

## MUNICIPAL YEAR 2017/2018 REPORT NO. 97

### MEETING TITLE AND DATE:

### REPORT OF:

Planning Committee –  
21 November 2017

Contact officer and telephone number:

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### Agenda – Part:

### Item:

**Subject:** Confirmation of Article 4(1) Direction

**Wards:** Town, Grange

**Key Decision No:**4322

### Cabinet Member consulted:

Cabinet Member for Economic Regeneration  
& Business Development

Cabinet Member for Environment

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## 1. EXECUTIVE SUMMARY

- 1.1 On 19 July 2017, The London Borough of Enfield “the Council” authorised serving a non immediate Article 4(1) Direction on the whole of the Enfield Town Conservation Area, and for the existing Article 4 Directions in Enfield Town dating from 1978 and 2006 (as they relate to Enfield Town) to be cancelled at the point of confirmation of the new Article 4(1) Direction. Authority was delegated by Council to Planning Committee to determine whether the Article 4(1) Direction should be confirmed, amended or withdrawn after all representations had been received and considered. A copy of the Council report is attached at Appendix 1.
- 1.2 The consultation period for the Article 4(1) Direction has now closed. After consideration of the responses received it is proposed that:
- a) the Article 4(1) Direction for Enfield Town Conservation Area should be approved to come into effect on 8 January 2018 subject to non-material minor amendments
  - b) the existing Article 4 Directions for Enfield Town Conservation Area dating from 1978 and 2006 (in so far as it relates to Enfield Town) should be cancelled on 8 January 2018 when the new Article 4(1) Direction comes into effect
  - c) authority is given to serve notice on affected properties as set out in the Town & Country Planning (General Permitted Development) (England) Order (2015)

## **2. RECOMMENDATIONS**

### **2.1 That Planning Committee:**

#### **2.1.2 Notes the decision of Council on 19<sup>th</sup> July 2017 to:**

- a) approve the serving of a non immediate Article 4(1) Direction under the Town & Country Planning (General Permitted Development) (England) Order (2015) upon all the properties shown on the map as attached as Appendix 1 and withdrawing permitted development rights as set out in the schedule, as attached as Appendix 2 to that report.
- b) authorise the statutory consultation as set out in the Town & Country Planning (General Permitted Development) (England) Order (2015) Schedule 3.
- c) authorise Planning Committee to have regard to the representations received during the consultation and confirm, amend or cancel the new Article 4(1) Direction or as directed by the Secretary of State and to cancel the existing 1978 and the 2006 Direction (where it relates to Enfield Town only). The Cabinet report of 19.7.17 is attached as Appendix 1 for information

#### **2.1.3 Notes the representations received during consultation and officers' response as attached as Appendix 3**

#### **2.1.4 Notes the non-material amendments set out in para. 7.6 and confirms the Article 4(1) Direction for Enfield Town Conservation Area (as amended) to come into effect on 8 January 2018 subject to any direction received from the Secretary of State**

#### **2.1.5 Confirms the cancellation of the existing orders from 1978 and 2006 (insofar as the order from 2006 relates to Enfield Town Conservation Area) to come into effect on the 8 Jan 2018, subject to any direction received from the Secretary of State**

## **3. BACKGROUND**

3.1 Householders have permitted development rights allowing them to carry out a range of development works to dwellings without planning permission. These works can have a harmful effect on the character or appearance of a conservation area leading to the erosion of its special interest. Article 4 Directions allow the Council to remove these permitted development rights so that planning permission is required.

3.2 The Council has three Article 4 Directions active in Enfield Town, dating from 1978, 2003 and 2006. The Directions from 1978 and 2006 relate to the removal of permitted development rights from dwelling houses and the 1978

order includes some flats. The Direction from 2003 relates to the painting of external brickwork on a number of properties in The Town.

3.3 Owing to the passage of time and changes in legislation, the 1978 and 2006 Article 4 Directions and the protection they afford are now out of date. The current effect of the above is that the conservation area is vulnerable to the very harm that Article 4 Directions are used to prevent. There is also uncertainty about what properties are covered by the existing controls. Consequently, the aims of the reviewed and approved Enfield Town Conservation Area Management Proposals (2015) can only be met in part.

3.4 The Article 4 Directions for the Enfield Town Conservation Area have been reviewed. As authorised by the Council, a non-immediate Article 4 (1) Direction was served for the whole of the Enfield Town Conservation Area on 26 July 2017. If confirmed this will withdraw permitted development rights given under current legislation for broadly the same range of development as was controlled by the 1978 and 2006 directions and including flats as well as dwelling houses. This will provide a consistent approach to the restrictions placed on permitted developments to both dwelling houses and flats in the conservation area. It will also extend the geographical area of coverage and hence make the provisions consistent across the conservation area. No change is proposed for the 2003 Article 4 Direction which does not apply to dwelling houses.

