

POLICY AND RESOURCES COMMITTEE MEETING

Date: Monday 15 October 2018
Time: 6.30 pm
Venue: Town Hall, High Street, Maidstone

Membership: Councillors Mrs Blackmore, Boughton, M Burton, Clark, Cox (Chairman), Field, Garland, Mrs Gooch, Harvey, McKay, McLoughlin, D Mortimer, Newton, Perry (Vice-Chairman) and Springett

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Urgent Items
4. Notification of Visiting Members
5. Disclosures by Members and Officers
6. Disclosures of Lobbying
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
8. Presentation of Petitions (if any)
9. Questions and answer session for members of the public (if any)
10. Review of Decision of Strategic Planning, Sustainability and Transportation Committee: Town Centre Article 4 Direction - Options 1 - 26

PUBLIC SPEAKING AND ALTERNATIVE FORMATS

If you require this information in an alternative format please contact us, call **01622 602899** or email committee@maidstone.gov.uk.

In order to speak at this meeting, please contact Democratic Services using the contact details above, by 5 p.m. one clear working day before the meeting – Thursday 11 October. If asking a question, you will need to provide the full text in writing. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated on a first come, first served basis.

To find out more about the work of the Committee, please visit www.maidstone.gov.uk.

Issued on Friday 5 October 2018

Continued Over/:



Alison Broom, Chief Executive

Decision Referral

To:

The Head of Policy, Communications and Governance

Decision making body

MBC Strategic Planning and Sustainable Transport Committee 11th Sept 2018

Decision made

74. TOWN CENTRE ARTICLE 4 DIRECTION – OPTIONS

Decision: That no Article 4 Directions should be taken forward for the Town Centre

Reason for referring the decision

We wish to call in the following decision from the meeting of SPST on 11th Sept 2018

74. TOWN CENTRE ARTICLE 4 DIRECTION - OPTIONS

We each feel that there is a need to extend some level of protection to the town centre from the conversion of office space to residential under permitted development rules. While there are merits in the officer recommendation and in other options included in the papers, we do not feel there had been sufficient time for members to receive full officer briefing, or sufficient time for members to debate and review the options, in order to allow thorough consideration for such an important decision.

At this stage we feel that the decision, i.e. **That no Article 4 Directions should be taken forward for the Town Centre** is premature and may not be in the interest of the borough. As such we wish to call in the decision for further consideration.

Desired outcome (please give full details)

It is our wish that an officer briefing be arranged, allowing full review of the Article 4 options (and allowing member participation beyond SPST, as the impact to the borough will extend beyond planning considerations.

Subsequently, that member feedback be considered and a revised officer report be drafted for presentation at a future SPST Committee meeting for decision.

Empty box for providing details of the desired outcome.

Members referring the decision

Signed:

1. Brian Clark	
2. Fran Wilson	
3. Derek Mortimer	
4.	
5.	

(3 signatories are required to refer a decision of a Service Committee to the Policy and Resources Committee. However, a decision of the Policy and Resources Committee for referral to Council requires 5 signatories in accordance with the Constitution's rules of procedure). Any of the signatories making such a referral shall attend the meeting.

Please note that should new and relevant information come to light, or a more acceptable course of action be proposed which may resolve the matter to the satisfaction of the Committee, then a Committee Chairman, at the request of any three Councillors in writing, may choose whether to call another meeting of the original Committee to re-consider the decision within five working days of receipt of a referral. The referral to Policy and Resources or the Council would then fall away and the matter would be treated as having been dealt with by the original Service Committee. No further referral of the matter would be permitted.

Committee (or Council) responsible for examining this decision

MBC Policy and Resources Committee

Minute of Strategic Planning, Sustainability and Transportation Committee held on 11 September 2018

74. Town Centre Article 4 Direction - Options

Mr Stuart Watson, Planning Officer (Strategic Planning), addressed the Committee. Mr Watson explained that there was sufficient evidence that a non-immediate Article 4 Direction was appropriate for; County Gate, County House, Medway Bridge House, 23-29 Albion Place, Sterling House, Maidstone House, Romney House, Gail House, Kestrel House, Knightrider Chambers, 62 Earl Street, 66 Earl Street, 72 King Street and Clarendon Place. The Council recognised that further work could be undertaken to reduce the likelihood of intervention by the Secretary of State, if required.

The Committee debated the proposal and commented that:

- The Maidstone Borough Council Local Plan outlined that the development of housing units was to be achieved using office stock, which contradicted the Article 4 Direction; and
- The timing of the Article 4 Direction was not appropriate, and it should instead be included in the review of the Local Plan.

Mr William Cornall responded that there were broader issues that impacted on this decision, as greater control of office stock ensured for better quality homes that were of an appropriate size and included the provision of parking.

RESOLVED: That no Article 4 Directions should be taken forward for the Town Centre.

Voting: For – 8 Against – 1 Abstentions – 0

Town Centre Article 4 Direction - Options

Final Decision-Maker	Strategic Planning, Sustainability and Transportation Committee
Lead Head of Service/Lead Director	William Cornall, Director of Regeneration and Place
Lead Officer and Report Author	Stuart Watson, Planning Officer (Strategic Planning)
Classification	Public
Wards affected	All

Executive Summary

This report outlines the legal background to the placement of Article 4 Directions. It also considers the implications and the existing evidential support for and against the imposition of an Article 4 Direction over the Town Centre generally, or specific buildings within the Town Centre. The report identifies options available to the Council and recommends that officers be instructed to take such steps as are necessary to impose non-immediate Article 4 Directions on those specific buildings within the designated Town Centre what evidentially are assumed as good office stock as listed in table 1 of the report. With the view to preventing that office stock from being converted from office to residential use without first having been subject to scrutiny via the planning process to ensure that it accords with local planning policy.

This report makes the following recommendations to this Committee:

1. That a non-immediate Article 4 Direction is issued on the following sites: County Gate, County House, Medway Bridge House, 23-29 Albion Place, Sterling House, Maidstone House, Romney House, Gail House, Kestrel House, Knightrider Chambers, 62 Earl Street, 66 Earl Street, 72 King Street and Clarendon Place.

