



Planning Policy Committee – 25 July 2011

Review of Article 4(2) Directions

Purpose of report

The purpose of this report is to seek approval for the revision of the council's existing article 4(2) directions.

Attachment(s)

None

1.0 Background

- 1.1 An article 4 direction is a mechanism which allows local planning authorities to withdraw permitted development rights in certain circumstances. This provides control over building works, which would otherwise be 'permitted development'. The aim of making such a direction is to ensure that the traditional details which form part of the character of an area are not removed or altered, and that development which would damage the character of an area does not go ahead.
- 1.2 The council currently has four conservation areas that are subject to an 'article 4(2) direction'. These are the conservation areas of Easton on the Hill, Collyweston, Duddington and King's Cliffe. With the exception of the article 4(2) direction covering the King's Cliffe Conservation Area which was approved in 1999, all have been in force since the early 1990s.

2.0 Issue and Need

- 2.1 In 2008 a series of amendments were made to the Town and Country Planning (General Permitted Development) Order 1995 (the 'GPDO'). Some aspects of the amended legislation have a direct impact upon the existing article 4(2) directions. For example, works which involve the installation, alteration or replacement of a chimney, flue or soil vent pipe on a dwellinghouse were previously covered by GPDO part 1 class C (other alterations to the roof of a dwellinghouse), but are now covered by the newly revised class G. East Northamptonshire Council's article 4(2) directions did not withdraw class G, as this formerly related to the installation of oil tanks, therefore currently this sort of work cannot be controlled.
- 2.2 In addition to the changes to the existing classes of part 1 of schedule 2 of the GPDO, which covers general householder works, a separate part has been introduced to cover the installation of domestic microgeneration equipment (Part 40). Of particular interest in part 40 is the installation of solar panels (N.B. solar panels were previously assessed under class C of part 1).
- 2.3 Initially, when part 40 was introduced in April 2008 a planning application was required for solar panels if sited on a roof slope or a wall of a dwelling located within a conservation area. However, this legislation was amended in October 2008, removing the requirement for planning permission for solar panels on roof slopes of dwellings within conservation areas. Currently, therefore, an application for planning permission is only required for solar panels which are to be installed on walls of dwellings within conservation areas.

- 2.4 As a result of these changes and also greater public interest in renewable energy, we are now starting to see more solar panels appearing in conservation areas, often on the front roof-slopes of buildings. Many of the developments carried out to date have a detrimental impact on visual amenity and are damaging to the special character and appearance of the area.
- 2.5 In addition, it is recognised that many solar panel installation businesses are actively promoting products at present. The current interest and drive for solar panels is also likely to be associated with the removal of the feed-in tariff which is scheduled to take place in April 2012. A number of parish councils have also made contact recently to express their concerns over this type of development.
- 2.6 In addition to the changes proposed above, the article 4 directions also need reviewing to take on board some other alterations to the GPDO (see para.4.1).

3.0 Article 4 Directions

- 3.1 Advice on the use of article 4 directions is contained in the Department for Communities and Local Government replacement appendix D to Department of the Environment *Circular 9/95: General Development Consolidation Order 1995*. This states that generally permitted development rights should only be withdrawn in “exceptional circumstances” and only where there is a real and specific threat. This guidance also states that there should be particularly strong justification for the withdrawal of permitted development rights relating to, among other things, the installation of microgeneration equipment.
- 3.2 It is considered that there is strong justification to withdraw the permitted development rights relating to the installation of solar panels in this instance given that the special character of some of the district’s conservation areas is being harmed by this type of development. It should also be noted that the removal of all permitted development rights regarding the installation of microgeneration equipment is not being sought, just those that relate to the installation of solar panels on dwellings and outbuildings.
- 3.3 An article 4 direction does not mean that development within the particular category of permitted development cannot be carried out, but simply that it is no longer automatically permitted by Article 3 of the General Permitted Development Order and so will require a planning application. This does not necessarily mean that permission will be refused, but it will enable the council to retain some control over the siting, design and detailing of the proposed development and to grant permission subject to appropriate conditions.
- 3.4 Such applications would need to be considered against the current policy framework and any other relevant material consideration, including a conservation area appraisal. It should be noted that this type of application would not attract a planning fee.
- 3.5 It should also be noted that an article 4 direction cannot be applied retrospectively to any works that have already been carried out.

