

NOTICE
OF
MEETING

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**PLANNING & HOUSING OVERVIEW &
SCRUTINY PANEL**

will meet on

TUESDAY, 15TH AUGUST, 2017

At 7.00 pm

in the

COUNCIL CHAMBER - TOWN HALL, MAIDENHEAD

TO: MEMBERS OF THE PLANNING & HOUSING OVERVIEW & SCRUTINY PANEL

COUNCILLORS RICHARD KELLAWAY (CHAIRMAN), MALCOLM ALEXANDER (VICE-CHAIRMAN), MICHAEL AIREY, GERRY CLARK, DAVID HILTON, LEO WALTERS AND MALCOLM BEER

SUBSTITUTE MEMBERS

COUNCILLORS CLIVE BULLOCK, SAYONARA LUXTON, ADAM SMITH, JULIAN SHARPE, LYNDA YONG & VACANCY, LYNNE JONES, WISDOM DA COSTA OR SIMON WERNER

Karen Shepherd - Democratic Services Manager - Issued: Monday, 7 August 2017

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the Panel Administrator **Tanya Leftwich** 01628 796345

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AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
1.	<p><u>APOLOGIES FOR ABSENCE</u></p> <p>To receive any apologies for absence.</p>	-
2.	<p><u>DECLARATIONS OF INTEREST</u></p> <p>To receive any declarations of interest.</p>	5 - 6
3.	<p><u>MINUTES</u></p> <p>To confirm the Part I minutes of the meeting of Wednesday 12 July 2017.</p>	7 - 14
4.	<p><u>PETITION TO HOLD AN OFFICER TO ACCOUNT</u></p> <p>To consider the following petition:</p> <p>http://petitions.rbwm.gov.uk/PLANSTOPANDSTART/</p> <p><i>We the undersigned petition The Royal Borough of Windsor and Maidenhead to stop the current Local Development Plan (Regulation 19) consultation and restart it only AFTER advising residents that they are invited to comment on any aspect of the plan.</i></p> <p>Submitted by Andrew Cormie of Holyport Residents Association – Deadline to sign up by: 06 August 2017 – Signatures: 431</p> <p>More details from petition creator:</p> <p><i>The RBWM Head of Planning sent a letter dated 27 June 2017, Andrew Cormie, limiting comments on the Reg 19 Consultation.</i></p> <p><i>The Secretary of State for Communities and Local Government has responded on 17th July 2017 to a request by Andrew Cormie, advising that there is no limitation at the second stage - (so-called Reg 19) as to what topics of the plan residents may comment upon. He points out that the Reg 19 stage is the first opportunity that anyone would have to request involvement in the hearing sessions for the Local Plan.</i></p> <p><i>I have asked Head of Planning to stop the consultation, restarting after giving proper advice, and received no response. In order to stop it I therefore call, through this petition, for the matter to be discussed at an RBWM Planning and Housing Overview and Scrutiny Panel meeting, at which the Head of Planning must be questioned. Under the RBWM Constitution Rule C10.37, I wish that the Lead Member for Planning will also be questioned at the meeting.</i></p>	-

I urge all residents to sign this petition.

5. PUBLIC HOUSE ARTICLE 4 DIRECTIONS

15 - 20

To comment on the report to be considered by Cabinet on the 24 August 2017.

6. DATES OF FUTURE MEETINGS

-

- Thursday 19 October 2017.
- Thursday 7 December 2017.
- Thursday 1 February 2018.
- Wednesday 18 April 2018.

MEMBERS' GUIDE TO DECLARING INTERESTS IN MEETINGS

Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a DPI or Prejudicial Interest. If a Member has already disclosed the interest in their Register of Interests they are still required to disclose this in the meeting if it relates to the matter being discussed.

A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' means a discussion by the members of meeting. In order to avoid any accusations of taking part in the discussion or vote, Members should move to the public area or leave the room once they have made any representations. If the interest declared has not been entered on to a Members' Register of Interests, they must notify the Monitoring Officer in writing within the next 28 days following the meeting.