Timetable

Meeting	Date
Strategic Planning, Sustainability and Transportation Committee	11 September 2018

Town Centre Article 4 Direction – Options

1. INTRODUCTION AND BACKGROUND

- 1.1 In May 2013 the Government introduced new temporary permitted development rights, so that changes of use from office to residential could take place without the need for full planning permission. Its aim was to boost housing provision and to assist in driving regeneration through the re-use of redundant, vacant office space. In November 2015 the Government announced that it would make the change permanent.
- 1.2 Given the above, when a conversion from office to residential is proposed, this type of permitted development requires the submission of only limited information to the Local Planning Authority (“**LPA**”) including the location and scale of development, and requires only very limited engagement on highways, contamination and flood risk matters through a requirement known as prior notification. This is in stark contrast to the requirements of a planning application which will require much greater levels of information and engagement.
- 1.3 The prior notification process allows for the conversion to residential from a series of uses which include:
- Offices (B1);
 - Retail (A1);
 - Agricultural buildings;
 - Light industrial uses;
 - Storage/distribution (B8), not exceeding 500sqm;
 - Amusement arcades/centers and casinos (Sui Generis); and,
 - Houses in multiple occupation.
- 1.4 When the changes were first introduced in 2013 Local Authorities were given the opportunity to apply to the government for areas to be exempt from the changes in permitted development rights. There were 1,387 requests, including a bid from Maidstone, of which only 17 were successful and did not include Maidstone. Those 17 areas will have their exemptions in place until May 2019, after which time, if they wish to retain any form of restriction, the Local Authorities for those areas will need to have applied an Article 4 Direction to remove the rights provided by the government under the prior notification process.
- 1.5 This report focuses upon the impact of office to residential conversions under the prior notification process within the Maidstone Town Centre boundary. To note, there has also been: potential significant impact from prior notifications for the conversion of agricultural buildings to residential; and, limited impact from prior notifications for retail, light industrial and storage conversion to residential. However, the scope of this report focuses solely on the impact of office conversions to residential under prior

notification within Maidstone Town Centre, although Members may wish to consider the other matters in the future.

- 1.6 Placement of an Article 4 Direction(s) can be carried under the Head of Planning and Development's delegated authority. However, due to the detailed issues of placing an Article 4 Direction(s) within the Town Centre, it is deemed appropriate to take the options for placement of a Article 4 Direction(s) to this committee for decision.

The Legislative Context

- 1.7 Under the Town and Country Planning Act 1990, planning permission is required for the carrying out on land of any development.

- 1.8 [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(as amended\)](#) ("GPDO") is effectively a national grant of planning permission. Schedule 2 to the GPDO, grants planning permission for certain development described as "permitted development",

- 1.9 Apart from conditions attached to a planning permission, pursuant to the GPDO LPAs can bring permitted development under planning control through what are commonly called "Article 4 Directions". An LPA can, in exceptional circumstances, make an Article 4 Direction that will restrict permitted development rights within a limited area. The Direction can cover a single building, street or a neighbourhood. However, there are some permitted development rights, which do not apply here, that cannot be restricted by an Article 4 Direction.

- 1.10 Article 4(1) states:

"If the Secretary of State or the local planning authority is satisfied that it is expedient that development described in any Part, Class or paragraph in [Schedule 2](#), other than [Class K](#), [KA](#) or [M of Part 17](#) should not be carried out unless permission is granted for it on an application, the Secretary of State or (as the case may be) local planning authority, may make a direction under this paragraph..."

- 1.11 An Article 4 Direction therefore enables a local authority to remove the permitted development rights normally afforded under the GPDO and instead require the submission of a planning application. Any Article 4 Direction must specify which classes of permitted development it applies to, and must have been introduced following the strict procedures laid down in Article 4 and Schedule 3 of the GPDO which are explored in more detail below.
- 1.12 Prior to the GPDO, Circular 9/95 – the [General Development Order Consolidation 1995](#) applied and guidance therein suggested that permitted development rights should only be withdrawn in exceptional circumstances and where there is reliable evidence to suggest that such rights could damage an interest of acknowledged importance. In 1995 many removals of permitted development were applied in Conservation Areas through Article 4 Directions to prevent impacts on heritage assets. Increasingly in recent

times they have been used by Local Authorities to restrict changes of use, often from office to residential.

- 1.13 When the NPPF was introduced in 2012, it continued with the same message and stated:

"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 wellbeing of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)."(Paragraph 200, NPPF 2012)

The newly published revised NPPF contains exactly the same wording in paragraph 53.

- 1.14 The Article 4 Direction can apply to a broad area designated on a plan, or to an individual property and, subject to minor exceptions, does not apply to work or development carried out by a Statutory Undertaker.

- 1.15 An Article 4 Direction may be immediate or non-immediate. An Article 4 Direction will usually come into effect following its confirmation by the LPA (non-immediate Article 4 Direction). However in certain circumstances an Article 4 Direction can come into effect immediately (an immediate Article 4 Direction). Once an Article 4 Direction comes into force it remains in force indefinitely, unless the Direction is cancelled by a further Direction.

- 1.16 A **non-immediate** Article 4 Direction would remove the relevant permitted development right for the site after 12 months of confirmation of the Article 4 Direction. The effect of this option is that,

1.16.1 after a period of consultation, the confirmation of the Article 4 Direction and the elapse of a further 12 months from the date of confirmation the permitted development right would be withdrawn and planning permission would then be required to change the use from office to residential (i.e. once it comes into effect it enables the LPA to consider such development through the planning process and ensure that it accords with local planning policy);

1.16.2 no compensation is payable through the service of a non-immediate Article 4 Direction.

However this option potentially increases the risk that the site owner would submit a prior notification within the 12 month period to secure its position.

- 1.17 An **immediate** Article 4 Direction withdraws the permitted development right immediately. However, under this option, the LPA may be liable to pay compensation in the event of a refusal of planning permission or where more onerous conditions than those which would be attached through the prior approval process are attached to the planning permission. However, compensation is only payable if an application for planning permission for certain development formerly permitted by permitted development right is "made" within 12 months of the Article 4 Direction taking effect and, if the application is "made" (but not necessarily determined) within that 12 month

period, the claim for compensation has been "served" within 12 months from the date of the decision (to refuse or grant subject to conditions other than those imposed by the permitted development right).

If the LPA does not confirm the Direction within six months following the date it came into force, the Direction will expire and have no effect.

