

Decision Maker: RENEWAL, RECREATION AND HOUSING PORTFOLIO
HOLDER

**FOR PRE-DECISION SCRUTINY AT THE RENEWAL,
RECREATION AND HOUSING POLICY DEVELOPMENT AND
SCRUTINY COMMITTEE AND DEVELOPMENT CONTROL
COMMITTEE**

Date: DCC: 9 March 2022
RRH PDS: 16 March 2022

Decision Type: Non-Urgent Non-Executive Key

Title: CONFIRMATION OF ARTICLE 4 DIRECTIONS TO REMOVE
PART 1, CLASS B AND C PERMITTED DEVELOPMENT
RIGHTS IN PETTS WOOD ASRC AND CHISLEHURST ROAD
CONSERVATION AREA

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Chief Officer: Tim Horsman, Assistant Director (Planning)

Ward: Petts Wood and Knoll; Cray Valley West

1. Reason for report

- 1.1. This report recommends that the Council confirms 2 non-immediate Article 4 Directions to withdraw permitted development (PD) rights which allow various alterations to the roof of a dwellinghouse without planning permission. These Directions would withdraw Part 1, Class B and C PD rights in the Petts Wood Area of Special Residential Character as shown in the Bromley Local Plan (January 2019); and withdraw Part 1, Class C PD rights in the Chislehurst Road Conservation Area (based on the boundary prior to recent changes).
- 1.2. The Direction would replace an existing Direction which removes these PD rights on front roofslopes only.
- 1.3. In line with the requirements of legislation, representations on the proposed Directions were sought. The Council must take into account any representations made before it confirms the

Article 4 Directions. No representations were received. If confirmed, the Directions would come into force on 19 July 2022.

2. RECOMMENDATION(S)

For Development Control Committee members

- 2.1. That Members endorse the confirmation of 2 non-immediate Article 4 Directions to withdraw Part 1, Class B and C PD rights in the Petts Wood Area of Special Residential Character; and withdraw Part 1, Class C PD rights in the Chislehurst Road Conservation Area. These PD rights are currently granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”). The areas covered by the Directions are shown on the maps at Appendix 1 and Appendix 2.**
- 2.2. That Members endorse the making of a direction to cancel the existing Article 4 Direction which removes Part 1, Class B and C PD rights on front roofslopes in the Petts Wood ASRC. The timing of this cancellation will be aligned with the date when the new direction comes into force, so as to avoid any gap in coverage of the directions.**
- 2.3. That Members note the matter will be considered by the Renewal, Recreation and Housing Policy Development and Scrutiny Committee for pre-decision scrutiny.**

For Renewal, Recreation and Housing Policy Development and Scrutiny Committee members

- 2.4. That Members endorse the confirmation of 2 non-immediate Article 4 Directions to withdraw Part 1, Class B and C PD rights in the Petts Wood Area of Special Residential Character; and withdraw Part 1, Class C PD rights in the Chislehurst Road Conservation Area. These PD rights are currently granted by the GPDO. The areas covered by the Directions are shown on the maps at Appendix 1 and Appendix 2.**
- 2.5. That Members endorse the making of a direction to cancel the existing Article 4 Direction which removes Part 1, Class B and C PD rights on front roofslopes in the Petts Wood ASRC. The timing of this cancellation will be aligned with the date when the new direction comes into force, so as to avoid any gap in coverage of the directions.**
- 2.6. That Members note that the Portfolio Holder for Renewal, Recreation and Housing will be asked to confirm the 2 non-immediate Directions covering the areas shown on the maps at Appendix 1 and Appendix 2, to come into force on 19 July 2022.**
- 2.7. That Members note that the Portfolio Holder for Renewal, Recreation and Housing will be asked to authorise the making of a direction to cancel the existing Article 4 Direction which removes Part 1, Class B and C PD rights on front roofslopes in the Petts Wood ASRC. The timing of this cancellation will be aligned with the date when the new direction comes into force, so as to avoid any gap in coverage of the directions.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: No impact
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Corporate Policy

1. Policy Status: Not Applicable
 2. BBB Priority: Regeneration
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Financial

1. Cost of proposal: Costs associated with publicising the confirmation will be met from the Planning Policy and Strategy budget.
 2. Ongoing costs: N/A
 3. Budget head/performance centre: Planning Policy and Strategy
 4. Total current budget for this head: £0.568m
 5. Source of funding: Existing Revenue Budget for 2021/22
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Personnel

1. Number of staff (current and additional): 10fte
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Article 4 and Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015
 2. Call-in: Applicable: Further Details – Portfolio Decision
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Procurement

1. Summary of Procurement Implications: N/A
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Customer Impact

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

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A.