Disclosable Pecuniary Interests (DPIs) (relating to the Member or their partner) include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any licence to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where:
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

A Member with a DPI should state in the meeting: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations on the item: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Prejudicial Interests

Any interest which a reasonable, fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs the Member's ability to judge the public interest in the item, i.e. a Member's decision making is influenced by their interest so that they are not able to impartially consider relevant issues.

A Member with a Prejudicial interest should state in the meeting: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations in the item: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Personal interests

Any other connection or association which a member of the public may reasonably think may influence a Member when making a decision on council matters.

Members with a Personal Interest should state at the meeting: ***'I wish to declare a Personal Interest in item x because xxx'. As this is a Personal Interest only, I will take part in the discussion and vote on the matter.***

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Public Document Pack Agenda Item 3

PLANNING & HOUSING OVERVIEW & SCRUTINY PANEL

WEDNESDAY, 12 JULY 2017

PRESENT: Councillors Richard Kellaway (Chairman), Michael Airey, Gerry Clark, David Hilton, Sayonara Luxton (sub for Councillor Malcolm Alexander), Leo Walters and Malcolm Beer

Also in attendance: Councillor Simon Dudley, Councillor Maureen Hunt, Councillor Derek Wilson (Lead Member for Planning), John Brind (Whitbread Group Plc), Ralph Facey (Radian), Darryl Flay (Essential Living), Orla Gallagher (Housing Solutions), Mark Gaskarth (Royal Berkshire Fire & Rescue Service), Raymond Gonzalez (Essential Living), Bruce Kerr (Housing Solutions), Ben Lancaster (Housing Solutions), and Lindsay Todd (Radian).

Officers: Tanya Leftwich, Louisa Dean, Jenifer Jackson, Kevin McDaniel and Alison Alexander.

ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

Councillor Leo Walters proposed himself for the position of Chairman which Councillor Malcolm Beer seconded. Councillor Leo Walters received three votes in favour of this proposal from himself, Councillors Malcolm Beer and Michael Airey.

Councillor Richard Kellaway (proposed by Councillor Gerry Clark and seconded by Councillor David Hilton – received four votes from himself, Councillors David Hilton, Gerry Clark and Sayonara Luxton) and Councillor Malcolm Alexander (proposed by Councillor Richard Kellaway and seconded by Councillor Sayonara Luxton – received a unanimous vote) were elected Chairman and Vice-Chairman respectively, for the ensuing municipal year.

RESOLVED: That Councillor Richard Kellaway be elected Chairman and Councillor Malcolm Alexander be elected Vice-Chairman, for the ensuing municipal year.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Malcolm Alexander. Councillor Sayonara Luxton had agreed to be a substitute on the Panel.

Apologies were also received from Councillor Christine Bateson (Lead Member for Neighbourhood Planning and Ascot & The Sunnings).

The Chairman explained that the meeting was being recorded and that the audio would be uploaded to the RBWM website.

DECLARATIONS OF INTEREST

Councillor Michael Airey declared an interest in Item 5 (Risk Mitigation – Housing, Schools and Hotels) as he sat on the Board of Directors Shared Service – Building Control Services.

Councillor Derek Wilson declared an interest in Item 5 (Risk Mitigation – Housing, Schools and Hotels) as he sat on the Board of Directors Shared Service – Building Control Services.

The Leader, Councillor Simon Dudley, declared an interest in Item 5 (Risk Mitigation – Housing, Schools and Hotels) as he was the Director of the Homes and Communities Agency (founder of Essential Living).

MINUTES

RESOLVED: That the Part I minutes of the meeting held on the 16 May 2017 were agreed as a correct record subject to the following change.

Councillor Malcolm Beer stated that with regard to the 'Response to the Housing White Paper: Fixing our broken Housing Market' item at the last meeting his comments had not been fully minuted and as such the following was added:

"In response to the Government consultation that had already been sent before coming through the Overview & Scrutiny Panel Councillor Beer stated that 'we're chasing a horse and it's already bolted'.

Councillor Beer criticised the Council's reply to the Government paper 'Fixing our broken housing market' after the Panel was recommended to endorse it.

Councillor Beer stated that he felt it was outrageous and whilst he knew the Council was short staffed this should have been considered before not after it had gone out."

RISK MITIGATION - HOUSING, SCHOOLS AND HOTELS

Everyone around the table introduced themselves.

