

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	16th FEBRUARY 2016
SUBJECT:	ARTICLE 4 DIRECTION PROPOSAL – HOLCOMBE CONSERVATION AREA
REPORT FROM:	CHIEF PLANNING OFFICER
CONTACT OFFICER:	DAVID MARNÓ – HEAD OF DEVELOPMENT MANAGEMENT
TYPE OF DECISION:	COUNCIL (NON KEY DECISION) COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This Report seeks authorisation for the making of an Article 4 Direction to give greater planning controls over development in the Holcombe Conservation Area. The effect of an Article 4 Direction is that planning permission is required for certain types of minor development that would otherwise not have required planning permission as a result of being permitted development. No fees are payable for planning applications arising as a result of the removal of permitted development rights.
OPTIONS & RECOMMENDED OPTION	1) To authorise the making of a non-immediate direction under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to remove the permitted development rights outlined in Appendix 1 of this report in relation to the Holcombe Brook Conservation Area which is identified edged red on the plan attached at Appendix 2 .

	<p>2) Not to authorise the making of the Article 4 Direction.</p> <p>3) To amend the proposals.</p> <p>Option 1 is recommended to enable the Council to comply with its statutory duty to prepare proposals for the preservation and enhancement for any conservation areas and to follow the recommendation of the Kathryn Sather & Associates report.</p>
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	
Equality/Diversity implications:	No (see paragraph below)
Considered by Monitoring Officer:	Yes Comments The client has been advised and the appropriate information is included within the report to Committee.
Wards Affected:	North Manor
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

Purpose of the Report

1. On 24th June 2014, the report below was presented to Members for consideration in relation to the imposition of an article 4 direction for the Holcombe Conservation Area. However, it became apparent that the Town & Country Planning (General Permitted Development)(England) Order 1995 (as amended) was being replaced by what is now the Town and Country Planning (General Permitted Development) (England) Order 2015 and as a result additional new classes were being added. As a result of this, consultation on the proposed Article 4 Order was suspended until such time that the revisions and consolidation had been carried out by the Government.
2. The revisions were completed in May 2015 and this report is therefore published to once again, subject to Committee decision, proceed with the consultation on the basis of the updated Order.

Background

3. A Conservation Area is defined as an area of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance. Designation of a Conservation Area increases control over minor development and protects trees within its boundaries.
4. Holcombe Village and its surroundings were designated a Conservation Area by Lancashire County Council and Ramsbottom Urban District Council in 1970. The designation was confirmed in 1974, following the reorganisation of Local Government and the creation of Bury Metropolitan Borough Council. The Conservation Area was extended in 1978. Part of the Area lies within Holcombe Moor which is owned and managed by the National Trust and the Metropolitan Borough of Bury.
5. In May 2010, the Council as part of its duty under section 69 of the the Planning (Listed Buildings and Conservation Areas) Act 1990 ('P(LBCA)A') undertook an assessment of the Holcombe Conservation Area. This work was carried out on behalf of the Council by a Conservation Consultant 'Kathryn Sather & Associates" and the findings and recommendation of that report are published on the Council's website. The recommendations of the report and proposed elements to accept or not were reported to the Planning Control Committee 20 December 2011.
6. The consultant's report comprised an assessment of the historic fabric and history of the area and to record and define the area and in accordance with section 71 of the P(LBCA)A, the legislation requires that a Local Planning Authority to formulate and publish

proposals for the preservation and enhancement of Conservation Areas. In order to understand the importance of the area, the consultant set about the process through research, area visits and local consultation.

7. Within the report, chapter 6 suggested boundary changes to the Conservation Area to include areas of farmland to the north. However, in the report to the Planning Control Committee on 20 December 2011, this option was considered not to be of merit but instead, an area to the south-west to include Hollingrove to the west of Redisher Woods was considered to be of greater historical conservation merit much of which is still evident today. This area was subsequently included.
8. The report also included a number of management objectives in the form of suggested Actions to assist in the control of development to assist in the preservation or enhancement of the Conservation Area. The recommendations (including the exclusion of the land to the north and the inclusion of land to the south west) were accepted by the Committee.