3. COMMENTARY

Background

- 3.1. In January 2021, Development Control Committee¹ (DCC) considered a report recommending that a non-immediate Article 4 Direction was made to withdraw Part 1, Class B and Class C PD rights which allow various alterations to the roof of a dwellinghouse. The proposed Direction related to the Petts Wood Area of Special Residential Character (ASRC) as shown in the Bromley Local Plan (January 2019). DCC endorsed the proposed Direction and also requested a further Direction be made to withdraw Part 1, Class C PD rights in the Chislehurst Road Conservation Area (based on the Conservation Area boundaries as of January 2021), on the basis that such a Direction would “ensure the openness and feel of the area and to maintain a consistent pattern in regard to roof lights”².
- 3.2. The Renewal, Recreation and Housing Policy Development and Scrutiny Committee (RRHPDS) considered the proposed Directions on 2 February 2021³. RRHPDS resolved that the Portfolio Holder be recommended to authorise the making of the 2 non-immediate Directions as endorsed by DCC⁴.
- 3.3. The 2 Directions were subsequently authorised by the Portfolio Holder and ‘made’ on 19 July 2021.
- 3.4. Article 4 Directions allow authorities to withdraw the PD rights that would otherwise apply by virtue of the GPDO. Details of the Article 4 Direction process and relevant legislation and guidance is set out in paragraphs 3.1 to 3.7 of the January 2021 DCC report⁵.
- 3.5. It is noted that the NPPF was amended in July 2021 in relation to Article 4 Directions, but the substantive change was for Directions which relate to a change from non-residential use to residential use; for other Directions (such as any Direction removing PD rights allowing alterations to existing properties), the requirements remain unchanged, i.e. Directions should be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area.
- 3.6. The NPPF change does state that Directions should apply to the smallest geographical area possible. The PPG notes that the potential harm that a Direction is intended to address should be clearly identified. For the proposed Directions, justification to address the NPPF requirements is discussed below.

Consultation

¹ ‘PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION TO REMOVE PART 1, CLASS B AND C PERMITTED DEVELOPMENT RIGHTS IN PETTS WOOD ASRC’, Development Control Committee 28 January 2021, available from: <https://cds.bromley.gov.uk/documents/s50085727/PROPOSED%20NON-IMMEDIATE%20ARTICLE%204%20DIRECTION%20TO%20REMOVE%20PART%201%20CLASS%20B%20AND%20C%20PERMITTED%20DEVELOPMENT%20RIGHTS.pdf>

² Minutes of the DCC meeting held at 6.30 pm on 28 January 2021, available from: <https://cds.bromley.gov.uk/documents/g6910/Printed%20minutes%20Thursday%2028-Jan-2021%2018.30%20Development%20Control%20Committee.pdf?T=1>

³ ‘PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION TO REMOVE PART 1, CLASS B AND C PERMITTED DEVELOPMENT RIGHTS IN PETTS WOOD ASRC’, Renewal, Recreation and Housing Policy Development and Scrutiny Committee 2 February 2021, available from: <https://cds.bromley.gov.uk/documents/s50085761/PROPOSED%20NON-IMMEDIATE%20ARTICLE%204%20DIRECTION%20TO%20REMOVE%20PART%201%20CLASS%20B%20AND%20C%20PERMITTED%20DEVELOPMENT%20RIGHTS.pdf>

⁴ Minutes of the RRHPDS meeting held at 6.30 pm on 2 February 2021, available from: <https://cds.bromley.gov.uk/documents/g6916/Printed%20minutes%20Tuesday%2002-Feb-2021%2018.30%20Renewal%20Recreation%20and%20Housing%20Policy%20Development%20and%20S.pdf?T=1>

⁵ Op cit, footnote 1

- 3.7. Consultation on the Directions was undertaken from 19 July to 30 August 2021 (a period of six weeks). As detailed in the reports to DCC and RRHPDS in January and February 2021, the consultation did not include serving notice on owners and occupiers of every part of land within the area to which the Direction relates, as this level of notification was considered impracticable. Notice was given by local advertisement and site notices in locations within the ASRC and the Conservation Area, as per the other requirements of the GPDO. Details were also provided on the Council's website.
- 3.8. No representations were received.