The claim for compensation is limited to abortive expenditure and other loss or damage directly attributable to the withdrawal of the permitted development right. This can include the difference in the value of the land if the development had been carried out and its value in its current state, as well as the cost of preparing the plans for the works.

- 1.18 There is no right of appeal against an Article 4 Direction. The decision of the LPA to make an Article 4 Direction can be subject to judicial review proceedings. If the proceedings are successful the Article 4 Direction could be quashed.
- 1.19 The Secretary of State can direct the cancellation or modification of a non-immediate Article 4 Direction made by an LPA at any time before or after its confirmation. For example, in the London Borough of Islington, the Planning Minister announced his intention to cancel the Article 4 Direction shortly before it was due to be implemented, on the grounds that it was disproportionate. For immediate Article 4 Directions, the powers of the Secretary of State are more limited.

National implications

- 1.20 The government has clearly stated its intentions in relation to the provision of sufficient homes to meet national need. National policy and guidance has been updated, and various White Papers, Consultations and Ministerial Statements issued to underline their intent over recent years.
- 1.21 The permanency of permitted development rights is a clear signal that the government sees permitted development rights, especially for change of use to residential purposes as being a key driver in combatting housing shortages. Ministry of Housing Communities and Local Government (**MCHLG**) data shows that 17,751 homes were delivered through office to residential permitted development in 2016/17 alone.
- 1.22 Any attempts to prevent delivery through the use of Article 4 Directions may come under close scrutiny, and needs to be robustly evidenced. Where insufficient evidence is apparent the Secretary of State has the power to intervene and amend or cancel the draft Directions. There is evidence of this occurring, notably in Islington, and as set out later in Table 3 of this report.
- 1.23 Industry comment has noted some downsides, however to the permitted development rights and in particular from office use to residential use. There have been some unintended consequences in some instances including a downturn in the local economy as small and medium businesses are unable to secure low-rent office space, occupiers being evicted to make

way for conversions, and the resultant residential units being small and cramped and not meeting internal space standards.

- 1.24 Without the need for planning permission, and only a need for consideration of the limited prior approval matters, there is only narrow scope for the Local Authority to consider proposed schemes. Equally it is much more difficult to secure contributions to local infrastructure through s106 agreements since although the requiring of a s106 is not prohibited, the short 56 day window to determine prior approval following an application leaves little time to negotiate and complete a legal agreement. This has the effect of making the securing of financial contributions and affordable housing almost impossible.
- 1.25 There are also restrictions relating to Community Infrastructure Levy (**CIL**) payments, whereby if a property has been in lawful use as an office during for a continuous period of at least 6 months in the three years ending on the day prior approval was first sought, and importantly does not create any newly built floorspace, then the office to residential conversion is not CIL liable.
- 1.26 Until January 2018, a further consideration was that where an Article 4 Direction had removed permitted development rights, the subsequent planning application was not required to pay an application fee. However since January this position has been updated and the Local Authority is now able to require the requisite fee.

Local Plan policy implications

- 1.27 The adopted Maidstone Borough Local Plan 2017 does not meet its housing need for the plan period completely from allocated sites, but is reliant on both windfall developments and broad locations for growth. One such broad location is the Town Centre, with some 940 dwellings to be delivered from a combination of new development, including 350 dwellings from office to residential conversions during the Local Plan years 2016 to 2031.
- 1.28 The Local Plan Review has now commenced, and under the new standardised methodology being introduced for calculating housing needs will require further land to be identified for development up to 2031 and the promotion of further growth opportunities beyond 2031. Consideration of the remaining available capacity from office to residential conversions in the Town Centre has the potential to inform part of the housing delivery work that will inform emerging Local Plan review.
- 1.29 Obtaining robust information to support the making of an Article 4 Direction is obviously important. Whilst we are now at the stage of being able to make a positive recommendation to the Committee, based on the evidence that has been gathered, there will always be the potential to gather further evidence. An example of this is evidence regarding the profile of the current portfolio of office stock in Maidstone. This may include whether there is demand for older, outmoded stock and what of this stock has been lost to residential uses. And equally what the quantum of better, more modern provision there is when considering current demand levels.

1.30 It should also be noted that introducing Article 4 Directions does not necessarily prevent relevant changes of use, but they do introduce stricter tests including giving the decision making power back to the Local Authority. The Council will be able to better control which offices it seeks to retain for office use, and which may be better suited to conversion through the development management process. Equally this would afford greater opportunity for the securing of developer contributions and affordable housing.

Why a Town Centre Article 4 Direction may be appropriate

1.31 Between commencement of the prior notification process in 2013 and 1 April 2018 there were 394 (net) dwellings completed from conversion under prior notification in the designated Town Centre. Those Town Centre completions account for 8% of all dwellings completed during the current Maidstone Local Plan. At 31 July 2018 there were 9 office sites with permission under prior notification to convert to 494 dwellings and 1 prior notification for 40 dwellings pending a decision within the Town Centre.

1.32 Completed sites from the conversion of offices to residential dwellings under prior notifications within the Town Centre has resulted in the approximate loss of 22,838sqm¹(net) of office floorspace. A further 23,677sqm(net) of office space is expected to be lost from the Town Centre sites with prior notification consent and those sites pending a decision, and 10,940sqm(net) may be lost from the sites that contribute to the Town Centre prior notification broad location.

1.33 The estimated total office floorspace lost from prior notifications that have been completed, permitted, pending or on a broad location site within the Town Centre is 57,005sqm and this would equate to an approximate loss of 26% against the total office floor space of the Borough². The total potential Town Centre office floorspace loss exceeds the position stated within the Employment and Retail Topic Paper 2016 that was presented as part of the Local Plan examination, by over 10,000sqm³.

1.34 This potential office floorspace loss within the Town Centre does not take into account other office sites that have been assumed as good office stock by the [GVA 2014 Employment Assessment, Town Centre Office Map & Stock Observation](#) (Appendix 1), as they have been considered less desirable for conversion to residential. There are 14 sites identified as good office stock totalling 26,009sqm⁴ (Table 2). At present this good office

¹ Net office floor spaces losses have been calculated from measuring the building footprint from an ordnance survey map and multiplying it by number of floors being converted, a reduction of 10% has been applied for accessibility.