The Chairman explained that it had been a learning process about how the system worked as so much misinformation had been given since the Grenfell Tower Fire tragedy.

The Property Service Lead, Rob Large, informed everyone present that he had produced some background slides to help show that the Royal Borough has sought assurances from and invited external speakers to attend this meeting. It was noted that a tall building was one that was over 18 metres high and could be as little as 5 floors tall. It was explained that there was ongoing dialogue with the Royal Berkshire Fire and Rescue Service.

The Panel was informed that the regulation function of Building Control meant that it could either be delivered by the Local Authority or by private authorised inspectors so anyone developing a project could choose between the two options.

It was noted that the Local Authority Building Control Team did not hold data on buildings dealt with by private authorised inspectors or have a list of buildings in the Royal Borough that were over 18 metres tall.

Mark Gaskarth, Area Manager for the Royal Berkshire Fire and Rescue Service was invited to address the Panel. The Panel were given a copy of the updated Royal Berkshire Fire and Rescue Service report which highlighted the work undertaken to date following the Grenfell Tower Fire on the 14 June 2017. It was noted that the role of the Fire Service was to give advice to both the public and organisations so they were aware of key guidance. It was noted that the Royal Berkshire Fire and Rescue Service had undertaken over 4000 home safety checks since the tragedy in June.

Mark Gaskarth went onto explain that the Fire Service enforced the fire safety order which enabled them to prohibit use of buildings and ensure fire safety was in place. It was noted that the Fire Service were statutory consultees for any building regulations being put in place. It was explained that the Fire Service also had to plan for fires in the Royal Borough. The Panel was informed that an incident room (Operational Support Room) had been set-up and

that the Fire Service was in daily communication with the West Midlands in order to be able to give consistent and regular advice.

In response to questions Mark Gaskarth explained that legislation had changed in the late 1990's to fit in with the Health & Safety legislation which meant that the Fire Service no longer issued fire certificates link 'in the olden days'. It was noted that the onus was now on the people who own and occupy buildings. Mark Gaskarth added that the Fire Service has a specially trained team on building regulations that could advise on that subject. It was noted that with regard to a best practice document not one piece of guidance fits all but there were numerous guidance documents available for different types of buildings and that fire risk assessments needed to be carried out in order to gain suitable advice. Mark Gaskarth informed the Panel that the Royal Berkshire Fire and Rescue Service had a high reach vehicle available for us which reached 30 metres in height; however this vehicle would not be tall enough for some of the buildings in London. It was noted that seven residential high rise buildings had been identified with the Royal Borough which were:

- Berkshire House, Queen Street, Maidenhead
- Providence House, St Cloud Way, Maidenhead.
- Grasmere, Sawyers Close, Windsor.
- Broadleys, Sawyers Close, Windsor.
- Winwood, Sawyers Close, Windsor.
- Hale, Sawyers Close, Windsor.
- Woodhurst South, Ray Mead Road, Maidenhead.

Mark Gaskarth explained that of these seven buildings Providence House stood out it had had a small fire which was thought to have been started deliberately. It was noted that the Fire Service in conjunction with Housing Solutions were ensuring the building was safe.

It was noted that the Fire Service were aware of twenty-four cladding samples sent for analysis by responsible persons for buildings in Berkshire, however none were from buildings in the Royal Borough area. This does not include the Premier Inn as the sample from that building was separate to the Government-led initiative.

Mark Gaskarth explained to the Panel that when building regulations were changed it was up to Building Control specialists to sign off the changes and a fire risk assessment would also be needed in order for the safety needs to be updated. The Property Service Lead agreed to check the process as he believed there was a difference between a building changing and regulations being changed.

The Director of Children's Services, Kevin McDaniel, gave a verbal update to the Panel regarding the DfE return from Children's Services. It was noted that the DfE had asked all LA's to undertake reviews of buildings over 18 metres. The Director of Children's Services explained that the Royal Borough did not have any schools over 18 metres other than one residential school, Holyport College, who's Trust had since responded. The Panel was assured that materials used in schools had also been looked at and it had been found that no cladding had been used on schools in the Royal Borough.

The Director of Children's Services informed the Panel that all schools in the Royal Borough had been reminded of their obligations for practised evacuations and had fire risk assessments. It was noted that the Council had asked private schools within the Royal Borough to be part of this process.