Article 4 Direction

9. An article 4 direction is made by the local planning authority. It restricts the scope of permitted development rights either in relation to a particular area or site, or a particular type of development anywhere in the authority's area. Where an article 4 direction is in effect, a planning application is required for development that would otherwise have benefitted from permitted development rights. Article 4 directions are used to control works that could threaten the character of an area of acknowledged importance, such as a Conservation Area.
10. Article 4 directions can increase the public protection of designated and non-designated heritage assets and their settings. They are not necessary for works to listed buildings and scheduled monuments as listed building consent and scheduled monument consent would cover all potentially harmful works that would otherwise be permitted development under the planning regime.
11. However, article 4 directions might assist in the protection of all other heritage assets (particularly Conservation Areas) and help the protection of the setting of all heritage assets, including listed buildings. An article 4 direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development.

12. The National Planning Policy Framework provides that the use of Article 4 directions should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area amenity or the wellbeing of the area. The accompanying National Planning Practice Guidance provides further guidance as to the use of Article 4 Directions. .
13. Local planning authorities may be liable to pay compensation to those whose permitted development rights have been withdrawn if they:
 - refuse planning permission for development which would have been permitted development if it were not for an article 4 direction; or
 - grant planning permission subject to more limiting conditions than the GPDO would normally allow, as a result of an article 4 direction being in place.
14. Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. All claims for compensation must be made within 12 months of the date on which the planning application for development formerly permitted is rejected (or approved subject to conditions that go beyond those in the GPDO).
15. Additionally, for certain prescribed classes of permitted development rights withdrawn by article 4 directions, compensation may only be claimed if an application for planning permission is submitted within 12 months following the effective date of the direction. Also, if 12 months prior notice of the withdrawal of permitted development rights is given, there is no ability to claim compensation. There are other specific compensation provisions in relation to statutory undertakers. Issues in relation to the payment of compensation as a result of the withdrawal of permitted development rights are covered principally in sections 107 and 108 of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Compensation) (England) Regulations 2015 (SI 2015/598) with various guidance, particularly through the NPPG.
16. Liability to compensation is outlined as a risk and whilst undoubtedly a risk, it is very difficult to estimate and quantify. The Council has exercised this ability in other areas including All Saints and Poppythorn and Conservation Areas. By way of information, there have been no claims made against the Council as the instigation of and exercising of the directions previously made has been reasonably carried out.

Holcombe Article 4 Direction

17. A number of actions proposed in the Holcombe Conservation Area appraisal included the introduction of an Article 4 Direction for specific normally otherwise, permitted development.
18. This includes small alterations and extensions, the erection of buildings, enclosures or pools required for a purpose incidental to the enjoyment of a dwelling house, the provision of some hard surfaces and the erection of and alteration to boundaries. However within Conservation Areas, some development (that in other areas would be permitted development) are not classified as permitted development. This includes various types of cladding, the insertion of dormer windows and the erection of satellite dishes on walls, roofs and chimneys fronting a highway. Within Conservation Areas, the size of extension that may be erected without special planning permission is also more restricted.
19. Work that affects the external appearance of a building can include the replacement of doors and windows, particularly if it involves a change in the design or use of a modern material, such as plastic (PVC-u). The cumulative effects of door and window replacement are beginning to damage the character and appearance of the Conservation Area. The effect of further alterations of this nature will seriously erode the special nature of the area, which is the reason for its designation.
20. All in all, some 45 separate actions were included within the report. Most of these actions already take place within the consideration of development proposals one way or another. However, there are still works that can take place without the need of planning permission. These include:
 - Replacement of windows and doors
 - Removal or concealment of architectural detail
 - The enlargement or creation of new exterior openings
 - Demolition or lowering of chimney stacks
 - Alterations to roof shapes and changes to roofing materials
 - The rendering or cladding of external walls, and the painting of brick and stone
 - The erection of satellite dishes and prominent solar/pv panels
 - The demolition or erection of boundary walls, stone walls, railings, fences and gates
 - The creation of hardstandings
 - The addition of extensions, porches or outbuildings.

21. Additionally, there are other features such as works to private rights of way which are allowed to be improved or repaired without intervention. An example has recently been completed in Holcombe, which has not been carried out as sympathetically as one might have expected. The works were carried out, without the need for planning permission by virtue of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) Schedule 2 Part 9 – Repairs to Unadopted Streets and Private Ways. There are extensive areas within Holcombe that are publicly accessible that rely upon the use of private and public ways that if changed without appropriate controls can erode the character of the Conservation Area. As such, it is recommended that this permitted development right is also removed by the Article 4 Direction.
22. As a result of a number of changes to the General Permitted Development Order, various changes of use have also been introduced by the Government, with a view of permitting the use of buildings to differing uses, which can take place without the need for obtaining planning permission.
23. An example of such permitted changes of use include the conversion of agricultural buildings to residential, schools, crèches and nurseries. Holcombe is littered with many such buildings and the character that these buildings contribute to the Conservation Area is significant. It is considered that the potential permitted changes of use, if implemented, would significantly impact upon the character of the Conservation Area in a detrimental way through the necessary additional paraphernalia that would accompany such uses and as such would otherwise harm the special character of the area. As such it is also suggested within this report that such changes of use be withdrawn.
24. A full list of the permitted development rights to be removed by the proposed Article 4 direction is included in Appendix 1 to this report.