² In 2014 the Valuation office estimated Maidstone Boroughs total office floor space at 218,000sqm

³ Employment and retail topic paper 2016 presented an office floor space loss within the town centre of 33,000sqm from consented permissions and anticipated a further loss from future sites of 13,750sqm. P 8-9 http://www.maidstone.gov.uk/__data/assets/pdf_file/0009/121140/SUB-003-Employment-and-Retail-Topic-Paper-May-2016.pdf

⁴ Net office floor spaces losses have been calculated from measuring the building footprint from an ordnance survey map and multiplying it by number of floors being converted, a reduction of 10% has been applied for accessibility

stock may be at risk due to there being no restrictions to prevent this stock from being converted under prior notification.

1.35 If the trends identified occur, then the office floorspace losses could have a detrimental effect on the Town Centres economic vitality and could put significant strain upon the Councils ability to meet its Local Plan identified employment land need. Further, the Borough as a whole may have performed economically better if some of the office stock had not been converted. Additionally the office jobs being lost from conversion are more than likely to have been replaced by lower skilled employment in the retail, food and care services.

Address	Office floor space (sqm)
County Gate	2,544
County House	900
Medway Bridge House	2,871
23-29 Albion Place	3,632
Sterling House	536
Maidstone House	9,464
Romney House	527
Gail House	2,457
Kestrel House	2,128
Knightrider Chambers	675
62 Earl Street	1,032
66 Earl Street	266
72 King Street	232
Clarendon Place	1,635
Sub total	28,899
Total 10% reduction for access	26,009

Table 1. Floor capacity on GVA identified good office stock.

1.36 The prior notification process does not easily allow for the gaining of planning contributions under Section 106 agreements from developers to help mitigate the impact of development. To date there have been no contributions secured from developers carrying out office to residential conversions under prior notification.

1.37 The permitted development process equally is not helpful in seeking to secure the provision of affordable housing on prior notification schemes. The Local Plan sets an affordable housing target of 30% from residential development within the Town Centre. From the completed, permitted and pending permissions under prior notification, if an affordable housing contribution had been required then a potential 266 additional affordable dwellings could have been delivered.

- 1.38 The prior notification process does not allow for detailed matters to be addressed that would normally be considered under a full planning permission. These matters include, but are not limited to: design, residential amenity and parking standards. An example, Brenchley House approved under prior notification 17/500419/PNOCLA for 192 dwellings had demonstrated no existing parking provision and provided for no new parking spaces for its residents. Any parking provision for residents of Brenchley House would have to be accommodated within existing street parking provision.
- 1.39 The lack of detailed planning requirements under the prior notification process doesn't allow the issues of space standards to be addressed. Whilst Maidstone does not have presently have prescribed space standards, it is something that is being considered as part of the Local Plan review. This has resulted in a predominant trend for dwellings on sites gaining prior notification permission in the Town Centre having been that of small single bedroom dwellings. At 1 April 2018 the average dwelling size on schemes completed, permissioned and pending permission under prior notification in the Town Centre was 53sqm⁵. This average size is approximately the size of a 2 person 1 bed dwelling as prescribed by MHCLG technical housing space standards⁶.
- 1.40 The average dwelling size on prior notification schemes in the Town Centre is 13% smaller than the MHCLG prescribed standard for a 2 person 2 bed dwelling. This implies that many of dwellings permitted are small studio and 1 bedroom flats, and from the estimated 1,171 dwellings outlined above, they will provide 1 bed dwellings, at a quantum that would exceed the Council's indicative target for 1 bed dwellings⁷ for the whole borough.

Why a Town Centre Article 4 Direction may not be appropriate

- 1.41 There is an allowance for the conversion of identified⁸ poor quality office sites to residential use within the Town Centre. At 1 April 2018 there remains 243 dwellings to come forward from sites in this broad location allowance without prior notification (Table 1). These sites in total contribute a total 1,171 dwellings or 7% of the dwellings required against the current Local Plan target of 17,660 dwellings. Further, there may be additional dwellings that will come forward from sites that have not been identified or assumed not desirable for conversion to residential as windfall gain. However, paragraph 67 of the NPPF 2018 sets out that sites identified as broad locations may only contribute to medium and long term housing supply. Further, the NPPF 2018 also sets out that only sites with detailed planning permission or evidence can count towards a council's 5 year housing land supply.

⁵ The average dwelling size was obtained from the estimated floor space for prior notification schemes in the town centre, minus 10% for accessibility.

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524531/160519_Nationally_Described_Space_Standard___Final_Web_version.pdf

⁷ SHMA 2014 table 57, http://www.maidstone.gov.uk/__data/assets/pdf_file/0007/44656/Strategic-Housing-Market-Assessment-2014.pdf

⁸ Identified poor office stock sites are listed within Appendix D, p.61 of the Local Plan Housing Topic Paper 2016 http://www.maidstone.gov.uk/__data/assets/pdf_file/0014/121118/SUB-005-Housing-Topic-Paper-May-2016.pdf

Address	Office floor space (sqm)
Cantium House	1,232
Sunley House	729
Colman House	4,878
89 King Street	954
Lyndean House	664
Brecon House, 16A Albion Place	980
GLH House	992
Miller House (Ground floor)	757
11-13 Albion Place	594
19-21 Albion Place	375
Sub total	12,155
Total 10% reduction for access	10,940

Table 2. Remaining office floor space on GVA identified poor office stock.

- 1.42 The prior notification process has provided a fast track approach to providing brownfield dwellings within the Town Centre on redundant poor quality office stock sites. Up to 31 July 2018, it is anticipated that those sites will contribute 1,171 dwellings on a combined ground floor area of 1.64 hectares. The broad location element which has yet to gain prior notification consent accounts for 243 of the 1,171 dwellings and would be delivered on a ground floor footprint of 0.31 hectares of the total 1.64 hectares. If the equivalent number of broad location dwellings were to be built on an allocated greenfield site then a much larger ground floor area would be required. However, as pointed out above, it should be noted that the average size of new dwellings are approximately 53 sqm in size overall and therefore generally of mono-tenure.
- 1.43 Considering the 243 dwellings that are still to come forward from the Town Centre prior notification broad location, if a blanket Article 4 Direction were placed on the Town Centre those dwellings would need to be removed from the Councils housing land supply. At present the housing supply has a surplus of 693 dwellings against the Local Plan 2017 target. However, when the Local Plan is reviewed by 2022 and the new housing methodology applied, a new higher housing target will need to be met, and will require a strategy for delivering the additional dwellings required. Office to residential conversions could make a considerable contribution to the Councils housing land supply windfall allowance.
- 1.44 If a blanket Article 4 Direction were put in place, then office sites for conversion would be required to submit a full planning permission application. The costs of this process over the considerably reduced costs of a prior notification may act as a disincentive to future conversions and may result in vacancies.
- 1.45 Redevelopment of brownfield land incurs considerably more costs than greenfield development owing to a number of factors, including mitigation

of previous uses (including contamination), high costs of land purchase and upgrading of buildings to current building control standards. These brownfield land costs often place significant pressure on the viability of brownfield land redevelopment which can result in lower or even no affordable housing and limited financial contributions secured from the sites.

