



Pippa Auger
Deputy Town Clerk
Haslemere Town Council
Town Hall
High Street
Haslemere
GU27 2HG

Andrew Longley
Interim Planning Policy Manager
Waverley Borough Council
E-mail: planningpolicy@waverley.gov.uk
Direct line: 01483 523291
Calls may be recorded for training or monitoring
Date: 30/08/2024

By email

Dear Pippa,

Request for an Article 4 Direction in Wey Hill

I am writing in relation to the Town Council's request to designate an Article 4 Direction in Wey Hill to withdraw Permitted Development Rights for changes of use from former 'A' use classes to residential use. As discussed at our meeting on the 8th May, Officers have carefully considered the case put forward and the concerns raised by the Town Council and have come to the view that an Article 4 Direction should not be progressed at this time.

Whilst Officers acknowledge the concerns raised, it is not considered that the case is sufficiently robust to demonstrate that designating an Article 4 Direction in Wey Hill is necessary to avoid wholly unacceptable adverse impacts, as required by the NPPF. In reaching this conclusion, account has been taken of the current mix of ground floor uses fronting the high street in Wey Hill and the number of prior approvals which have been granted previously. Account has also been taken of the Government's aims to give flexibility to changes of use within town centres and high streets, and the consequent risk that the Secretary of State would not confirm the Article 4 Direction. Additionally, Officers have had to consider the Council's capacity to resource the designation of an Article 4 Direction alongside the preparation of the new Local Plan.

This decision is set out in more detail in the enclosed report which has been agreed under delegated authority by the Assistant Director of Regeneration and Planning Policy.

If you have any questions or would like a further discussion, please don't hesitate to get in contact.

Yours faithfully,

Andrew Longley
Interim Planning Policy Manager
Waverley Borough Council



WAVERLEY BOROUGH COUNCIL

REPORT UNDER DELEGATED POWERS TO JOINT ASSISTANT DIRECTOR - REGENERATION AND PLANNING POLICY

Title:

**CONSIDERATION OF REQUEST FOR AN ARTICLE 4 DIRECTION IN WEY HILL,
HASLEMERE**

[Portfolio Holder: Cllr Liz Townsend]

[Wards Affected: Haslemere Critchmere and Shottermill]

Summary and purpose:

The purpose of this report is to consider a request from Haslemere Town Council for an Article 4 Direction to remove permitted development rights for changes of use from 'A' use classes to residential (C3) in Wey Hill. This report sets out the Article 4 Direction process before considering factors relevant to considering making Article 4 Directions.

Note – Class A was revoked from 1 September 2020. Class A1, A2 and A3 were effectively replaced with Use Class E (a,b,c). A4 and A5 uses became defined as 'Sui Generis'.

How this report relates to the Council's Corporate Priorities:

The making of an Article 4 direction would allow the Council as the Local Planning Authority (LPA) to be able to consider development proposals in instances where currently a planning application is not required under permitted development rights (PDR). This would allow the Council to consider proposals in accordance with local plan policies.

Equality and Diversity Implications:

There are no direct equality and diversity implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

Financial Implications:

Should the Council proceed with an Article 4 Direction, the procedural requirements required to designate an Article 4 Direction (as set out in Section 3 of this report) would require significant staffing time and resources, which would need to be balanced against the current resource constraints within the planning policy team due to the preparation of the new Local Plan. There would also be some additional costs which would be incurred relating to the procedural requirements for notification and consultation.

In addition to the above, an Article 4 direction would require planning applications for properties which currently do not require applications under the PDR. Additional planning fee income would be earned when a planning application of this nature is submitted but current expectations are that there will be a relatively small number of applications, creating

only a small increase in planning fee income. The loss of business use properties to residential use also has impacts on Business Rate and Council tax income, affecting the wider Council finances.

Legal Implications:

Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the Order”) provides that if the local planning authority is satisfied that development described in certain parts of Schedule 2 of the Order should not be carried out unless permission is granted for it, it may make a direction to restrict permitted development rights (PDR). PDR should only be withdrawn if there is reliable evidence to justify the direction’s purpose and extent.

If the Council decides that it is expedient to restrict PDR through the introduction of an Article 4 direction, the Legal Services team would be required to assist officers with the preparation of and the subsequent procedure for formally making the Direction.

1. Background

Haslemere Town Council submitted a request for an Article 4 Direction in Wey Hill on 28th April 2020 to withdraw PDR for changes of use from 'A' use classes to residential.

