

Item Number 5.2

P and EP Committee Meeting 12 April 2016

Proposal: Review of Article 4 Directions in Peterborough

Location: District wide

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Recommendation:

1. That Committee notes the review of Article 4 Directions in Peterborough;
2. That Committee approves the proposed deletion of the Article 4 Direction covering nos. 513-521 (odd) Lincoln Road

1 Explanation

This report reviews the use of Article 4 Directions within Peterborough. It explains what Article 4 Directions are, why the City Council has them and the management they require. It also recommends the deletion of the Article 4 Direction covering nos. 513-521 (odd) Lincoln Road.

2 What is an Article 4 Direction?

Planning legislation allows householders to make changes to their houses without requiring planning permission, known as a householders 'permitted development rights'. Examples of work allowed as 'permitted development' include:

- replacing windows, doors and roof materials with modern substitutes;
- demolishing front boundary walls, railings and fences under 1 m high;
- demolishing a chimney
- installing rooflights, and solar panels on roofs;
- painting / rendering / cladding the external walls;
- the creation of a hard standing;
- adding a porch.

Local authorities can withdraw permitted development rights under Article 4 of the Town & Country Planning (General Permitted Development) Order 2015, (GPDO) known as an Article 4 Direction order. This means that a householder must obtain planning permission before making the changes which are restricted by the Direction, typically some or all of those items of work above.

Article 4 Directions are most commonly used in conservation areas to protect the appearance of buildings of individual character from unsympathetic change for the benefit of preserving the special character and appearance of the area. Since 1983 new Article 4 Directions outside conservation areas are subject to the approval of the Secretary of State and for buildings 'of exceptional quality'.

The National Planning Practice Guidance sets out the following explanation of when it is appropriate to use Article 4 directions?

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**. The potential harm that the direction is intended to address should be clearly identified. There should be a particularly strong justification for the withdrawal of permitted development rights relating to:

- a wide area (eg those covering the entire area of a local planning authority, National Park or Area of Outstanding National Beauty)
- agriculture and forestry development. Article 4 directions related to agriculture and forestry will need to demonstrate that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty
- cases where prior approval powers are available to control permitted development
- leisure plots and uses
- the installation of microgeneration equipment

The permitted development rights of the GPDO only relate to houses. Other types of buildings, such as shops, offices and flats, do not benefit from these permitted development rights so already require planning permission to carry out such work.

3 Government Policy and Article 4 Directions

A conservation area is an area with a special character which is worthy of preservation and enhancement. Sections 71 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 place a duty on local authorities to protect and enhance their conservation areas.

Most of the buildings in a conservation area help to shape its character. Although the designation of a conservation area brings some additional restrictions the changes which can be made as permitted development can over time result in the loss of traditional features and detailing such as windows, doors, chimneys, roof coverings, boundary walls, railings and fences. This loss can seriously erode the special character of a conservation area and the purpose of its designation.

Historic England guidance encourages the use of Article 4 Directions to prevent the loss of characteristic architectural detailing and maintain the character and appearance of conservation areas (Conservation Area Designation, Appraisal and Management Historic England Advice Note 1 Appendix 1) (February 2016). The use of Article 4 Directions within conservation areas is a way of protecting the special character and appearance of such places and therefore help a local authority fulfil its duties.

4 What Permitted Development Rights Can Be Withdrawn By an Article 4 Direction?

A balance has to be struck, based on sound planning reasons, between controlling development to protect the special character and appearance of a conservation area and removing the permitted development rights of owners. In most cases the restrictions only apply to the front and side elevations of a property which fronts onto a highway, as the purpose is to protect the special character and appearance of the area viewed from public vantage points. An Article 4 Direction does not apply to internal work.

5 Why do we have Article 4 Directions in Peterborough?

Between 1979 and 1982 the City Council made 52 Article 4 Direction Orders under the Town & Country Planning Legislation covering 595 properties in the city. At that time many of the City's mid to late Victorian and Edwardian buildings, particularly terraces, were suffering from unsympathetic alterations affecting their appearance and the character of the place.