- 1.46 The small dwelling types that are at present being delivered through the prior notification process have the opportunity to provide lower cost homes for those seeking to get onto the property ladder. There is also an argument that Town Centre dwelling is sustainable due to their proximity to existing services and facilities including public transport.
- 1.47 The prior notification process allows for greater flexibility in changing the use of small and large sites, and allows those sites to be more reactive to the changing needs of the economy. In addition, the loss of office floorspace within the Town Centre to date, does not appear to have had a detrimental effect on the overall economic performance of the borough and may be a reflection in the changing needs of companies and the wider economy.
- 1.48 Since the prior notification process was introduced by the government in 2013 and up to 2016, there was 6,000 jobs created within the borough (a growth of 6.6%⁹) and the number of business enterprises within the borough also grew to 7,195 in 2017, a growth of 16.5% since 2013¹⁰.

Examples of non-immediate Article 4 Directions

- 1.49 Research into Local Authorities in the South East of England which have placed an Article 4 Direction restricting the conversion of offices to residential under the prior notification process has been summarised in Table 3. The majority of the Article 4 Directions are site or area specific and do not cover a broader area. The predominate reason given for placing an Article 4 Direction involves the impact of lost office space on the economy of the Local Authority.
- 1.50 Secretary of State intervention has occurred in the placement of Article 4 Directions where an insufficient time buffer was put in place for extant prior notification permissions to be completed. The evidence used to justify the placement of an Article 4 Direction is evenly balanced between Local Authority produced data and detailed consultant led impact studies.
- 1.51 The next section below outlines the options available to this Committee in the consideration of placing an Article 4 Direction within the Town Centre.

⁹ Data obtained from Office for National Statistics
https://www.nomisweb.co.uk/reports/lmp/la/1946157316/subreports/jd_time_series/report.aspx?

¹⁰ Data obtained from Office for National Statistics
https://www.nomisweb.co.uk/reports/lmp/la/1946157316/subreports/idbr_time_series/report.aspx?

Local Authority	Location	Date	Reason	Evidence	SoS	Level of SoS intervention
Brighton & Hove City Council	Selected areas	2014	Economic impact	Consultant: Employment Land Study	Y	Exemption for permitted prior notifications
Camden Borough Council	Selected areas	2015	Economic impact	Consultant: Impact study	Y	Reduction in land covered by Article 4
Croydon Borough Council	Central area of Croydon	2015	Economic impact	Council: data	N	
Hackney Borough Council	Selected areas	2018	Economic impact	Consultant employment Land study	N	
Hounslow Borough Council	Employment designations	2018	Economic impact	Council: data	N	
Islington Borough Council	Blanket	2013	Economic impact	Unknown	Y	Area reduced to specific clusters of offices
Lambeth Borough Council	Town centre and selected areas	2016	Economic impact	Council: data	N	
Merton Borough Council	Town centre and industrial estate	2015	Economic impact	Council: data	Y	Exemption for permitted prior notifications
Mole Valley	Selected areas	2018	Economic impact	Consultant: Impact Study	N	
Oxford City Council	Selected sites	2014	Economic impact	Council: data	N	
Richmond Borough Council	Selected areas	2016	Economic impact	Consultant: Impact Study	Y	Exemption for permitted prior notifications
Tower Hamlet Borough Council	Selected areas	2018	Economic impact	Council: data	N	
Tunbridge Wells Borough Council	Selected areas	2018	Economic impact	Consultant: Impact study	N	
Wandsworth Borough Council	Selected sites	2018	Economic impact	Not known	N	

Table 3. Examples of office to residential Article 4 Directions.

2. AVAILABLE OPTIONS

- A) The Committee could resolve to instruct officers to place an area wide non-immediate Article 4 Direction for the Town Centre based on the evidence presented in this report.
- B) The Committee could resolve to instruct officers to place an area wide immediate Article 4 Direction for the Town Centre based on the evidence presented in this report.
- C) The Committee could resolve to instruct officers to undertake additional work to provide further evidence that merit exemption from the prior notification process through the placement of an Article 4 Directions for the Town Centre. A further report would then be presented to this Committee at a later date reporting the evidence presented and making a specific recommendations as to the serving of Article 4 Directions.

- D) The Committee could resolve that non-immediate Article 4 Directions be issued on the following sites: County Gate, County House, Medway Bridge House, 23-29 Albion Place, Sterling House, Maidstone House, Romney House, Gail House, Kestrel House, Knightrider Chambers, 62 Earl Street, 66 Earl Street, 72 King Street and Clarendon Place, based on the evidence presented in this report.
 - E) The Committee could resolve to instruct officers to place immediate Article 4 Directions on the sites assumed as good office stock as listed in Table 2 based on the evidence presented in this report.
 - F) The Committee could resolve to instruct officers to undertake additional work to identify and justify office sites that merit exemption from the prior notification process through the placement of site specific Article 4 Directions. This work could possibly including sites outside of the Town Centre. A further report would then be presented to this Committee at a later date detailing the findings and making specific recommendations as to the serving of Article 4 Directions.
 - G) Alternatively the Committee could resolve that no Article 4 Directions should be taken forward for the Town Centre.
-

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 Option D is the preferred option. It is considered that, on balance, there is sufficient evidence to justify bringing in non-immediate Article 4 Directions on the sites assumed as good office stock as listed in table 1 of the report. It is acknowledged that further work could be undertaken that would reduce the risk of intervention by the Secretary of State. However, this would delay the process.
-

4. RISK

- 4.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
-

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 If the Committee resolve to proceed with options A, B, D or E, then officers will engage the statutory process to place the requisite Article 4 Direction(s) (as the case may be). The results of the resultant consultation(s) will then be brought back to this Committee for the consideration of whether it is appropriate for an Article 4 Direction to be confirmed.