Financial Implications

25. It is very difficult to estimate the potential implications arising from the making of the Article 4 Direction. The costs of making the Article 4 Direction will be met from the existing planning budget. If the Article 4 Direction is confirmed there is likely to be a financial impact on the planning service because no fees are payable for planning applications arising as a result of the removal of permitted development rights. As a comparison to the two areas that are currently subject to Article 4 Directions, this works out to

be on average 5 applications only per year, which is has a cost implication of around £2,500.00 per year, which considering that the benefits of careful control underpins the Council's commitment to heritage and conservation, would be subsumed within existing resources. Article 4 Directions would also need to be supported by robust monitoring and enforcement which would potentially have resource implications for the Council's planning and enforcement officers.

The issue of compensation has already been considered and outlined above.

Consultation

26. The public consultation process is built into the way that Directions are made. Following the making of an Article 4 Direction, it will be advertised and a statutory consultation period will commence in accordance with what is now the updated Schedule 3 to the Town and Country Planning (General Permitted Development) (England) Order 2015. A further report will be presented to the Planning Control Committee at the end of the consultation period, to take into account consultation responses and determine whether to confirm the Article 4 Direction or remove it.

Conclusion

27. The above report reflects the next steps on from the adoption of the amended conservation Area boundary dating back from 2012. The steps at that time considered taking further action in terms of introducing Article 4 controls to the area and the adoption of a management plan.
28. This report seeks to continue the commitment of the Council to Conservation and adopts and amends actions contained within the consultant's report reflecting demands placed upon the Council and the exercising of its duties in an appropriate and proportionate way.

References

Kathryn Salter & Associates report

<http://www.bury.gov.uk/CHttpHandler.ashx?id=5991&p=0>

Town & Country Planning (General Permitted Development) Order 1995 as amended

Town & Country Planning (General Permitted Development)(England) Order 2015

National Planning Policy Framework 2012 and accompanying National
Planning Practice Guidance

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APPENDIX 1

Permitted development rights to be removed in relation to dwellinghouses

The proposed Article 4 Direction should remove the following permitted development rights:

Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (SI 2015 No.596)

- **Class A** – The enlargement, improvement or other alteration of a dwellinghouse;
- **Class C** – Any other alteration to the roof of a dwellinghouse;
- **Class D** – The erection or construction of a porch outside any external door of a dwellinghouse;
- **Class E** – The provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure;
- **Class F** – The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of a dwellinghouse as such;
- **Class G**...The Installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse

And

Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (SI 2015 No.596)

- **Class A** - involving the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure

And

Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (SI 2015 No.596)

- **Class B** - involving the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in the Schedule (other than by Class A of this Part).

And

Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (SI 2015 No.596)

- **Class C** - The painting of the exterior of any building or work.

And

Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (SI 2015 No.596)

- **Class Q** – The change of use of agricultural buildings to dwellinghouses.

And

Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (SI 2015 No.596)

- **Class R** – The change of use of agricultural buildings to a flexible commercial use.

And

Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (SI 2015 No.596)

- **Class S** – The change of use of agricultural buildings to a state funded school or registered nursery

And

Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (SI 2015 No.596)

- **Class C** – Use as a state funded school for a single academic year

And

Schedule 2, Part 9 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (SI 2015 No.596)

- **Class E** – The carrying out on land within the boundaries of an unadopted street or private way of works required for the maintenance or improvement of the street or way.

And

- **Replacement of windows and external doors to an elevation of a dwelling where the affected elevation is a principal elevation**
- **The enlargement or creation of new exterior window or door openings as a material alteration to an elevation of a dwelling where the affected elevation is a principal elevation**
- **The demolition or erection of boundary walls, stone walls, railings, fences and gates**

APPENDIX 2
Plan of the area subject to the Article 4 Direction

