



# PROPOSED ARTICLE 4 AREAS FOR PROTECTING COMMERCIAL PREMISES IN DACORUM'S KEY EMPLOYMENT AREAS

## JUSTIFICATION STATEMENT

AUGUST 2022

### 1. Planning policy context for employment, retail and town centre uses

#### (i) National context

1.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. Paragraph 8 in the NPPF states that achieving sustainable development has three overarching objectives, including the following:

“a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity...;

1.2 NPPF section 6 provides guidance on building a strong, competitive economy. In particular, paragraph 81 advises that:

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development...”

1.3 The Government's Planning Practice Guidance on 'Housing and economic land availability assessment' guides councils in identifying land to meet development needs.

1.4 National advice on retailing and other town centre uses is provided through the National Planning Policy Framework (NPPF), with further guidance through the Government's Planning Practice Guidance (PPG) on 'Town centres and retail'. Elements of the NPPF that influence preparing the Local Plan's policies on retail and town centres are summarised below.

1.5 Section 7 in the NPPF provides guidance on 'Ensuring the vitality of town centres'. Guidance on planning policies is contained in paragraph 86, which states that:

“Planning policies should:

a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;

b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre...”

- 1.6 Annex 2 to the NPPF defines the following terms that are relevant to planning for retail and town centres: edge of centre, main town centre uses, out of centre, primary shopping area and town centres.
- 1.7 The definitions of ‘main town centre uses’ and ‘town centre’ are particularly important from a planning policy perspective. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance.
- 1.8 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 made significant changes to the Use Classes Order from 1 September 2020. These changes allow far greater flexibility to change uses without the need to obtain planning permission.
- 1.9 Most shops (formerly Class A1) are now within Class E. Other former use classes that have been subsumed into Class E are A2 (financial/professional services), A3 (food and drink), part of D1 (non-residential institutions, including clinics and crèches) and part of D2 (assembly and leisure, covering gyms and indoor recreation). Pubs, bars, cinemas, live performance venues and dance and bingo halls are now sui generis (i.e. uses that do not fall within any particular use class for the purposes of planning permission).
- 1.10 The position is summarised in the table below:

Use	Use Class	
	Up to 31.08.20	From 01.09.20
Shop – unless now F.2 (see below)	A1	E
Shop not more than 280sqm mostly selling essential goods, including food and at least 1km from another similar shop	A1	F2
Financial and professional services	A2	E
Café or restaurant	A3	E
Pub or drinking establishment	A4	Sui generis
Hot food takeaway	A5	Sui generis
Hotels, boarding and guest houses	C1	C1
Clinics, health centres, crèches, day nurseries, day centre	D1	E
Museums, public libraries	D1	F1
Cinemas, concert halls, bingo halls and dance halls	D2	Sui generis
Gymnasiums, indoor recreation not involving motorised vehicles or firearms	D2	E

**(ii) Local context**

- 1.11 Dacorum Core Strategy Policies CS1 (distribution of development) and CS4 (The towns and large villages) include overall guidance on planning for employment development in the Borough. More detailed guidance is contained in the following policies:
- CS14 (economic development): sufficient land will be allocated to accommodate approximately 10,000 additional jobs 2006-2031. Also, most employment

generating growth will be located in town and local centres and General Employment Areas.

- CS15 (offices, research, industry, storage and distribution): a minimum area of land, including General Employment Areas and town centres, will be identified and retained for B class uses (i.e. offices, industrial and storage and distribution). The policy proposes around 131,000 sq. metres (net) of additional office floorspace 2006-2031 and that floorspace for industry and storage/distribution remains broadly unchanged.

Further guidance on Maylands Business Park can be found in Core Strategy Policy CS34.

