

Report for: **PLANNING COMMITTEE**

Date of Meeting:	24 May 2023
Subject:	Proposed Article 4 Directions – Stanmore Hill, Kerry Avenue, Old Church Lane and Little Common Conservation Areas
Responsible Officer:	Viv Evans, Chief Planning Officer
Exempt:	No
Wards affected:	Stanmore
Enclosures:	Appendix 1 – Tudor Well Close objections Appendix 2 – correspondence from the Department of Levelling Up Housing and Communities Appendix 3 response to Department of Levelling Up Housing and Communities

Section 1 – Summary and Recommendations

- 1.1 This report feeds back to the Planning Committee representations received on all the non-immediate Article 4 Directions agreed by the Committee at its meeting on 11 March 2020 and introduced thereafter on 19 May 2022 for public consultation. The directions covered properties within the following Stanmore conservation areas: Stanmore Hill, Little Common, Old Church Lane and Kerry Avenue. The report then accordingly recommends confirmation of all but one of these Directions 12 months after their introduction, the exception being that originally proposed for 1 Tudor Well Close and 7 Cherry Tree Way, Friars Mead on Old Church Lane in the Old Church Lane Conservation Area.
- 1.2 An Article 4 Direction is a direction under 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 most of its Conservation Areas in order to protect the

special architectural or historic interest and character / amenity of the areas.

- 1.3 The Directions are proposed to require planning permission for all residential properties within the Conservation area where it faces a highway, waterway or open space for:

Kerry Avenue Conservation Area

All properties within Kerry Avenue Conservation Area for: The formation, laying out and construction of a means of access to a highway (Schedule 2, Part 2, Class B of the GPDO).

Stanmore Hill Conservation Area:

Applegarth, The Glade and The Orchard, Green Lane for:

- 1) Works for the *enlargement, improvement or other alteration of a dwellinghouse, (including the replacement of windows and doors)*. (Schedule 2, Part 1, Class A of the GPDO).
- 2) Other alterations to the roof of the dwelling house (Schedule 2, Part 1, Class C of the GPDO).
- 3) *The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse* (Schedule 2, Part 1, Class G of the GPDO).
- 4) The erection or construction of a porch (Schedule 2, Part 1, Class D of the GPDO).
- 5) Painting of the exterior of any building (Schedule 2, Part 2, Class C of the GPDO).

Churchfelle Mews, Greystones and Willow Lodge, Green Lane for:

- 1) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure (Schedule 2, Part 2, Class A of the GPDO).
- 2) Demolition of the whole or any part of any gate, fence, wall or other means of enclosure (Schedule 2, Part 11, Class C of the GPDO).

Green Lane: Rylands, Olde Cottage, Tremar, Green Lane Cottage, Fordyce, Littlecote, Martinsell, Wallon Cottage, Nos 1-4 (inc) Franklin Cottages, The Cott, Nos 1-4 (inc) Chart Cottages, Nos 1-3 (inc) Hillcrest Cottages, 5 Pinnacle Place, 1-7 (inc) and 11-12 (inc) Green Lane Cottages, 1-4 (inc) Park Cottages

Stanmore Hill: Nos 75-81 (odd), 129, 131, 80, 58

For:

- 1) *The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse* (Schedule 2, Part 1, Class G of the GPDO).

Old Church Lane Conservation Area:

1 and 2 Gate House, Old Church Lane for:

The provision and the replacement within the curtilage of a dwelling house of a hard surface (Schedule 2, Part 1, Class F of the GPDO).

1-4 Rectory Close for:

- 1) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure (Schedule 2, Part 2, Class A of the GPDO).
- 2) Demolition of the whole or any part of any gate, fence, wall or other means of enclosure (Schedule 2, Part 11, Class C of the GPDO).

Little Common Conservation Area

147 Stanmore Hill for:

- 1) Works for the *enlargement, improvement or other alteration of a dwellinghouse, (including the alteration or replacement of windows or doors)* (Schedule 2, Part 1, Class A of the GPDO).
- 2) The erection or construction of a porch outside any external door (Schedule 2, Part 1, Class D of the GPDO).
- 3) Painting of the exterior of any building (Schedule 2, Part 2, Class C of the GPDO).
- 4) Other alteration to the roof of a dwelling house (Schedule 2, Part 1, Class C of the GPDO).
- 5) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure (Schedule 2, Part 2, Class A of the GPDO).
- 6) Demolition of the whole or any part of any gate, fence, wall or other means of enclosure (Schedule 2, Part 11, Class C of the GPDO).

Stanmore Hill: 116, 156, 158, 193

Wood Lane: By the Pond, Woodleigh, The Lodge, Wood Farm Cottage, Moor House, 1 & 2 Garage Cottages

Aylmer Close: 3

Little Common: 1, 2, 3, 12, 18, 19, 20, 21, 22

For:

- 1) *The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse* (Schedule 2, Part 1, Class G of the GPDO).

Recommendations:

2.1 Planning Committee is requested to:

- a) Consider the representations received during the statutory consultation period and subsequent letters sent to each property affected by the Directions in April 2023.
- b) Having considered the representations agree to the Interim Chief Planning Officer's recommendation to confirm the Article 4 Direction of the Town and Country Planning (General Permitted Development) (England) Order 2015 to require planning permission for the works listed above under Schedule 2 of the GPDO. The proposed Article 4 Directions are to apply only to residential properties within the Conservation Area ("CA") where facing a highway, waterway or open space
- c) Delegate authority to the Interim Chief Planning Officer to undertake the necessary statutory processes to confirm the proposed Article 4 Directions.

- d) Agree to the Interim Chief Planning Officers' recommendation not to introduce an Article 4 direction for 1 Tudor Well Close and 7 Cherry Tree Way, Friars Mead on Old Church Lane.

Reason: (For recommendations)

- 2.2 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. This proposal stems from the 2013 Stanmore and Edgware Conservation Areas SPD including its individual appendices of Conservation Area Appraisals and Management Strategy ("CAAMS") which identified these Article 4 Directions as important for the protection for the conservation areas. Recent surveys have re-enforced the desirability of implementing Article 4 Directions to preserve and enhance the special architectural features identified in the SPD. No objections were received during the consultation period to the proposals for those Article 4 directions it is proposed to confirm. This includes the additional consultation undertaken over April / May 2023. An objection was received for an Article 4 Direction that it is not proposed to confirm.

