

Committee: Cabinet

Agenda Item

Date: 18th July 2017

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Title: Article 4 Direction for Local Heritage List

Portfolio Holder: Cllr Susan Barker, Cabinet Member for Environmental Services

Key decision: No

Summary

1. This report serves to introduce and seek agreement from Cabinet for the principle of serving an Article 4(1)(b) Direction (hereafter referred to as Article 4 Direction) on selected properties identified and included on the forthcoming Local Heritage List (due to be published following a public consultation later in the year), covering the whole district
2. The Article 4 Direction would remove permitted development rights to those properties identified, both within existing conservation areas and outside, where it is felt that the public amenity and character of the locality would otherwise be compromised.
3. The Article 4 Direction would serve to manage alterations to these buildings, which have been identified as being of local historic significance. This would include, but is not limited to, the removal and alteration of windows and doors, removal of chimneys, installation of solar panels, rooflights and dormer windows and boundary treatments for example, to ensure that future development and alterations continue to preserve and enhance the character of the district.

Recommendations

4. That Cabinet support the principle of issuing an Article 4 Direction for selected buildings included on the Local Heritage List.
5. That Cabinet supports the cancellation of the existing four Article 4 Directions, namely Great Chesterford, Newport, Stansted Mountfitchet and Great Dunmow, upon service of the proposed order, which will supersede the existing Article 4 Directions.

Financial Implications

6. The process will be facilitated and progressed internally by Conservation Officers primarily and will form part of their role, as proactive conservation work.
7. The process will involve a public consultation period and it is proposed to undertake several public exhibitions, held across the District in the principle towns. There will be a modest cost associated with booking the venues.

8. It is desirable for the Authority to contact each property owner affected by the Article 4 Direction, by writing to them individually (see paragraph 21 below). To achieve this, the Authority would be required to carry out a number of Land Registry searches. This would involve an associated cost for each search and officer time to carry out each search.
9. There may be associated printing and stationary costs, as well as costs associated with posting the letters to owners, as per the requirement above.
10. Once the order is in place, property owners affected by the Article 4 Direction order will be required to apply for Planning Permission for particular works. They would not be required to pay an application fee for this service. This is likely to impact on Development Management and Conservation staff resources, in processing and determining these applications. It is anticipated that this need would be met by existing resources, but this would require further discussion and review.

Background Papers

11. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - Conservation Area Designation, Appraisal and Management: Historic England Advice Note 1, 2016
 - The Town and Country Planning (General Permitted Development) Order 2015 (GPDO)

Impact

12.

Communication/Consultation	A public consultation would be required.
Community Safety	None
Equalities	None
Health and Safety	Health and Safety procedures should be observed during site visits to collect data and administer public exhibitions as necessary.
Human Rights/Legal Implications	Legal advice will be sought internally with regards to service of the Article 4(1) Direction Order.
Sustainability	None
Ward-specific impacts	None

Workforce/Workplace	Compiling the Article 4(1) Direction Order and publishing the order. Administering the public consultation process and associated exhibition meetings. Advertising the former and contacting relevant property owners, requiring resources from GIS officer, Council Tax/ Land Registry team, Communications team and the Post Room. Resources also required in Development Management, and DM Support in registering, processing and determining applications.
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Situation