- 1.12 Table 5 in the Core Strategy identifies the Heart of Maylands as a Local Centre with a shopping function in the retail hierarchy. Policy CS16 on shops and commerce seeks to strengthen the main retail hierarchy of town centres and local centres, with most retail development being directed there.
- 1.13 Policy CS16 also states that Hemel Hempstead will be the main destination for comparison goods shopping, leisure, entertainment and civic and cultural activities. Other centres will provide core shopping facilities and services for their local economies.
- 1.14 Other relevant Core Strategy policies include Policy CS1: Distribution of Development, CS2: Selection of Development Sites, CS4: The Towns and Large Villages, CS33: Hemel Hempstead Town Centre and CS34: Maylands Business Park. Policy CS4 seeks a mix of uses in town and local centres, whilst Policy CS34 includes a guiding principle to deliver a local centre in the Heart of Maylands to support residents and workers there.
- 1.15 Policy 43 which is “saved” and still operational in section 6 (shopping) of the 2004 Local Plan deals with proposals for the loss of shops in local centres.
- 1.16 The Council has produced the following local strategies and guidance relevant to planning for retail use in the Maylands Business Park:
  - Maylands Masterplan (2007)
  - Heart of Maylands Development Brief (2010)
- 1.17 Detailed guidance on the future planning of the Maylands Business Park can be found in the Maylands Master Plan (adopted by the Council as a planning policy statement, June 2007). Section 2.3 in the masterplan proposed that the Heart of Maylands will become the functional centre of Maylands, providing shops, cafes, restaurants, business services, community facilities, open space and access to public transport.
- 1.18 Proposals for the area around the Heart of Maylands area (Maylands Avenue/Wood Lane End junction) were set out in the development brief, which was adopted by the Council in October 2010. Its aim was for the Heart of Maylands to become a strong functional centre serving the businesses and employees working in Maylands Business Park. It proposed shops, cafés, restaurants, business services, community facilities, open space and access to public transport in a high quality built environment.
- 1.19 The Dacorum Site Allocations Development Plan Document defines General Employment Areas in Policy SA5. Employment areas in the Green Belt come under Policy SA8. Maylands Business Park is not covered by the Site Allocations document, so the General Employment Areas there are still as shown in saved Policy 31 of the

Dacorum Borough Local Plan 1991-2011. However, it is also necessary to take account of the more recent non-statutory proposals in the Maylands Masterplan and the Maylands Gateway.

1.20 Currently, the employment land evidence base for the new Dacorum Local Plan is being assembled, as explained below:

- In 2017, the Dacorum Employment Land Availability Assessment (produced by consultants Peter Brett Associates) took more account of market demand. This assessment indicated a need for more industrial and warehousing space, rather than offices. It also advised that most sites currently in B class use should be retained.
- The South West Hertfordshire Economic Study Update in 2019 (produced by consultants Hatch Regeneris) updated the 2016 Economic Study and provided a revised assessment of employment land needs in South West Herts. It also contained a more comprehensive and detailed assessment of current and future employment land supply. The 2019 study found that the availability of office space was at very low levels, which was acting as a significant barrier to growth and investment. For Dacorum, the study set out an indicative office floorspace growth figure of 45,100 sqm 2018-2030, to inform local plan preparation. However, the study advised that decisions on floorspace and land requirements in local plans should be informed also by duty to co-operate discussions, which take account of land availability for new development across the functional economic market area (FEMA).

1.21 Dacorum Borough Council's draft Local Plan Emerging Strategy for Growth (November 2020) proposes that (excluding any contribution from the East Hemel Hempstead site in St Albans District) for offices there be no net loss of space from 2025 onwards. However, only limited weight can be afforded to the Emerging Local Plan (see NPPF paragraph 48)

1.22 The main evidence base for the Council's retail and town centres policies in the Dacorum Local Plan (2020-2038) Emerging Strategy for Growth consists of two studies produced by Nexus Planning:

**South West Hertfordshire Retail and Leisure Study (2018):** this joint study provided Dacorum, Hertsmere, St Albans, Three Rivers and Watford councils with an understanding of existing retail and leisure provision, and an objective assessment of future needs and possible strategic responses.

[https://www.dacorum.gov.uk/docs/default-source/strategic-planning/south-west-herts-retail-and-leisure-study---september-2018.pdf?sfvrsn=1ad00c9e\\_4](https://www.dacorum.gov.uk/docs/default-source/strategic-planning/south-west-herts-retail-and-leisure-study---september-2018.pdf?sfvrsn=1ad00c9e_4)

**Further Dacorum Retail Study (2020):** this study updated the retail aspects of the 2018 study to take account of changed circumstances, including greater clarity on the scale and location of future housing development and revised forecasts of future retail expenditure. It also provided advice on potential sites for retail development.

[https://www.dacorum.gov.uk/docs/default-source/strategic-planning/further-dacorum-retail-study---june-2020.pdf?sfvrsn=4bd20c9e\\_4](https://www.dacorum.gov.uk/docs/default-source/strategic-planning/further-dacorum-retail-study---june-2020.pdf?sfvrsn=4bd20c9e_4)

1.23 The 2018 study recommended a revised retail hierarchy, based on the characteristics associated with different tiers in the hierarchy. It identified seven local centres in Dacorum including Heart of Maylands.

1.24 The 2020 study stressed that this is an unprecedented period of change for our town centres and retail more generally. In particular, the current Covid-19 situation will probably result in changes to consumer spending patterns, but it is too soon to make an accurate predication on the extent of that change.

