



**South Downs**

National Park Authority

**Agenda Item 9  
Report PCI9/20-09**

Report to	<b>Planning Committee</b>
Date	<b>8 August 2019</b>
By	<b>Director of Planning</b>
Title of Report	<b>Article 4 Direction for employment sites in Petersfield, Liss, Midhurst, Petworth and Lewes</b>
Purpose of Report	<b>To set out the process and evidence for the making of an article 4 direction to cover 14 identified employment sites in Petersfield, Liss, Midhurst, Petworth and Lewes. To seek authority to make and confirm the article 4 direction.</b>

**Recommendation:**

- 1) That a non-immediate Article 4 direction be made, removing permitted development rights for change of use from office or light industrial to residential in respect of the 14 employment sites as detailed in figure 5.1 of Appendix I of this report**
- 2) Carry out public consultation on the Article 4 direction in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015**
- 3) That authority be delegated to the Director of Planning, in consultation with the Chair of the Planning Committee to consider the response from the public consultation, and subject to there being no major matters arising from the consultation take all reasonable and necessary steps to confirm the Article 4 Direction.**

**I. Summary**

- I.1 Approval is sought from Planning Committee to introduce an Article 4 direction to withdraw Permitted Development rights from a number of existing employment sites in Petersfield, Liss, Midhurst, Petworth and Lewes. The Article 4 paper forms **Appendix I** of this report and the sites are identified in figure 5.1 on page 46. Within **Appendix I** there are two further Appendices that show, firstly, completed site proformas on page 48 and secondly maps of the sites on page 79 of this report.
- I.2 The Article 4 direction will mean that for changes of use from office or light industrial to residential, a full planning application is required as opposed to a more streamlined prior approval application.
- I.3 The South Downs National Park Authority (SDNPA) has a duty in pursuit of its purposes to seek to foster the social and economic well-being of the local communities in the National Park. It is important that there are sufficient employment sites, especially in the larger

settlements, to meet the needs of local communities.

- 1.4 The withdrawal of permitted development rights will help to protect existing employment space from being converted into residential development through the prior approval process, and will help SDNPA to retain greater control over the planning process in these areas. Any person seeking to convert office space or light industrial into residential would still be able to apply for a change of use through the regular planning application process.

## **2. Permitted Development Rights**

- 2.1 Under the Town and Country Planning Act 1990 as amended, planning permission is required for the carrying out of any development, as defined, on land. The Town and Country Planning (General Permitted Development) Order 2015 as amended (GPD Order 2015), allows certain development without the need for planning permission.
- 2.2 In May 2013, the Government introduced a new temporary permitted development right to allow the change of use from office Class B1(a) to residential Class C3. These rights were made permanent in April 2016. This means that applicants must seek approval from SDNPA, but only for specified elements to ensure that the development is acceptable. In determining a prior approval application, SDNPA only considers impacts of the proposed development on:
- Transport and highways
  - Contamination
  - Flood risk
  - Noise
- 2.3 Permitted development rights can only be withdrawn if significant adverse impact has been identified; these are set out in section 5 of this report. Typically, obtaining planning permission requires additional key planning matters to be considered such as affordable housing and design standards.
- 2.4 In April 2016, the Government also introduced a new permitted development right to allow the change of use from light industrial Class B1(c) to residential Class C3 that came into force on 1 October 2017. This is temporary for 3 years until 1 October 2020 and is restricted to buildings with an existing gross floor space of less than 500m<sup>2</sup>.

## **3. Article 4 Directions**

- 3.1 SDNPA can, with strong justification, make an Article 4 direction that will remove permitted development rights within a designated area. The direction can cover a single building, street or neighbourhood.
- 3.2 As noted above, permitted development rights can only be withdrawn if there is reliable evidence that such rights would cause significant adverse impact to the local amenity or well-being of an area. Evidence is set out in the Article 4 report that makes the case for the withdrawal of permitted development rights in respect of change of use from office Class B1(a) or light industrial Class B1(c) to residential Class C3.
- 3.3 Article 4 directions must be made in accordance with the General Permitted Development Order 2015, National Planning Policy Framework (NPPF) and Planning Practice Guidance. Paragraph 53 of the NPPF notes:
- “The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities).”
- 3.4 An Article 4 direction does not prohibit development, but enables the SDNPA to retain greater control over the planning process.
- 3.5 Once an Article 4 direction comes into force, it remains in force indefinitely unless the direction is cancelled. An Article 4 direction cannot prevent development which has commenced or has already been carried out.