The Chief Executive of Housing Solutions, Orla Gallagher, accompanied by Bruce Kerr (Director of Asset Management) & Ben Lancaster (Compliance Manager), explained to the Panel that Housing solutions had over 3,000 tenants in Maidenhead which made a total of just over 7,000 residents in the Royal Borough. It was noted that Housing Solutions did not own any properties over four stories high although three properties had been looked into which were:

- Evenlode, Maidenhead – Housing Solutions had received enquiries from concerned residents in this property.

- Providence House, Maidenhead – which is a privately owned scheme with management responsibilities split between the RBWM, Sainsbury's and SDLBigwood. It was noted that Housing Solutions were working with the Fire Service in order to be robust and proactive in preventing fires. The Chairman requested that the Panel be kept informed regarding the cladding test results once received from SDLBigwood.
- Alpine Close, Maidenhead – which is timber clad and due to be tested for fire resistance.

The Executive Director (Communities Directorate), Andy Jeffs, informed the Panel that since the fire at Providence House the Council had introduced a two man security patrol to ensure the building is no longer at risk. Councillor Beer explained to the Panel that in the 1990's he had been involved in cladding schemes in London (heavy duty aluminium and heavy duty fibreglass on the walls) and questioned whether a concierge facility (for authorised access) was used in the Royal Borough. Orla Gallagher responded by explaining that whilst Housing Solutions did not have a concierge service in place they did have maintenance teams in place.

The Chief Executive of Radian, Lindsay Todd, accompanied by Ralph Facey (Director of Housing and Customer Services) explained to the Panel that in the Royal Borough, Radian did not have any tower blocks but had 136 residential blocks of dwellings of which 12 blocks were medium rise (over 5 storeys). It was noted that in Radian's response to the Department for Communities and Local Government's request for information of blocks over 18 metres in height, four 8 storey blocks at Sawyers Close in Windsor (each containing 48 flats) were evaluated. It was noted that these blocks did not contain the Aluminium Composite Material (ACM) cladding that was subject to the DCLG requirement for testing by the Building Research Establishment. The Panel was informed that the cladding used was a rendered finish on a mesh backing with mineral wool insulation (an insulation that had good fire resistant properties). It was noted that this work was completed as part of an improvement package by RBWM, prior to the Council's stock transfer of homes to Windsor and District Housing Association Limited (a member of Radian Group).

Ralph Facey explained that the tenancy agreement outlined the Health & Safety requirements to tenants in addition to Housing Solutions running fire, safety campaigns, operating sterile communal areas and holding monthly inspections to remove unclaimed items. It was noted that following the Grenfell tragedy Housing Solutions had knocked door to door to help raise awareness.

Lindsay Todd informed the Panel that Air B&B was prohibited from Radian buildings.

Councillor Beer questioned whether fires could transfer between properties via the balconies as they had PVC windows. Lindsay Todd suggested that Councillor Beer watched this space!

The Chief Executive of Essential Living, Darryl Flay, accompanied by Raymond Gonzalez-Rios (Head of Programme Management) explained to the Panel that he had been involved in high rise for about thirty years and had an engineering background whilst Raymond built these buildings every day. Darryl Flay assured the Panel that Berkshire House, which was probably the tallest building in the Royal Borough, far exceeded minimum requirements set out in building regulations. It was noted that Essential Living did not use the same insulation as that used in the Grenfell Tower block and that the insulation they used did meet fire regulations. The Panel was informed that Essential Living used a mineral fibre and fire breaks around all windows and doors along with a 3mm porcelain ceramic tile on the outside of their buildings hung off a non-flammable frame. The Panel were shown an example of the ceramic tile used. It was noted that Essential Living also installed full sprinkler systems in their properties as standard, fire exit routes in all liveable spaces and smoke extractor systems in corridors.

Raymond Gonzalez-Rios explained that Essential Living had a 'stay put' policy if a fire was to break out. It was noted that the fire alarm system was an intelligent system that could differentiate between a false alarm and a real fire. The Panel was informed that if a fire was

to break out the sprinklers would only work in the area of the fire and with only a certain amount of water which in turn helped reduce water damage to the property.