Section 2 – Report

1. Introduction

- 1.1 The report reflects the Council vision of 'Restoring Pride in Harrow', including the priority of a Council that puts residents first.:
- 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, reflecting pride in the borough and putting residents first.

2. Options considered

- 2.1 The option of not confirming the new non-immediate Article 4 Directions 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 option of doing

nothing to address the issue would risk harm being done to the character of Conservation Areas within the borough.

- 2.2 The option of confirming the Article 4 direction for 1 Tudor Well Close on Old Church Lane was considered. But a search of the planning history of this site has found that a planning condition attached to this site already requires planning permission for any hardstanding in the curtilage of this site. Also, whilst a fence / wall under permitted development could cause some harm to the setting of the locally listed Tudor Well cover and the character and appearance of the conservation area, this would be modest and relatively reversible. Accordingly, it is proposed to not pursue the Direction on this site. The option of confirming this Direction in relation to 7 Cherry Tree Way, Friars Mead on Old Church Lane was considered, however, it is not possible to part confirm a direction and so the direction in relation to these properties is not recommended to be confirmed either.

3. Background

- 3.1 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. Accordingly non-immediate Article 4 Directions were proposed in a report to Planning Committee in March 2020 that were tailored to relate to elements of permitted development rights under the Town and Country Planning (General Permitted Development) Order 2015 as amended (the 'GPDO') that could effect the special character and appearance of each conservation area, based on the adopted Conservation Area Appraisal and Management Strategy (CAAMS), as outlined in the report to that Committee.
- 3.2 Planning Committee agreed at it's meeting in March 2020 to introduce these non-immediate Directions such that they would only come into effect if they were subsequently confirmed by Planning Committee following public consultation results being reported back to them. Accordingly, this report reports back on the consultation responses for the non-immediate Article 4 directions for four of the five Conservation Areas i.e. Old Church Lane, Stanmore Hill, Little Common and Kerry Avenue Conservation Areas.
- 3.3 The non-immediate Article 4 Directions were proposed for all of the residential houses listed within the Little Common, Old Church Lane, Canons Park Estate and Stanmore Hill Conservation Areas as follows, as set out in the report to Planning Committee of March 2020:

Kerry Avenue Conservation Area

The formation, laying out and construction of a means of access to a highway (Schedule 2, Part 2, Class B of the GPDO).

Stanmore Hill Conservation Area:

Applegarth, The Glade and The Orchard, Green Lane for:

- 1) Works for the *enlargement, improvement or other alteration of a dwellinghouse, (including the replacement of windows and doors)* . (Schedule 2, Part 1, Class A of the GPDO).
- 2) Other alterations to the roof of the dwelling house (Schedule 2, Part 1, Class C of the GPDO).
- 3) *The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse* (Schedule 2, Part 1, Class G of the GPDO).
- 4) The erection or construction of a porch (Schedule 2, Part 1, Class D of the GPDO).
- 5) Painting of the exterior of any building (Schedule 2, Part 2, Class C of the GPDO).

Churchefelle Mews, Greystones and Willow Lodge, Green Lane for:

- 1) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure (Schedule 2, Part 2, Class A of the GPDO).
- 2) Demolition of the whole or any part of any gate, fence, wall or other means of enclosure (Schedule 2, Part 11, Class C of the GPDO).

Green Lane: Rylands, Olde Cottage, Tremar, Green Lane Cottage, Fordyce, Littlecote, Martinsell, Wallon Cottage, Nos 1-4 (inc) Franklin Cottages, The Cott, Nos 1-4 (inc) Chart Cottages, Nos 1-3 (inc) Hillcrest Cottages, 5 Pinnacle Place, 1-7 (inc) and 11-12 (inc) Green Lane Cottages, 1-4 (inc) Park Cottages

Stanmore Hill: Nos 75-81 (odd), 129, 131, 80, 58

For:

- 1) *The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse* (Schedule 2, Part 1, Class G of the GPDO).

Old Church Lane Conservation Area:

1 and 2 Gate House, Old Church Lane for:

The provision and the replacement within the curtilage of a dwelling house of a hard surface (Schedule 2, Part 1, Class F of the GPDO).

7 Cherry Tree Way, Friars Meadon Old Church Lane, and 1 Tudor Well Close for:

- 1) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure (Schedule 2, Part 2, Class A of the GPDO).
- 2) Demolition of the whole or any part of any gate, fence, wall or other means of enclosure (Schedule 2, Part 11, Class C of the GPDO).
- 3) The provision within the curtilage of a dwelling house of a hardsurface (Schedule 2, Part 1, Class F of the GPDO).
- 4) The formation, laying out and construction of a means of access to a highway (Schedule 2, Part 2, Class B of the GPDO).

1-4 Rectory Close for:

- 1) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure (Schedule 2, Part 2, Class A of the GPDO).
- 2) Demolition of the whole or any part of any gate, fence, wall or other means of enclosure (Schedule 2, Part 11, Class C of the GPDO).

Little Common Conservation Area

147 Stanmore Hill for:

1. Works for the *enlargement, improvement or other alteration of a dwellinghouse, (including the alteration or replacement of windows or doors)* (Schedule 2, Part 1, Class A of the GPDO).
2. The erection or construction of a porch outside any external door (Schedule 2, Part 1, Class D of the GPDO).
3. Painting of the exterior of any building (Schedule 2, Part 2, Class C of the GPDO).
4. Other alteration to the roof of a dwelling house (Schedule 2, Part 1, Class C of the GPDO).
5. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure (Schedule 2, Part 2, Class A of the GPDO).
6. Demolition of the whole or any part of any gate, fence, wall or other means of enclosure (Schedule 2, Part 11, Class C of the GPDO).

Stanmore Hill: 116, 156, 158, 193

Wood Lane: By the Pond, Woodleigh, The Lodge, Wood Farm Cottage, Moor House, 1 & 2 Garage Cottages

Aylmer Close: 3

Little Common: 1, 2, 3, 12, 18, 19, 20, 21, 22

For:

- 1) *The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse* (Schedule 2, Part 1, Class G of the GPDO).