13. An Article 4 Direction Order is served by the Local Authority to remove selected permitted development rights. This may extend to individual properties only, a group of assets or a defined area. It is proposed to issue the order under paragraph 4(1)(b) which relates to '*any particular development, falling within that Park, Class or paragraph, which is specified in [that] direction*'. (GPDO 2015).
14. Each of the district's 37 Conservation Area appraisals identifies buildings that make a positive contribution to the historic and architectural character of the Conservation Area. These are referred to commonly as 'non-designated heritage assets'. The appraisals often recommend that these would be worthy candidates for an Article 4 Direction.
15. At present, without the benefit of an Article 4 Direction, a variety of alterations could be carried out to these non-designated heritage assets, without the need for any consent; some of which can result in a highly detrimental impact to the character of the building itself and the wider area. Such works include the replacement of historic or original windows and doors, demolition of historic boundary walls and introduction of solar panels to a principal roof slope. At present, the Authority has no means to monitor such works, even within the Conservation Area. Whilst such alterations may seem minor in nature, the cumulative impact over time can be significant.
16. There are currently four Article 4 Direction orders in force in Uttlesford District. These control development to non-listed buildings within four of the Conservation Areas; Great Chesterford, Newport, Stansted Mountfitchet and Great Dunmow. These were introduced between 2011 and 2012. Properties in these areas, included in the order, are already required to apply for consent for alterations to their property, as per the requirements of the order under paragraph 4(1).
17. It would be prudent to review the existing Article 4 Directions to ensure they continue to be suitably robust and relevant moving forward.

18. It is now proposed to introduce a single Article 4 Direction to those buildings included on the Local Heritage List, where the Local Authority is satisfied that it is expedient that permitted development rights 'should not be carried out unless permission is granted for it on an application'. In doing so, the Authority would be able to serve a single order to cover all non-designated heritage assets identified across all Conservation Areas in one process, rather than serving up to 37 separate orders. This would ensure that assets are afforded a consistent level of protection, at the earliest opportunity, resulting in a greater level of consistency across the district.
19. The order would also supersede the existing four Article 4 Directions, which would be cancelled in line with Schedule 3 of the GPDO, which would address the need to review these existing Article 4 Directions.
20. In accordance with Schedule 3, The authority would be required to provide notice of the Article 4 Direction as soon as practicable after the direction has been made by a) a local advertisement, b) a site display at no fewer than 2 locations within the area to which the direction relates for a period of no less than 6 weeks and c) a notice on the owner and occupier of the of every part of land to which the direction applies.(GPDO)
21. In relation to c) above, Paragraph 2 of Schedule 3 states that the '*local planning authority need not serve notice on an owner or occupier . . . if they consider that b) the number of owners or occupiers within the area to which the direction relates makes individual service impracticable*'. (GPDO)
22. It is understood that there is no right of appeal against service of an Article 4(1)(b) Direction. However, should an application be refused by the Local Authority, the applicant will have the right to appeal the refusal decision within a set period.
23. In serving the Article 4 Direction Order on the Local Heritage List, the Authority is also able to ensure that non-designated heritage assets which fall outside of the conservation area boundary, but are equally significant and worthy of preservation, can also benefit from this level of protection.
24. Where it is felt that structures identified on the Local Heritage List do not warrant protection of an Article 4 Direction, these would be individually detailed as being excluded from the order.
25. The service of the Article 4 Direction order would be subject to further member agreement, following publication of the Local Heritage List, scheduled for early 2018) and a full public consultation.
26. The proposed Article 4 Direction would apply to some or all of the following Parts, Classes and schedules:

Schedule 2

Part 1 Class A – enlargement, improvement or other alteration of a dwellinghouse

- Part 1 Class B – additions etc to the roof of a dwellinghouse
- Part 1 Class C – other alteration to the roof of a dwellinghouse
- Part 1 Class D – porches
- Part 1 Class H – microwave antenna on a dwellinghouse
- Part 2 Class A – Gates, fences, walls etc
- Part 2 Class C – Exterior painting
- Part 2 Class D – electrical outlet for recharging vehicles
- Part 2 Class E – electrical upstand for recharging vehicles
- Part 3 Class A to V – change of use
- Part 11 Class B – demolition of buildings
- Part 11 Class C – demolition of gates, fences, walls etc
- Part 14 Class A to O – Renewable Energy

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Inability to monitor effectively alterations and works within the Conservation Area and to other non-designated heritage assets outside of the conservation area boundary resulting in loss of character, appearance and significance of the asset and/or locality.	3/4	3/4	Service of an Article 4(1) Direction to non-designated heritage assets to preserve the character and appearance of the Conservation Area and wider locality and minimise risk of harmful development within the district.

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.