annual Monitoring Report or housing land supply trajectory.

Whilst conversions are undoubtedly contributing to housing land supply their contribution is unmanaged and does not support provision of necessary infrastructure. Our own evidence demonstrates that there is an over-supply of smaller units and that greatest demand remains for family sized accommodation. These needs could be addressed through the application of existing Local Plan policy.

- Planning standards - the Report does not demonstrate any harm that may be caused from the converted residential properties not meeting the current standards of the Council. As the changes of use can take place without the consent of the Council, it clearly does not stand as precedent or prevent the Council from implementing its standards for those properties which require planning permission. In any event as noted by the Report any conversion would likely involve external works that would require permission and these works would be under planning control regardless.

Borough Council Officer Comments

The Borough Council has recently adopted the Nationally Described Space Standards as a key component of its Development Management Policies Document. Providing sufficient living space for residents is a key tenant of

sustainable design. Core Strategy Policy CS5 requires that all development secure high quality inclusive design. Unmanaged conversions raise the risk of undermining this strategic objective of securing sustainable places for people to live. The Borough Council believes that it is entirely correct in identifying this as an issue and potential adverse impact in securing qualitative growth for Epsom Town centre.

Contrary to the respondent's statement, all but one of conversions coming through the permitted development route has not sought external changes to the donor office building. This is noteworthy for two reasons – firstly, that contrary to the Borough Council's own original assumptions modern office buildings provide more flexible and convertible accommodation than anticipated (and the opportunities for interventions are therefore limited) and that as a consequence the opportunities for positive intervention (in the absence of Article 4 Directions) are extremely limited.

- Rateable value etc. - the report provides no evidence of any harm to the Council, or the well-being of the area from changes to the rateable value of properties, nor income gained from offices compared to residential properties. Paragraph 4.12 of the Report refers only to impact on vitality and viability if office accommodation is lost, although provides no evidence to substantiate the comments. The report also provides no calculation or assessment of the economic benefit of additional residential properties to vitality and viability neither of the town and town centre nor of any additional Council revenue gained by residential properties being fully occupied (compared to the significant vacancy of office premises). It is Baymount's contention that occupied residential use in buildings within the town centre adds to the economic base of the town and the vitality and viability of the town centre.

Notwithstanding the generalities stated above, Baymount also considers that Council's case provides no clear evidence of any potential harm which may result from potential for the use of Eastleigh House to change from office to residential without the need for planning permission, and therefore, any justification for the imposition of an Article 4 direction.

Other than the general comments in the Report relating to the possible loss of existing employment floor space, there is very limited information specific to Eastleigh House - the specific site assessment at page 64 of the Report only.

The subject site, whilst a good quality building is not high or Grade A and would require significant refurbishment to improve to meet current office standards. Unlike Council Officers, Baymount has the benefit of understanding the internal condition of the building and can confirm that no economic case could be made to justify the cost of refurbishment works to bring the building to Grade A standard. Any conversion, therefore, would not result in the loss of Grade A office floor space.

Borough Council Officer Comments

Comprehensive information and evidence used to support the serving of the new Article 4 Directions is freely available from the Borough Council's website. This information was prepared in support of the report taken before the Licensing & Planning Policy Committee on 10 December 2015.

As clearly demonstrated by the evidence prepared in support of the Article 4 Directions, the Borough Council has been carefully monitoring the impacts of the permitted development regime upon the vitality and viability of the Town Centre since 2013. It is entirely appropriate takes actions on the basis of such evidence, under the principles of the plan, monitor and manage.

The key consideration for serving Article 4 Directions (whether they relate to Conservation Areas, primary retail frontages or as in this case offices) is whether the permitted development rights available to the area/ site would undermine the ability of the local planning authority to deliver their local plan. The available evidence demonstrates that there are clear trends developing in the Town Centre (and across the wider South East – specifically the Coast to Capital and Gatwick Diamond areas) – that are witnessing the loss of occupied and viable office space through the permitted development regime. The serving of Article 4 Directions provides an appropriate mechanism to manage that change. Without that ability to intervene the Borough Council's adopted strategy will be undermine – there is evidence that it already has, as occupied and viable stock has been lost. It is noted that the respondent has not prepared any evidence to challenge this position or to quantify their suggestion that a town centre dominated by residential uses will positive will have a positive impact of local vitality and viability.