## **2. Permitted development rights for changes of use from employment uses to housing**

2.1 In recent years, the Government has introduced significant deregulation of planning, to encourage the creation of new housing. The position is summarised below:

### **Permitted development rights for changes of use from employment uses to housing (2013)**

2.2 In 2013, the Government introduced permitted development rights under the General Permitted Development Order (GPDO). This meant that planning permission was granted for changes of use to housing from offices and some light industrial and warehousing buildings, subject only to 'prior approval' of some detailed matters.

2.3 Prior approval could not be refused on the grounds that the loss of employment floorspace would be contrary to the Council's planning policies. Also, the Council was unable to require any affordable housing or other section 106 contributions on prior approval schemes.

### **Use Classes Order changes (July 2020)**

2.4 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 made significant changes to the Use Classes Order, which came into force on 1 September 2020:

<https://www.legislation.gov.uk/ukxi/2020/757/made>

2.5 These changes allow far greater flexibility to change uses without the need to obtain planning permission. The most significant change was the introduction of Use Class E (commercial, business and service).

2.6 Class E covers the following uses and planning permission is not required for changes of use from one type of Class E use to another:

(a) Shop (except for some small shops outside centres that are in Class F.2)
(b) Food and drink (café or restaurant)
(c) Financial, professional and other appropriate services
(d) Indoor sport, recreation or fitness, not involving motorised vehicles or firearms
(e) Medical or health services, principally to visiting members of the public
(f) Crèche, day nursery or day centre
(g) Offices, research and development and light industry

### **Permitted development right – change of use from Class E to residential (March 2021)**

2.7 The Government laid regulations on 31 March 2021 to create a new permitted development right (i.e. Class MA) to enable the change of use from Use Class E to

residential use, to help support housing delivery and enable more homes to be created in town centres:

<https://www.legislation.gov.uk/ukxi/2021/428/contents/made>

2.8 The regulations came into force on 21 April 2021 but applications for prior approval under Class MA could not be made until 1 August 2021. Where there are existing Article 4 directions in respect of office to residential rights, these continued to apply until 31 July 2022. The Class MA right allows the change of use from any use Class E use to housing, subject to certain provisos including:

- The building must have been in commercial, business and service use for two years before benefiting from the right.
- Buildings must be vacant for three continuous months immediately before the date of application for prior approval.
- No more than 1,500 sqm of floorspace in any building may change use.
- Part of the building may change use, including where the lower floors are in commercial, business and service use and the upper floors residential.

2.9 The right will be subject to prior approval by the local planning authority in respect of a range of planning matters.

### **Revised National Planning Policy Framework (July 2021)**

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1004408/NPPF\\_JULY\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1004408/NPPF_JULY_2021.pdf)

2.10 The revised National Planning Policy Framework (NPPF) includes changes to paragraph 53 on Article 4 Directions, as set out below:

*“The use of Article 4 directions to remove national permitted development rights should:*

- *where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre*
- *in other cases, be limited to situations where an Article 4 direction 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)*
- *in all cases, be based on robust evidence, and apply to the smallest geographical area possible.”*

### **3. Impact of the prior approval regime in Dacorum**

3.1 Since 2006 (the start of the Core Strategy plan period), office floorspace in Dacorum has declined by 86,000 sq. metres, although industry, storage and distribution floorspace increased by 13,000 sq. metres. The decline in office floorspace is not consistent with

Core Strategy Policy CS15 (see paragraph 1.5 above). Nevertheless, the total number of jobs in the Borough has been rising at a faster rate than proposed in Policy CS14 and unemployment is very low.