Whitbread's Director of Safety & Security, John Brind, for Premier Inn Hotels provided the Panel with a copy of his report which had just been made available for circulation. It was noted that the Maidenhead Premier Inn, which had a Vitrabond Aluminium rainscreen exterior cladding, had opened in November 2015 and was leased. The Panel was informed that as such it had been the developer who had been responsible for its construction and for obtaining approval under the Building Regulations. It was noted that as a result of the review Whitbread were actively investigating two areas:

- The extent to which the affected hotel remained safe to operate.
- Whether or not the building complied with building regulations.

The Panel was informed that an independent expert fire consultancy, CS Todd & Associates Ltd, had been appointed and found that overall suitable controls were in place to minimise the hazard from fire, suitable fire protection measures were in place to enable people to escape safely and the standard of fire safety management in the premises was good.

The Panel noted that there were always two team members on site at all times, there was a 7-10 minute evacuation rate and there were no cooking facilities in the rooms – only a TV, kettle and hairdryer were available.

It was noted that the Whitbread Group on behalf of the Premier Inn were also doing tests of their own on an 8ft wall. It was noted that there would probably need to be three combinations of the wall/product to test.

The Leader, Councillor Simon Dudley, thanked all the external speakers for attending the meeting. It was noted that the Council were planning to share the findings of the tests they had submitted, which they hoped would be available in a matter of weeks, with the companies present as they felt it to be relevant to everyone.

The Chairman thanked the external speakers for attending, which the Panel echoed, and stated that he hoped it helped provide comfort to all residents in the Royal Borough. It was noted that there would be some follow-up work to this and that the two way dialogue should be a comfort to everyone.

Councillor David Hilton added that he was pleasantly surprised at the work that had been done to audit premises in the Royal Borough.

The Chairman commended the Leader and Chief Executive for bringing the external speakers before the Panel, which the Panel echoed.

HURLEY AND WALTHAMS NEIGHBOURHOOD PLAN - DECISION STATEMENT

The Head of Planning, Jenifer Jackson, informed the Panel that this report sought approval from Cabinet for the Hurley and the Waltham's Neighbourhood Plan to proceed to referendum at the earliest practicable opportunity. It was noted that the Neighbourhood Plan had been formally examined by an independent examiner, and a number of changes had been recommended by the examiner to ensure that the plan met the basic conditions. The Head of Planning explained that as there were several parishes in the plan area it would require more polling stations, the cost of the referendum could be claimed back from the government.

Members were informed that after the Draft Neighbourhood Plan had been submitted to the Royal Borough a formal process of consultation was undertaken by planning officers and the results were forwarded to the independent examiner for their consultation during the examination process. It was noted that the consultation process had met the legal requirements. The Head of Planning explained that members of the Planning Team had met with the Neighbourhood Plan Working Group, of which Councillor Maureen Hunt is Chairman, and they and members of the Planning Team were both content.

In the ensuing discussion the following points were noted:

- That there was no minimum number of people able to vote.
- That the turnout in Ascot had been around 20% which was considered significant.
- That there was only one divergence that would be resolved when the BLP goes through examination so was not considered an issue at present.
- That it was hoped that the Neighbourhood Plan would be approved in early September.
- That the Council could not impose the current NPPF position.
- That they could be used as planning policy at a planning enquiry.
- Councillor Malcolm Beer asked whether the Old Windsor Parish Council had submitted comments. The Head of Planning confirmed they had not. Councillor Malcolm Beer stated that he would look into this.

The Planning & Housing Overview & Scrutiny Panel unanimously agreed to recommend that Cabinet:

- i) **Confirms that the plan meets the Basic Conditions tests and does not require a SA/SEA; and**
- ii) **Accepts the proposed changes to the Neighbourhood Plan set out in Appendix B, and**
 - a. **Gives delegated authority to the Head of Planning to issue a decision statement; and**
 - b. **agrees to put the modified Neighbourhood Plan to referendum. The date of the referendum to be set in accordance with the legal requirements; and**
- iii) **Delegates authority to the Executive Director, in consultation with the Principal Member for Neighbourhood Planning, to make minor, non material, amendments to the Neighbourhood Plan prior to the referendum being announced; and**
- iv) **Provides advance funding, if required, for the referendum which will then be claimed back from Government.**

It was agreed that the Head of Planning would provide the Panel with a written response as to what happens to the consultation database details once they had been used for the specific purpose intended.