The Borough Council sought to use the best evidence available to it – such as the Co-Star Database. The respondent did not provide any evidence that challenged that data. Local planning policy provides the landowner with an opportunity to robustly demonstrate the scale of demand and the condition of the property. Should that evidence demonstrate that Eastleigh House is no longer fit-for-purpose, and that subject to a twelve month period there is no demand for that property then the Council would positively consider proposals for its change of use. That is a sound approach that is entirely in accordance with national policy.

Furthermore, the Assessment states that the building cannot be converted to residential without external alteration being carried out. Whilst there are permitted development rights for alterations to an office – such alterations can only be used for that purpose and at ground floor only. On this basis, the Council has full control over these matters anyway so the Article 4 is not necessary.

Notwithstanding this, there is no scope for an application for prior approval to be submitted as there is no permitted development right applicable to this building for the change of use from office to residential use.

The permitted development right under Class O - offices to dwelling houses is explicitly not permitted by virtue of paragraph O 1 (d) as the site is or forms part of a safety hazard area. The site assessment for Eastleigh House (page 79 of the Report) states that: Currently the HSE major hazard site safeguarding zone covers this site, which restricts Permitted Development Rights.

On this basis, as there are no permitted development rights for the change of use of this property to residential use, it follows that there is even less justification to remove such rights via the Article 4 vehicle beyond the points set out above; therefore, it should not have been imposed and the owner requests that the Article 4 Direction, as imposed on Eastleigh House, is removed.

Borough Council Officer Comments

The HSE safeguarding zone relates to a gas holder site (on adjacent land north of East Street) that is no longer in active use. The site is now primarily used for vehicle storage. Although utility supply infrastructure remains imbedded within that site, the Health and Safety Executive and utilities provider have notified the Borough Council that the extent of the zone will be reviewed to more accurately reflect the level risk. On that basis it is entirely appropriate for the Council to take precautionary action. This was the case when the Borough Council originally served the initial three Article 4 Directions – which the Secretary of State did not challenge.

For the purposes of clarity, the prior approval process referenced by the respondent is extremely limited in its scope. It takes no account of market signals or whether the building/ site remains fit for purpose; specifically in relation to occupancy, economic impact and the impact on wider Local Plan strategies. To suggest that the prior approval process offers the Borough Council an opportunity to interrogate the justification for a change is entirely erroneous.

Consistency

Baymount is concerned at the lack of consistency in the Council's decision relating to the Article 4 - it is clear from the assessment that the decision to impose the Article 4 is based on assessment of potential risk, relating to those properties which can or cannot benefit from permitted development rights.

There are two clear examples of inconsistent decisions.

Listed Buildings have been excluded from the necessity for Article 4 within the Report and the individual site assessment. For example, at page 80, the risk associated with Site 16, 42-44 East Street (and closer to the core of the town centre) is zero as it is stated that although the buildings design lends itself to straightforward internal conversion, this is a Grade II Listed Building. Consequently it does not benefit from permitted development Rights to

convert from office to residential use and this property is excluded from those the subject of the Article 4 directions.

Secondly, at the adjacent property, the Report recommended against an Article 4 on grounds that as the owner has recently invested in the property and brought it to high quality office standard so it would be unsound business practice to convert to residential, as no interest has been shown in its conversion to date and it would be difficult to convert without significant internal and external alteration. These are much the same arguments used to justify the Article 4 at Eastleigh House, demonstrating an inconsistent approach.

Borough Council Officer Comments

The respondent is incorrect. The Borough Council has followed an entirely consistent approach, which corresponds to national planning policy guidance, local plan policy, the Borough-wide Corporate Plan and the strategy for inward investment (through Local Enterprise Partnership funding) for the Town Centre. The approach in assessing risk has followed the same methodology as the initial three Article 4 Directions (served in 2013), albeit informed by a more extensive evidence base.

The Borough Council excluded listed buildings from consideration on the grounds that listed buildings in office use do not access to the permitted development rights allowing for a change of use to residential accommodation. Unlike the anticipated changes to the East Street safeguarding zone, there are no plans to include listed buildings within the permitted development regime. On that basis the Borough Council's assessment is entirely logical.

Timescale

The owner also wishes to state that it considers the timing of the Councils decision to impose the immediate Article 4 Direction as unacceptable. There is no clear reason why the Council would take such action now, other than the stated intention of the Government to widen permitted development rights. Until such time that the actual harm from those extended rights is known, the Council is acting rashly.

Additionally, not only is there no evidence of harm from the change of use the Council is concerned of and no case properly made that the specific local circumstances warrant taking an exceptional case from that provided for by Permitted Development rights nationally, but in addition there is no balance against the clear benefits the provision of residential development could otherwise make. Additionally, as there is clearly no identified risk of immediate action that could be taken by the owner to convert the building, the use of the immediate Article 4 is unnecessary.