- 3.2 Between 2014 and 2020, there was a net loss of 34,600 sq. metres of office floorspace. 82% of this loss (28,300 sq. metres) resulted from prior approval schemes involving changes of use from offices to housing. Most of the loss from prior approval schemes was in the town centres (loss of 20,000 sq. metres, including 18,700 sq. metres in Hemel Hempstead) or General Employment Areas (loss of 7,200 sq. metres).
- 3.3 On 1 April 2020, permission existed for a further net loss of office floorspace (loss of 15,700 sq. metres) from schemes with planning permission or prior approval. Permission also existed for a gain of industry, storage and distribution space (50,000 sq. metres gain).
- 3.4 Permitted prior approval schemes at 1 April 2020 involve the loss of 21,700 sq. metres of office floorspace. Completed and permitted prior approval schemes (if implemented) will result in a total loss of over 45,000 sq. metres of offices. This is a major factor in Dacorum's employment land supply. Using Homes England's guidance on office employment densities (1 worker per 14.4 sq. metres gross), this represents enough space for over 3,000 office jobs.
- 3.5 97% of the completed and permitted losses of office space from prior approval schemes are in the town centres or General Employment Areas (see table below). Indeed, 50% of the losses are in Hemel Hempstead town centre, causing a significant decline in the town centre's role as an office centre. Half of the losses in the General Employment Areas are on the Maylands Business Park.
- 3.6 Permitted but not started prior approval schemes for change of use from offices to housing at 1 April 2020 involve the loss of a further 21,700 sqm of office floorspace.
- 3.7 In total, completed and permitted prior approval schemes (if implemented) will result in the loss of nearly 50,000 sqm of office floorspace. This is a major factor in Dacorum's employment land supply. Using Homes England's guidance on office employment densities (1 worker per 14.4 sqm gross external area), this represents enough space for around 3,500-4,000 office jobs.
- 3.8 Regarding retail provision in the light of the matters referred to in paragraphs 1.21 to 1.23, the Council concludes that there is:
  - A substantial need for additional convenience floorspace in the Borough, although it is not necessary to provide for the quantitative capacity in full. Rather, it is better to concentrate on meeting the main identified needs in our town centres and strategic housing sites.
  - Uncertainty about the capacity forecasts, particularly due to the impact of Covid-19 and the possibility that the housing numbers and distribution in the Local Plan may change again. The Council will seek advice from the retail study consultants on this matter before publishing the Local Plan.
- 3.9 The Council is concerned about the impact that this is having on retaining existing businesses and jobs, attracting new businesses and jobs, and providing services locally for Dacorum's residents, workers and visitors.

3.10 Despite the above, the Council recognises that there are benefits from the new homes created through prior approval schemes. In Hemel Hempstead town centre alone, completed and permitted prior approval schemes involve over 500 homes.

**Prior approval office to residential schemes completed and permitted (sq. metres)**

Location	Floorspace lost 2014-2020	Permitted losses 01.04.20	Total	% of total
Town centres (Berkhamsted, Hemel Hempstead and Tring)	20,017	7,572	27,589	55
General Employment Areas	7,194	14,630	21,824	44
Rest of Dacorum	1,040	267	1,307	3
Total all schemes	28,251	21,657	49,908	100 <sup>1</sup>
Hemel Hempstead town centre	18,748	6,743	25,491	51
Maylands Business Park	1,902	9,601	11,503	23

3.11 The table below shows the location of the largest completed and permitted losses of office floorspace from prior approval schemes:

Location	Settlement	Floorspace loss (sq. metres)	Progress
Viking House, Swallowdale Lane	Hemel Hempstead (general employment area – Maylands Business Park)	1,902	Completed
Swan Court, Waterhouse Street	Hemel Hempstead (town centre)	3,111	Completed
Corner Hall	Hemel Hempstead (general employment area)	4,465	3,700 m <sup>2</sup> completed
Bryanston Court, Selden Hill	Hemel Hempstead (town centre)	5,788	Under construction (offices lost)
Akeman Business Park, Akeman Street	Tring (general employment area)	3,000	Under construction (offices lost)
Grovelands Business Centre, Grovelands	Hemel Hempstead (general employment area – Maylands Business Park)	4,266	Not started
Hamilton House, 111 Marlowes	Hemel Hempstead (town centre)		Completed

<sup>1</sup> Percentages add up to 102%, because one site (Park House, Park Lane, Hemel Hempstead) is both within a town centre and General Employment Area.

Hempstead House, 2 Selden Hill	Hemel Hempstead (town centre)	2,437	Not started
Parker House, Maylands Avenue	Hemel Hempstead (general employment area – Maylands Business Park)	2,342	Not started

3.12 Some of the prior approval schemes involve older office buildings, which are unattractive for continued office use. In a number of cases, the external appearance of the building has been changed and additional flats built on the roof (e.g. Swan Court).

3.13 However, there are some worrying trends arising from prior approval schemes. Apart from the overall loss of office floorspace and the lack of affordable housing/other S106 contributions noted above, other causes for concern are as follows:

- Most office buildings subject of prior approval schemes were still occupied at the time of the application, so many firms have been displaced when schemes have been implemented.
- Some prior approval schemes involve good quality, relatively modern buildings such as Corner Hall and Parker House, well suited for continued office use.
- As normal development management policies cannot be applied, there is a danger of poor quality housing developments being provided.
- Enclaves of housing may appear in the middle of employment areas, remote from services and the community (which runs counter to how our towns function). For example, two prior approval schemes have been approved in Boundary Way on the Maylands Business Park, a considerable distance from any existing housing.
- The introduction of housing into employment areas may place constraints on businesses, which need the space to operate without limitations on noise, hours of operation etc. Such limitations could be bad for business and affect investment in the future.

