

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **DEVELOPMENT CONTROL COMMITTEE**

Date: **Tuesday 6 September 2016**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **ARTICLE 4 DIRECTION - PETTS WOOD AREA OF SPECIAL RESIDENTIAL CHARACTER**

Contact Officer: Tim Horsman, Planning Development Control Manager
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Chief Officer: Chief Planner

Ward: Petts Wood and Knoll;

1. Reason for report

The issue for consideration by Members is whether the Council should seek, with the use of an Article 4 Direction, to withdraw permitted development rights for alterations to the front slopes of roofs of properties in the Petts Wood Area of Special Residential Character.

2. **RECOMMENDATION(S)**

Members are invited to consider whether Executive should be requested to confirm a non-immediate Article 4 Direction withdrawing permitted development rights for front roof alterations in the Petts Wood Area of Special Residential Character with a 12 month delay.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Quality Environment:
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Financial

1. Cost of proposal: Possible compensation
 2. Ongoing costs: Possible additional costs from increased number of planning applications
 3. Budget head/performance centre: Planning
 4. Total current budget for this head: £
 5. Source of funding: Existing budget
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Staff

1. Number of staff (current and additional):1
 2. If from existing staff resources, number of staff hours: 4
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Legal

1. Legal Requirement: None:
 2. Call-in: Not Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes Report requested by Ward Cllr
2. Summary of Ward Councillors comments: Supports issue of Article 4 Direction

3. COMMENTARY

- 3.1 The Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) grants various rights to householders to alter or extend their dwelling houses without the need to obtain planning permission. This is referred to as permitted development . One such right (under Part 1 of Schedule 2, Class C) is to carry out alterations to the roof of a dwelling house. Provided any alteration does not protrude more than 150mm beyond the plane of the slope of the original roof (such as would normally be the case with a roof light or “Velux” window) it can be undertaken as permitted development. This particular right does not differentiate between general residential areas and designated areas such as Conservation Areas and Areas of Special Residential Character, and it is therefore possible for householders in any area to insert roof lights in the front roof slopes of their houses without the need to obtain planning permission from the Council.
- 3.2 Article 4 of the GPDO allows for the making of a direction that can withdraw specified permitted development rights. This does not prevent the development to which it applies but instead requires that planning permission is first obtained from the local planning authority for that development.
- 3.3 The properties in the Petts Wood Area of Special Residential Character (ASRC) date from the late 1920s and early 1930s. While the houses were built over a number of years, in a number of similar though varied styles, the road layout and plot sizes were established in an overall pattern. Today the layout remains largely intact. Some properties already have front rooflights.
- 3.4 The issue for consideration by Members is whether the Council should seek to withdraw permitted development rights for roof lights in the ASRC. This decision should be based on whether the automatic right under permitted development to insert windows into front roofslopes is considered to potentially cause harm to the character and appearance of the area and therefore merit consideration by the Local Planning Authority rather than being permitted development. It should be noted that there are no Article 4 Directions currently within the Borough which remove this specific permitted development right in areas other than Conservation Areas, and Members are asked to carefully balance the potential harm with the costs of preparing and issuing a Direction and any subsequent additional work generated by future applications which would not attract a fee with the benefits this proposal would bring about.
- 3.5 Guidance issued by DCLG on the Planning Practice Guidance website (http://planningguidance.communities.gov.uk/blog/guidance/when-is-permission-required/what-are-permitted-development-rights/#paragraph_034) sets out that 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. There should be a particularly strong justification for the withdrawal of permitted development rights relating to a wide area
- 3.6 In procedural terms there are two main types of article 4:
- non-immediate direction (permitted development rights are only withdrawn upon confirmation of the direction by the local authority following local consultation; and
 - immediate directions (where permitted rights are withdrawn with immediate effect, but must be confirmed by the LPA following local consultation within 6 months, or else the direction will lapse).
- 3.7 Article 4 Directions cannot be applied retrospectively to development undertaken before a direction comes into force and any planning application required as a consequence of an Article 4 Direction is exempt from the usual planning application fee.
- 3.8 There are circumstances where LPAs may be liable to pay compensation having made an Article 4 Direction, although the potential liability is limited in many cases by the time limits that apply. Compensation may be payable to those whose permitted development rights have been withdrawn if they:
- refuse planning permission for development which would have been permitted development if it were not for an Article 4 Direction; or

- grant planning permission subject to more limiting conditions than the GDPO would normally allow as a result of Article 4 Direction being in place.

- 3.9 Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. Under section 107 of the Town and Country Planning Act 1990 this could include '*...any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to it...*' It could also include any loss of value although this would be difficult to calculate.
- 3.10 For certain permitted development rights, including those for roof alterations and insertion of roof lights, compensation can only be claimed if an application is submitted within 12 months following the effective date of the direction. Alternatively, if the LPA gives an "early notice" of between 12 months and 2 years of the making of the direction (using the non-immediate direction process referred to above) then no compensation can be claimed.
- 3.11 In Bromley Borough, Article 4 Directions have been in place in Conservation Areas such as Alexandra Cottages since 2004, Chancery Lane since 1984, and Barmead Road since 1992. These cover a wide range of possible alterations to the fronts of properties, including the installation of roof lights (specifically in Alexandra Cottages). The intention of each direction has been to safeguard the character of the Conservation Area. Whilst the detail of regulations and procedure have changed over the years it should be noted that no compensation claims were made in respect of any of these Article 4 Directions – nor did they lead to a proliferation of requests for directions in other conservation areas. There has been some increase in workload arising from applications for proposals (such as window replacements) that did not previously require planning permission. There are currently no Article 4 Directions relating to roof alterations in any ASRC, and therefore no direct comparison available.
- 3.12 Compensation could be avoided however if the making of the notice were delayed for 12 months after local consultation – in which case no compensation would be payable. If Members wish to pursue this Article 4 Direction it is recommended that it is done on this basis.
- 3.13 The views of residents will be an important factor in helping Members decide on how to proceed. The "early notice" procedure enables time for local consultation to be carried out before a Direction needs to be confirmed.

4. FINANCIAL IMPLICATIONS

- 4.1 The withdrawal of permitted rights for certain classes of development as a result of issuing an immediate Article 4 Direction may give rise to claims for compensation by landowners in certain circumstances.
- 4.2 By issuing a 12 month non-immediate Direction under Article 4, it is unlikely that any compensation claims will be payable.
- 4.3 Planning applications for works for development restricted by an Article 4 Direction which would otherwise be permitted development do not attract a fee. Any planning applications for works restricted by the proposed Article 4 Direction would represent a cost to the Council to process. It is not possible to quantify this potential cost.
- 4.4 In this case, it is expected that the risk of substantial compensation is low, due to the circumstances set out in section 3.

5. LEGAL IMPLICATIONS

- 5.1 Article 4 of the GPDO 2015 (as amended) allows LPAs to withdraw specified permitted development rights for specified sites within their areas.

5. PERSONNEL IMPLICATIONS

- 6.1 There is a possible minor increase in workload arising from Article 4 Directions with no increase in fee income since applications would be exempt from a fee under national legislation.

Non-Applicable Sections:	Policy implications
Background Documents: (Access via Contact Officer)	Petts Wood Area of Special Residential Character statement (2006 Unitary Development Plan) Town and Country Planning (General Permitted Development)(England) Order 2015