Finally, the making of the direction and allowing the minimum period of 21 days to respond, which includes the Christmas Holiday period shows a total disrespect for the business community.

Borough Officer Comments

The Borough Council has been carefully monitoring the impacts of the permitted development regime upon the vitality and viability of the Town Centre since 2013. It is entirely appropriate that it takes actions on the basis of such evidence, under the principles of the plan, monitor and manage. Such an approach is clearly in accordance with guidance in national planning policy, which requires local planning authorities to have regard of market signals. The Borough Council is responding to a situation where the market is failing. It is unclear why such an approach is considered unacceptable.

The Borough Council understands the benefits that new housing growth brings to the Borough. It has been very successful in securing such growth across the Local Plan period – as evidenced by the Annual Monitoring Reports and housing land supply trajectories. However, the provision of new additional homes must be balanced other demands, particularly the need to maintain and enhance the business offer available in Epsom Town Centre – the most sustainable location for such activity in the Borough.

The Borough Council has a long and good track record of working closely with the business community. This is evidenced by their support for the Borough Council's Local Plan strategy. Further support for the Council's approach in managing changes has come from the Coast to Capital LEP and the Gatwick Diamond Initiative.

Conclusion

Baymount considers that the Report does not provide sufficient evidence to justify any potential harm to the intentions of the Council for this area or for the well-being of the area from any potential conversion of Eastleigh House from office use to residential use through any permitted development potential.

The site assessment for Eastleigh House demonstrates the great uncertainty associated with any potential for change of use - it is based on

- if a prior approval is approved
- if permitted development relating to external changes and / or demolitions are introduced and what they may entail, and
- if the hazard area is removed; it is clear that this may be in the long term.

There is clearly considerable uncertainty and lack of evidence that the change of use could occur without control at this time and the Article 4, therefore, is not justified.

Baymount considers that as there are no permitted development rights for Eastleigh House for the change of use of the building from office to residential, it is not appropriate for an Article 4 Direction to be confirmed as there are no rights to remove.

Baymount considers that the Council has reacted to a fear of unknown change rather than evidence of direct risk or harm, which is not the correct approach. It requests that the Article 4 be removed from this property.

Baymount also reserves the right to comment further on this matter should circumstances change or additional information be made available.

Borough Council Officer Conclusions

Contrary to the agent's statement, the Borough Council's approach in serving new Article 4 Directions is in accordance with national and local policy. The approach taken by the Borough Council is entirely consistent with the approach taken when serving the initial three Article 4 Directions on office buildings in 2013. That approach was not challenged by the Secretary of State. The justification for the latest Directions follows the same rationale as the initial three Article 4 Directions – albeit that the latest Article 4 Directions are now supported by more comprehensive evidence of risk. The Borough Council contends that there is a very strong case for the continued use of Article 4 Directions to secure the delivery of the adopted Local Plan strategy and to manage the risk to that strategy.

Eastleigh House is a highly valued asset, which is viable and currently occupied. It is the home of Premium Credit – a significant employer within the Town Centre. The loss of this building to residential accommodation would have a considerable impact on the Town Centre as it would be problematic to

the relocate the scale of employment currently catered for on-site within the Town Centre. The agent acting on behalf of the landowner has not presented any evidence to demonstrate that there is no risk of the site being lost through the permitted development regime. Our evidence demonstrates that there is a risk of the Town Centre's occupied and higher grade office sites, such as this site, being lost (in an unmanaged way) to residential uses. This would have an adverse impact on the economic vitality and viability of the Town Centre. On that basis, it is recommended that the Council confirms the Article 4 Directions on these sites.

F. Job Centre, 50 East Street, Epsom

DLA Piper acting on behalf of RLH Property Limited

We object to the proposed Article 4(1) Direction dated 22 December 2015 to remove permitted development rights provided pursuant to Class M, Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 ("GDPO 2015") with immediate effect ("Article 4 Direction") which was served by Epsom and Ewell Borough Council ("Council") under cover of a letter also dated 22 December 2015.

The timing of service of the Article 4 Direction on 22 December 2015 was unreasonable in that the timescales for preparing a response have been constrained by the Christmas holiday period. Our client only became aware of the Article 4 Direction in early January and has had limited time in which to take legal advice and to collate information for the preparation of this objection. The Article 4 Direction was sent to "the occupier" and as stated above the Council should note that our client only acquired the Property three days before service of the Article 4 Direction. We contacted the Council to request an extension of time because of our client's recent acquisition, which was refused. Furthermore, our client has not been party to any consultations on this matter which may have taken place with the previous owner.