Discussion and justification

- 3.9. Paragraphs 3.8 to 3.21 of the January 2022 DCC report⁶ set out the national, London and local planning policy context which is material to any decision of whether it is expedient to make an Article 4 Direction. Since this report was prepared, the London Plan has now been adopted and the NPPF has been updated with a stronger emphasis on design and the creation of high quality, beautiful and sustainable buildings.
- 3.10. In terms of the justification for the proposed Directions, officers consider that the justification for the ASRC direction, as set out in paragraphs 3.22 to 3.26 of the January 2022 DCC report⁷, remains robust and is sufficient to address the updated NPPF requirements. The ASRC is an important Local Plan designation which protects character and local amenity, which could be undermined by the new PD rights. The proposed Direction will help to protect this character and amenity.
- 3.11. With regard to the Chislehurst Road Conservation Area⁸, officers consider that the justification put forward by DCC remains robust⁹, and is sufficient to address the updated NPPF requirements. Similar to the ASRC designation, the Conservation Area protects character and local amenity, which could be undermined by the new PD rights. The proposed Direction will help to protect this character and amenity.

Cancellation of existing Direction

- 3.12. The existing Direction¹⁰, which removes Part 1, Class B and C PD rights from front roof slopes only in the Petts Wood ASRC, will be cancelled when the new Direction comes into force on 19 July 2022; this will ensure that there is no gap in coverage of article 4 directions. Cancellation of a direction requires the Council to make a subsequent direction to cancel; the procedure for this is set out in the GPDO.

4. POLICY IMPLICATIONS

- 4.1. As set out in the main body of this report, there could be significant adverse impacts on local amenity resulting from the operation of Part 1, Class B and C PD rights, if the proposed Article 4 Directions are not confirmed to come into force. This could undermine elements of the Development Plan and a designated Conservation Area.

5. FINANCIAL IMPLICATIONS

⁶ Op cit, see footnote 1

⁷ Ibid

⁸ It is noted that the Conservation Area boundary reflected in the Direction is the boundary prior to recent amendments. However, the new amended Conservation Area includes areas which are within the Petts Wood ASRC, hence the new amended Conservation Area is fully covered by Petts Wood ASRC Part 1, Class C Direction.

⁹ Op cit, see footnote 2

¹⁰ Available from: https://www.bromley.gov.uk/download/downloads/id/2857/article_4_direction_petts_wood_asrc.pdf

- 5.1. This report recommends 2 non-immediate Article 4 Directions are confirmed to come into force on 19 July 2022. As a 12-month notice period has been given prior to the Directions coming into effect, compensation liability is removed.
- 5.2. Costs associated with confirming the Article 4 Directions will be met by Planning Policy and Strategy and the Council's legal services department.

6. LEGAL IMPLICATIONS

- 6.1. Article 4 (1) of the GPDO allows local Planning authorities to withdraw certain PD Rights. The procedure for putting in place an Article 4 Direction is set out in Schedule 3 of the GPDO. The Council's legal services department will be responsible for confirming the Directions; and for making the direction to cancel the existing Petts Wood ASRC front roofslopes direction. These directions will be prepared in line with the statutory requirements set out in the GPDO.
- 6.2. There is a requirement to give notice of confirmation to owners and occupiers of every part of land within the areas to which the Directions relate, unless the local planning authority considers that the number of owners or occupiers within the area to which the direction relates makes individual service impracticable. The proposed Directions together encompass around 1,500 properties (which includes instances where there are numerous properties within a single building). This level of notification is considered to be impracticable, hence individual notice will not be given (which is consistent with the approach taken as part of the notification process when the Directions were first made). Notice will be given by local advertisement and site notice, as per the other requirements of the GPDO.
- 6.3. The GPDO requires notice of the proposed Directions to be given as soon as practicable after the Directions have been confirmed.

<p>Non-Applicable Sections:</p>	<p>IMPACT ON VULNERABLE ADULTS AND CHILDREN</p> <p>PERSONNEL IMPLICATIONS</p> <p>PROCUREMENT IMPLICATIONS</p>
<p>Background Documents: (Access via Contact Officer)</p>	<p>Bromley Local Plan 2019 - https://www.bromley.gov.uk/download/downloads/id/4768/bromley_local_plan.pdf</p> <p>London Plan (adopted 2 March 2021), available from: https://www.london.gov.uk/sites/default/files/the_london_plan_2021.pdf</p> <p>National Planning Policy Framework (July 2021) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf</p> <p>National Planning Practice Guidance - https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment</p> <p>'PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION TO REMOVE PART 1, CLASS B AND C PERMITTED DEVELOPMENT RIGHTS IN PETTS WOOD ASRC', Development Control Committee 28 January 2021, available from: https://cds.bromley.gov.uk/documents/s50085727/PROPOSED%20NON-IMMEDIATE%20ARTICLE%204%20DIRECTION%20TO%20REMOVE</p>

	<u>%20PART%201%20CLASS%20B%20AND%20C%20PERMITTED%20DEVELOPMENT%20RIG.pdf</u>
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