- 3.6 There is a requirement for the SDNPA to monitor any Article 4 directions, to make sure that the original reasons under which the direction was made remain valid. This will be monitored through the Authority Monitoring Report, published each year by the Authority.
- 3.7 The withdrawal of permitted development rights may give rise to a liability to compensate. Compensation may be payable if an application for planning permission for certain development formerly permitted by the GPD Order 2015 is made within 12 months of the Article 4 direction taking effect.
- 3.8 However, no compensation for the withdrawal of certain permitted development rights is payable if the SDNPA gives notice of the withdrawal between 12 and 24 months in advance and the direction is correctly made in accordance with all the procedures in the GPD Order 2015.
- 3.9 A full planning application, that is only required because an Article 4 direction is present, is completed in the usual way. A planning application fee will still be payable to the local planning authority.
- 3.10 The process for making and confirming a non-immediate Article 4 direction is summarised within paragraphs 2.1 to 2.6 of the Article 4 paper.

#### **4. Evidence Base**

- 4.1 The Employment Land Review (ELR) (2015) and the ELR Update (2017) provide robust, supporting evidence for the employment policies in the South Downs Local Plan and formed part of the core document library for the examination. The ELR Update was a site focused analysis of existing employment sites to support the safeguarding criteria in Policy SD35 Employment Land. The employment sites in the five settlements were all visited, assessed and a recommendation made as to whether they should be protected by policy in the South Downs Local Plan or relevant Neighbourhood Development Plans. The key point to note was that these particular sites were deemed important enough to the local economy and community to be safeguarded through planning policy.
- 4.2 Site visits to all employment sites in the five settlements were carried out jointly by a Planning Policy Officer and the Enterprise Development Lead. The majority of sites were in good or very good condition with a low level of vacant units. They ranged in size from Heath Farm, Petersfield with three businesses to Bedford Road, Petersfield with over 70 businesses. There was also a significant variation in the size of units with much larger buildings at sites such as Bedford Road and Frenchmans Road, Petersfield, Central Lewes and Holmbush Industrial Estate, Midhurst. Smaller units suitable for micro and start-up businesses were found at sites such as Liss Business Centre, The Wharf, Midhurst and Midhurst Business Centre.
- 4.3 Apart from the site visits, information was also sought from the relevant District Council's Economic Development and Regeneration Officers with responsibility for employment and the economy for each of the five settlements. The feedback was that there were high occupancy rates for employment sites across the five settlements. East Hampshire District Council and Lewes District Council have already made Article 4 directions for change of use from office or light industrial to residential in areas outside the National Park. There was support from the officers for the making of an Article 4 direction in the five settlements.

#### **5. Change of use implications**

- 5.1 In summary, losing office and light industrial space to residential could:
- Create problems for occupying businesses that have to vacate their premises, with no guarantee they will be able to relocate within the settlement or even in the National Park.
  - Result in a long-term negative effect on the well-being of the communities in the South Downs National Park through reducing local employment opportunities.
  - Result in the creation of residential units in potentially unsustainable locations.
  - Result in new residential schemes without any affordable homes.

- Reinforce adverse commuting patterns through lack of employment opportunities, with a consequential impact on the local transport infrastructure.

