

## Report for: **Planning Committee**

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**Date of Meeting:** 1<sup>st</sup> September, 2021

**Subject:** Request to review representations received and confirm the Article 4 (1) directions for the demolition of front boundary treatments within 4 of Harrow's conservation areas

**Responsible Officer:** Beverley Kuchar, Interim Chief Planning Officer

**Exempt:** No

**Wards affected:** Harrow on the Hill, Greenhill

**Enclosures:** **Appendix :** Table of Article 4 Directions restricting permitted development rights for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure in the following 4 conservation areas:  
Harrow on the Hill Village, Mount Park Estate, South Hill Avenue, Roxborough Park

## **Section 1 – Summary and Recommendations**

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An Article 4 Direction is a direction under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (“GPDO”) which enables the Council to withdraw specified permitted development rights across a defined area; the effect of this is to require planning permission for the specified works where normally such works would not require planning permission. In Harrow, the Council has proactively made Article 4 Directions for the majority of its Conservation Areas in order to protect the special architectural or historic interest and character / amenity of the areas.

On 30<sup>th</sup> May 2018 the Planning Committee agreed the officer’s recommendation to introduce an Article 4 direction for 14 conservation areas, subject to representations received during the statutory consultation period being reported back to Planning Committee, along with a recommendation as to whether or not to confirm them (as the directions lapse after six months if not confirmed). For the purposes of clarity, an Article 4 direction was made for each conservation area. The Article 4 directions require planning permission for the demolition of all or any part of any gate, fence, wall or other means of enclosure (by restricting Part 11 Class C of Schedule 2 to the GPDO) where there was already an Article 4 direction in place requiring planning permission for the alteration of a boundary treatment. From December 2020 to May 2021, the Article 4 directions have been introduced as agreed, subject to the required consultation period. This report covers the Article 4 Directions covering the Harrow on the Hill group of Conservation Areas, where the statutory consultation period has been completed and the directions need to be confirmed before they lapse from 1<sup>st</sup> October. The remaining conservation area Article 4 directions were confirmed at the May Planning Committee before these lapsed.

No representations were received in relation to these Article 4 directions. This report therefore proposes to confirm the Article 4 Directions that were introduced for 4 conservation areas. The geographic extent of the directions reflects that of the existing Article 4 Directions where rights had been withdrawn for the alteration of a gate, fence, wall or other means of enclosure.

### **Recommendations:**

Planning Committee is requested to:

- a) Agree to officers’ recommendation to confirm the Article 4(1) Directions made under the Town and Country Planning (General Permitted Development) (England) Order 2015 as shown in the Appendix to require planning permission for the demolition of all or any part of any gate, fence, wall or other means of enclosure in existing conservation areas (Part 11, Class C of Schedule 2 to the GPDO), where an existing Article 4 direction exists in relation to the construction or alteration of a boundary treatment. The new additional Article 4 directions apply only where facing a highway, waterway or open space where this is the case

already for the existing Article 4 Direction, and otherwise for the entire boundary treatment, in accordance with the existing Article 4 Direction.

- b) Delegate authority to the Chief Planning Officer to undertake the necessary statutory processes required to confirm the Directions.

### **Reason: (For recommendations)**

To ensure that the special character of the conservation areas affected is preserved or enhanced. Since 1967 local authorities have been required to protect areas which are valued for their special architectural or historic interest – the character or appearance of which it is desirable to preserve or enhance - through the designation of Conservation Areas under the provisions of Sections 69 and 70 of the Planning (Listed Buildings and Conservation Areas) Act 1990. They are required to carry out reviews ‘from time to time’ to ensure areas are adequately covered. The Article 4 Directions subject of this report stemmed from an anomaly in protection for conservation areas. Where boundary treatments are sensitive to change in the boroughs’ conservation areas existing Article 4 directions had been introduced requiring planning permission for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, yet in every case permitted development rights still existed for the demolition of all or part of boundary treatments before the introduction of these new Article 4 directions. This means controls are potentially ineffective again unless these Article 4 directions are confirmed.

## **Section 2 – Report**

### **1. Introduction**

- 1.1 The report incorporates the corporate priority concerning:
  - Making a difference for communities
- 1.2 The improved protection of areas of special architectural or historic interest will help maintain the unique historical local character of areas or neighbourhoods within Harrow which residents cherish and value.