Consultation arrangements

- 3.4 The non-immediate directions were made on 19th May 2022 and the Notices of making were published on 26th May. The consultation process initially took place from 26th May to 17th June 2022 and during this period was extended to 29th July. The following took place:
 - (a) A notice of the direction was published in a local newspaper the Harrow Times.
 - (b) Two site notices were displayed from 26th May to 17th June and then replaced with those dated to the end of July. The notices were placed on lampposts within each area where the Article 4 directions were proposed and detailed those Article 4 directions that were proposed in that area.
 - (c) A notice of the Article 4 directions were published on the Council's website.
 - (d) The LPA sent a copy of the Article 4 direction and the notice of the direction to the Secretary of State on 30th May.

- (e) The directions were held in reception in the Council offices for members of the public to inspect.

3.5 Whilst the above meets the statutory requirements for notification of the proposed Directions, prior to making a final decision on the directions, individual properties directly affected by the proposal were contacted via letter, giving them a further 21 days to make representations ie from 11th April to 3rd May 2023. No additional representations were received following these letters, although a few enquiries were received and responded to (see below): these related to clarification of the proposals with no objections arising because of these.

4. Representations received

Old Church Lane Conservation Area

4.1 The proposed Article 4 Directions for 7 Cherry Tree Way, Friars Mead on Old Church Lane and 1 Tudor Well Close in the Old Church Lane Conservation Area covered:

- 1) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure (Schedule 2, Part 2, Class A of the GPDO).
- 2) Demolition of the whole or any part of any gate, fence, wall or other means of enclosure (Schedule 2, Part 11, Class C of the GPDO).
- 3) The provision within the curtilage of a dwelling house of a hardsurface (Schedule 2, Part 1, Class F of the GPDO).
- 4) The formation, laying out and construction of a means of access to a highway (Schedule 2, Part 2, Class B of the GPDO).

4.2 The owner of 1 Tudor Well Close responded during and after the consultation period with the following objections / comments as included in appendix 1 and summarised as follows:

- 1) The proposed restriction on a 1980s town house is disproportionate and irrational given the house/site has no architectural merit.
- 2) If the proposal is not withdrawn we shall be obliged to instruct Planning Consultants to represent us. This could have costs implications for the Council.
- 3) It will reduce the value of our property.
- 4) Querying the evidence for the description and provenance of the Tudor Well head in the Old Church Lane Conservation Area Appraisal and Management Strategy.
- 5) Queries relating to the consultation period and meaning of “non-immediate Article 4 Direction”
- 6) Queries about what the hardstanding or boundary treatment restrictions would cover exactly in terms of the extent of works.
- 7) We are content to allow a direction under Part 2 Class B because plainly it is irrelevant as the access is already in existence.
- 8) The justification presented in the report to committee is not relevant for this site.

4.3 A subsequent search of the planning history of this site has found that a planning condition attached to this site already requires planning

permission for any hardstanding in the curtilage of this site. Accordingly, the proposal for this Article 4 direction is withdrawn since there is not permitted development rights in any case for any hardstanding.

- 4.4 The present owner's strong objections to any controls on the boundary treatment alterations are noted. It is considered that whilst a fence / wall under permitted development could cause some harm to the setting of the locally listed Tudor Well cover and the character and appearance of the conservation area, this would be modest and relatively reversible. This is particularly so given the boundary could not exceed 1m in height where facing either Tudor Well Close or Old Church Lane already. Accordingly, it is proposed to not pursue the Direction on this site.
- 4.5 Similarly, it is not proposed to part confirm the direction relating to 7 Cherry Tree Way, Friars Mead on Old Church Lane since it is not possible to part confirm Article 4 directions.

Department for Levelling Up Housing and Communities

19 July 2022

- 4.6 **The Department for Levelling Up Housing and Communities responded** (see appendix 2) and informed the Council that their policy team will consider whether the Direction fulfils national policy set out in Paragraph 53 of the National Planning Policy Framework on the use of Article 4 directions, and whether there is cause for the Secretary of State to use his powers of intervention under Schedule 3, Paragraph 1(13) of the 2015 Order to prevent the Article 4 directions being introduced. They requested the council provides a map showing the extent of the Article 4 direction under consideration in a digital format and send us a link to your evidence setting out the justification for the Article 4 direction.

1 August 2022

- 4.7 **The Local Planning Authority** addressed this response (see appendix 3) by referring the department to the evidence in the March 2020 planning committee report and addressing the updated NPPF paragraph 53 introduced after the March 2020 Planning Committee report by noting that:
- (a) 'this provides a slight change in the policy specifying also that Article 4 directions should be limited to the 'smallest geographical area possible'. It stated the report adheres fully with the 2021 NPPF wording of paragraph 53 by proposing directions limited to the 'smallest geographical area possible' as demonstrated by the thorough survey assessment provided, down to an individual house assessment, to provide the smallest geographical area possible....The assessment demonstrates that the proposed Article 4 directions only relate to those items that contribute to the special character and appearance of the conservation area and are vulnerable to change as identified by the Council's relevant adopted CAAMS (2013), and the more recent through survey (2019) of all relevant houses and features that the Article 4 directions would pertain to.

- (b) In addition, it should be noted that the proposed Article directions are limited to 5 of Harrow's 6 Stanmore and Edgware Conservation Areas, only carefully selected houses, and only then for certain selected works in each instance where evidence suggests sensitivity to harmful works. There are no Article 4 directions otherwise elsewhere within Harrow either existing or proposed, with the exception of those in conservation areas where character is of the utmost importance/sensitivity in the conservation area to particular works.
- (c) Indeed, a Conservation Area is defined under Section 69 of the Planning (Listed Buildings and Conservation Areas Act) 1990 as 'areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance'. Under Section 72 (1) of the same Act, the Local Planning Authority have a duty to ensure 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'. This imposes a statutory duty on Local Planning Authorities when exercising any of its functions in a conservation area. These Article 4 directions would allow the Local Planning Authority to achieve this. Indeed, guidance from Historic England website ([Restricting Permitted Development: Article 4 Directions and Heritage – Planning Law Overview | Historic England](#)) states that Article 4 directions may help in the protection of heritage assets'.