Borough Council Officer Comments

For the purposes of clarity the new Directions were served on the basis that they are necessary to deliver and manage the delivery of the adopted Local Plan strategy for economic growth and for Epsom Town Centre. Without the ability to positively intervene and manage the release of viable employment sites there is a significant risk of the Borough Council's adopted strategy being undermined. This would have adverse impacts upon the continued economic vitality and viability of Epsom Town Centre. Comprehensive information and evidence used to support the serving of the new Article 4 Directions is freely available from the Borough Council's website. This information was prepared in support of the report taken before the Licensing & Planning Policy Committee on 10 December 2015.

Having previously successfully served Directions in relation to Conservation Areas, offices and primary retail frontages the Borough Council has experience of this process. In serving the new Article 4 Directions the Borough Council closely followed the Regulations. All reasonable avenues were taken to ensure that interested parties were made aware of the new Directions. The Borough Council interrogated the Land Register and contacted all known landowners. Details of the new Article 4 Directions were added to the Borough Council's Land Charge immediately. Site notices were placed (in advance on 21 December 2015) and a notice published in the local press. The Regulations are silent on how holiday periods should be considered and whether extensions of time be accommodated. On that basis, the Borough Council concludes it is within their gift to determine such matters. Given the time constraints placed on the Borough Council (in responding to

the Secretary of State in relation to this matter) and the limited resources available to the Council, the length of the consultation is considered to have been reasonable. The Borough Council notes that the respondent contacted its Planning Policy Team a week before the deadline – it is noted that a week was sufficient to respond.

The existing limits to permitted development rights are sufficient to prevent any change of use from A2 financial and professional services use to C3 residential use on a scale which would have an adverse impact envisaged by the proposed Article 4 Direction upon Epsom Town Centre.

The Licensing and Planning Policy Committee report dated 10 December 2015 ("2015 Report") is supported by an Article 4 Direction Study dated November 2015 ("Article 4 Study"). Both of these documents fail to show any evidence of risk to the viability and vitality of Epsom Town Centre from the potential conversion of the Property to C3 residential use via Class M of Part 3, Schedule 2 of the GDPO 2015.

Borough Council Officer Comments

The Borough Council considers that there is significant evidence of risk to Epsom Town Centre's viable and occupied office stock, which will undermine the Local Plan strategies for employment growth (across the borough) and the continued economic vitality and viability of Epsom Town Centre.

The Job Centre building remains occupied and on that basis can be considered to be a viable employment proposition. The respondent has not addressed this matter within their objection. Indeed the intentions of the new landowner remain unknown. The current Job Centre use is a highly valued town centre asset, which compliments the surrounding employment uses located along this part of East Street. The loss of this valued asset will have an adverse impact upon local residents. It is also noted that the respondent has not provided any conflicting assessment that the loss or change of use of this site will have a positive impact upon East Street or the wider Town Centre. Such an assessment would normally be provided as a key component of a planning application.

The Council has also failed to demonstrate that the Property is of a sufficient quality to attract and retain business in Epsom Town Centre in order to merit protection via the Article 4 Direction.

The Property is currently occupied by a Job Centre and is stated by the Council to fall within Use Class A2 financial and professional services. Any potential change of use from the Council's identified A2 use to residential use within Use Class C3 would be via permitted development rights pursuant to Class M of Part 3, Schedule 2 of the GDPO 2015.

Class M.1 (c) of Part 3, Schedule 2 of the GDPO states that development is not permitted by Class M if: "the cumulative floor space of the existing building changing use under Class M exceeds 150sqm."

The net internal area of the Property is 807sqm (8,687 sqft). The 2015 Repott acknowledges that conversion under Class M is a more onerous process. Were the Owner to seek to use permitted development rights pursuant to Class M to convert the Property, only a proportion of the Property could realistically be converted providing up to a possible 2 residential units, without planning permission having to be obtained from the Council. Planning permission would also be required for any external works to the Property.

In addition, determination as to whether prior approval would be required would have to be obtained from the Council for those conditions set out in Class M.2 of Part 3, Schedule 2 of the GDPO including transport and highways impacts, contamination risks, flooding risks, the impact of development on the provision of services and the design or external appearance of the building as a result of any proposed change of use. These measures, in conjunction with the requirement for planning permission for external works to the Property referred to above, ensure that the Council has an adequate measure of control over any potential development at the Property where permitted development rights pursuant to Class M are implemented.