### **2. Options considered**

- 2.1 The option of not confirming the new Article 4(1) Directions for boundary treatments was considered but this would be contrary to the Council’s statutory obligations under the Planning (Listed Buildings and Conservation Areas) Act 1990, under which local planning authorities are required to carry out reviews ‘from time to time’ to ensure areas are adequately protected to ensure the areas preservation or enhancement. The recommended option pro-actively responds to an

issue that has become apparent (see section 3 below) and the statutory consultation period has not resulted in any issues being raised that would warrant the directions being allowed to lapse (see section 6 below). The option of doing nothing to address the issue would risk harm being done to the character of Conservation Areas within the borough.

### **3. Background**

- 3.1 Harrow has 29 conservation areas, each having special character and appearance derived from its architectural, townscape or landscape qualities. The Council has a duty to preserve and enhance these, and does so by preparing and following area specific guidance along with introducing Article 4 directions. Article 4 directions require planning permission to be obtained for certain works that would not usually require planning permission (even in a conservation area). This is to ensure change is sensitively managed to preserve the special character and appearance of conservation areas. The nature of the proposals that are required to obtain planning permission through an Article 4 direction are tailored to reflect the special character of each conservation area, based on the Conservation Area Appraisal and Management Strategy (CAAMS) for each area.
- 3.2 Until the new Article 4 directions subject of this report were introduced, 14 of Harrow's 29 Conservation Areas had already had Article 4 directions introduced to remove Part 2, Class A of the General Permitted Development Order 1995 (as superseded in 2015). This class refers to the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. Such permitted development rights have been removed either where facing a highway, waterway or open space or for the entire boundary treatment. Works under this class of the Order therefore require planning permission in these cases / conservation areas, unless permitted under another class of the Order.
- 3.3 However, permitted development rights under the General Permitted Development Order 1995 (as superseded in 2015) Part 31, Class B (now known as Part 11, Class C of Schedule 2 of the 2015 Order) of the same Order remained in place and allowed 'Any building operation consisting of the demolition of the whole or any part of any gate, fence, wall or other means of enclosure', the proposal would be permitted development. Essentially this meant that whilst one set of Article 4 directions sought to control the erection of new boundary treatments or the alteration of existing boundary treatments, it omitted to control the actual demolition of such boundary treatments (as this remains permitted development under a different section of the General Permitted Development Order). Therefore, an anomaly existed in relation to the protection of the special character and appearance of 14 of the borough's conservation areas where the alteration of a boundary treatment would impact on the special character and appearance of the conservation areas.

#### **4. New Article 4 Directions**

- 4.1 Consequently, the recently introduced Article 4 Directions require planning permission under Part 11, Class C of Schedule 2 of the GPDO 2015 (previously known as Part 31, Class B of the 1995 Order) for any building operation consisting of the demolition of the whole or any part of any gate, fence, wall or other means of enclosure. In this way, alterations or demolition work to a boundary treatment require planning permission. The new Article 4 directions are outlined in the Appendix..

#### **5. Implications of the Introduction of the Article 4 Directions for the four Conservation Areas.**

- 5.1 The introduction of the new Article 4 Directions allows for proposals for demolition to boundary treatments to buildings in affected conservation areas to require planning permission, where there is an equivalent Article 4 direction relating to other alterations to boundary treatments. This enables the Local Planning Authority to better manage change affecting the special character and appearance of these conservation areas. The Directions though will expire unless confirmed by the Planning Committee within 6 months of being made.

#### **6. Consultation responses and confirmation of Directions**

- 6.1 The new Article 4 Directions were introduced in April 2021. Once the new directions were made, the Local Planning Authority gave notice:
- a) by local advertisement in at least one newspaper in the local area (as defined in article 2(1) of the GPDO), and
  - b) by site display at no fewer than two locations on the site of each conservation area for a period not less than six weeks
- 6.2 A copy of the Article 4 Direction (and a map defining the area/ site to which it relates) as well as a copy of the local consultation notices were sent to the Secretary of State on 7<sup>th</sup> April and 21<sup>st</sup> April 2021.
- 6.3 As required by the GPDO 2015, there was a 21 day statutory consultation period from the date each Direction was first published. There were no responses.
- 6.4 The local planning authority must decide whether to confirm the directions within six months of each being made, each direction would expire six months after coming into force, unless confirmed. Therefore, the Local Planning Authority needs to confirm the Directions by October 2021, otherwise they will lapse. Given the consultation

responses and justification outlined above, it is requested that the Article 4 directions are confirmed.