3.14 It is clear from the above, that Dacorum is experiencing a significant loss of office floorspace from prior approval schemes. In contrast, no prior approval schemes for losses of light industrial or storage and distribution floorspace have been permitted. This probably reflects the nature of former Use Class B1(c) and B8 buildings (often unsuitable for residential use), the later introduction of prior approval arrangements for such changes of use and the restrictions that apply.

3.15 With regard to the new Class MA permitted development right (see paragraph 2.8 above), there are many buildings and self-contained units in Dacorum's key employment areas and the Heart of Maylands local centre that fall entirely under the 1,500 sqm threshold and others where part of the unit could be converted to residential.

3.16 However, there are provisos to the Class MA right (see paragraph 2.8), including that all habitable rooms in homes resulting from Class MA must have adequate natural light. Nevertheless, there are numerous properties where changes of use under Class MA could take place. This could seriously harm the vitality and viability of the Heart of Maylands local centre.

## **4. How can the Council protect Dacorum's employment areas?**

4.1 As set out in paragraph 2.10 above, the NPPF paragraph 53 states that:

“The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area...”

4.2 Further information on Article 4 directions is contained in the Government's Planning Practice Guidance (PPG) on “When is permission required?”. The following points in the PPG are particularly relevant:

- An Article 4 direction means that a particular development cannot be carried out under permitted development, so needs a planning application. This gives a local planning authority the opportunity to consider a proposal in more detail.
- A planning application fee is payable where development that would otherwise have been permitted development requires a planning application.
- If a local planning authority makes an Article 4 direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn. This is only so if permission is refused for development which would otherwise have been permitted development, or is permitted subject to conditions more limiting conditions than the GPDO.
- The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.
- There are two types of directions under the GPDO: non-immediate directions and directions with immediate effect. In all cases, an Article 4 direction cannot be confirmed until after the local planning authority has carried out a local consultation.

4.3 With regard to the final two bullet points above, compensation is payable only if a planning application is made within 12 months from the date that the Article 4 Direction takes effect. No liability to pay compensation arises where 12 months' notice is given before the Article 4 Direction comes into force. The Council therefore must decide whether the Article 4 Direction should come into effect immediately, or after a 12 month notice period. The Council is aware that it may be exposed to compensation claims in certain circumstances but the Council considers that the potential for irreversible harm to the most important employment areas is sufficiently great as to justify the Direction being put in place immediately.

## **5. Introduction of Article 4 employment areas in Dacorum (2020)**

5.1 Given concerns over the loss of employment floorspace (particularly offices), some councils have used powers under Article 4 of the General Permitted Development Order (GPDO) to withdraw permitted development rights for changes of use to housing. Locally, Article 4 directions have been introduced by St Albans,

5.2 In 2019, the Council obtained advice from Brasier Freeth, local commercial agents. Brasier Freeth's report (see Appendix A) looked at whether residential values make further prior approval schemes to change employment buildings to housing commercially

attractive. It contains information on office, light industrial, storage and distribution and residential values in the following employment areas (see maps in Appendix 1 to Appendix A):

Location	Policy designation
Maylands Business Park, Hemel Hempstead	General employment area
Park Lane, Hemel Hempstead	Town centre
Whiteleaf Road, Hemel Hempstead	General employment area
Doolittle Meadows, Hemel Hempstead	General employment area
Bourne End Mills, Bourne End	Employment area in the Green Belt
Northbridge Road and River Park, Berkhamsted	General employment area
Icknield Way, Tring	General employment area

5.3 The Brasier Freeth report showed that residential land values in the key General Employment Areas and Hemel Hempstead town centre are generally much higher than office and light industrial/warehousing values. This gave landowners and developers a financial incentive to bring forward prior approval schemes. The report expressed a strong view that all the areas listed in Paragraph 5.2 should be protected.