An Article 4 Direction is a specialised planning regulation adopted by a Local Planning Authority, either comprehensively or in part, to revoke specific PDR, thereby necessitating formal planning consent. Over the past few years, the Council has enacted two such Article 4 Directions (Godalming train station area and in Beacon Hill, Haslemere), effectively withdrawing selected PDR within selected urban retail and commercial clusters within the borough.

2. Article 4 Directions

PDR can be removed by the LPA either by means of a condition on a planning permission, or an Article 4 Direction. The operation and procedures for Article 4 Directions are set out in legislation and the National Planning Practice Guidance.

In summary, an Article 4 Direction can:

- be either for operational development or a change of use;
- cover specific development or a wider area;
- be temporary or permanent; and
- be either non-immediate (PDR are only removed after formal confirmation of the Article 4 Direction following local consultation) or immediate (where PDR are removed immediately but must be confirmed within six months).

If an Article 4 Direction is in place removing specific PDR, a planning application must be granted to carry out that development or change of use. However, if a planning application is required due to an Article 4 Direction, it does not mean that planning permission should necessarily be refused.

3. Article 4 Procedural Requirements

These are a series of typical steps the Council must go through to successfully designate an Article 4 Direction:

1. **Identification of the Area or Development Type:** The council must identify the specific area or type of development for which they want to remove or restrict PDR. This decision should be based on planning considerations and local planning policies.
2. **Consultation:** The council initiates a consultation process to gather input and feedback from the public, stakeholders, and relevant parties. This consultation may include local residents, businesses, and other interested parties. The council should consider the comments and objections received during this phase.
3. **Drafting the Article 4 Direction:** Based on the feedback and planning considerations, the council drafts the Article 4 Direction. This document should clearly

state the purpose of the direction, the area or development type affected, and the specific changes to permitted development rights.

4. **Notification:** The council must formally notify affected landowners and occupiers, as well as other relevant authorities or government bodies. This will require the Council to obtain landowners' names and addresses through Land Registry and then write to all landowners and occupiers.
5. **Publication:** The draft Article 4 Direction is published for public inspection, typically on the council's website, at council offices and onsite notices, to inform the public and stakeholders of the proposed changes.
6. **Consideration of Objections:** The council considers any objections received during the consultation period and may hold a public hearing or inquiry if necessary.
7. **Decision:** Based on the consultation, objections, and planning considerations, the council makes a final decision on whether to confirm or withdraw the Article 4 Direction.
8. **Confirmation:** If the council decides to proceed, they formally confirm the Article 4 Direction, and it comes into effect on a specified date.
9. **Notification of Affected Parties:** The council notifies affected landowners, occupiers, and relevant authorities of the confirmed Article 4 Direction and the effective date.
10. **Publication of the Confirmed Direction:** The confirmed Article 4 Direction is published, and it becomes part of the local planning regulations.
11. **Implementation:** The Article 4 Direction is enforced, and it restricts or removes PDR in the designated area or for the specified development type.

4. Secretary of State Intervention

While the process of designating an Article 4 Direction primarily involves the local council, the Secretary of State for Housing, Communities, and Local Government does have the authority to intervene and potentially revoke an Article 4 Direction if there are specific reasons to do so.

The Secretary of State can intervene in the following circumstances:

- **Objection by Affected Parties:** If a person or organisation affected by an Article 4 Direction objects to it and the objection is not resolved locally, they can appeal to the Secretary of State for a review of the direction.
- **National Considerations:** The Secretary of State can also intervene if there are national considerations, such as issues of national significance or strategic importance, that warrant review.
- **Planning Appeals:** If there is a planning appeal related to an Article 4 Direction, the Secretary of State may become involved in the appeal process.

In these cases, the Secretary of State can either confirm the Article 4 Direction, modify it, or revoke it based on the circumstances and evidence presented.

Following notification to the Secretary of State (SoS) of the Council's intention to make an Article 4 Direction, the Planning Casework Unit (PCU) would request that the Council provides supporting evidence to enable the SoS to come to a decision as to whether to use

their powers to intervene. The SoS can make a direction cancelling or modifying any Article 4 Direction at any time before or after its confirmation.

As set out in Section 6 below, the suggested Article 4 Direction at Wey Hill could be seen as conflicting with government aims and there is therefore a significant risk that the Secretary of State would not confirm the Article 4 Direction meaning it could be revoked.