## **7. Performance Issues**

- 7.1 Local Authorities have a statutory duty to review their areas to ensure adequate coverage of Conservation Areas and to publish proposals for the enhancement of these areas. Additionally, under the National Planning Policy Framework local planning authorities are required to make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible.

## **8. Environmental Impact**

- 8.1 The existing conservation area appraisals and management strategies for the affected conservation areas which outline the importance of boundary treatments to these conservation areas already include consideration of how energy efficiency and microgeneration measures can be achieved whilst preserving the special character of the conservation area.

## **9. Legal Implications**

- 9.1 The Council has a statutory duty and is required under section 69(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to carry out reviews 'from time to time' to determine whether any parts or further parts of their area should be designated as conservation areas; and if it so determines, that part(s) shall be so designated.
- 9.2 An article 4(1) direction withdraws the permitted development rights where the local planning authority consider the exercise of permitted development rights would harm the local amenity or the well being of the area.
- 9.3 Article 4 Directions were made for the following areas:
- a) The Mount Park Estate Conservation Area on 1st April 2021
  - b) The Harrow on the Hill Village Conservation Area on 1st April 2021 and some on the 15<sup>th</sup> April 2021
  - c) The Roxborough Park Conservation Area on 1st April 2021
  - d) The South Hill Avenue Conservation Area on 1st April 2021
- 9.4 The statutory process for consultation has been complied with and expired on the 29<sup>th</sup> April 2021 and 13<sup>th</sup> May 2021. No objections or representations have been received, which means that the Council is in the position to confirm the Article 4 Directions for all 4 stated Conservation Areas.
- 9.5 Not confirming the Directions within 6 months of being in force means that they lapse by the 8<sup>th</sup> October 2021 and 22<sup>nd</sup> October 2021.

## **Financial Implications**

10.0 The costs of confirming the Article 4 Directions would be met from within the existing revenue budgets of the Council's Planning Policy team.

## **Risk Management Implications**

11.0 Risks included on corporate or directorate risk register? **No**

Separate risk register in place? **No**

The relevant risks contained in the register are attached/summarised below. **N/A**

## **Equalities implications / Public Sector Equality Duty**

12.0 Was an Equality Impact Assessment carried out? **No**

EqIA is not considered necessary in respect of the making of an Article 4 Direction. Such a proposal is based on the architectural and historic merit of an area and in this particular instance, seeking to correct a legal anomaly. Furthermore, the higher order Local Plan policy that contains the criteria against which development within Conservation Areas is assessed was subject to an equalities impact assessment prior to its adoption. Any potential equality implications of a specific proposal would be addressed during the assessment of the planning action necessitated by the marking of the proposed Article 4 Directions.

## **Council Priorities**

13.0 The decision sought will help the Council meet the priority of improving the environment by helping ensure the attractiveness of the borough as a place to live and demonstrating that the Council seeks and listens to the views of its residents.

## **Section 3 - Statutory Officer Clearance**

**Statutory Officer: Baljit Bhandal**

**Date: 09/08/2021**

**Statutory Officer: Jessie Man**

**Date: 5/07/2021**

**Chief Officer: Beverley Kuchar, Interim Chief Planning Officer**

**Date: 17/08/2021**

## **Mandatory Checks**

**Ward Councillors notified: YES**

## **Section 4 - Contact Details and Background Papers**

**Contact:** Lucy Haile, Principal Conservation Officer, 0208 736 6101 or [lucy.haile@harrow.gov.uk](mailto:lucy.haile@harrow.gov.uk)

**Background Papers:** Conservation Area Appraisals and Management Strategies for each conservation area in the borough:

[http://www.harrow.gov.uk/info/200162/conservation\\_and\\_biodiversity/159/conservation\\_areas\\_overview](http://www.harrow.gov.uk/info/200162/conservation_and_biodiversity/159/conservation_areas_overview)