

MUNICIPAL YEAR 2006/2007 REPORT NO. **25**

MEETING TITLE AND DATE:

Planning Committee
21.6.06

REPORT OF:

Assistant Director of Planning &
Transportation

Agenda – Part: 1

Item: 6

**Subject: Enfield’s Conservation Areas –
Article 4(2) Direction.**

**Wards: Bush Hill Park, Grange, Chase,
Town, Southgate, and Southgate Green,
Cockfosters, Enfield Lock, Turkey Street,
Winchmore Hill.**

**Cabinet Member consulted:
Councillor Terence Neville**

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1. EXECUTIVE SUMMARY

- 1.1 Following consideration of a report, setting down the background to the Conservation Area Review and the detrimental impact that some small-scale ‘Permitted Development’ (PD) works have on dwelling houses in the Borough’s Conservation Areas, the Council resolved on 25th January 2006 to withdraw the rights to carry out such works without planning permission by making an Article 4 (2) Direction in specific areas and specifying what works need to be the subject of a planning application.
- 1.2 Once the Direction was served it came into immediate force, but it requires re-affirmation within 6 months. At the above meeting the Council further resolved that Planning Committee be given the power to authorise the subsequent confirmation of the Direction to make it permanent, having been advised if any representations have been received objecting to the Direction.
- 1.3 The report advises Committee of representations.

2. RECOMMENDATIONS

- 2.1 That “The London Borough of Enfield Council (Enfield Borough Conservation Areas) Article 4(2) Direction 2006” (as set down in Appendix A) be made permanent, 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 adverse 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 and a further copy is available in the Members' library). It was also extensively addressed in the Paul Drury Partnership Character Appraisal reports that were periodically referred to Planning Committee for endorsement.
- 3.2 Following the decision at Council, the affected dwelling houses (800+) were served with a formal Notice of the Direction, plus a simple 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 Furthermore a statutory press notice advertised the Direction, listing Classes of Permitted Development withdrawn, and the properties covered.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 Representations The exercise did generate a number of queries and concerns, but the number of outright objections has been very limited. The appended table (A) sets down both telephoned and written representations.

4. ANALYSIS

- 4.1 Of the over 800 dwellings affected only 4 direct objections were received.
- 4.2 It was understandable that some residents queried some of the information and decisions as to what was included within the Direction.
- 4.3 No prior notification was given of the Article 4 Direction to avoid the possibility of unsympathetic works being rushed through in the time before it was formalised. The Direction was thus made unannounced. It was inevitable, therefore, that some residents would find themselves having ordered works but, following notification of the Direction, they then found that they required planning permission for these works. Every assistance was offered to these residents to help them to make an early submission, (the position relating to these proposals is set down below – para 5.2).

5. CONCLUSIONS

- 5.1 The limited representations received do not suggest very strong feeling against the retention of the Article 4(2) Direction. A few people were adversely affected by the timing when it was served, but even they, in the main, supported the Direction. The principal issue here was to ensure that they got the help they needed to make the necessary planning application and that any delay was minimised.
- 5.2 Following this initial bedding in period, the Article 4 (2) Direction has begun to work smoothly with the desired affect of helping preserve and enhance the Borough's conservation areas. To date seven planning applications have been generated by the Direction, with three refused, one approved, and the remaining three undetermined.
- 5.3 The serving of the Direction did identify a very small number of amendments to the schedule of affected properties. Some properties have been excluded; principally as they are now flats. The retention of the Direction, as revised and attached in Appendix B, is recommended for confirmation on a permanent basis. As Appendix B shows, the development rights withdrawn by the Direction are specifically targeted within individual Conservation areas to meet the particular circumstances of each area. Further development right withdraws will be brought forward as necessary to deal with other pressures arising from inappropriate development.

6. ALTERNATIVE OPTIONS CONSIDERED

- 6.1 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 to the character of the Borough's Conservation Areas.

7. REASONS FOR RECOMMENDATIONS

- 7.1 It is quite evident from the Conservation Area Appraisal reports 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.

8. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS – none beyond as originally made to Council, viz:

8.1 Financial Implications

It is expected that there will be some additional work for Planning staff but this can be contained within existing staffing levels and budgets.