Borough Officer Comments

The respondent's comments on the apparent difficulties in pursuing a conversion via the Class M process are duly noted and will be considered under the conclusions (below).

For the purposes of clarity, the prior approval process referenced by the respondent is extremely limited in its scope. It takes no account of market signals or whether the building/ site remains fit for purpose; specifically in relation to occupancy, economic impact and the impact on wider Local Plan strategies. To suggest that the prior approval process offers the Borough Council an opportunity to interrogate the justification for a change is entirely erroneous.

We also note that the Property falls within a safety hazard area as scheduled by the Health and Safety Executive and development would therefore not be permitted pursuant to Class M.1 (g) (iii) of the GDPO 2015. We understand that there is an expectation that the Utilities site to the north of East Street may become available for redevelopment, at which point the safety hazard area designation will no longer apply. However, should this occur the permitted development rights for the Property will remain subject to the limitations set out in Class M.1 and M.2, as referred to above.

Borough Officer Comments

The HSE safeguarding zone relates to a gas holder site (on adjacent land north of East Street) that is no longer in active use. The site is now primarily used for vehicle storage. Although utility supply infrastructure remains

imbedded within that site, the Health and Safety Executive and utilities provider have notified the Borough Council that the extent of the zone will be reviewed to more accurately reflect the level risk. On that basis it is entirely appropriate for the Council to take precautionary action. This was the case when the Borough Council originally served the initial three Article 4 Directions – which the Secretary of State did not challenge. The Borough Council's approach remains consistent.

The Council in paragraph 3.2 of the 2015 Report states: "These new Directions seek to protect only those buildings and sites that are the most appropriate and sustainable locations for employment /commercial activity (either in office or other employment uses) that are assessed as being at risk from conversion to residential use. "

The 2015 Report fails to show any evidence of risk to the viability and vitality of Epsom Town Centre from the potential conversion of the Property to C3 residential use via Class M of Part 3, Schedule 2 of the GDPO 2015. The reference to the potential conversion of the Property via permitted development rights pursuant to Class M is only briefly referred to in paragraph 3.4 of the 2015 Report and no actual and proper assessment of risk is provided.

The inclusion of the Property in the 2015 Report and Article 4 Study seems to be as an afterthought to the main objective of the Council to protect those properties which are subject to permitted development rights pursuant to Class 0, Part 3 of Schedule 2 to the GDPO 2015. There is thus insufficient justification provided in these documents for an Article 4 Direction in relation to the Property.

Other than the reference in paragraph 3.2 of the 2015 Report to "other employment uses", ie those uses determined by the Council to be non B1 office use, the only reference to A2 uses is in paragraph 3.4 of the 2015 Report, which states: " The Study also identifies the three buildings as being in A2 (financial and professional service) use. These buildings could still come forward for conversion to residential under Class M of the [GDPO 2015]. However, this would be a more onerous process. Nevertheless, the Council may wish to consider the benefit of serving Article 4 Directions on these three buildings".

The main objective of the Article 4 Study is to provide a direct response to the Secretary of State's decision to extend and expand the permitted development regime for the potential change of use of B 1 office space to C3 residential use pursuant to Class 0, Part 3 of Schedule 2 of the GDPO 2015.

At no point does the Article 4 Direction Study address the question of permitted development rights pursuant to Class M and any actual risk to current office space in Epsom Town Centre from the implementation of such rights.

Borough Council Officer Comments

The respondent's comments on the apparent difficulties in pursuing a conversion via the Class M process are duly noted and will be considered under the conclusions (below).

The evidence base prepared in support of the new Article 4 Direction clearly demonstrates that the cumulative loss of viable and occupied office floorspace would have a significant impact of the future economic vitality and viability of Epsom Town Centre. In summary, the Town Centre is the most sustainable location of office and town centre based employment uses in the Borough. It has a finite supply of viable office and employment floorspace that serves as a key component of its economy. The loss of the floorspace and the associated employees would not be made good by new residents (who in most cases will not be present during the working week). By serving new Article 4 Directions the Borough Council is not seeking prevent the opportunities for change, merely to introduce appropriate measures to ensure its management in accordance with the adopted Local Plan.

Prior to the current Article 4 Direction, the Council sought an Article 4 Direction following a repmt to the Planning Policy Sub-Committee dated 27 February 2013 to exempt the whole of Epsom Town Centre from permitted development rights for the change of use from B1 office to C3 residential use.

The proposed Article 4 Direction was unsuccessful, but was supported by information contained in a repmt prepared by OVA entitled: East Street Office Demand Study- Final Report dated February 2013 ("GV A Report").