5.4 The Council accepted Brasier Freeth's advice and designated the following Article 4 areas in January 2020, covering all the locations listed in paragraph 5.2:

Location	Explanation of the extent of the Article 4 area	Permitted development rights withdrawn
Park Lane and Doolittle Meadows, Hemel Hempstead	These areas are both in Hemel Hempstead. Unlike the areas in or close to Hemel Hempstead (see below), these areas are currently in office use and there are no B1(c) or B8 uses.	Changes of use from B1(a) offices to residential.
Maylands Business Park and Whiteleaf Road, Hemel Hempstead and Bourne End Mills	These areas are in or close to Hemel Hempstead. Unlike the Land uses in these areas in Hemel Hempstead (see above), these areas include B1(a), B1(c) and B8 uses.	Changes of use from B1(a), B1(c) and B8 to housing.
Northbridge Road and River Park, Berkhamsted	These are the only areas referred to in paragraph 5.2 above within Berkhamsted.	Changes of use from B1(a), B1(c) and B8 to housing.
Icknield Way, Tring	This is the only area referred to in paragraph 5.25 above within Tring.	Changes of use from B1(a), B1(c) and B8 to housing.

5.5 These Article 4 Directions lapsed on 1 August 2022.

## 6. Examination of the case for new Article 4 areas to control the loss of office floorspace in Dacorum

6.1 The Council recognises that the revised NPPF paragraph 53 sets a high bar for justifying Article 4 Directions. It is, however, considered that there is a strong justification for the continuing designation of Article 4 areas to control changes of use from offices (Class E (g)(i)) to housing in a geographically limited area within Dacorum's most important employment areas.

6.2 The main reasons why the Council has reached this conclusion are set out below:

- Article 4 areas are justified to protect office uses, given the national and local planning policy context (see section 1 above) and the substantial loss of office floorspace that is occurring, contrary to the Council's planning policies (see section 3 above).
- A large amount of office floorspace is being lost in the Borough as a result of the prior approval regime (section 3).
- Over 40% of the losses of office floorspace from prior approval schemes are located in the general employment areas, particularly in Maylands Business Park (section 3).
- Apart from the headline figures for floorspace loss, there are a number of worrying trends arising from prior approval schemes, as explained in paragraph 3.13 above.

Further significant losses of office floorspace to housing in Dacorum from prior approval schemes seem likely if new Article 4 areas are not introduced (paragraphs 5.3).

The Hertfordshire Local Enterprise Partnership (LEP) is concerned about the loss of employment space across the county. The LEP's 'Loss of Employment Space in Hertfordshire' study (2019) study showed that almost a quarter of the County's office stock and 7% of industrial floorspace was lost between 2008 and 2018. Nevertheless, there was a healthy underlying demand in both sectors, but a severe lack of supply to meet these demands.

<https://www.hertfordshirelep.com/media/rmphd5mk/loss-of-employment-space-in-hertfordshire-february-2019.pdf>

- The only significant employment development site in Dacorum is located at Green Lane, Hemel Hempstead. This site is subject of a Council resolution to grant permission for 26.600 sqm of commercial floorspace (Class E(g)(i), E(g)(iii), B2 and B8 uses), subject to a Section 106 agreement being entered into. The proposed development includes 4,200 sqm of offices, but only if there is commercial interest in this proposed space. Dacorum's employment land supply is now very limited.
- The South West Hertfordshire Economic Study Update (2019) found that the availability of office space was at very low levels. Evidence from Brasier Freeth shows that vacant office floorspace in Hemel Hempstead is continuing to fall, despite Covid-19. The Council's analysis indicates that there is less than one year's supply of office space (paragraphs 6.3-6.5).
- The South West Hertfordshire Economic Study Update (2019) indicates a need for substantial office floorspace growth in Dacorum in the future (see paragraph 1.10 above). However, the scope for new office development in Dacorum is very low, mainly because, as stated in the evidence base studies, speculative office development is not currently viable (see paragraphs 5.44-5.49 in the Council's 'Employment Development Background Topic Paper' (November 2020), which supported the Emerging Local Plan):

[https://www.dacorum.gov.uk/docs/default-source/strategic-planning/topic-paper---employment---november-2020.pdf?sfvrsn=5c10c9e\\_4](https://www.dacorum.gov.uk/docs/default-source/strategic-planning/topic-paper---employment---november-2020.pdf?sfvrsn=5c10c9e_4)

- 6.3 According to Brasier Freeth, the amount of vacant office floorspace in Hemel Hempstead has fallen from over 700,000 sq. ft. during 2008 to 2009 recession, to 375,000 sq. ft. in January 2019 and 300,000 sq. ft. in June 2022. The main reason for this fall is the conversion of offices to residential under permitted development rights. Brasier Freeth's most recent evidence is contained in their 'Employment Land Marketing Report' (June 2022), which supports planning application 22/02333/MFA for redevelopment of the Apsley Two site.