8.2 Legal Implications

Under Section 59 of the Town and Country Planning Act 1990 the Secretary of State has the power to make General Permitted Development Orders (GDPO) to allow certain classes of development to take place without the need for the grant of a specific planning permission. Under Article 4 of the General Permitted Development Order, LPA's have the power to restrict those classes of development that will be generally permitted. Specifically, Article 4(2) of the GDPO allows an LPA to restrict the types of development that will be automatically permitted in Conservation Areas. The making of an Article 4(2) Direction by the LPA therefore means that the GDPO will not apply to certain developments within the areas specified in the Direction.

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.

Compensation must be claimed within a limited time from the date of the refusal and may be claimed not only by the freeholder and leasehold owner of the land affected but also by anyone with a contractual right to use the land. It should be noted that special compensation provisions apply to statutory undertakers. Entitlement to compensation is conferred on, and special methods for its calculation are prescribed by the 1990 Act."

8.3 Property Implication

London Borough of Enfield owned properties may well be affected by this order although the scale, nature and impact cannot be assessed at this early stage. There is the possibility that the removal of these rights will fetter the discretion of successors in title to the Council to do what they wish with the property and therefore adversely affect the capital receipt received (if subsequently identified as surplus to the Councils

requirements). The same principle also applies to land owned by the Council which lies adjacent to properties affected by this order. In the alternative it is also possible that protection of an area's character can lead to enhanced values being received on sold properties where change of use, refurbishment or alteration would not otherwise be permitted.

9. PERFORMANCE MANAGEMENT IMPLICATIONS

9.1 The introduction of an Article 4 (2) Direction within Enfield's conservation areas comprises part of a wider package of management proposals being brought forward for these areas and it thus achieves compliance with current Government advice and performance indicators for such areas.

10. PUTTING ENFIELD FIRST

Having a new Article 4 (2) Direction in place across the Borough's conservation areas, with the added assistance to protection of the historic environment that it will bring, is fully consistent with the vision of 'Putting Enfield First' - in particular Aims and Objectives 2005 – 2008: Aim 1(f) "Protect and enhance the character and quality of Enfield's buildings and access to green spaces by preparing a new planning policy (Local Development Framework)."

Background Papers

Character Appraisal Reports by The Paul Drury Partnership.

Appendix A - Representations Received:

	A. Direct Objections	B. Issues	C. Queries	D. Support
Total Received	4	7	20	3
Representation – A: Objections		Comment/Action?		
<p><u>Objection 1</u> (from Enfield Lock – Government Row, new property). Against new properties being included – why was the rest of Enfield Island Village development not included? Their property being selectively disadvantaged; Not known about when property first purchased, Not identified when planning permission first granted.</p>		<p>Enfield Island Village development lies outside the Enfield Lock Conservation Area; The new cottages in Government Row were carefully designed to fit in with the existing old properties & hence merited particular protection. There is already a Direction in place covering the existing Government Row houses; Purchase date of house not advised – but clearly the completion date of these pre-dated the decision on the new Direction. See above;</p>		
<p><u>Objections 2 & 3</u> Points were made that development controls in Conservation Areas are already too restrictive</p>		<p>There are already controls within Conservation Areas, but the Conservation Area appraisals have shown that deterioration is taking place because these controls are too weak.</p>		
<p><u>Objection 4</u> Direction detrimental to property, boundary of Conservation Areas should be changed to now exclude their property.</p>		<p>Not agreed</p>		
Representation – B: Issues				
7 responses of this nature received	Nature of points made	These were from householders that had ordered work & were awaiting commencement, & hence the works now required planning permission. Concern over: – likely delays, or cost of preparing plans in order make an application. Some were very concerned or annoyed about being caught by the new requirement.	<p>Comment There is sympathy with these residents. All assistance & advice was given and applications expedited. Changes No changes to the Direction necessitated.</p>	
Representation – C: Queries				
Representation & No.	Issue raised	Comment	Change Necessitated?	
Queries – 20 2 were Ward Member queries.	Predominantly why were some properties included & others excluded?	Only houses enjoy extensive Permitted Development rights, so flats, offices etc are unable to exercise such rights & thus not included.	None required – the excluded properties were not houses, or already a listed building.	
Representation – D: Support				
2 from affected residents and 1 from a local Study Group		No action or changes required		

Appendix B – The Direction