Borough Council Officer Comments

The respondent's statement is factually incorrect. The Borough Council, like most local planning authorities across the nation were unsuccessful in securing an exemption from the changes to the permitted development regime. All but a small number of extant exemptions are now being revoked. The Borough Council was subsequently successful in serving Article 4 Directions on three office buildings, which have aided the process of managing change. The new Article 4 Directions have followed the same process and are consistent with the strategy for growth set out in adopted Local Plan policy.

Part 3 of the GVA Report provides a commercial market assessment. The conclusions for part 3 include the desirability of new office space over existing. The conclusions to part 3 are set out at page 32 and include the following:

In short occupiers are demanding offices 1-vith high specifications in terms of modern ICT infrastructure, air conditioning, fixtures and fit out, high environmental and sustainability credentials, and the flexibility of jomplates to configure and reconfigure Jpace to meet their needs. It has become increasingly difficult to accommodate these demands within second hand stock (particularly that which was developed pre-1990) even if the stock has been extensively refurbished. As such, for major and cmporate occupiers new floorspace has become increasingly attractive.

There does not appear to have been any update to the assessment of office space available on East Street since the OVA Report was prepared and there is insufficient evidence to show that the Property is of a sufficient quality and, or sufficiently modern to require protection from the potential to implement permitted development rights for a change of use to Class C3 residential. As a result the 2015 Report and the Article 4 Study have been based upon outdated and therefore inadequate evidence.

Our reading of the 2015 Report and the Article 4 Study is that the Property is not of the same quality as the other properties addressed in these documents to be subject to an Article 4 Direction.

The 2015 Report focuses on the potential for the loss of Grade A or good quality stock offices via the conversion to C3 residential dwelling use upon Epsom Town Centre.

Paragraph 3.5 of the Article 4 Study states that: "Since the introduction of the changes to the permitted development regime (in 2013) the Council has carefully monitored office portfolio - with the specific objective of retaining its best office stock."

Paragraph 3.9 of the Article 4 Study goes on to confirm that there is: "an understanding that there is limited market demand for lower grade office stock (either within Epsom or the wider South West London market) ... By taking measures to safeguard those sites that remain valuable for sustainable employment growth and are almost at risk from the recent changes to the permitted development regime the Council are taking positive measures to plan for future growth "

Para 4.9 of the Article 4 Study states that: The assessment notes that whilst the overall number buildings lost has been limited, the office stock has generally been good quality, located in the Town Centre rather than poorer quality, high vacancy properties. The Borough Council did not anticipate the changes to the Permitted Development Regime having such a harmful impact upon viable good quality office stock. As a consequence the current Study needs to be expanded in scope, taking account of the potential/threat to the remaining sources of employment floorspace. However this "threat" has been incorrectly assessed in relation to the Property.

The methodology referred to in Part 5 of the Article 4 Study states that the evidence:

"demonstrates that a significantly wider range of office buildings are now at risk of being lost to residential uses. In particular, evidence demonstrates that viable, Grade A or high grade stock is at greatest risk. An assessment of sites that are to be subject to an Article 4 Direction are identified and assessed subject to a number of criteria and those buildings that are selected are because they meet at least two of the following criteria:

- Occupied
- Known at risk
- Good quality I Grade A stock
- Town centre
- Highly sustainable location
- Previously served
- Important employment designation

Of the other twenty properties referred to in the Article 4 Study, sixteen are assessed as being in good condition, and where known, four of those properties have been identified as holding a Co Star rating of 4, and seven a Co Star rating of 3.

The details for the Property are set out as Site 17 in the consequent assessment information. The condition of the Property is described as: "Fair. Externally, the building appears to be in good and solid, albeit ageing condition. The building is brick clad, with accommodation over three storeys. The internal condition and layout of the building is unknown, although the design and placement of its fenestration suggests large open plan office layouts. The building has a Co Star rating of 2."

In comparison to other the majority of the properties assessed in the Article 4 Study, the condition of the Property is relatively poor and the Co Star rating of 2 out of a possible 5 indicates that it is at the lower end of the scale in terms of presenting an attractive market offer. This does not accord with the objective of the proposed Article 4 Direction to protect Grade A and high grade office stock from conversion.

