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18th March 2017.

Dear Nick,

Neighbourhood Planning Bill: The permitted development right for the change of use from office to residential

I am pleased today to be able to set out our commitment in respect of Article 4 directions for the permitted development right for the change of use from office to residential. This addresses the commitment I made at Third Reading of the Neighbourhood Planning Bill.

The approach which I outlined on the floor of the House provides flexibility for those areas that are meeting their housing requirements to have greater say over where the permitted development right for the change of use from office to residential would apply, as long as they can demonstrate that removal of the right is necessary, and that they would continue to meet their housing need. We consider that this approach reflects our commitment in the White Paper to deliver the homes that communities need, and recognises the contribution that permitted development rights for the change of use to residential can make to housing delivery.

As you will know from your experience at Richmond, local planning authorities are able to remove permitted development rights where it is necessary to protect the amenity or wellbeing of the area. They can do this by making a direction under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Local planning authorities are already familiar with this process, and to date 33 Article 4 directions have been made in respect of the permitted development right for the change of use from office to residential. Local planning authorities are expected to keep any Article 4 directions under review and cancel the direction should it no longer be necessary.

In future, those areas that are meeting their housing requirement will be afforded greater flexibility in respect of the area to be covered by an Article 4 direction removing the permitted development right to change from office to residential use. Where a local planning authority;

- achieves 100% of its housing delivery requirement; and
- can demonstrate that it can continue to do so after removal of the right, and;
- can demonstrate that the direction withdrawing the office to residential permitted development right is necessary to protect the amenity and wellbeing of the area to be covered by the direction;

the Secretary of State will look more generously at the area across which the direction would apply, and not seek to limit a direction applying to that area.

As set out in the [White Paper](#), the housing delivery test will measure whether the number of homes being built in an area meets the housing requirement for the local authority. We are consulting on proposals that the housing delivery test is assessed against:

- an area's local plan (or, where relevant, a statutory Spatial Development Strategy) where it is up-to-date (less than 5 years old); or
- for authorities in London, the figure in the London Plan; or
- if there is no up-to-date plan, published household projections.

The flexibility in respect of the area covered by Article 4 directions will apply to those authorities that are meeting 100% of their housing requirement as measured by the housing delivery test. The approach would apply to directions notified following the introduction of the housing delivery test. The White Paper sets out our intention to publish the first housing delivery test data in November 2017, for the rolling three year period from April 2014 to March 2017.

As noted above, in order for the Secretary of State to apply this approach, evidence will be required to show that the requirements of this approach are met. Specifically:

- robust evidence as to how the authority will continue to meet their housing requirement without the contribution to housing delivery from the office to residential permitted development right. This recognises that in some areas the right is making a significant contribution to local housing delivery, and some local planning authorities include a forecast of the number of homes to be delivered in their windfall allocation in their five year land supply.
- as is the case now, any new Article 4 directions after this date will continue to require evidence that the direction is necessary to protect the amenity or wellbeing of the area to be covered by the direction. This could include for example evidence of the impact of loss of office space on the amenity of the area.

Where an authority takes this approach, it should keep the Article 4 evidence under review on an annual basis, reflecting that housing delivery, and consequently the need for the direction, will fluctuate over time. If a direction is no longer necessary to protect amenity and wellbeing, it should be cancelled. Where delivery again improves in later years, the local authority may bring forward a further direction.

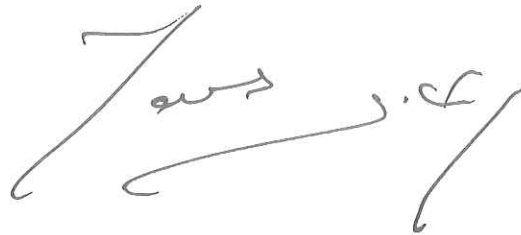
We will provide detailed guidance for local planning authorities on this approach alongside the housing delivery data.

I would assure those local planning authorities that are not meeting their housing delivery requirement that they will continue to be able to make an Article 4 direction in the usual way. The same is true in respect of Article 4s in relation to other permitted development rights made by any local planning authority.

Separately, I am also pleased to set out that where any permitted development right is withdrawn by an Article 4 direction, we will enable the local planning authority to charge the statutory planning application fee that is in force in the area at that time. The White Paper set out our plans to bring forward changes to secondary legislation in respect of planning application fees in July. We are therefore looking to make the change in respect of Article 4 directions at the same time.

I wish to place on record my thanks for the positive way in which you have engaged in reaching an agreement, and I trust that this letter is helpful in setting out further detail on our commitment.

I am placing a copy of this letter in the House of Lords library, and copying also to Lord Topik.

A handwritten signature in black ink, appearing to read 'Lord Bourne of Aberystwyth', written in a cursive style.

LORD BOURNE OF ABERYSTWYTH

