

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	24th JUNE 2014
SUBJECT:	ARTICLE 4 DIRECTION PROPOSAL – HOLCOMBE CONSERVATION AREA
REPORT FROM:	CHIEF PLANNING OFFICER
CONTACT OFFICER:	DAVID MARNO – DEVELOPMENT MANAGER
TYPE OF DECISION:	COUNCIL (NON KEY DECISION)
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>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.</p>
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none">1) To authorise the making of a non-immediate direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) 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 2.2) Take no action.

	<p>3) 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 conservation areas and to follow the recommendation of the Holcombe Conservation Area Appraisal.</p>
IMPLICATIONS:	
Corporate Aims/Policy Framework:	<p>Do the proposals accord with the Policy Framework? Yes</p>
Statement by the S151 Officer: Financial Implications and Risk Considerations:	<p>There is a potential risk of claims for compensation but this will be mitigated by allowing an adequate notice period of 12 months before the direction comes into effect. (see para 12/13 of the report).</p>
Statement by Executive Director of Resources:	<p>Approval of the recommendation to remove permitted development rights in the conservation area will result in no additional expenditure or income for the Council. Any subsequent planning applications will be processed by and enforcement action taken by staff who are funded from existing revenue budgets.</p>
Equality/Diversity implications:	No
Considered by Monitoring Officer:	<p>Yes Comments</p> <p>For all article 4 directions the legal requirement is that the local planning authority is satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless permission is granted for it on an application.</p>
Wards Affected:	North Manor

Scrutiny Interest:	N/A
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TRACKING/PROCESS

DIRECTOR:

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

Background

1. 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.
2. 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 by the National Trust and the Metropolitan Borough of Bury.
3. In May 2010, the Council as part of its duty under the Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 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' who produced the Holcombe Conservation Area Appraisal which is published on the Council's website. The recommendations of the Appraisal and proposed elements to accept or not were reported to the Planning Control Committee 20 December 2011.
4. 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 s71 of the Act, 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.
5. 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.
6. 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 accepted by the Committee included the making of an Article 4 Direction.

Article 4 Directions

7. The Town and Country Planning (General Permitted Development) Order 1995 as amended sets out classes of development for which a grant of planning permission is automatically given. These are known as permitted development rights.
8. Article 4 (1) of the Order provides that directions may be given by a local planning authority when it is considered expedient that permitted development should not be carried out unless planning permission is granted for it. They are used to 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 been permitted development. Article 4 directions are used to control works that could threaten the character of an area of acknowledged importance, such as a Conservation Area.
9. 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.
10. However, Article 4 directions 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.
11. 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 area¹. In deciding whether an Article 4 direction might be appropriate, one of the factors local planning authorities may want to consider whether the exercise of permitted development rights would undermine the visual amenity of the area or damage the historic environment².

¹ National Planning Policy Framework.

² "Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995 (June 2012)

12. Local planning authorities may be liable to pay compensation to those whose permitted development rights have been withdrawn if they:
 - a. refuse planning permission for development which would have been permitted development if it were not for an article 4 direction; or
 - b. 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.
13. Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. However, if 12 months prior notice of the withdrawal of permitted development rights is given, there is no ability to claim compensation.

Holcombe Conservation Area Article 4 Direction

14. 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.
15. 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.
16. 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.
17. 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.

18. 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 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.

19. 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.

Compensation / Notice Period of the Article 4 Direction

20. There is an opportunity to introduce the Article 4 Direction immediately, which will on the one hand, control development (above those that are already in place through existing legislation) immediately but does carry the risk of a compensation claim by those affected (as referred to above). However, this can be avoided by having a 12 month notice period, after which the controls take effect. This latter method has been used in the other areas where an Article 4 Direction applies in the Borough.

21. Experience here has shown that there were no 'overt rushes' to do works before the controls actually came into force. In view of this and the fact that there is such a high level of support for the additional controls by the local heritage groups, it is highly unlikely that there would be any significant rushes to do works before the Direction comes into effect.
22. As such, it is considered that the Article 4 Direction for Holcombe Conservation Area is non-immediate with a prior notice period of 12 months. This would avoid liability to pay compensation referred to above and allow the results of local consultation to be taken into account in advance of deciding whether to confirm the Direction.

Financial Implications

23. 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.
24. 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 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 also need to be supported by robust monitoring and enforcement which would potentially have resource implications for the Council's planning and enforcement officers.

Consultation

25. 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. 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

26. Taking into account the recommendation of the Holcombe Conservation Area Appraisal and the need to preserve the visual amenity of the area and historic environment, it is considered expedient to make an Article 4 Direction to remove the permitted development rights listed at Appendix 1 in relation to the Holcombe Conservation Area.
27. A non-immediate direction is considered to be appropriate allowing a twelve month notice period to avoid compensation liability and to take into account consultation responses before a decision is made to confirm the Direction.

References

Holcombe Conservation Area Appraisal compiled by Kathryn Sather & Associates <http://www.bury.gov.uk/CHttpHandler.ashx?id=5991&p=0>

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

Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995 (June 2012)

APPENDIX 1

List of Permitted development rights to be removed by the proposed Article 4 Direction

Schedule 2, Part 1 of the Town and Country Planning (General Development Order) 1995 as amended:

- **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; or a container used for domestic heating purposes for the storage of oil or liquid or petroleum gas;
- **Class F** – Development consisting of the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of a dwellinghouse as such; or the replacement in whole or in part of such a surface.

And

Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended

- **Class A** - The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure;
- **Class B** - 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);
- **Class C** - The painting of the exterior of any building or work.

And

Schedule 2, Part 9 of the Town and Country Planning (General Permitted Development) Order 1995 as amended

- **Class A** - 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.

APPENDIX 2

Plan of the area to be covered by the Article 4 Direction