4.0 Proposed Revisions

- 4.1 It is proposed that the four existing article 4(2) directions are revised to remove the following permitted development rights (those marked with * are not currently withdrawn i.e not part of our existing article 4 directions):
- Class A of part 1 of schedule 2 – *the enlargement, improvement or other alteration of a dwellinghouse*
 - *Class B of part 1 of schedule 2 – *the enlargement of a dwellinghouse consisting of an addition or alteration to its roof*
 - Class C of part 1 of schedule 2 – *any other alteration to the roof of a dwellinghouse*

- Class D of part 1 of schedule 2 – *the erection or construction of a porch outside any external door of a dwellinghouse*
- *Class G of part 1 of schedule 2 – *the installation, alteration or replacement chimney, flue or soil vent pipe on a dwellinghouse*
- Class H of part 1 of schedule 2 – *the installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse*
- Class C of part 2 of schedule 2 – *the painting of the exterior of any building or work*
- *Class A of part 40 of schedule 2 – *the installation, alteration or replacement of solar PV or solar thermal equipment on (a) a dwellinghouse; or (b) a building situation within the curtilage of a dwellinghouse*

5.0 Process for making/revising an article 4(2) direction

5.1 The legislation states that where a local planning authority makes a direction under article 4(2) it must publicise it by inserting a notice in a local newspaper and serve a notice on every separate dwelling affected by the direction, unless this is impracticable.

5.2 The direction comes into force on the date on which the notice is served on the owner or occupier (each household will be sent a letter), or the date of the press advertisement in Nene Valley News. While there is no right of appeal against the making of an article 4(2) direction, any representations made in response to the notices must be considered. The direction may then be confirmed, not less than 28 days after the last notice was published and not more than six months after it was made.

5.3 Once the direction is confirmed, further notice of the confirmation must be undertaken, following the same notification procedure. If the notice is not confirmed within six months of making, it will lapse.

6.0 Further Changes

6.1 This report has focussed on changes required for the existing areas covered by article 4(2) directions. However, in order to address this issue fully, it is the intention to investigate if article 4 directions are appropriate for other conservation areas within East Northamptonshire. Further research will therefore be carried out and a report is anticipated to be presented to this Committee in the Autumn.

7.0 Equality and Diversity Implications

7.1 There are no equality and diversity implications arising from the proposals.

8.0 Legal Implications

8.1 There are no legal implications arising from the proposals.

9.0 Risk Management

9.1 There are no significant risks arising from the proposals. However, it should be noted that there are potential circumstances in which local planning authorities might be liable to pay compensation according to the Department for Communities and Local Government replacement appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995 (November 2010). This includes compensation which might be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. However, the potential liability is limited in many cases by the time limits that apply.

10.0 Financial Implications

10.1 The amendments result in administration costs.

11.0 Corporate Outcomes

11.1 The relevant Corporate Outcomes are:

- High Quality Built Environment
- A proactive and listening Council

12.0 Recommendation

12.1 The committee is recommended to approve:-

a) the revision of the four existing article 4(2) directions in accordance with the proposals at paragraph 4.1 of this report; and

b) acknowledge that a further report will be made to this committee, with further recommendations relating to the existing conservation areas which are not covered by article 4(2) directions.

(Reason – to ensure that the council is in line with current legislation.)

Legal	Power: The Town and Country Planning (General Permitted Development) Order 1995				
	Other considerations: Department for Communities and Local Government Replacement Appendix D to Department of the Environment <i>Circular 9/95: General Development Consolidation Order 1995</i> (978 0117531024)				
Background Papers:					
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