[https://planning.dacorum.gov.uk/publicaccess/files/A28D5606256E2ADCB6EEE188961D089C/pdf/22\\_02333\\_MFA-EMPLOYMENT\\_LAND\\_MARKETING\\_REPORT-1324571.pdf](https://planning.dacorum.gov.uk/publicaccess/files/A28D5606256E2ADCB6EEE188961D089C/pdf/22_02333_MFA-EMPLOYMENT_LAND_MARKETING_REPORT-1324571.pdf)

- 6.4 The Council's analysis of the Brasier Freeth's June 2022 report shows that the 300,000 sq. ft. of vacant floorspace includes:

- 100,000 sq. ft. at the Peoplebuilding, Maylands, which was subject of a pre-application scheme in 2021 to demolish the offices and build an industrial development.
- 69,500 sq. ft. at Apsley Two, where application 22/02333/MFA proposes replacement of the offices by a mixed use residential/office development.
- 51,800 sq. ft. (at The Dock and Concept House). which are in the Three Rivers part of Kings Langley, not in Hemel Hempstead or Dacorum.

- 6.5 If the People building and Apsley Two offices are demolished and the Three Rivers sites are excluded, the amount of vacant floorspace falls to 78,700 sq. ft. This constitutes less than one years' supply, based on the 10 year average for office take up of circa 101,000 sq.ft per annum referred to in the Brasier Freeth report.

- 6.6 In view of the above, there is serious concern regarding the loss of office floorspace within Dacorum with the evidence justifying the new Article 4 Directions to protect the existing office floorspace in Dacorum's main employment areas.

## **7. Examination of the case for new Article 4 areas to control the loss of E Class uses in the Maylands local centre**

- 7.1 In addition to being concerned about the loss of offices, the Council also considers that the Class MA right could have wholly unacceptable adverse impacts on the essential core of retail areas which would seriously undermine their vitality and viability. Therefore, the Council has designated an Article 4 area to control changes of use from Class E to housing in a geographically limited area in Hemel Hempstead town centre:

<https://www.dacorum.gov.uk/home/planning-development/planning-strategic-planning/article-4-directions>

- 7.2 The Council considers that there is clear justification for a similar approach at Maylands Plaza.

- 7.3 The Maylands Masterplan adopted in 2007<sup>2</sup> stated that the Heart of Maylands (which includes Maylands Plaza) “will become the functional centre of Maylands, providing shops, cafes, restaurants, business services, community facilities, open space and access to public transport.” (paragraph 2.3.1). Also “Its main catchment and source of patronage will be the businesses and employees situated across Maylands – essentially the weekday population. In this sense it can be regarded as a ‘local’ centre....”
- 7.4 The Heart of Maylands Development Brief<sup>2</sup> prepared by Scott Wilson for the Council and published in October 2010 reiterated that the Heart of Maylands aims to become a strong functional centre for the businesses and employees working in Maylands Business Park. “By creating an attractive functional ‘heart’ for Maylands Business Park, it is hoped that this will help retain existing businesses and employees, and also to attract new investment to the area.” (Paragraph 1,2.2).
- 7.5 The Heart of Maylands Development brief recognises a clear need to create a functional centre and local hub for Maylands Business Park as a whole, providing a mix of uses including local, small scale retail/leisure/services to serve both existing and new business communities, as well as nearby residents.
- 7.6 Although the retail hierarchy in the Core Strategy classifies the Heart of Maylands as a local centre, there is no defined boundary for this centre. Therefore, the new Local Plan will establish a Maylands local centre boundary. A proposed boundary is shown on the draft Proposals Map to the draft Local Plan and this boundary includes the new Maylands Plaza development within it. See:
- [https://www.dacorum.gov.uk/docs/default-source/strategic-planning/local-plan-emerging-strategy-for-growth-2020-2038-draft-proposals-map.pdf?sfvrsn=5bb0c9e\\_4](https://www.dacorum.gov.uk/docs/default-source/strategic-planning/local-plan-emerging-strategy-for-growth-2020-2038-draft-proposals-map.pdf?sfvrsn=5bb0c9e_4)
- 7.7 Changes to the General Permitted Development Order and Use Classes Order (see section 2 above). Of particular relevance is the introduction of the new Class E (commercial, business and service use). Most shops (formerly Class A1) are now within Class E, together with various other town centre uses, such as financial/professional services, food and drink uses, some health uses and certain leisure uses.
- 7.8 The retail units at Maylands Plaza performs an important role in providing services locally for the local residents, workers and visitors. The retention of those units plays an important part in maintaining the economic vibrancy and social wellbeing of Maylands Business Park. It has been noted that there is a substantial need for additional convenience floorspace in the Borough (see paragraph 3.8) and their loss could have wholly unacceptable adverse impacts on this area, which would seriously undermine its vitality and viability meriting the protection of these retail units.