Councillor David Hilton, on behalf of the Panel, stated that the policy on car parking was beneficial observing that other Neighbourhood Plans did not contain this level of detail; for other areas the Council's Parking Standards needed revision. Councillor Malcolm Beer stated that there was only a maximum not a minimum that could be specified for parking standard requirements which caused parking to be a problem in the Royal Borough. The Chairman stated that with regard to employment side of things he felt not enough went into employment opportunities. Councillor Michael Airey questioned how simpler communication would be provided to inform the voter about what could be achieved – Councillor Maureen Hunt explained that a number of articles went into various parish / church magazines, on various parish websites and in the Maidenhead Advertiser.

The Panel hoped the Planning Team was happy with the outcome and wished the referendum every success.

The Panel congratulated Councillor Maureen Hunt on her hard work and dedication regarding the work she and the Steering Group had put into the document.

DATES OF FUTURE MEETINGS

Members noted the following future meeting dates (7pm start):

- Tuesday 15 August 2017.
- Thursday 19 October 2017.
- Thursday 7 December 2017.
- Thursday 1 February 2018.
- Wednesday 18 April 2018.

The meeting, which began at 7.00 pm, finished at 9.00 pm

CHAIRMAN.....

DATE.....

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Report Title:	Article 4 Direction
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	Councillor D Wilson, Lead Member for Planning
Meeting and Date:	Cabinet - 24 August 2017
Responsible Officer(s):	Russell O'Keefe, Executive Director
Wards affected:	All

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REPORT SUMMARY

1. There are over 120 public houses and bars in the Royal Borough. Their owners hold 'permitted development rights' allowing them to redevelop, demolish or change the use of the premises without planning permission. The option to sell or redevelop these sites is becoming increasingly lucrative; the Campaign for Real Ale (CAMRA) claim that on average 21 pubs in the UK close every week.
2. Councils hold powers under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 to remove a property's permitted development rights. Rights are removed in situations where a local amenity is in need of protection.
3. The Secretary of State must be notified of an Article 4 direction. The direction may not be confirmed by the council until at least 28 days after it has been served or published or any longer period of time as notified by the Secretary of State. Government retains a right to modify the directions if they are considered 'inappropriate' or 'disproportionate'. A non-immediate Article 4 direction takes one year before it comes into effect. For an immediate direction, the council would be liable to pay compensation.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Cabinet notes the report and:

- i. **Delegates authority to the Executive Director to progress a non-immediate Article 4 direction in accordance with the legal requirements.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 Paragraph 200 of the National Planning Policy Framework (NPPF) states that the use of Article 4 directions to remove national permitted development rights should only be used in situations where it is necessary to protect local amenity or the wellbeing of the area. Justification must be provided for the purpose and extent of the Article 4 direction.
- 2.2 Article 4 (1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 itself states the council, when making a direction, must be satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless permission is granted for it on an application. An Article 4 direction can cover:

- Any geographic area from a specific site to a whole local authority;
 - Permitted development rights relating to operational development or the change of use in the land;
 - Permitted development rights with temporary or permanent effect.
- 2.3 It is proposed that the council introduces a non-immediate Article 4 direction covering the whole borough to remove permitted development rights for use class A4 to use class C3 on a non-immediate basis. A non-immediate basis is recommended; this requires a 12-month notice period to be given before the Article 4 direction, if confirmed, takes effect to avoid any compensation claims.
- 2.4 The local planning authority (LPA) can confirm directions, with no requirement to obtain approval from the Secretary of State. The Secretary of State still needs to be informed and reserves the right to influence or even prevent confirmation of an Article 4 direction should they consider it unnecessary, unreasonable or unjustified. Legislation requires that a consultation process of no less than six weeks is conducted and that the Order is not confirmed until the council has given consideration to the responses received to the public consultation.
- 2.5 In August 2016, the London Borough of Wandsworth passed a non-immediate Article 4 direction to remove permitted development rights from 120 of its public houses and bars. These directions come into effect on 23 August 2017.
- 2.6 The London Borough of Southwark announced an immediate Article 4 direction in March 2017 to withdraw permitted development rights from 188 pub sites. Southwark made the decision to implement immediate directions as they claimed any development would present an immediate threat to local amenity. The council anticipates that they will be liable to compensate developers or landowners whose developments are affected by their Article 4 direction.