4.8 As no response to the above had been received from the Government, a follow-up email was sent on 27 January 2023.

2 February 2023

4.9 **The Department for Levelling Up Housing and Communities responded** to state:

'We suggest to local authorities that they should continue with their normal Article 4 Direction processes, including confirmation of Article 4 directions, because the Secretary of State has the power to intervene before or after a Direction is confirmed, should he consider it appropriate to do so'.

April 2023

4.10 Two emails were received further to the consultation letters sent in April 2023. One was in regards to the proposed Article 4 direction for the Little Common Conservation Area. This stated: 'the changes are clearly beneficial to the protection of this lovely area'. Otherwise the email provided highways and street lighting matters which could be improved in the conservation area. The relevant Council teams were advised and they noted they will attend to the matters and a telephone call was made to the consultee explaining this and then confirmed by email. He responded that he was grateful for this and was happy to work with council officers on these points. No further correspondence has been received.

4.11 The second consultation response was in regards to the proposed Article 4 direction for Stanmore Hill Conservation Area. This requested clarification on what the proposal meant. The consultee was telephoned and the matter explained i.e. that the proposal is to introduce the Article 4 to require planning permission to alter or knock down the front

boundary wall to hers, and the properties either side, as this marks the historic boundary of a larger house once here and is characteristic of tall boundary treatments elsewhere in the conservation area. She commented that she was grateful we explained, she understood and would explain this to her neighbours. No further correspondence has been received.

- 4.12 Clarification was also given by telephone call to another resident who verbally indicated their support although this does not appear to have been followed-up with a formal response.

Other consultation responses

- 4.13 No other responses were received. Accordingly there were no objections to the other proposed article 4 directions and all those that it is now recommended are confirmed by the Local Planning Authority.

5. Implications of the Introduction of the Article 4 Direction for Four Conservation Areas.

- 5.1 This would enable the Local Planning Authority to better manage change affecting the special character and appearance of these conservation areas. As noted in paragraph 3.1 above, 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 allows change to be sensitively managed to preserve the special character and appearance of conservation areas.

6. Procedure

- 6.1 The Article 4 Directions were made on 19 May 2022. Notice of Making is dated 26 May 2022 and it was published on 26 May 2022. Directions if confirmed will come into force on the 20 June 2023 (follow para 1(9) and (10) of Schedule 3 of GDPO 2015). If not confirmed then will lapse on 19 June 2023. The Article 4 direction cannot be confirmed until 28 days following the latest date the notice was served or published, or such longer period as specified by the Secretary of State (paragraph 1(10), Schedule 3, GPDO 2015). The Local Planning Authority would confirm the Directions if agreed by Planning Committee after 12 months in order to avoid compensation claims.
- 6.2 If Planning Committee agree not to confirm the Direction for 7 Cherry Tree Way, Friars Mead on Old Church Lane and 1 Tudor Well Close in the Old Church Lane Conservation Area the Direction will be allowed to lapse on the 19 June 2023 i.e. no action will be taken to confirm it and accordingly it will lapse.

7. Legal Implications

- 7.1 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.
- 7.2 The statutory procedure for making Article 4(1) Directions is set out in Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 7.3 A non-immediate Article 4 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.

8. Financial Implications

- 8.1 The costs of making the proposed Article 4 Direction would be met from within the existing revenue budgets of the Council's Planning Policy team.

9. Risk Management Implications

Risk included on Directorate risk register? No

Separate risk register in place? No

There are no significant risks arising from the recommendations. The risk of potential compensation claims has been mitigated by serving non-immediate Directions.

10. Equalities implications / Public Sector Equality Duty

- 10.1 Was an Equality Impact Assessment carried out? No
- 10.2 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 Direction.

11. Council Priorities

- 11.1 The decision sought will help the Council meet the corporate priorities of putting residents first and restoring pride in Harrow, and the Council values of 'Making It Happen' and 'Do it Together' 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.

Ward Councillors' comments

Ward members will be advised of the report once the report is published on the Committee's agenda.

Section 3 - Statutory Officer Clearance

Statutory Officer: Jessie Man

Signed on behalf of the Chief Financial Officer (by email)

Date: 24 March 2023

Statutory Officer: Jimmy Walsh

Signed on by the Monitoring Officer (by email)

Date: 4 April 2023

Planning Policy Manager: David Hughes

Signed by the Planning Policy Manager



Date: 10 May 2023

Chief Officer:

Signed by the Chief Officer



Date: 12 May 2023

Mandatory Checks

Ward Councillors notified: YES – when agenda is published.

Section 4 - Contact Details and Background Papers

Contact: Lucy Haile, Principal Conservation Officer,
lucy.haile@harrow.gov.uk, 0208 736 6101

Background Papers:

Planning Committee report – 11 March 2020 (item 329):
<https://moderngov.harrow.gov.uk/ieListDocuments.aspx?CId=1001&MId=64668&Ver=4>

Formal documentation: <https://www.harrow.gov.uk/planning-developments/biodiversity-conservation/9>

Appendix 1 – Tudor Well Close objections

7th June 2022: Objection received

Subject: FW: Article 4(1) Order - 1 Tudor Well Close HA7 2SD

Dear Mr Walsh,

I refer to the Notice pinned to a lamppost outside this property. Having considered the Conservation Area Proposals of 2013, the provisions of the 2015 Order and the Minutes of the Planning Committee of 11 March, my wife and I remain totally bemused as to why the Council should wish to make an Order in such broad terms. As we understand the position and by way of example, should we need to replace part of the existing fence, which is old and largely held together by the ivy, we will need to apply for Planning Consent involving both a financial and time cost.

Further, should we wish to repoint or otherwise repair the front garden wall, a similar application will be required with the like cost implication. Furthermore, should we need to replace any part of the railway sleeper retaining walls in the garden, we would be faced with a similar situation.