## **4. CONSULTATION PROCESS AND RESPONSES**

4.1 As set out in Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) notice of the proposed Article 4 (1) Direction was given as soon as possible after the recommendation was authorised on 19 July 2017. As required this was by local advertisement, site notice, notice on the website and where practicable by hand-delivery of letters to all owner/occupiers within the affected area. Letters were hand delivered to 1237 addresses on 26 July and site notices posted 27 July 2017. Press notices were published on 16 August 2017 and from 26 July details were published on the Council's website. Officers took part in the public engagement on the Enfield Town Masterplan and attended public drop-in sessions on 27 July and 24 August 2017 to provide information and answer any questions about the Article 4(1) Direction. The Secretary of State and Historic England were also notified on 26 July 2017. A period of over six weeks was given for representations to be made. Consultation closed on Friday 29 September.

4.2 As set out in the GPDO, account must be taken of representations received during the advertised period when deciding whether to confirm, amend or withdraw the Article 4(1) Direction. As set out in para. 6.1, 13 representations were received of which 6 were objections. A summary of comments is set out in the attached summary table at Appendix 3.

4.3 Six comments/objections received relate to the painting of the exterior of buildings in the conservation area. This arises from a misapprehension that

the Article 4(1) would bring controls over repainting of previously painted surfaces. For the purposes of Development Management repainting is not considered development and consequently planning permission will not be required. Painting a previously unpainted surface will. No changes to the A4 Direction are considered to be necessary however it is proposed to clarify this in the letter to accompany notices of confirmation.

4.4 Historic England was consulted on 26 July 2017 but made no representation.

4.5 The Department for Communities and Local Government confirmed receipt of the Article 4(1) Direction on 4 August 2017. Although no further representation has been received it should be noted that the Secretary of State has the right to approve, amend or cancel the Article 4(1) Direction and the authorisation to confirm the Article 4(1) Direction will be subject to that.

## **5. ALTERNATIVE OPTIONS CONSIDERED**

5.1 An alternative option would be not to confirm the Article 4 or to confirm the Article 4 with significant amendments. However, this would limit the Council in its duty in putting in place proposals to preserve and enhance the conservation area. This would perpetuate the existing confusion over what is covered by the existing Article 4 Directions from 1978 and 2006 and would leave the conservation area vulnerable to alterations that would erode its special interest.

## **6. REASONS FOR RECOMMENDATIONS**

6.1 Notification of the proposed changes to the Article 4 Directions was sent to 1243 addresses in total. Only 13 representations were received, totalling significantly less than 0.5% of those consulted. Consultation was extensive and the presumption must be that the vast majority accept or support the proposed changes. Responses received during consultation did not raise any issues which are considered to necessitate either not proceeding with the Article 4(1) or making material amendments. Responses received are summarised in the table attached at Appendix 3.

## **7. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

### **7.1 Financial Implications**

7.1 There is a limited cost for the legal processing, serving and advertising of the Direction. This will be met from the Local Plan budget.

7.2 Planning applications which are necessary because of an Article 4 Direction do not require a fee, which has resource implications for the

Development Management service. The financial implication of the proposed change is minimal.

- 7.3 There is the risk of claims being made against the Council for losses incurred as a result of the new order. Compensation may be claimed for abortive expenditure and loss or damage directly attributable to the loss of permitted development rights. The proposed use of a non-immediate rather than immediate Article 4 Direction limits this potential and it is not considered to be significant. All of the Borough's residential Conservation Areas have Article 4 Directions in place dating from 1978 onwards. No known successful compensation claims have been made.

## **7.2 Legal Implications**

- 7.4 The legal implications of serving an Article 4 Direction were considered in full in the report to Council appended.
- 7.5 The consultation has been carried out in accordance with the requirements set out in Schedule 3 of the GPDO, As required by the GPDO account has been taken of representations made. No material changes are proposed as a consequence of these representations. Minor, non-material amendments have been made to the drafting of the order.
- 7.6 The withdrawal of permitted development rights may give rise to claims for compensation if an application is refused or granted subject to conditions other than mentioned in the GPDO. However, this risk is considered to be low as set out in para 6.1.4 of the report appended.