Borough Council Officer Comments

The Borough Council duly takes note of the respondent's assertion that the Job Centre building is in poor condition and the implication that further investment in the building is not financially viable. The Borough Council's evidence utilised the best available data sources. The Borough Council acknowledges that these sources may not always be reliable. In that respect, the Borough Council notes that the building was assessed (during the Study site visit) as being in a fair, albeit aging condition. The building remains occupied and that basis can be assumed to remain fit-for-employment purposes. The Council highlights that the condition of the building would be a key consideration in determining a planning application. It is consequently within the landowner's gift to demonstrate that the building is no longer fit-for-purpose. The Council notes that regardless of whether it confirms the current Article 4 Direction pertaining to this building or not, a planning application will be necessary.

No account has been taken by the Council when assessing whether an Article 4 Direction is necessary as to the existing limits for permitted development rights, which are sufficient to prevent any change of use from A2 financial and professional services use to C3 residential use. Class M permitted development rights are restricted to a maximum conversion of 150sqm of floor space, which would realistically provide a maximum of two residential units.

This scale of development would not have an adverse impact envisaged by the proposed Article 4 Direction upon Epsom Town Centre.

The 2015 Repmt fails to show any evidence of risk to the viability and vitality of Epsom Town Centre from the potential conversion of the Property to C3 residential use via Class M of Part 3, Schedule 2 of the GDPO 2015 and the inclusion of the Property in the 2015 Report and Article 4 Study is as an afterthought;

The Council has failed to demonstrate that the Property is of a sufficient quality to attract and retain business in Epsom Town Centre in order to merit protection via the Article 4 Direction. The information is based upon an outdated assessment of office space on East Street and the market offer that can be provided. In addition, by an assessment carried out for the Article 4 Study the Property is shown to be relatively poor and therefore unlikely to provide an attractive offer in a market that has been assessed as desiring new office space over existing second hand provision.

Borough Council Officer Conclusions

The Job Centre, East Street, Epsom is a highly valued town centre employment use, which is currently fully occupied. The loss of this site, the use housed within and the associated employees could have an adverse impact on the economic vitality and viability of the Town Centre. Our evidence demonstrates that there is a risk of the Town Centre's occupied and higher grade office and employment sites, such as the Job Centre, being lost (in an unmanaged way) to residential uses.

The agent acting on behalf of the landowner appears to suggest that the opportunities for the site being lost through the permitted development regime are currently limited – primarily due to the process associated with the Class M permitted development rights. Although Borough Council Officers do not entirely agree with that conclusion, the building and site are currently excluded from permitted development rights because of its location within the HSE safeguarding zone. Subject to supporting evidence the Borough Council could consider a planning application to redevelop this site for a mixed-use scheme; conceivably comprised of commercial/ retail uses on the ground floor and residential accommodation on the upper floors.

On the basis that the building is aging, not of the highest quality and will require planning permission (for a change of use – due to its location) the Committee may wish reconsider confirming the current Direction. Subject to the Committee's the Article 4 Direction could be allowed to lapse after six months.

G. Adelphi Court, 1 – 3 East Street, Epsom

LRP acting on behalf of Epsom Properties Ltd/ formerly Haven Property Investments Ltd

We were surprised to receive your notification and although, please note, we have no plans at the moment for any such office-to-residential conversion, we wish strongly to object to this Direction and ask for it to be withdrawn.

We assume that the Council has been panicked into making this Direction by the number of office-to-residential conversions that have taken place to buildings further along East Street or elsewhere, but do not see that as a good reason to unilaterally withdraw *our* rights in respect of *our* property. There is no mention of any other properties being similarly affected, although perhaps there may be others too. The reason given for imposing this Direction upon us is that it will "protect the economic viability and vitality of Epsom Town Centre as an employment destination" but were Adelphi Court to be converted to residential use the loss of employment for the town (*if any*) would be negligible: (a) there being no more than 30-40 people currently working in Adelphi Court; (b) because it is quite likely that any 'new' residents may well also work elsewhere in the town anyway; and (c) any such new residents (unlike many of the workers currently employed in Adelphi Court, who live elsewhere) would be in the town in the evenings and at weekends, thus not only maintaining its 'economic viability' but in fact enhancing it.

Borough Council Officer Comments

Comprehensive information and evidence used to support the serving of the new Article 4 Directions is freely available from the Borough Council's website. This information was prepared in support of the report take before the Licensing & Planning Policy Committee on 10 December 2015. As clearly demonstrated by the evidence prepared in support of the Article 4 Directions, the Borough Council has been carefully monitoring the impacts of the permitted development regime upon the vitality and viability of the Town Centre since 2013. It is entirely appropriate that it takes actions on the basis of such evidence, under the principles of the plan, monitor and manage.