We understand the Council's concern to preserve the "Tudor Well" , which – if inspected – is likely to be designated not as a well head, but a different architectural feature and there is, nor has there ever been any intention by us to interfere with it. It remains an important feature of this property and indeed the Close.

I would add that from my understanding of the Order and the Regulations made thereunder, the Planning Authority must write directly to every property owner affected by the proposed Order, giving notice of the Authority's intention. The distribution of copies of the Order by tying them to lampposts near subject properties does not appear to comply.

I should be grateful to receive your comments as soon as possible, as depending thereon, will determine whether we make formal objections.

Yours sincerely,

Howard Stone FRSA

14th June 2022 - Council response:

Good afternoon,

Thanks for the consultation response.

This concerns the public consultation for proposed Article 4 directions, with your comments relating to those for 1 Tudor Well Close.

The effect of an Article 4 Direction is to require planning permission where normally planning permission would not be needed, by restricting certain permitted development rights under Town and Country Planning (General Permitted Development) (England) Order 2015 ("GPDO"). In Harrow, the

Council has proactively made Article 4 Directions for most of its Conservation Areas to protect their special character and appearance.

Currently the Council seeks to introduce some non-immediate Article 4 Directions within the Stanmore and Edgware Conservation Areas. This follows the recommendations of the 2013 Stanmore and Edgware Conservation Areas Supplementary Planning Document's review and a further survey in August 2019.

The proposals for 1 Tudor Well Close are to withdraw the following permitted development rights relating to Schedule 2 of the Order, where such development would front a highway, waterway or open space:

1. Part 2, Class A - The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.
2. Part 11, Class C - Demolition of the whole or any part of any gate, fence, wall or other means of enclosure.
3. Part 1, Class F - The provision and the replacement within the curtilage of a dwelling house of a hard surface.
4. Part 2, Class B - The formation, laying out and construction of a means of access to a highway

The report recommending these directions is at page 19 of this link ([Public Pack\)Agenda Document for Planning Committee, 11/03/2020 18:30 \(harrow.gov.uk\)](#)) and provides some justification (note particularly paragraphs 4.13 and 4.17). I note that you state you have reviewed this.

In summary, it is proposed that these works require planning permission since alterations to the boundary treatment could impact on the characteristic and special openness and soft, suburban character of the conservation area. It could obscure the important locally listed Tudor Well Cover from view. Similarly, hardstanding, and means of access to a highway, which would encourage hardstanding, could undermine the soft, suburban character of the area.

In terms of references to repair the wall made below e.g. repointing or replacing the odd brick, it is likely that if this was like for like it would not be considered material works requiring planning permission notwithstanding the wording of the Order.

Please note that there is not a requirement to write to every owner under the Act if this is impractical (see paragraph 1(1)(c), Schedule 3, GPDO 2015). Once an Article 4 direction has been made, the Local Planning Authority must:

1. Publish a notice of the direction in a local newspaper (paragraph 1(1)(a), Schedule 3, GPDO 2015).
2. Display at least two site notices for a period of not less than six weeks (paragraph 1(1)(b), Schedule 3, GPDO 2015).
3. Although not a statutory obligation, it is considered good practice to publish a notice of the Article 4 direction on the LPA's website.
4. On the date the notice is first published or displayed, the LPA must send a

copy of the Article 4 direction and the notice of the direction to the Secretary of State (paragraph 1(6), Schedule 3, GPDO 2015).

Points 1-4 have been undertaken.

My manager David Hughes has briefed Cllr Marilyn Ashton (Portfolio Holder for Planning and Regeneration) on the above; both are copied into this email.

I hope the above helps. Please contact me if you wish to discuss.
Lucy Haile

23rd June 2022: Objection received

Thank you for your email of last Tuesday.

I understand the purpose of an Article 4 Direction but we challenge the need for one where it relates to a town house built in the early 1980s with no architectural or other merit whatsoever.

I would appreciate an explanation as to the meaning of a “non-immediate Article 4 Direction” Is this to be measured in weeks, months or years? – it will cause a diminution of the value of our property.

You say that you propose to withdraw development rights where such development would front a highway. 1 Tudor Well Close fronts Tudor Well Close (which is not within the conservation area) not Old Church Lane.

If in fact, you refer not to 1 Tudor Well Close in its entirety but to the front garden thereof then we can see that you might take the view that it needs special protection. If you refer to the fence as it abuts Old Church Lane then we respectfully suggest that a 1990s standard ivy covered feather board fence does not require planning consent to be replaced when that becomes necessary. Moreover, to require planning consent would result in considerable and unnecessary expense for us for no good planning purpose.

The remainder of this email is predicated on the basis that you are seeking to protect our front garden (which also abuts Tudor Well Close) and nothing further.

With reference to your numbered paragraphs:

1. There is a low wall which surrounds the front garden. We note that you state that “In terms of references to repair the wall made below e.g. repointing or replacing the odd brick, it is likely that if this was like for like it would not be considered material works requiring planning permission notwithstanding the wording of the Order” How would we determine, without incurring expense or delay to any work we wished to undertake, whether it falls within or without your comments. How would we know if your view of “small works” changes with a change in Council personnel – this is simply not satisfactory.

2. The like comments apply to this paragraph.

3. With respect to the proposed application of Part 1 Class F we are content to agree that if we wished to remove the entire planted area and replace it with hardstanding Part 1 class F will apply. It should not apply if we wish to alter or change in any way the existing hard standing – such a restriction would be wholly excessive and improper.

4. We are content to allow a direction under Part 2 Class B because plainly it is irrelevant as the access is already in existence.

I note your reference to the Report providing “some justification” for your proposals. With respect it does not. Paragraph 4.13 to which you draw attention refers to “ Open spaces, trees, hedges and soft landscaping are key to the architecture, landscape and setting within the Old Church Lane Conservation Area. As noted under CAAMS Section 3.67 ‘boundary treatments are predominantly comprised of soft landscaping either as hedges, trees or soft planting which draws the area together and adds to the soft suburban character of the CA’ and seems irrelevant in the context of the existing frontage.