## **8. Which areas should be designated as Article 4 areas?**

- 8.1 In early 2022 Council Officers undertook a site review of the original employment Article 4 areas (paragraph 5.4). The review took into account the higher bar for the making of Article 4 Directions as introduced by the revised paragraph 53 of the NPPF.
- 8.2 The key findings of this review are set out below;

<sup>2</sup> See [https://www.dacorum.gov.uk/home/planning-development/planning-strategic-planning/supplementary-planning-documents-\(spds\)](https://www.dacorum.gov.uk/home/planning-development/planning-strategic-planning/supplementary-planning-documents-(spds))

Location	Key Points	Case for Article 4 Designation
Maylands Business Park, Hemel Hempstead	Dacorum's main employment area.  Contains several offices, including important buildings such as Breakspear Park and the Maylands Building.  Also contains the new Maylands Plaza development in the Heart of Maylands local centre.	Yes – covering existing office buildings and the Maylands Plaza development.
Park Lane, Hemel Hempstead	Contains two of the remaining office buildings of note in Hemel Hempstead town centre, namely, One Park Lane and Park House.  Park House now has planning permission for housing.	One Park Lane – yes, as it is an important office building.  Park House – no, given the permission for housing use.
Whiteleaf Road, Hemel Hempstead	No primary office uses.	No, given the lack of offices.
Doolittle Meadows, Hemel Hempstead	Contains three large office buildings. Westside was comprehensively refurbished in 2016 and is a Grade A (top quality) building.  Good access to mainline rail and M25 Junction 20.	Yes – whole employment area, as it is one of Dacorum's main office locations. Also, its location near Apsley station means it is one of the very few locations in Dacorum where new office building may be viable.
Bourne End Mills, Bourne End	No primary office uses.	No, given the lack of offices.
Northbridge Road and River Park, Berkhamsted	These are the main industrial and employment areas in Berkhamsted. Contains a number of office buildings.	Yes – covering existing offices on these important employment areas.
Icknield Way, Tring	Tring's main employment area – contains two office buildings.	Yes – covering existing offices on this important employment area.

8.3 The review indicated that a number of the properties included within the existing Article 4 Directions could be excluded from the proposed new Article 4 Directions on grounds including:

- The physical attributes of a number of properties due to matters such as the manner of physical construction and/or location made it highly unlikely that they would be the subject of possible conversion from offices to residential use under class MA.
- The office usage was merely incidental to the primary use of the building such as retail, light industrial or warehousing

- In a number of cases the existing Article 4 areas included areas of land that were used for parking, turning spaces and otherwise generally non-office uses. The proposed Article 4 Directions be limited to current building outlines.

8.4 As a consequence it is proposed that:

- A significant number of buildings and land covered by the existing Article 4 Directions can be excluded from the proposed Directions for the reasons given in paragraph 6.5 above.
- The proposed Article 4 Directions be limited to actual buildings rather than a blanket area coverage to limit the geographical extent of the Directions.
- New Article 4 Directions for the protection of the specific sites be made as shown on the maps attached as Annex 2 be made for:
  - Park Lane and Doolittle Meadows, Hemel Hempstead
  - Maylands Business Park, Hemel Hempstead
  - Northbridge Road and River Park, Berkhamsted
  - Icknield Way, Tring
- No new Directions be made for Whiteleaf Road, Hemel Hempstead and Bourne End Mills be made, so the Article 4 Directions for those areas lapsed on 1 August 2022.
- The land and buildings covered by the Article 4 Directions will require planning applications to be submitted for changes of use from offices to housing in all the Article 4 areas and also from shops and food and drink uses in the Maylands Business Park Article 4 area.

8.5 The proposed revised extent of the new Article 4 Directions show that proper consideration has been given by the Council to the revised paragraph 53 of the NPPF to limit the extent of the proposed Directions to that necessary to provide protection for the areas.

## 9. Conclusion

9.1 It is considered that this statement provides clear justification for designating sites within Dacorum's key employment areas as Article 4 areas. The Article 4 directions will require planning applications to be made in the designated areas for changes of use from office to residential use and, at Maylands Business park, also for changes of use from shops and food and drink uses to housing.

## **APPENDIX A**

### **BRASIER FREETH PLANNING REPORT, MARKET COMMENTARY AND VALUES**

## **APPENDIX B**

### **MAPS OF PROPOSED ARTICLE 4 SITES**