

MUNICIPAL YEAR 2008/2009 REPORT NO. 182

MEETING TITLE AND DATE:

PLANNING COMMITTEE

29 January 2009

REPORT OF:

Interim Director of Place Shaping & Enterprise

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| Agenda - Part: 1 | Item: 5a |
| Subject: New Conservation Areas – confirmation of Article 4 Directions. | |
| Wards: Grange, Southgate Green, Lower Edmonton. | |
| Cabinet Members consulted: Cabinet Members for Environment and Street Scene and Place Shaping and Enterprise | |

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1. EXECUTIVE SUMMARY

- 1.1 Cabinet approved on the 5th November 2008 the designation of four new conservation areas – Grange Park, Meadway, Southgate Circus and The Crescent. Three of these, Grange Park, Meadway and The Crescent, are residential areas where householders have permitted development rights allowing them to carry out a range of development works to houses without planning permission. The Crescent is a listed building but householders there still have rights to insert hard surfaces within the gardens.
- 1.2 Such development works can have a harmful effect on the character or appearance of the area leading to the erosion of its special interest. The Council on the 12th November 2008 removed these permitted development rights from the three residential conservation areas by the making of Article 4 Directions on identified properties and specifying what works need to be the subject of a planning application. This made them consistent with the controls in most of the Borough's earlier conservation areas.
- 1.3 The Article 4 Directions came into immediate effect. The Council is required to consider any representations received from the public and then decide whether to re-affirm the Article 4 Direction within 6 months of its making. The Council, at its meeting on the 12th November, authorised the Planning Committee to carry out these functions.
- 1.4 This report details the representations received (see Appendix B) and recommends the Article 4 Directions are made permanent.

2. RECOMMENDATIONS

2.1 That The Planning Committee, having considered the representations received from householders and stakeholders, makes permanent the Article 4 (2) Direction under The Town & Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, in respect of those Parts/Classes of the Order scheduled against each Conservation Area in Appendix A, removing permitted development rights and that and the statutory notification requirements be followed forthwith to enact this decision.

3. BACKGROUND

3.1 The full background to the need to address the deleterious impact of small-scale developments on the Borough's Conservation Areas was set down in the earlier Report to Council, which was supplied to all members. It was also addressed in the Paul Drury Partnership Character Appraisal and Management Proposals reports relating to the new conservation areas.

3.2 Following the decision at Council, the affected dwelling houses were served with a formal Notice of the Direction, plus an explanatory leaflet setting down the implications of the new controls. Furthermore, a statutory press notice advertised the Direction, listing Classes of Permitted Development withdrawn, and the properties covered.

3.3 A large number of representations were received. No representations or objections were received from residents in either the Meadway or The Crescent Conservation Areas. For the Grange Park Conservation Area only a small minority (13%) of residents objected to the Article 4 direction. A substantial majority (85%) expressed strong support for the Council's proposals. The Grange Park Residents Association was particularly supportive. One respondent did not express a view either way. The full details of the representations are to found in the table in Appendix B to this report.

3.4 ANALYSIS

3.4.1 The Article 4 direction proved uncontroversial in the Meadway and The Crescent Conservation Areas and no representations were received. Of the over 250 dwellings affected within the Grange Park Conservation Area only 8 objections were received.

3.4.2 No prior notification was given of the Article 4 Direction to mitigate the possibility of unsympathetic works being rushed through in the time before it was formalised. It was inevitable, therefore, that some residents would find themselves in the process of commissioning works but, following notification of the Direction, they then found that they required planning permission. Every assistance has been offered to these residents to help them to make an early submission. Such proposals would not necessarily be refused permission, depending on their nature and impact on the conservation area in question. Similarly, the small number of residents in possession of a Lawful Development

Certificate have been written to advising them that they may no longer valid and that they should contact the Development Control service and ascertain if planning permission is now needed.

3.5 CONCLUSIONS

3.5.1 The representations received indicate that the Article 4 directions are uncontroversial. Only a small, if vocal, minority of residents in the Grange Park Conservation Area objected. This view contrasted with the overwhelming majority of representations received which strongly supported the Council's proposals. Unavoidably, a few people were adversely affected by the timing of when the Direction was served and officers have sought to ensure that they got the help and advice they need.

3.5.2 Following this initial bedding in period, it is anticipated that, in common with the Article 4 (2) Directions already in place for other conservation areas in the Borough, they will work smoothly and have the desired affect of helping preserve and enhance the Borough's conservation areas.

3.6 GENERAL

3.6.1 The schedules in Appendix A detail the affected addresses within each of the new conservation areas and the specific categories of PD rights that are proposed for removal.

3.6.2 The Council, as Local Planning Authority, is able to exercise the power to make an Article 4(2) Direction to remove most PD rights within conservation areas.