Paragraph 4.17 directly refers to 1 Tudor Well Close. It states “within the Curtilage of its front garden is the Locally Listed ‘Tudor well cover’, now used is a large, ornate plant pot, is easier to miss but an interesting relic of the past which has elaborately detailed stonework. It is a stone ionic well cover, with intricate carved details and coat of arms and once stood in the gardens of the early late 16th or 17th century timber framed Manor House which was demolished in 1930’ (CAAMS Section 3.55). Also it is listed as an Important Item of historic street furniture under Section 3.69”. We should be grateful if you would provide us with the evidence which demonstrates that it was part of the Manor House. Our own research – carried out when we purchased the property is different. Be that as it may the ornate plant pot as you describe it, is an important local feature.

For the record, we point out that the garden in the form in which it is now, which surrounds the Tudor Well Cover (if that is what it is) was planted by us.

Whilst writing may I draw your attention to the disgraceful condition of the open land adjacent to the “Gate House”. Is it the intention of the council to require remediation of that wall and proper planning of the open area? That would do much to improve the view of the “important item of street furniture”

No doubt you will take the representations made in this letter into careful consideration before this matter return to Committee and produce a copy thereof to the Committee to aid its deliberations. As we may well wish to be represented at the Meeting please let us know when it will take place.

We reserve our position as to costs.

15th July: Objection received

Dear Ms Haile,

As you will know, the Article 4 Notices have been amended to allow for an extension of time for representations. An explanation therefor would be appreciated. This letter is to be considered as further representations.

Furthermore, kindly provide the evidence upon which the Council relied and/or relies for the description and provenance of the Tudor Well head.

Lastly, these totally unmeritorious Article 4 proposals are causing us and doubtless other affected property owners great concern. The placing of planning restrictions on a 1980s town house is utterly disproportionate and irrational. If not withdrawn on or before 29th July, we shall be obliged to instruct Planning Consultants to represent us. This could have costs implications for the Council.

Regards,

Howard Stone FRSA

22nd July 2022: Council response to the above email

Good afternoon,

Thanks for the email which we shall count as another consultation response. I was away on leave last week and am catching up. We extended consultation following a request by residents in the Canons Park Estate Conservation Area.

In terms of the Tudor Well Cover – the references to its origins in the planning committee are quoted there as being from the Old Church Lane Conservation Area Appraisal and Management Strategy adopted in December 2013.

The new direction is only out for consultation at the moment and so has no power currently. We will take account of all responses received. We will make recommendations forward to councillors at planning committee based on a consideration of all responses. We would let you know when this would be due to go to planning committee.

I hope this helps. Thanks,
Lucy

22nd July 2022: Objection received

Dear Ms Haile,

Following my email of 15th July, to which I have not received a response, I now raise a further yet related issue.

Bearing in mind the Council's objective to maintain the standards of this and other Conservation Areas, what is the Council's attitude towards the permanent (daily/over-night) parking of commercial vehicles in Tudor Well Close and other similar residential streets?

I ask because for over six months, a commercial vehicle belonging to Volker-Fitzpatrick has been continually parked in TWC at the junction with Old Church Lane. Until 16th July, when having been awakened at 05:35, I spoke with the workmen loading and unloading tools and materials from one vehicle to another. Following my remonstrations, the van has been moved to the far end of TWC. Investigations have confirmed that none of the operatives live in TWC, although one leaves his car outside this house at around 05:45 in the morning and often this includes Saturdays and Sundays. Further, resulting from the almost continual noise nuisance on any and most days (including weekends) often before 06:00, I am now preparing a diary for submission to the Environmental Health Department.

This situation, must offend against the principles underlying the creation of and maintenance of Conservation Areas and I would be grateful to have the details of what steps L B Harrow will take to rapidly address this situation.

Regards,

Howard Stone FRSA

25th July 2022: Council Response to the above email

Good afternoon,
Thanks for your email. The conservation area designation is a town planning one and unfortunately does not confer controls with regards to parking of vehicles. I do recommend that you contact the Environmental Health Department about this apparent noise nuisance.

Thank you.
Lucy Haile

22nd July 2022: Correspondence received

Dear Lucy,

Thank you for your response, which is helpful. I shall read the Appraisal and may well send you my comments. Meanwhile, could you kindly send me the contact details of the Canons Park Residents.

Regards,
Howard Stone FRSA

25th July 2022: Council response to the above email

Thanks. Their contact details and information about the group is available here: [index \(capra.org.uk\)](http://index.capra.org.uk)

The Old Church Lane Conservation Area Appraisal and Management Strategy is here: <https://www.harrow.gov.uk/downloads/file/24016/old-church-lane-conservation-area-appraisal-management-strategy.pdf>

Thanks,
Lucy

25th July 2022: Correspondence received

Dear Lucy,

Following my reading of the Management Strategy, could you please either send me or provide the link to the Old Church Lane Conservation Area Appraisal and Management Strategy Criteria.

Kind regards,

Howard Stone FRSA

25th July 2022: Council response

Thanks. I am unsure what you mean? That is the adopted document.

25th July: Correspondence received

Hi Lucy,

In section 3.55, uncertainty is expressed as to both the date and provenance of the alleged Well Cover. It would be of considerable assistance if the evidence relating thereto could be provided.

I hope this clarifies my earlier email.
Kind regards,

Howard Stone FRSA

25th July: Correspondence received

Thanks. For more research pertaining to the Tudor Well Cover's history I would suggest contacting the local history library: [Harrow Local History Collection](#) | [The National Archives](#) This is where the information would have been sourced, along with contacting local history groups and consulting locally.

Thank you.

8th August: Correspondence received (copied into an email to the planning applications email address)

Planning Applications <Planning.Applications@harrow.gov.uk>

CC Lucy.haile@harrow.gov.uk

Dear Sirs,

I am researching the history and provenance of the Tudor Well Cover (as it is described) located in the front garden of this house. The Borough Archivist has suggested I contact your office to enquire if you have any records of the artifact and of it being moved to its present location in around 1978 to 1981. If so, please let me know how I can inspect such records and/or obtain copies.

Yours truly,

22nd August 2022: Correspondence received

Dear David,

Could you please update me following our phone discussions and my email of 12 August. Could you also let me know when the Planning Committee will be convened to consider this matter?

