

COMMITTEE: Planning Committee
DATE: 25th November 2014
SUBJECT: Article 4 Direction
The Park Close Conservation Area
REPORT OF: Specialist Advisor – Conservation

Ward(s): Upperton

Purpose: To seek confirmation of the Article 4 Direction for The Park Close Conservation Area

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Recommendation Members are asked:

1. To consider the representations made following the making of The Park Close Conservation Area Article 4 Direction;
2. To confirm the Article 4 Direction for the Park Close Conservation Area, in the form of Appendix A attached, to come into force on 31.01.2016.

1.0 Introduction

- 1.1 The designation of Park Close as a 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 local planning authority, seeks to manage any significant changes to the area in ways that maintain and strengthen its special interest.
- 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. As members of the Planning Committee will recall from the report they received on the 4.03.2014 which asked them to recommend to the Full Council that an Article 4 Direction be made, the special nature of Park Close is partially controlled by virtue of its being a Conservation Area. However, even in a Conservation Area, householders have

“permitted development rights” that, if implemented without oversight, could tend towards eroding the special historic and architectural character and appearance of Park Close. Members therefore decided at their 4.03.2014 meeting that, subject to consultation with the residents, this position should be modified by the local planning authority.

2.0 Background

- 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. In Park Close, there have been, over time, some unsympathetic works undertaken. 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, through a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, as amended.
- 2.2 The Direction under Article 4, reproduced at Appendix A, will 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 Following the decision and recommendation made by Planning Committee members at their meeting of 3.04.2014, the Full Council on 23.07.14 agreed to the making of an Article 4 Direction for Park Close. The Direction was sealed on the 15.09.2014. Shortly afterwards, a formal Notice of the making of the Direction was placed in the local paper and a copy was served on the Residents of Park Close, , the Head of Planning at Sussex County Council and the Department for Culture, Media and Sport, in accordance with the statutory procedures. A copy was also sent to the Conservation Area Advisory Group.
- 2.4 The consultation period set by the council was 28 days from the date the Notice appeared in the local paper (3.10.2014). The Notice stated that if it was decided to confirm the Direction after considering the responses to the consultation, the Direction would come into force on the 31.01.2016. Following which 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.

3.0 The Article 4 Direction

- 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 recommending the making of a Direction at Park Close, the Planning Committee were satisfied that it was 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 As stated above, a copy of the Article 4 Direction made on 15.09.2014, the substance of which was recommended for adoption in principle by Cabinet on 23.10.2013 and subsequently recommended formally by Planning Committee to Full Council on 4.03.2014 is included as Appendix B to this report.

4.0 Consultation and Statutory Procedure for Making a Direction

- 4.1 Before deciding whether to confirm the Direction, members should consider the results of the statutory consultation that has taken place. The Residents, the wider community, the Conservation Area Advisory Group, the Head of Planning at East Sussex County Council and the Department for Culture, Media and Sport have been invited to comment on the Notice of making the Article 4 Direction. Representations received are included in the Appendix D to this report.
- 4.2 In summary, the Notice of the making of the Direction was advertised in Eastbourne Herald on the 03.10.2014 included in the Appendix C, hand delivered at the same time to all the properties affected, emailed to the members of The Conservation Area Advisory Group and posted to Head of Planning at East Sussex County Council and Department for Culture, Media and Sport. A specified period of 28 days was given for the receipt of representations on the Direction. The

Notice includes the proposed date on which the Direction, if it is confirmed after any representations have been considered, will come into force. This proposed date is within two years of the first day on which representations are invited, as required by law.

Should members of the Planning Committee decide to accept the recommendations made in this report, the Direction would come into force, for the reasons reiterated in paragraph 5 below and the attached Consultation Responses Appendix, just over 12 months after confirmation - on the 31.01.2016.

5.0 Financial and Staffing Implications:

- 5.1 The cost of the consultation has been met from within existing budgets.
- 5.2 As stated previously, 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. They may also be aware of, or may seek, expert advice relating to the appropriate care and maintenance of their dwelling.
- 5.4 As members may recall from the report they considered on 4.03.2014, in all the circumstances of this matter and as explained in the Consultation Responses Appendix D attached, it is considered to be appropriate and proportionate to confirm an Article 4 Direction regarding Park Close which will not actually come into force until a reasonable period has elapsed; 12 months is the usually recommended period.
- Members were made aware in the 3.04.2014 Planning Committee report 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.
- 5.5 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 confirmation 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 to this report

8.0 Conclusion

- 8.1 Confirmation of the 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.

Sarah Leete-Groves
Specialist Advisor – Conservation

Background Papers:

The Background Papers used in compiling this report were as follows:

The Park Close Conservation Area Appraisal & Management Plan

Appendices

Appendix A: The Park Close Conservation Area, Article 4 Direction

Appendix B: The Park Close Conservation Area, Article 4 Notice

Appendix C: The Park Close Conservation Area, Article 4 Notice
Advertisement (The Eastbourne Herald)

Appendix D: Consultation Representation and Response

Appendix E: Maps

Map 1 The Park Close Conservation Area - Boundary Plan