3.6.3 Once the Direction was formally served it took immediate effect – thus requiring that the specific scheduled works can only be carried out with express planning permission. Owners were invited to make representations to the Council on the serving of the Direction on their property. Any such representation must then be considered, and if the Authority is minded to confirm the Direction then this must be exercised not less than 28 days or more than 6 months of the Direction first being served. A final confirmed Direction is then served.

3.6.4 An Article 4 Direction is registered against a property as a Local Land Charge and is declared on any subsequent searches.

3.6.5 Requiring planning applications for hitherto permitted works across these designated (conservation) areas will generate some additional applications to the Development Control Service. The additional applications are exempt from any planning application fees, and will involve some more casework for the Development Control Service. As these are relatively minor proposals, such applications are usually determined under delegated powers. The additional caseload will be carefully monitored but is not considered to be significant.

3.6.6 Compensation could be sought from the LPA in those circumstances where a householder could demonstrate loss of value to their property if this is wholly attributable to the making of an Article 4 Direction. This would have to be in a case where planning permission was refused, or granted with conditions, solely because of the Direction. The likelihood of this is quite remote, and needs to be considered in the context of the actual PD rights being withdrawn. For example the loss of rights to replace roof material of your choice (as opposed to, say, slate) or refusal to insert plastic windows, are unlikely to substantiate a material lost value to the property that could support a compensation claim.

4. REASONS FOR RECOMMENDATION

The Conservation Area Character Appraisals demonstrate that the character of these areas is being undermined by an increasing amount of unsympathetic minor development. The only way to address this is to remove these PD rights and secure a higher standard of work, or even to refuse wholly inappropriate proposals, by requiring them to seek planning permission for the works.

5. ALTERNATIVE OPTIONS CONSIDERED

Committee does have the option of not confirming the Direction, but there is no alternative way to secure control of otherwise 'Permitted Development' and address the deterioration in the character of the affected conservation areas.

6. DIRECTOR OF FINANCE & CORPORATE RESOURCES COMMENTS

6.1 Finance Implications

There is a cost, albeit limited, for the actual legal processing/serving/advertising of the Directions. The additional costs arising from the process are not significant and these will need to be met from within existing Planning budgets.

6.2 Legal Implications

The Article 4 (2) Directions became effective upon service but must be ratified within 6 months, at which time any representations received must be formally considered prior to confirmation. This function has been delegated to the Planning Committee. The withdrawal of permitted development (PD) rights may give rise to a claim for compensation if an application is refused or granted subject to conditions other than mentioned in the Order. Compensation may be claimed for abortive expenditure and loss or damage directly attributable to the loss of PD rights under the direction.

6.3 Property Implications

The Council does not own any household properties within the three areas and will not be affected by the Article 4 Directions.

6.4 Risk Management Implications

Failure to approve the Article 4 Directions will allow uncontrolled development works to be carried out to household properties within the conservation areas. Such works have been demonstrated to be a major cause of the incremental erosion of the special architectural and historic interest of the areas. The purpose of designation of conservation areas is to preserve or enhance their character and appearance and thereby protect that special interest. The Article 4 Directions will strengthen the Council's ability to discharge this statutory duty.

7. PERFORMANCE MANAGEMENT IMPLICATIONS

7.1 The introduction of Article 4 Directions within Enfield's conservation areas is part of a wider package of management proposals being brought forward for these areas and it thus achieves compliance with current Government advice and local performance indicators for such areas.

7.2 The four new conservation areas and three Article 4 Directions will add to the work load of the Conservation Team, Development Control and Enviro-crime through the generation of further planning applications of greater complexity and detail requiring more public consultation procedures and the need for more rigorous planning enforcement within these areas. Planning applications under an Article 4 direction do not attract a fee. No new resources for an increase in staff are available at this time, and the extra demand can only be met by rigorous re-prioritisation of service areas.

8. COMMUNITY IMPLICATIONS

Enfield's heritage is of growing importance to local people and its effective protection and beneficial utilisation is a key foundation upon which healthy, engaged and sustainable communities must be built. Once approved, the Article 4 Directions will improve the Council's effectiveness in this important field and thereby support the Place shaping agenda, sustainable communities and social adhesion within Enfield's diverse citizens and groups.

9. PUTTING ENFIELD FIRST

Aim 1 of Putting Enfield First – the Council Business & Improvement Plan 2008/2011 is 'A cleaner, greener sustainable Enfield'. The Article 4 Directions will form a key plank for the delivery of sustainable development within the Borough and an important element of successful place shaping. It will be a major driver to fulfilling Aim 1(e) "Protect and enhance the character and quality of Enfield's buildings and improve access to parks and green spaces.

Background Papers:

The Cabinet Report of the 5 November 2008 that approved the new designations and the Management Proposals for the affected conservation areas from which this report and Article 4 Directions flow.

The Character Appraisals and Management Proposals for the new conservation areas held by Mike Brown, Team Leader for Conservation X3865.

The Council Report of the 12th November 2008 that approved the making of the Article 4 Directions