5.2 If the Committee resolve to proceed with options C or F, then officers will identify and garner what the officers believe to be the most appropriate evidence to justify (or not as the case may be) the placement of the requisite Article 4 Direction(s). Once the evidence has been collated and analysed a report will be brought back to this committee with a recommendation as the appropriate course of action.

5.3 If the Committee opt for option G, then there will be no further actions.

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.</p> <p>However, they will help support the Council's overall objectives of providing a home for everyone, regenerating the Town Centre and they will prioritise securing a successful economy for the borough.</p>	Rob Jarman Head of Planning & Development
Risk Management	Refer to paragraph 4.1	Rob Jarman Head of Planning & Development
Financial	The proposals set out in options A, B, C & D are all within already approved budgetary headings and so need no new funding for implementation.	Section 151 Officer & Finance Team
Staffing	All options can be incorporated within our current staffing.	Rob Jarman, Head of Planning & Development
Legal	The GPDO is effectively a national grant of planning permission. It grants planning permission for "permitted development". These permitted development Rights may be	Cheryl Parks, Mid Kent Legal Services (Planning)

	removed pursuant to the GDPO by "Article 4 Directions. Given the purpose of permitted development rights, if these rights are to be removed there must be clear and substantiated evidence to support this. The failure to justify an Article 4 Direction can lead to a judicial review of the Committees decision or risk SoS intervention. Given current Government policy on housing delivery, there is a risk of SoS intervention.	
Privacy and Data Protection	There are no specific data protection implications in relation to this report.	Cheryl Parks, Mid Kent Legal Services (Planning)
Equalities	Responding to this consultation as recommended would not have specific of differential implications for the different communities within Maidstone.	Policy & Information Manager
Crime and Disorder	Responding to this consultation as recommended would not have specific implications for Crime and Disorder in the borough.	Rob Jarman, Head of Planning & Development
Procurement	If the preferred option C is choose and procurement of services is required, then the Council will then follow procurement exercises as appropriate for the production of detailed Town Centre economic evidence. We will complete those exercises in line with financial procedure rules.	Rob Jarman, Head of Planning & Development

