

COMMITTEE: Planning Committee
DATE: 4th March 2014
SUBJECT: Article 4 Direction
The Park Close Conservation Area
REPORT OF: Specialist Advisor – Conservation & Design

Ward(s): Upperton

Purpose: To seek approval for the introduction of an Article 4 Direction for The Park Close Conservation Area

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Recommendations Members are asked to recommend to Full Council:

1. The making of an Article 4 Direction for The Park Close Conservation Area in the form of the Appendix attached ;
2. The delegation by Full Council to the Planning Committee of the power both to consider any representations made following the making of the Park Close Article 4 Direction and, if appropriate, to then confirm it;
3. The delegation by Full Council to the Planning Committee of the power to deal with the complete process of bringing in any future Article 4 Directions in the Borough up to and including confirmation.

1.0 Introduction

- 1.1 The designation of Park Close as Conservation Area came about after a definition of the special architectural and historic interest of the area was compiled in the form of a detailed character analysis. The Council, in its role as a local planning authority, seeks to manage any significant changes to the area in ways that maintain and strengthen its special qualities.
- 1.2 The Park Close Conservation Area Management Appraisal was considered by the Cabinet on 23.10.2013. It set out the special nature of the area with a recommendation for protection of the setting of the heritage assets. The special nature of The Park Close is partially controlled by virtue of being a Conservation Area. However, even in a conservation area householders have the same "permitted development rights" as persons not living in conservation areas - unless this position is modified by the local planning authority.

2.0 Permitted Development Rights

- 2.1 Single Dwelling Houses, including those within Conservation Areas, enjoy statutorily – defined “Permitted Development Rights”. Basically, this means they may undertake certain alterations and adaptations without needing to seek Planning Permission or, where applicable, Conservation Area Consent. In Park Close, there have been, over time, some unsympathetic repairs. It is considered likely that erosion of the special nature and visual cohesion of the dwellings, together with a lessening both of the quality of materials used and the extent of the use of original materials and layouts to shared spaces will continue, unless the local planning authority takes the appropriate action.
- 2.2 What is needed in these circumstances is to arrange matters so that the homeowner will need to seek specific council permission for works such as replacement windows, doors and bargeboards, the removal of front gardens to create parking spaces and other works which currently would not normally require planning consent.
- 2.3 This would be achieved by the local planning authority using its power to withdraw the permitted development rights of the householders that would otherwise apply to the properties in Park Close. To do this the, council needs to make a direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, as amended. If a direction is made, later confirmed and the date set by the council for it to come into force has passed, the affected householders would then need planning consent for the kind of matters detailed at paragraph 2.2 above. However, no fee would be payable in relation to applications.
- 2.4 The Management Plan in Section 6 of The Park Close Conservation Area Appraisal contains proposals that seek to preserve and enhance the character and appearance of The Park Close Conservation Area It recommends the introduction of an Article 4 direction.

3.0 Article 4 Directions

- 3.1 The purpose of an Article 4 Direction, as outlined above, is to enable appropriate planning control to take place and to allow proper consideration to be given to certain types of proposed development that would normally not require planning consent but which, because of their setting and context, could be detrimental to the amenity of the area if not properly controlled.
- 3.2 Before making a direction at Park Close, the local planning authority must be satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless permission is granted for it on an application.
- 3.3 A copy of the Article 4 Direction, the substance of which was recommended for adoption in principle by Cabinet on 23.10.2013 is included as the Appendix to this report.

3.4 Therefore, the recommendation of this report is that an Article 4 Direction be made to help maintain the special architectural and historic character of The Park Close Conservation Area. The direction should, for the reasons given below, come into force 12 months after confirmation.

4.0 Consultation and Statutory Procedure for Making a Direction

4.1 The Residents and wider community have been invited to comment generally on the introduction of Article 4 Direction during the Consultation on The Park Close Conservation Area Appraisal & Management Plan

4.2 Should members of the Planning Committee decide to accept the recommendations made in this report and Full Council then follow the recommendations of the Planning committee, the statutory procedure contained in the 1995 Order for bringing an Article 4 Direction into being will be followed. In summary, notice of the making of the order is advertised in the paper and sent individually to all the properties affected. A specified period of 21 days is given for the receipt of representations on the direction. The notice includes the proposed date on which the order, if it is confirmed after any representations have been considered, will come into force. This proposed date must be within two years of the first day on which representations are invited. The County planning authority is informed, as is the Secretary of State. The council takes into account any representations received within the specified consultation period and decides whether to confirm the direction. Such confirmation must take place no sooner than 28 days after the date specified as the first date for making representations. If the direction is confirmed, the same public advertising and individual notices are given as were provided when it was made.

5.0 Financial Implications(including the possibility of compensation) and staffing:

5.1 The cost of the consultation is met from within existing budgets and will largely consist of staff time.

5.2 There is no charge to the homeowner for an Article 4 Application to seek permission for works controlled by such. The administrative and other costs for considering such an application will be met by the Council.

5.3 It is anticipated that the homeowners will be aware of the Article 4 Direction, and will seek pre-application advice to enable applications to be successful and be aware of, or may seek expert advice relating to the appropriate care and maintenance of their dwelling.

5.4 In all the circumstances of this matter, it is considered to be appropriate and proportionate to make an Article 4 Direction regarding Park Close which will not actually come into force until a reasonable period has elapsed; as stated above, 12 months is the recommended period. Indeed, while it would be theoretically possible, in an urgent situation, to make an order that came into force immediately it was made with regard to some of the otherwise permitted development activities that the council wishes to control, this is not the case with the installation of domestic

microgeneration equipment. This last is one of the areas over which the officers feel it is important the council does exercise control, as detailed in the Appendix.

- 5.5 Members should be aware that there are circumstances in which local planning authorities 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. In practice, very, very few claims are either made or sustained.

Local planning authorities may be liable to pay compensation to those whose permitted development rights have been withdrawn if they:

1. refuse planning permission for development which would have been permitted development if it were not for an article 4 direction; or
2. grant planning permission subject to more limiting conditions than the GPDO would normally allow, as a result of an article 4 direction being in place.

Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights; members will appreciate that the delayed implementation date of the direction would make this type of claim much less likely.

All claims for compensation must be made within 12 months of the date on which the planning application for development formerly permitted is rejected (or approved subject to conditions that go beyond those in the GPDO).

Specific compensation provisions apply in relation to statutory undertakers, who may additionally claim for loss of profits.

6.0 Sustainability Implications

- 6.1 The conservation of heritage assets, which are a finite and diminishing resource, is an integral aspect of sustainable development. The introduction of an Article 4 Direction in Park Close will assist in the conservation of heritage assets.

7.0 Other Implications

- 7.1 There are no youth, anti-poverty, equality or community safety implications as a direct result of the draft documents.

8.0 Conclusion

- 8.1 The introduction of an Article 4 Direction is considered to be an effective manner in which to manage change and conserve or enhance the special nature and interest of The Park Close Conservation Area.
- 8.2 Members are therefore asked to agree the recommendations above.

Clare Dales
Specialist Advisor – Conservation & Design

Appendices

Appendix A – Map with the Area Outlined in Blue
Appendix B – Article 4 Directions