2nd September: Reply from Council

Dear Mr Stone,

I hope you are well and please accept my apologies for the delay in responding to your email and updating you on our consideration of your concerns regarding the proposed Article 4 Direction covering 1 Tudor Well Close.

Thank you for the information you have provided. We have also undertaken a further review of relevant documentation. In this regard, it is considered that Condition 3 on the permission for the houses in Tudor Well Close already restricts hard standing by virtue of being development within the curtilage of a

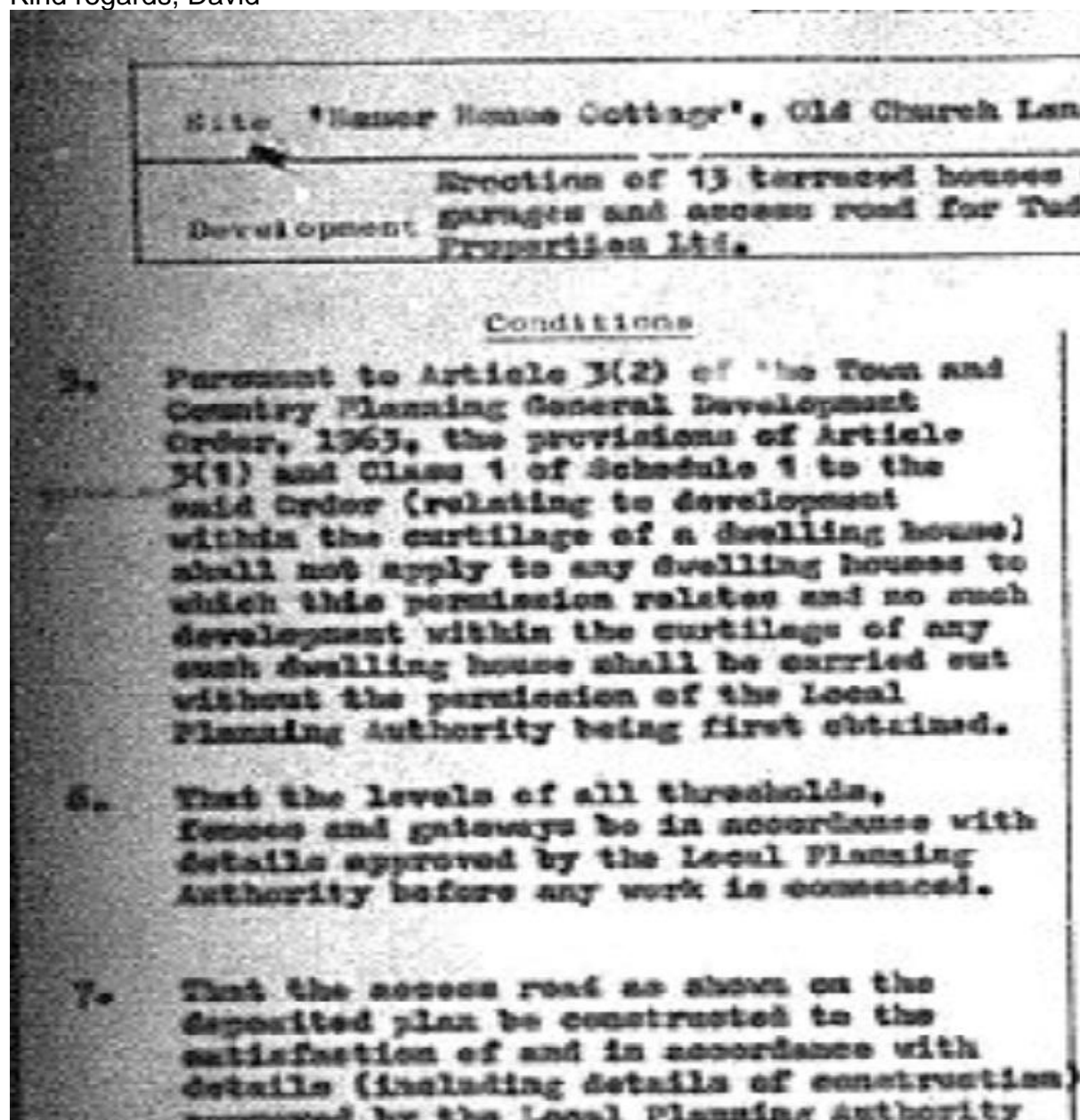
dwelling house (see below). This means that there is no need for the element of the proposed Article 4 Direction that seeks to withdraw permitted development rights relating to hardstanding as these have already been withdrawn.

In terms of boundary treatments, whilst a fence / wall constructed under permitted development would cause some harm to the setting of the Well Cover (which is why the Direction was proposed), on balance, it is proposed that that element of the proposed Direction is also not taken forward (i.e. not confirmed).

Consequently it is intended that when the outcomes of the consultation is reported to the Planning Committee (we are aiming for the 28 September 2022 meeting), the officer report will recommend that 1 Tudor Well Close is removed from the Article 4 Direction.

Please let either Lucy or I know any queries.

Kind regards, David



12th September 2022: Council response

Dear David,

Thank you for the email of 2nd September, received whilst on holiday. Needless to say, my wife and I are delighted that the Art. 4(1) will not apply to this property. We have been aware of the condition imposed on the Tudor Well Close planning consent, which imposes nothing we consider burdensome.

Kind regards,

Howard Stone FRSA

Appendix 2: Correspondence from the Department of Levelling Up Housing and Communities

19 July 2022: 11 responses from the Department of Levelling Up Housing and Communities

Each response is the same but refers each time to the different Article 4 directions being proposed:

I refer to your council's email of 30th May 2022, with attachments, notifying the Secretary of State about an Article 4 Direction made on 19th May 2022.

The Article 4 Direction has been passed to the policy team for further assessment.

They will consider whether the Direction fulfils national policy set out in Paragraph 53 of the National Planning Policy Framework on the use of Article 4 directions, and whether there is cause for the Secretary of State to use his powers of intervention under Schedule 3, Paragraph 1(13) of the 2015 Order.