## **7.3 Property Implications**

- 7.7 The property implications of serving an Article 4 Direction were considered in full in the report to Council appended.
- 7.8 There are a number of Council-owned properties within the Enfield Town Conservation Area.
- 7.9 However, this updated Direction affects permitted development rights for broadly the same range of development as controlled by earlier Directions, and future changes and alterations generally can be devised and brought forward in compliance with the Article 4.

## **8. KEY RISKS**

- 8.1.1 There is a risk that the Article 4(1) Direction may be cancelled or modified by the Secretary of State. However, as the scope of the new Direction does not extend that of the previous orders this is considered to be low.

- 8.1.2 Within twelve months of the order taking effect compensation can be sought where a householder is able to demonstrate loss of value to their property or that there has been abortive expenditure or other loss or damage if this is wholly attributable to the making of an Article 4 Direction. Compensation may also be sought where planning permission is refused, or granted with conditions required solely because of the Direction. The likelihood of such a claim being received is quite remote, and the number of additional properties to be included with the order is limited, and needs to be considered in the context of the permitted development rights being withdrawn. For example, the loss of rights to replace a particular roof material or refusal of permission to insert plastic windows are unlikely to substantiate a material loss of value to the property that could support a compensation claim.
- 8.1.3 There are no fees generated by planning applications resulting from Article 4 Directions and there is a consequent risk of further pressure on the Development Management service. There is a similar risk associated with increased numbers of enforcement cases. However, the number of applications and enforcement cases resulting from the existing Article 4 Directions is small. The impact on the Development Management service is therefore considered to be a low risk.

## **9 IMPACT ON COUNCIL PRIORITIES**

### **9.1 Fairness for All**

The changes proposed to the Article 4 Directions will increase fairness across the Enfield Town Conservation Area by ensuring that its requirements apply equally across its whole area which is not the case presently. The use of Article 4 Directions in the Borough's conservation areas underpins policy and development management to guide change and ensure that the Borough remains and becomes an attractive place to live, work, learn and play. More than 99.5% of those directly notified made no objection to the new Article 4(1) Direction.

An EqlA was prepared to consider the effect on groups with protected characteristics and concluded a) that there would be no overall negative impact and b) and equality issues are considered as part of the consultation. Consultation was undertaken in accordance with the EqlA, notified through the Voluntary and Community Sector e-bulletin and officers attended Enfield Town Masterplan drop-in sessions to provide information and answer any questions, as set out in para. 10.

### **9.2 Growth and Sustainability**

The use of Article 4 Directions in the Borough's conservation areas allows the Council to more fully consider the impacts of minor development within the Enfield Town conservation area and therefore

to guide change and ensure that the Borough remains and becomes an attractive place to live, work, learn and play.

### **9.3 Strong Communities**

The preservation and enhancement of the cherished local scene and heritage helps increase the communities' sense of belonging, civic pride and self-confidence while demonstrating the Council's commitment and support to them and their area. Together these help deliver stable, safe and sustainable places and communities.

## **10 EQUALITIES IMPACT IMPLICATIONS**

The management of the Council's conservation areas has a positive impact on equalities in general. To help evaluate and support this an EqlA was prepared by the Strategic Planning and Design service to support the review of the Enfield Town Article 4 Directions. This indicated that the impact of the proposed revision to the Article 4 Directions will largely be positive. There is a potential indirect impact identified for disabled groups which will be addressed through the planning process as set out in the Equalities Impact Assessment. During consultation notification was given through the Voluntary and Community Sector e-bulletin and officers attended Enfield Town Masterplan drop-in sessions to provide information and answer any questions.

## **11 PERFORMANCE MANAGEMENT IMPLICATIONS**

Conservation Area Character Appraisals support Enfield Council's commitment in its Local Plan and its duty under Section 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to prepare proposals for the preservation and enhancement of conservation areas and to consult the public about those proposals.

## **12 HEALTH AND SAFETY IMPLICATIONS**

No Health and Safety implications have been identified.

## **13 HR IMPLICATIONS**

No HR implications have been identified.

## **14 PUBLIC HEALTH IMPLICATIONS**

The Article 4 Directions support the Conservation Area Appraisals and Management Proposals and seek to enhance the local environment and thereby promote physical and mental wellbeing by contributing to the attractiveness of the environment. The preservation and enhancement of the cherished local scene and heritage helps increase the communities'

sense of belonging, civic pride and self-confidence, thereby contributing to mental well-being and enjoyment.

### **Background Papers**

None

### **Appendices**

Appendix 1: Copy of Council report 19 July 2017

Appendix 2: Map and Schedule confirming Article 4(1) Direction for Enfield Town

Appendix 3: Table of summary of responses

Appendix 4: Statement of Justification