## 6. Proposed Article 4 Direction

- 6.1 For the reasons evidenced above, Officers are recommending the withdrawal of permitted development rights, through the creation of an Article 4 Direction, for both office and light industrial to residential change of use across the 14 sites within Petersfield, Liss, Midhurst, Petworth and Lewes.
- 6.2 Consultation will be carried out for eight weeks in line with the Statement of Community Involvement and in accordance with the GPD Order 2015. Responses to the consultation will be collated and a decision will be taken by the Director of Planning, in consultation with the Chair of the planning committee whether or not to confirm the direction. If major issues are raised through the consultation these will be reported to the Committee.
- 6.3 If agreed the Article 4 direction will then come into force from 1 September 2020, subject to public consultation and confirmation by the Director of Planning in consultation with the Chair of the Planning Committee.
- 6.4 Permitted development for change of use of light industrial Class B1(c) to residential Class C3 as stated above is temporary until 1 October 2020. However, it is included in the proposed Article 4 direction to cover the possibility that the Government will make this permitted development right permanent.
- 6.5 By making a non-immediate direction with at least 12 months between giving notice and making the direction, the SDNPA limits any liability to compensation.
- 6.6 However, a non-immediate Article 4 directions run the risk of a longer period where permitted development rights remain active. This could result in an increased number of prior approval applications for conversions from office and light industrial to residential in the 12 months prior to the Article 4 direction coming into force and subsequently an increased loss of employment land uses in the 14 sites.
- 6.7 By withdrawing permitted development rights, the SDNPA can ensure that applications for change of use are assessed against the full development management policies as opposed to the limited prior approval criteria.
- 6.8 Additionally, the implementation of Article 4 directions will work in conjunction with the South Downs Local Plan and the relevant Neighbourhood Plans to provide a strong basis to protect employment land in the National Park.

## 7. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	Possible – depending upon the outcome of consultation
Does the proposal raise any Resource implications?	<p>Prior approval for change of use from office or light industrial to residential under permitted development rights are currently charged at £96 per application.</p> <p>Current Planning Practice Guidance states a planning application fee may be payable where development that would otherwise have been permitted development requires a planning application.</p> <p>A full application for change of use of a building to one or more separate dwellinghouses is currently chargeable at £462 for each dwellinghouse.</p>
Has due regard been taken of the South Downs National Park	Yes. It is considered that the removal of permitted development rights for change of use from office or light

Authority's equality duty as contained within the Equality Act 2010?	industrial to residential will not have an adverse impact on people who share a protected characteristic as defined by the Equality Act 2010.
Are there any Human Rights implications arising from the proposal?	None
Are there any Crime & Disorder implications arising from the proposal?	None
Are there any Health & Safety implications arising from the proposal?	None
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy?	<p>Removing permitted development rights in the 14 identified sites will give SDNPA greater control over changes of use from office or light industrial to residential in these core employment locations.</p> <p>The greater scrutiny provided by a full planning application for these changes of use will help to protect and promote existing employment sites in the five main settlements. These sites contribute to local employment for people living in the National Park as well as reducing commuting to other areas.</p> <p>Therefore removing permitted development rights in these specific circumstances will help to 2. Ensure a strong healthy and just society and 3. Achieve a sustainable economy.</p>

## 8. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
Compensation claims by businesses against South Downs National Park Authority due to the Article 4 direction coming into force.	Low	High	Use of non-immediate Article 4 direction providing 12 months from making to coming into force. Making the Article 4 direction in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 including public consultation. These actions exclude claims for compensation.
Legal challenge	Low	High	As there is no right of appeal against a non-immediate Article 4 direction, the only option to people wishing to challenge it is through Judicial review (JR)
More change of use schemes may come forward under PD until the Article 4 direction comes into force	Moderate	Moderate	It is possible that more change of use schemes will come forward in order to beat the deadline set 12 months from the issue of the direction. This is a short term risk with the long term solution of a non-immediate direction.

**TIM SLANEY**

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Appendices I. Article 4 Direction on Employment Sites in Petersfield, Liss,  
Midhurst, Petworth and Lewes

SDNPA Consultees Legal Services; Chief Finance Officer; Monitoring Officer; Director of  
Planning

External Consultees None

Background Documents [Employment Land Review \(2015\)](#)  
[Employment Land Review Update \(2017\)](#)  
[Employment Background Paper \(2017\)](#)