We are grateful to the council for the material already provided to support its decision to make this Direction. We or the policy team will be in contact if we require any additional evidence to assist with our assessment of the Article 4 direction and will inform you in writing of the Secretary of State's decision in due course. **Please do not assume that the Article 4 direction has met the policy tests until you are notified by the Department.**

In order to aid the assessment of this Article 4 direction, we request that the council provides a map showing the extent of the Article 4 direction under consideration in a digital format: preferably as a Shapefile (.shp). It would also be helpful, if you have not already done so, if you could send us a link to your evidence setting out the justification for the Article 4 direction. We would request that this mapping data and link be submitted within 14 days to pcu@levellingup.gov.uk.

2nd February 2023: Responses from the Department of Levelling Up Housing and Communities

Dear Lucy,

Please accept my apologies for the delay in replying to your message.

We suggest to local authorities that they should continue with their normal Article 4 Direction processes, including confirmation of Article 4 directions, because the Secretary of State has the power to intervene before or after a Direction is confirmed, should he consider it appropriate to do so.

I hope that answers your query but please don't hesitate to get in touch with any further queries.

Kind Regards Fionnuala

Appendix 3: Council response to Department of Levelling Up Housing and Communities

1st August 2022: Council reply

Good afternoon,

Re: The Town and Country Planning (General Permitted Development) (England) Order 2015 - Harrow Council. Article 4 Direction (without immediate effect) - permitted development rights to be withdrawn for the attached
Your ref: PCU/A4D/M5450/3300810,
PCU/A4D/M5450/3300809, PCU/A4D/M5450/3300782,
PCU/A4D/M5450/3300786, PCU/A4D/M5450/3300690,
PCU/A4D/M5450/3302955, PCU/A4D/M5450/3300780,
PCU/A4D/M5450/3300843, PCU/A4D/M5450/3300680,
PCU/A4D/M5450/330064 and PCU/A4D/M5450/3300791

Thank you for your letters dated 19th July 2022 concerning the 11 proposed Article 4 directions in five Stanmore and Edgware Conservation Areas. I am the case officer dealing with this matter. We understand that your policy team will consider whether the proposed Directions fulfil national policy set out in Paragraph 53 of the National Planning Policy Framework and whether there is cause for the Secretary of State to use his powers of intervention under Schedule 3, Paragraph 1(13) of the 2015 Order.

Maps

I enclose digital maps showing the extent of the Article 4 directions under consideration as requested.

Evidence / justification

The following is a link to the evidence setting out the justification for the Article 4 directions: https://moderngov.harrow.gov.uk/documents/g64668/Public_reports_pack_Wednesday_11-Mar-2020_18.30_Planning_Committee.pdf?T=10
The link is to the Planning Committee report of March 2020 at agenda item 19 on pages 19-76. The minutes for this meeting are available at this link: [Agenda for Planning Committee on Wednesday 11 March 2020, 6.30 pm – Harrow Council](#)

The first stage of justification in the report is under the heading 'background' (section 3 – pages 24-26). This summarises the special character and appearance of each relevant Conservation Area with particular reference to the Council's adopted Conservation Area Appraisals and Management Strategies (CAAMS – part of the Stanmore and Edgware Conservation Areas SPD, 2013). This special character and appearance goes to the heart of each proposed Article 4 direction.

The report then directly names the each proposed Article 4 direction in turn, under relevant side headings (section 4 – pages 26-33). Under each side

heading, the report references the CAAMS noting that a problem/pressure in preserving the special character and appearance of each conservation area as being the lack of protection relating to the particular feature that the Article 4 direction would require planning permission to change. For example, the Canons Park CAAMS notes that windows and roof tiles are not protected currently and the proposal is for an Article 4 direction relating to these features.

Reinforcing the need for the Article 4 direction, it refers in each instance to the detailed, robust survey results for each conservation area. The survey covered each property concerned individually and pertained specifically to those features that contribute to the special character and appearance of the relevant conservation area and are the subject of the Article 4 direction in each case. This shows how the very recent situation on site (survey undertaken in August 2019) supports the case for the Article 4 directions in each case e.g. by indicating either a very high proportion of original features without protection, or indicating that these features are beginning to be lost, and thus are vulnerable, harming the character and appearance of the conservation area. Indeed, the survey results are provided in full on pages 37-76.

Updated NPPF

The assessment in the report was made against the NPPF (2019) paragraph 53 which stated: 'The use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area' (see section 4, page 26).

The 2021 NPPF has since been published. This provides a slight change in the policy specifying also that Article 4 directions should be limited to the 'smallest geographical area possible'. The report adheres fully with the 2021 NPPF wording of paragraph 53 by proposing directions limited to the 'smallest geographical area possible' as demonstrated by the thorough survey assessment provided, down to an individual house assessment, to provide the smallest geographical area possible. Justification is provided for each proposed instance of removal of permitted development rights. The assessment demonstrates that the proposed Article 4 directions only relate to those items that contribute to the special character and appearance of the conservation area and are vulnerable to change as identified by the Council's relevant adopted CAAMS (2013), and the more recent through survey (2019) of all relevant houses and features that the Article 4 directions would pertain to.

In addition, it should be noted that the proposed Article directions are limited to 5 of Harrow's 6 Stanmore and Edgware Conservation Areas, only carefully selected houses, and only then for certain selected works in each instance where evidence suggests sensitivity to harmful works. There are no Article 4 directions otherwise elsewhere within Harrow either existing or proposed, with the exception of those in conservation areas where character is of the utmost importance/ sensitivity in the conservation area to particular works.

Indeed, a Conservation Area is defined under Section 69 of the Planning (Listed Buildings and Conservation Areas Act) 1990 as 'areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance'. Under Section 72 (1) of the same Act, the Local Planning Authority have a duty to ensure 'special attention shall be paid to the desirability

of preserving or enhancing the character or appearance of that area'. This imposes a statutory duty on Local Planning Authorities when exercising any of its functions in a conservation area. These Article 4 directions would allow the Local Planning Authority to achieve this. Indeed, guidance from Historic England website ([Restricting Permitted Development: Article 4 Directions and Heritage – Planning Law Overview | Historic England](#)) states that Article 4 directions may help in the protection of heritage assets.

Thank you. Should you have any questions please do not hesitate to contact us.