5. Policy Context

Wey Hill is part of the Town Centre Area in Haslemere and is a designated Primary Shopping Area. The Primary Shopping Areas reflect the main concentration of retail development within town centres. Waverley Local Plan Part 1 (2018) Policy TCS1 states that the Primary Shopping Areas will be the main focus, particularly at ground level, for new retail uses and seeks to protect retail uses within these defined areas. Where planning permission is required, ground level retail uses will be protected unless it can be determined that a change of use would not have significant harmful effects on the frontage and the vitality and viability of the town centre or result in an over-concentration of non-retail uses.

6. The case for making an Article 4 Direction in Wey Hill

Haslemere Town Council commissioned Navigus Planning Consultants to prepare a report in 2020 which sets out that since 2013, Wey Hill has seen the loss of two retail frontages to residential use under PDR (PRA/2016/0010 and 0011) and that, given the balance of uses, the loss of further units would reach a tipping point for the vitality of the centre as a shopping destination.

Their report shows the gains and losses of A-class retail space over the six-year period from 2012/13 to 2017/18 and shows that losses have occurred from 2015 – 2018 (data taken from 2017/18 Authority Monitoring Report).

The report sets out that already 29% of the frontages along Wey Hill are in uses other than retail (Use Class A) and raises concern that it will not take the loss of many further units before non-retail uses account for more than 50% of this frontage.

The Navigus report highlights that Wey Hill performs an important function and operates as a separate shopping area to Haslemere Town Centre, and that this is a small retail centre where the significant trend in the loss of retail units is likely to mean the centre is quickly becoming unviable.

The below table lists the prior approvals in Wey Hill. As highlighted in the evidence submitted by the Town Council, there are 2 prior approval applications which have changed the use of ground floor retail frontages to residential properties (in italics and bold).

Reference	Location	Previous land use	Permitted dwellings (net)	Completed dwellings (net)	Floorspace (sq.m)
CR/2020/0005	99 Wey Hill, Haslemere GU27 1HS (rear of building)	Office (B1a)	1	1	-42.71
PRA/2016/0011	77 Wey Hill, Haslemere GU27 1HN	Shops (A1)	2	2	-71.28
PRA/2016/0010	79 Wey Hill, Haslemere GU27 1HN	Shops (A1)	2	2	-62.27
PRA/2016/0006	60-62 Wey Hill, Haslemere GU27 1HN (rear of building)	Shops (A1)	1	0 (subsequent permission implemented)	-38.1

A table of the current uses of ground floor units fronting Wey Hill (as of July 2024) is set out in Appendix 1.

Key points in the case for an Article 4 Direction in Wey Hill:

- Evidence of the loss of retail units: - there is evidence of the loss of retail units through 2 prior approval applications for two residential properties within a row of retail frontages, which have impacted the street scene along this section of the south side of Wey Hill. It is of note that the other residential properties at ground floor level along Wey Hill comprise a long standing group of houses towards the opposite end of the north side of the high street.
- Potential to impact character and vitality: – Wey Hill is a small retail centre, which predominantly features retail/other town centre uses at ground floor level with residential flats above, and further losses of retail units fronting the high street could impact its character and vitality.
- There is a downward trend in retail units: – while there haven't been any changes of use of ground floor units to residential in Wey Hill since the Town Council submitted their request for an Article 4 Direction, it is of note that there are currently four vacant units.

Key points in the case against an Article 4 Direction in Wey Hill:

- Insufficient robust evidence: - paragraph 53 of the NPPF requires that Article 4 Directions should be limited to situations where they are necessary to avoid wholly unacceptable adverse impacts and should be based on robust evidence. There is a question of whether the evidence is sufficiently robust as, to date, there have only been x2 prior approvals which have resulted in the loss of ground floor commercial frontages.

- Majority of current ground floor uses are appropriate for town centres: - whilst the Navigus report (2020) submitted by HTC states that 29% of uses are non-retail, this figure is slightly misleading as the majority of the non-retail uses are considered appropriate within a town centre location (this includes Haslemere library, dental clinic, hairdressers/barbers and restaurants). The current survey figures (as of July 2024) show that the ground floor uses fronting Wey Hill comprise 30.9% retail shops, alongside 45.4% other town centre uses (library, dental clinic, hairdressers/barbers, restaurants) totalling 76.3% of the total ground floor uses along the Wey Hill high street. Residential uses fronting the high street at ground floor level total 16.4%, and there are currently 7.3% vacant units.
- Resource constraints within the Local Plans and Planning Policy team: – an Article 4 Direction is likely to require significant time and resources as there are a number of procedural requirements (set out in section 3) which would need to be balanced against the need to focus on the preparation of the new Local Plan.
- Potential conflict with Government aims: - the Government has introduced changes to the Use Classes Order to introduce greater flexibility. The [briefing on the 2020 changes](#) explains that they are intended to “give high streets the ability to adapt quickly to new uses where they might be greater value, or to change into housing in due course. This gives the high streets and our town centres the best chance of adapting and thriving”. Furthermore, the Levelling Up Secretary is currently consulting on proposals to extend PDR to make it easier to convert empty retail premises and betting shops into flats and houses. There is therefore a potential conflict with the Government aim to relax planning regulations to allow changes of use to residential within town centres. Consequentially, there is a high risk that the Secretary of State would not confirm the Article 4 meaning it could be revoked at any time. See Secretary of State Intervention above (section 4).