For the purposes of clarity Adelphi Court, East Street, Epsom was originally served with an Article 4 Direction during 2013. The Borough Council's approach in reviewing and renewing that Article 4 Direction is appropriate and entirely consistent with the approach that has been taken in this exercise.

The Borough Council has always been thorough in serving Article 4 Directions; being careful to ensure that all appropriate parties, including landowners are informed of the serving process and subsequent confirmation. It is surprising that the landowner's agent appears unaware of the building's status.

We would further point out that part of Adelphi Court has already been vacant for several years, implying that there is already an over-supply and no demand for offices such as you are trying to force us to retain by making any

change of use more difficult. Where is the current 'economic vitality' (that you are trying to protect) arising from office suites that have remained unlet for years? We would also remind you that it is us, not the Council, who have to bear the cost of any such unlet (unlettable?) commercial space in the building's maintenance and running costs, business rates, etc.

Borough Officer Comments

The partial vacancy of the building does not by itself demonstrate oversupply within the market. There are many possible why commercial buildings are unlet which in many cases do not reflect market signals. Our Local Plan policies provide an opportunity for developers to demonstrate that buildings and sites are genuinely surplus to requirement or no longer fit-for-purpose. Buildings and sites, such as Adelphi Court (subject to an Article 4 Direction since 2013) do not generate a planning application fee.

On the contrary, when the country and particularly the South East is crying out for more residential accommodation that normal people on a normal wage can afford, does it make sense for the Council deliberately to remove landowners' options (were it to be our wish here) and make it more difficult to follow commercial sense and seek to address that issue?

Borough Council Officer Comments

The Borough currently has between an eight and half to eleven year's supply of deliverable and developable housing sites. This is evidenced by the Local Plan Annual Monitoring Report 2014/ 15. Consequently, there is no evidence of an overriding need within Epsom & Ewell.

The preparation and development of a sustainable housing growth strategy for the Borough is best addressed through the Local Plan process, which allows for the comprehensive consideration and assessment (including the sustainability appraisal process) of the issues raised. It is noted that the permitted development regime does not allow for the assessment of these issues.

The introduction of an Article 4 Direction does not remove a landowner's option for changes of use. As stated above, our Local Plan policies provide an opportunity for developers to demonstrate that buildings and sites are genuinely surplus to requirement or no longer fit-for-purpose. Buildings and sites, such as Adelphi Court (subject to an Article 4 Direction since 2013) do not generate a planning application fee.

Furthermore, the Council's action seems to be failing to recognise that with internet working, shopping and banking, peoples' working and shopping patterns have *already* changed significantly and, whether we like it or not, there is simply not the demand for in-town-centre commercial premises that there used to be. Town Centres are not what they used to be (have you been to Guildford recently? I have and was most unimpressed by it in comparison with how it was in years gone by) and we need to accept that fact. The Council's Direction seems to be seeking to forcibly shore-up something that has disappeared and will never return. In doing so, it is therefore unjust and

unreasonable to pick on our small building and remove our rights and options simply to try to preserve an out-of-date model of what a town centre 'has' to be like.

Borough Council Officer Comments

Our evidence demonstrates that the changes to the permitted development regime are continuing to have an adverse impact upon viable and occupied office provision in Epsom Town Centre. Our viable and occupied office stock continues to make an important contribution to the delivery of our adopted Local Plan strategy. The introduction of Article 4 Directions provides an appropriate mechanism to help in the management and delivery of that strategy.

As stated above, our Local Plan policies provide an opportunity for developers to demonstrate that buildings and sites are genuinely surplus to requirement or no longer fit-for-purpose. Buildings and sites, such as Adelphi Court (subject to an Article 4 Direction since 2013) do not generate a planning application fee.

We therefore again ask for this Direction to be withdrawn in order not to penalise us by restricting (or making more difficult) the future range of commercial options available to us. Please therefore reconsider this matter and withdraw this Direction.

Borough Council Officer Conclusions

Adelphi Court, East Street, Epsom is a highly valued office building, which is currently occupied. The loss of this site, the businesses housed within and their employees would have an adverse impact on the economic vitality and viability of the Town Centre. The building was originally the subject of an Article 4 Direction that was confirmed in 2013. The agent acting on behalf of the landowner has not presented any evidence to demonstrate anything has changed in relation to this site. Our evidence demonstrates that there is a risk of the Town Centre's occupied and higher grade office sites, such as Adelphi Court, being lost (in an unmanaged way) to residential uses. This would have an adverse impact on the economic vitality and viability of the Town Centre. On that basis, it is recommended that the Council confirms the new Article 4 Direction on this site.