These properties were not of listable quality because, on a national level, this type of property is relatively numerous and not of sufficient 'special interest'. Locally, however, they are of great importance as they were built at the time of Peterborough's first major expansion brought about by the advent of the railways and therefore reflect an important period of our history. There is much uniformity of design and materials in these buildings. It was considered that the best way to protect the external appearance of the more attractive examples as a whole was through the making of Article 4 Directions. The directions mostly apply to chimneys, roofs, front and side walls, doors, windows and front gardens.

The declaration programme was halted in 1983 when a change in Government policy meant that Article 4 Direction Orders would in future be encouraged and approved in conservation areas.

In recent years through the completion of conservation area appraisals and management plans it is proposed to make a small number of Article 4 Directions to protect significant un-listed buildings and the character of their conservation areas. The adopted criteria for the selection of buildings is set out at Appendix A.

Article 4 Directions are particularly effective in two situations. Firstly, in areas which have high numbers of traditional but unlisted houses such as at Queens Road conservation area Fletton, Former Great Northern Railway Cottages Lincoln Road and Stanground Conservation Area. Individual alterations may seem minor but the cumulative impact of these is damaging to the conservation area. Secondly, where there are unlisted houses of some quality in a street with nearby listed buildings. Unsympathetic alterations would be very obvious and detract from the character of the area as a whole, such as Main Street Barnack, High Street Eye, Church Street, Werrington, and Wisbech Road Thorney Conservation Areas.

In Peterborough we currently have 56 Article 4 Directions covering 334 residential properties of which 301 are located in conservation areas: (Barnack, Eye, Former Great Northern Railway Cottages, Lincoln Road, Orton Waterville, Park, Queens Road, Stanground, Thorney, Werrington). A list of properties by address subject to Article 4 Direction control is shown at Appendix B)

6 Article 4 Reviews

One of the weaknesses of having made such a large number of properties subject to Article 4 Direction control was that despite regular publicity of the Directions to owners it was inevitable that unauthorised alterations would occur. This was particularly true up to early 2000. Where unauthorised work was brought to the attention of the city council then enforcement action was initiated. However, the success of Article 4 Directions is dependent on the co-operation and support of owners, and equally important support at any planning and enforcement appeals.

The City Council regularly reviews its Article 4 Directions (1991, 1997, 2002, 2006, 2011 and 2015). As with all works requiring planning permission, the 'four year rule' applies. This means that if no action is taken by the local planning authority against work which required planning permission within four years of the work being carried out the work is deemed to be lawful. This can result in the gradual loss of original features, and the more this happens the more difficult it is to retain those which remain and with the loss of public support. Development which has taken place without planning permission must be identified and enforcement action started in good time.

Both the 1991 a 1997 reviews concluded that the quality of the properties had diminished as a result of unauthorised alterations that had passed the 4-year rule and those which had received approval at appeal. As a result some properties were considered not worthy for continued protection and were deleted.

The 2002 review is significant as this followed discussions with GO-East (Government Office for the East of England) who had advised that conservation areas should be designated around those buildings subject to Article 4 Directions which met the required standard for conservation areas (following Historic England guidelines). This led to the designation of new conservation area at Queen Road, Stanground, Eye, and the Former Great Northern Railway Cottages, Lincoln Road). Other meaningful groups of Article 4 Direction properties that were substantially unaltered were also retained. Remaining Article 4 Directions properties where there had been significant alterations and outside conservation areas were deleted.

Having declared new conservation areas and retained only exceptional properties outside conservation areas for continued Article 4 Direction protection this allowed better focus for officers. Since early 2000 this has largely been the case. Subsequent reviews have not revealed any significant reduction in the appearance and quality of the buildings subject to Article 4 Direction, with the exception of nos. 513-521 Lincoln Road.

7 Article 4 Review 2015

A review of properties covered by Article 4 Directions was completed in 2015 using the same criteria previously used for review assessment:

- How many original features remain? (This includes an assessment of windows, doors, roof coverings, chimneys and unpainted/un-rendered/unclad walls);
- Where features have been replaced, is there still a uniform appearance to the terrace? (For example, all slate roofs having been replaced with identical concrete tiles);
- Is it apparent to a lay-person why the properties are protected? Is the historic character apparent?
- Having considered the above, if we were starting afresh today, would the properties be considered suitable for protecting with an Article 4 Direction?