7. Conclusion

Officers have considered the evidence put forward by Haslemere Town Council, combined with other evidence gathered by the planning policy team. The consideration of the case for a Wey Hill Article 4 Direction must also be balanced against the current resource constraints facing the planning policy team.

While officers understand Haslemere Town Council’s concerns given the downward trend in retail and a number of units currently vacant in Wey Hill, it is not considered that the case is sufficiently robust to demonstrate that designating an Article 4 Direction in Wey Hill is necessary to avoid wholly unacceptable adverse impacts. In reaching this conclusion, account has also been taken of the Government’s aims to give flexibility to changes of use within town centres and high streets, and the consequent risk that the Secretary of State would not confirm the Article 4 Direction.

Furthermore, the case for progressing the Wey Hill Article 4 Direction proposal would be dependent on the Council’s capacity to resource the initiative. As set out in section 3, there

are a number of procedural requirements and areas of work involved in progressing an Article 4 Direction. Given the current resource pressures within the planning policy team, and the priority to be given to preparing the new Local Plan, officers do not consider that an Article 4 Direction should be progressed at this time.

Recommendation

It is recommended that the Council does not proceed with preparing an Article 4 Direction to withdraw permitted development rights in Wey Hill.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICER:

Name: Olivia Gorham (Senior Planning Policy Officer)

Telephone: 01483 523527

E-mail: olivia.gorham@waverley.gov.uk

Authorisation

This report has been agreed under the delegated authority by the Assistant Director of Regeneration and Planning Policy.

The decision falls within section 3.5 of the Scheme of Delegation (July 2024) which gives authority to the Joint Assistant Director of Regeneration and Planning Policy to make all decisions, take all actions and exercise all powers in respect of the Council's Planning Policy functions in accordance with adopted policies and relevant legislation.

Authorised by Abi Lewis, Assistant Director of Regeneration and Planning Policy

Signed: 

Date: 09.08.2024

Appendix 1: Current Ground Floor uses (as of 16 July 2024)

The table below lists the ground floor uses of the units fronting Wey Hill within the proposed Article 4 Direction Area.

Address	Establishment	Current use	Use class (REVOKED)	Use class (CURRENT)
North side of Wey Hill (west to east)				
110 Wey Hill, Haslemere GU27 1HS	Lions Den Café	Café	A3	E
108 Wey Hill, Haslemere GU27 1HS	Bells Butchers	Retail	A1	E
106 Wey Hill, Haslemere GU27 1HS	House	Residential	C3	C3
104 Wey Hill, Haslemere GU27 1HS	House	Residential	C3	C3
102 Wey Hill, Haslemere GU27 1HS	House	Residential	C3	C3
100 Wey Hill, Haslemere GU27 1HS	George Rain Bespoke Jewellery Manufacture	Retail	A1	E
98 Wey Hill, Haslemere GU27 1HS	Mias Hair Salon	Hairdressers	A1	E
96 Wey Hill, Haslemere GU27 1HS	House	Residential	C3	C3
94 Wey Hill, Haslemere GU27 1HS	House	Residential	C3	C3
92 Wey Hill, Haslemere GU27 1HS	House	Residential	C3	C3
90 Wey Hill, Haslemere GU27 1HS	House	Residential	C3	C3
86 Wey Hill, Haslemere GU27 1HS	Brasa Burger	Restaurant	A3	E
84 Wey Hill, Haslemere GU27 1HS	Sabai Thai Kitchen	Restaurant	A3	E
82 Wey Hill, Haslemere GU27 1HS	Vacant shop	Retail (VACANT)	A1 (VACANT)	E (VACANT)
80 Wey Hill, Haslemere GU27 1HN	VapER+	Retail	A1	E
78 Wey Hill, Haslemere GU27 1HN	Accountants	Financial Services	A2	E
76 Wey Hill, Haslemere GU27 1HN	Ellis Food Services (Green Grocers)	Retail	A1	E
74 Wey Hill, Haslemere GU27 1HN	Ozzy's Café	Café	A3	E
72A Wey Hill, Haslemere GU27 1HN	Andy's Fish Bar	Hot Food Takeaway	A5	Sui generis
72 Wey Hill, Haslemere GU27 1HN	Haslemere Chinese	Health/Spa Services	Sui Generis	Sui Generis