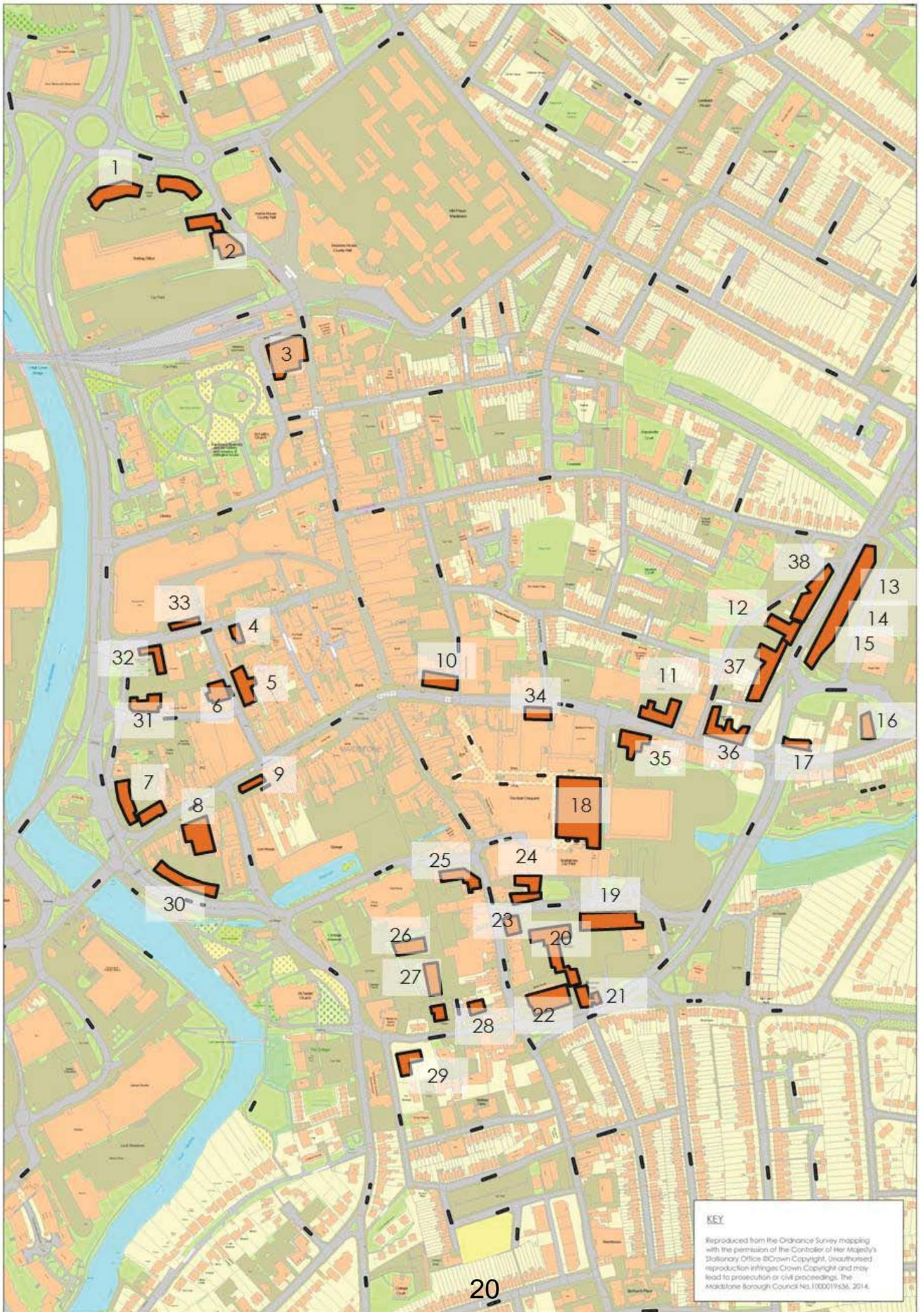
7. Report Appendices

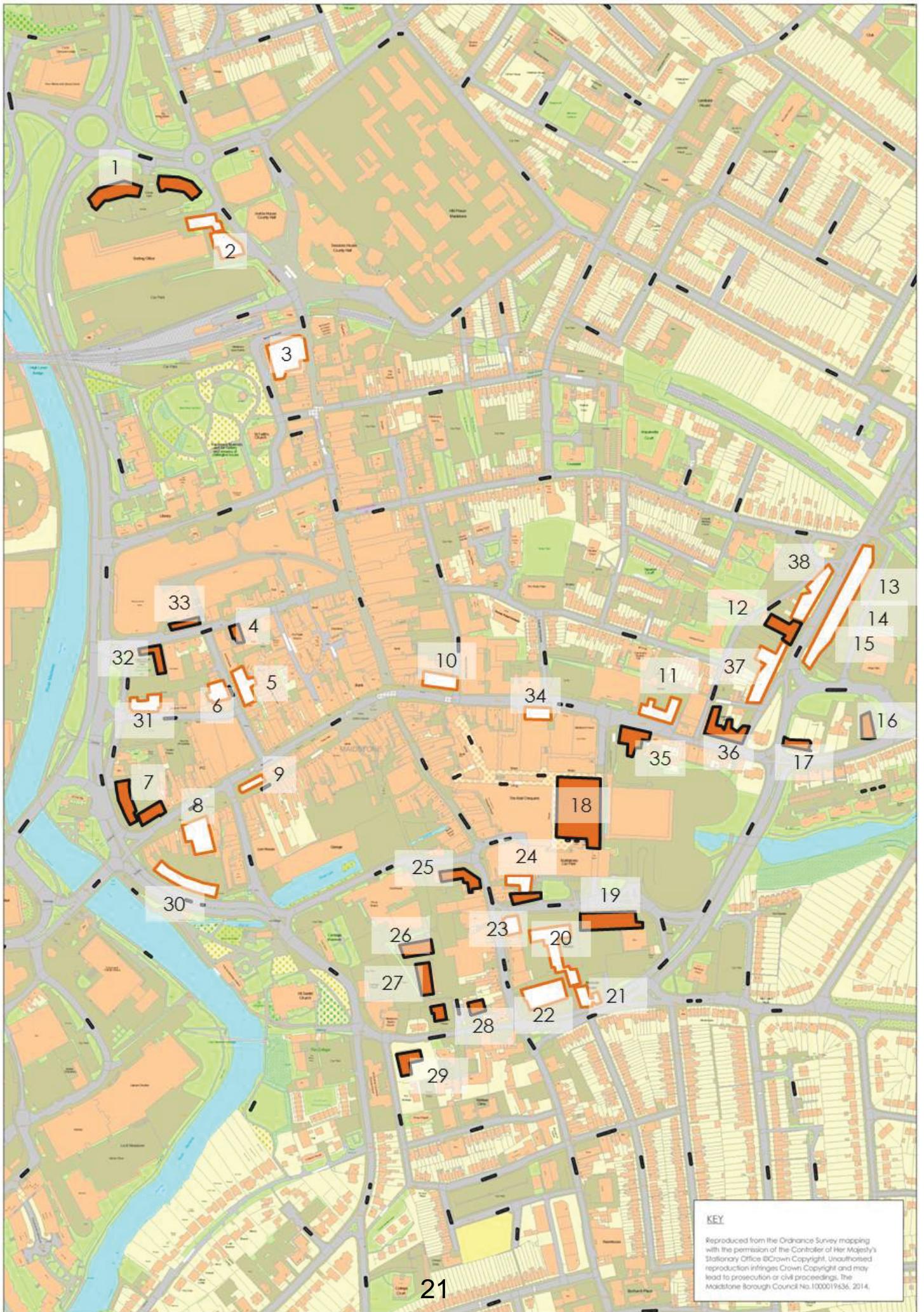
- Appendix 1 [GVA Town Centre Office Map & Stock Observations](#)



Appendix V

Town Centre Office
Map & Stock
Observations





Map Ref	Building Name	Built	Total size (sq ft)	Advertised Vacant Floorspace (sq ft)	Typical Floor Size (sqft)	Length of Current Vacancy (days)	CoStar Quality Assessment (Star Rating)	GVA Observations
1	County Gate			No data recorded by CoStar Focus				Relatively new space, good occupancy, prominent gateway location, dedicated parking, good highway access, screening from A225 limits visibility, landscaping not high quality
2	Cantium House	April 1986	15,736	0	3,934	0	3	Lack of onsite parking, likely to have deep, irregular floorplates which do not lend themselves to sub-division, poorer quality appearance and maintenance
3	Brenchley House	December 1986 (ren. 2007)	85,883	11,388	12,198	1,495	4	Considerable persistent vacancy despite refurbishment, weak surrounding environment, limited parking, potentially limited floorplate flexibility, above bar and other retail/leisure uses, good access to rail station
4	County House	July 1956	6,716	6,716	2,523	280	2	Isolated offer, external good condition, recent refurbishment close to range of amenities, smaller floorplates
5	Star House	May 1954	28,932	20,032	4,822	2,457	3	Poor external appearance, lack of parking, significant vacancy, secondary location, limited scope for enhancing internal servicing (aircon, cabling etc), potentially poor quality conversion opportunities
6	Cornwallis House	March 1963	13,843	0	3,219	0	3	Poor external appearance, evidence of poor maintenance, lack of parking, secondary location, limited scope for enhancing internal servicing (aircon, cabling etc), limited obvious investment, unlikely to be adaptable to a good quality
7	Medway Bridge House	April 1989	19,642	2,915	4,900	1,495	3	Good quality appearance, onsite parking, well occupied, strong road presence, isolated from other office activity
8	Recruit House (60-61 High Street)			No data recorded by CoStar Focus				Poor quality appearance, above bar/nightclub, lack of visibility, limited parking, relatively large inflexible floorplates
9	Sunley House	August 1955	7,539	1,873	1,885	305	2	Isolated offer, lack of on-street presence, limited supporting surrounding offer, limited obvious investment, inability to sub-divide floorplates to provide good quality small units
10	Colman House	May 1968	49,169	13,481	4,118	463	3	Significant, long term vacancy, large deep floorplates unlikely to be easily sub-divisible, above retail isolated offer, limited parking
11	189 King Street	May 1998	8,100	1,480	391	128	3	Reasonable quality/appearance, above retail so limited presence, limited building servicing