A new photographic record of all properties was made between October 2014 and April 2015, with each photograph dated. This makes them useful in enforcement matters as they provide a record of the building on a particular date against which subsequent alterations can be checked being within the '4-year' rule.

There has been little change since the 2011 survey. However, unauthorised unsympathetic replacement windows and doors have been revealed at nos. 513, 515, 517 and 521 Lincoln Road with satellite dishes and demolished front boundary walls at 513 and 515. (only 519 remains largely intact) and this work pre-dates the 2011 survey. In cases where works have been carried out less than four years ago it may be possible to seek reinstatement through enforcement action. Where changes have occurred more than 4 years ago it is accepted that the majority will not be undone voluntarily to return the properties to their original condition and that much of the loss of uniformity cannot be rectified.

The properties are part of a continuous building frontage to the east side of Lincoln Road. Buildings to the north and south have been much altered and do not retain original windows and front doors and are characteristic of the area. The area is not a conservation area. In the circumstances, it is considered that there is no longer sufficient justification for continued restrictions at nos. 513-521 (odd) Lincoln Road. The assessment is set out at Appendix C. If Committee approve the deletion then owners will be informed in writing of the decision, and Land Charges notified.

8 Managing Article 4 Directions

Article 4 Directions generate work on a daily basis for officers. This includes giving general advice to home owners and prospective purchasers, dealing with written enquiries, applications for planning permission and enforcement cases relating to unauthorised work. The Directions generate 4/5 additional applications for planning permission each year in relation to the average annual total of 1,200 applications received.

Most of the applications are approved as many have been subject to pre-application discussion and advice. Owners are advised if an application is unlikely to be granted permission and alternative options which are more acceptable are suggested. There is also a clear and consistent approach to how applications for various alterations to properties affected by Article 4 Directions are assessed. This is set out in an advisory leaflet so owners can see how their application is likely to be considered and further detail is on our web site. Letters are sent out to owners on a periodic basis remaining about the effect of the Article 4 Direction

An Enforcement enquiry is opened for each reported breach of planning permission. The number of enforcement enquiries received each year for properties affected by an Article 4 Direction in Peterborough is approximately 2 compared to 600, the total number of enquiries received each year. The majority of enforcement enquiries relate to replacement windows and doors and alterations to front boundaries. The city council works with owners to try and remedy breaches of planning permission. Those cases which are not remedied by the owner can result in the service of a formal Enforcement Notice. Since 2000 5 Enforcement Notices have been authorised, all of which relate to replacement doors and/or windows.

There are relatively few appeals submitted against the refusal of planning permission for alterations, typically windows, about 1 a year set against the average annual total of 45 appeals dealt with by the Council. Most appeals are dismissed. In their decisions planning inspectors have commented on the existence of the Article 4 Directions and recognised their purpose.

Members will be aware from recent reports to Committee of the impact that solar panels on the front roofs of dwellings in a conservation area can have on the appearance of key buildings and the character and appearance of conservation areas.

9 Conclusions

The use of Article 4 Directions has been a successful heritage strategy. Peterborough has many Article 4 Direction Orders across urban and rural properties, predominantly in and for the benefit of conservation areas. The purpose of an Article 4 Direction is not to protect all old buildings in an area irrespective of their character or quality but to protect properties with unaltered characteristic elevations from unsympathetic change and retain an attractive street scene and preserve the character and appearance of our conservation areas. Most properties continue to retain the character and appearance for which they were considered worthy of protection.

Article 4 Directions is currently the most effective measure available to help the City Council fulfil its duty of care role in conservation areas. It has been demonstrated that they can have a positive effect when applied carefully and properly managed. Their use is promoted by English Heritage and in Government guidance.

10 Recommendation

That Committee:-

- 1. Notes content of the report and review of Article 4 Directions in Peterborough; and**
- 2. Approve the proposed deletion of the Article 4 Direction covering nos. 513-521 (odd) Lincoln Road**

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