	Therapy Centre			
70 Wey Hill, Haslemere GU27 1HN	Vacant Shop	Retail (VACANT)	A1	E
68 Wey Hill, Haslemere GU27 1HN	Silkroad	Retail	A1	E
64 Wey Hill, Haslemere GU27 1HN	Chilli Nights	Restaurant	A3	E
60-62 Wey Hill, Haslemere GU27 1HN	Premium (Convenience store)	Retail	A1	E
58 Wey Hill, Haslemere GU27 1HN	Elysium Hair Design	Hair Salon	A1	E
56 Wey Hill, Haslemere GU27 1HN	Haslemere Dental Centre	Dentist	D1	E
54 Wey Hill, Haslemere GU27 1HN	Paulo Barbers	Barbers	A1	E
South side of Wey Hill (east to west)				
59 – 63 Wey Hill, Haslemere GU27 1HN	Shahanaz	Restaurant	A3	E
65 Wey Hill, Haslemere GU27 1HN	Dominos	Hot Food Takeaway	A5	Sui Generis
59-67 Wey Hill, Haslemere GU27 1HN	Versatile Ceramics	Retail	A1	E
69A Wey Hill, Haslemere GU27 1HN	The Olive Tree	Health/Spa Services	Sui Generis	Sui Generis
71-73 Wey Hill, Haslemere GU27 1HN	Apothecary 27	Retail	A1	E
75 Wey Hill, Haslemere GU27 1HN	Crown Barber & Beauty	Barbers	A1	E
77 Wey Hill, Haslemere GU27 1HN	Residential	Residential	C3	C3
79 Wey Hill, Haslemere GU27 1HN	Residential	Residential	C3	C3
81 Wey Hill Haslemere GU27 1HN	Baker and Sons	Retail (Soft Furnishings)	A1	E
83-85 Wey Hill, Haslemere GU27 1HN	Ephesus Traditional Turkish Barber	Barbers	A1	E
87 Wey Hill, Haslemere GU27 1HN	VACANT	Retail (VACANT)	A1 (VACANT)	E (VACANT)
89 Wey Hill, Haslemere GU27 1HN	Wok Star	Hot Food Takeaway	A5	Sui Generis
91 Wey Hill, Haslemere GU27 1HP	Haslemere Library	Library	D1	F
93a Wey Hill, Haslemere GU27 1HS	Pets Worth Pet Supplies	Retail	A1	E
93b Wey Hill, Haslemere GU27 1HS	VACANT	Retail (VACANT)	A1 (VACANT)	E (VACANT)

93c Wey Hill, Haslemere GU27 1HS	Laundry Assistant Dry Cleaning	Dry Cleaners	Sui Generis	Sui Generis
93d Wey Hill, Haslemere GU27 1HS	Premier Foods	Retail	A1	E
93e Wey Hill Wey Hill, Haslemere GU27 1HP	Inhomecare	Premises for care services	D1	E
97 Wey Hill, Haslemere GU27 1HS	JK Coaching	Retail	A1	E
97b Wey Hill, Haslemere GU27 1HS	Bar and Grill	Restaurant	A3	E
97 Wey Hill, Haslemere GU27 1HS	Restall's Kitchens & Bathrooms	Retail	A1	E
99 Wey Hill, Haslemere GU27 1HT	Dns accountants	Financial services	A2	E
101 Wey Hill, Haslemere GU27 1HS	Deluxe Nails	Nail salon	Sui Generis	E
103 Wey Hill, Haslemere GU27 1HS	Haslemere Carpets	Retail	A1	E
105 Wey Hill, Haslemere GU27 1HS	M&C Electrical Ltd	Retail	A1	E
107-109 Wey Hill, Haslemere GU27 1HS	Planet of Sounds Record Shop	Retail	A1	E
111 Wey Hill, Haslemere GU27 1HS	Hokey Cokey Party Shop	Retail	A1	E
115-117 Wey Hill, Haslemere GU27 1HS	Little Locks (Children's Hairdressers)	Hairdressers	A1	E