Map Ref	Building Name	Built	Total size (sq ft)	Advertised Vacant Floorspace (sq ft)	Typical Floor Size (sqft)	Length of Current Vacancy (days)	CoStar Quality Assessment (Star Rating)	GVA Observations
12	123-29 Albion Place	September 1983	18,930	18,930	3,786	772	3	Recently refurbished, potential to sub divide, lack of parking
13	Lyndean House	1984	12,058	9,076	3,702	1,375	3	Lack of parking, car dominated environment, high vacancy, lack of recent investment, limited servicing provision (air con etc)
14	Brecon House	April 1980	8,387	2,200	2,200	688	2	Lack of parking, car dominated environment, high vacancy, lack of recent investment, limited servicing provision (air con etc)
15	GHL House	March 1973	7,372	2,177	1,843	812	2	Lack of parking, car dominated environment, high vacancy, lack of recent investment, limited servicing provision (air con etc)
16	Victoria Court	January 1998	10,414	0	3,471	0	3	Standalone building, good highway access, prominent location, single occupier, dedicated parking, minor external maintenance issues
17	Sterling House	December 1835	3,047	0	777	0	3	Little recorded vacancy, period building, prominent location, good highway access, dedicated parking
18	Mardstone House	August 1975	95,000	29,212	13,571	2,089	3	Recent refurbishment, large open floorplates, no street frontage, lack of internal servicing, limited sub-division potential
19	Romney House	February 1969	3,508	0	1,174	0	2	Conversion property, range of smaller units, limited parking, part of weak quality office cluster
20	Kent House	January 1976 (ren. 2008)	116,871	116,871	12,985	2,020	4	Significant, persistent vacancy, large open floorplates which do not create good quality sub-divided space, lack of existing (and limited potential to retrofit) modern servicing, limited parking, poor relationship to town centre
21	Medvale House			5,806		260		Significant, persistent vacancy, large open floorplates which do not create good quality sub-divided space, lack of existing (and limited potential to retrofit) modern servicing, limited parking, poor relationship to town centre
22	Miller House	February 1976	61,520	48,052	5,586	2,999	3	Significant, persistent vacancy, large open floorplates which do not create good quality sub-divided space, lack of existing (and limited potential to retrofit) modern servicing, limited parking, poor relationship to town centre
23	Sussex House	April 1989	10,078	0	2,535	0	3	Above retail, lack of street presence, poor quality and maintenance, lower quality surrounding retail, lack of parking, limited sub-division potential

Map Ref	Building Name	Built	Total size (sq ft)	Advertised Vacant Floorspace (sq ft)	Typical Floor Size (sqft)	Length of Current Vacancy (days)	CoStar Quality Assessment (Star Rating)	GVA Observations
24	Romney Court	September 1984	7,343	0	2,448	0	3	Small floorplates, limited vacancy, weak street presence, lack of internal servicing, lack of onsite parking
25	Gail House	November 2003	19,856	0	6,618	0	4	Prominent location, good quality appearance, limited vacancy, dedicated parking, mixed quality surrounding uses, smaller floorplates
26	Link House	January 1995	21,740	0	4,320	0	3	Appears largely vacant, lack of presence, some dedicated parking, potential to sub-divide floors, limited internal servicing, part of a cluster of office uses
27	Kestrel House	January 1990	16,646	1,847	4,161	560	3	Large floorplates with potential to sub-divide to reasonable standard, some dedicated parking, part of a cluster of office uses
28	Knight rider Chambers	October 1996	5,861	0	1,954	0	3	Smaller floorplates; high occupancy, reasonable street presence, dedicated parking, forms part of cluster of office uses
29	Chaucer House	February 1983	12,126	1,587	4,042	997	3	Smaller floorplates; high occupancy, prominent location, dedicated parking, forms part of cluster of office uses
30	Bishops Terrace	Feb-89	27,267	0	9,209	0	4	Good visibility and road presence, low maintenance of landscaping, inactive frontage, potentially smaller floorplates, no evidence of internal servicing, weak design/architecture
31	Medway House (26-30 Medway Street)	September 1965	5,909	0	1,477	0	2	Weak external appearance, poor quality area (car park dominated), secondary location, limited scope for enhancing internal servicing (aircon, cabling etc), limited obvious investment, unlikely to be adaptable to a good quality
32	62 Earl Street							Period property, good quality conversion to small units, some vacant suites advertised, close to a range of amenities
33	66 Earl Street							Refurbished period property, good quality, well occupied, good access and parking
34	40 King Street							Above retail, secondary location, likely to be large floorplate, long term vacancy, dated offer likely to have limited scope for enhancement of services
35	72 King Street							Single occupier good quality period property conversion, secondary location, good parking provision

Map Ref	Building Name	Built	Total size (sq ft)	Advertised Vacant Floorspace (sq ft)	Typical Floor Size (sqft)	Length of Current Vacancy (days)	CoStar Quality Assessment (Star Rating)	GVA Observations
36	Clarendon Place			No data recorded by CoStar Focus				Period townhouse conversion, small units, freehold available, significant 'non B use', onsite parking, reasonable prominence, poor connection to amenities
37	Albion Place			No data recorded by CoStar Focus				Mixed quality conversion properties; high occupancy, smaller units, limited parking
38	Corner of Sittingbourne Road Queen Anne Ro			No data recorded by CoStar Focus				Large former government dept office, fully vacant, dated stock, poor quality appearance; likely lack of internal servicing (and limited scope for installation), no parking provision

Strategic Planning, Sustainability and Transportation Committee

Tuesday 11 September 2018

Urgent Update Report

Item 22: Town Centre Article 4 Direction - Options

It has been identified that the table references within the report are incorrect. The incorrect labelling of tables is a technical issue, however it does not affect the context of the affected paragraphs and the overall report.

Amendments:

- 1) Minor technical amendment to table reference in paragraph 1.34. The table reference is to be changed from Table 2 to Table 1.
- 2) Minor technical amendment to table reference in paragraph 1.41. The table reference is to be changed from Table 1 to Table 2.
- 3) Minor technical amendment to table reference in paragraph Option 2.E. The table reference is to be changed from Table 2 to Table 1.