Table 1: Options

Option	Comments
To do nothing	Properties could continue to be nominated through the Assets of Community Value process by local communities.
Progress a non-immediate Article 4 direction to remove permitted development rights relating to pubs. The recommended option.	This would allow the local authority control and would be in the interest of residents as pubs make an important contribution to communities in the Borough.
Progress an immediate Article 4 direction. This would be subject to compensation to the owners of the properties, which could be significant. It is also unlikely that a qualifying case could be made for an immediate direction or that the Secretary of State would approve it.	The Neighbourhood Planning Act includes provisions for the Secretary of State to amend the General Permitted Development Order to remove the right for pubs to change use class; this has not yet been enacted through secondary legislation but it is expected imminently.

3. KEY IMPLICATIONS

Table 2: Key implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Evidence in place to support non-immediate Article 4 direction produced for the purposes of consultation.	1 January 2018	By 31 December 2017	Before 1 December 2017	By 1 November 2017	31 December 2017
Public consultation exercise of not less than six weeks commenced.	1 April 2018	By 31 March 2018	Before 1 March 2018	By 31 January 2018	31 March 2018
Non-immediate Article 4 direction in place following consideration of consultation responses	1 January 2019	By 30 September 2018	By 31 July 2018	By 1 May 2018	30 September 2018

4. FINANCIAL DETAILS/ VALUE FOR MONEY

- 4.1 Based on the experience of other local authorities that have recently conducted this work, costs are estimated to be in the region of £4,000 for 2017-18 and a further £4,000 for 2018-19. These spends will cover the cost of obtaining legal advice, printing Article 4 direction notices and placing public advertisements in local newspapers. This will be funded from within existing budgets.

Table 3: Financial impact of report's recommendations

REVENUE	2017-18	2018-19	2019-20
Addition	£0	£0	£0
Reduction	£0	£0	£0
Net impact	£0	£0	£0

CAPITAL			
Addition	£0	£0	£0
Reduction	£0	£0	£0
Net impact	£0	£0	£0

5. LEGAL IMPLICATIONS

- 5.1 The Council will give notice of the Article 4 direction and views and representations will be sought in accordance with the requirements of the Town and Country Planning (General Permitted Development) Order 2015, as amended. Notice of the Article 4 direction shall be given by the Council:
- By local advertisement;
 - By site notices at no fewer than two locations within the area to which the direction relates for a period of not less than six weeks.
- 5.2 The notice will invite representations to be sent to the council within a maximum of 21 days. The Secretary of State will also be notified on the same day the Article 4 direction is first published.

6 RISK MANAGEMENT

Table 4: Impact of risk and mitigation

Risks	Uncontrolled Risk	Controls	Controlled Risk
Property owners take legal action for loss or damaged directly attributed to with drawl of permitted development rights.	High	Council follows the due legal process.	Low

7 POTENTIAL IMPACTS

- 7.1 The introduction of a non immediate Article 4 direction will assist the Council in maintaining mixed and balanced communities.

8 TIMETABLE FOR IMPLEMENTATION

Table 5: Implementation timetable

Date	Details
31 March 2018	Public consultation commenced.
30 September 2018	Non-immediate Article 4 direction in place

- 8.1 Implementation date if not called in: Immediately.

9 APPENDICES

None.

10 BACKGROUND DOCUMENTS

None.

11 CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr D Wilson	Lead Member for Planning	28/06/17	
Alison Alexander	Managing Director	28/06/17	03/08/17
Russell O'Keefe	Executive Director	28/06/17	
Andy Jeffs	Executive Director		
Rob Stubbs	Section 151 Officer		
Terry Baldwin	Head of HR		
Mary Kilner	Head of Law and Governance		
	Other e.g. external		

REPORT HISTORY

Decision type: Key decision	Urgency item? No
Report Author: Jenifer Jackson, Head of Planning, 01628 796042	

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