

## **ARTICLE 4 DIRECTION FOR WHITMORE CONSERVATION AREA**

### **Purpose of the report**

This report proposes the making of an Article 4 Direction in Whitmore Conservation Area which will remove certain permitted development rights from certain properties and require planning approval for works which could have an adverse effect on the special character and appearance of these Conservation Areas.

### **Recommendation**

**To agree to the making of an Article 4 Direction for Whitmore Conservation Area on the terms set out in the report.**

### **Reasons**

The removal of permitted development rights through an Article 4 Direction would help protect features in the Conservation Area which are key elements to its distinctive special character,

## **1.0 Introduction**

- 1.1 Article 4 Directions are one of the tools available to local planning authorities to help to respond to the requirement in legislation to preserve and enhance their Conservation Areas. Such Directions are made under Article 4 of the General Permitted Development Order (the GPDO) and they withdraw automatic planning permission granted by the GPDO. The existence of an Article 4 Direction ensures that the community, through its Local Planning Authority, has an opportunity to consider any proposed changes by requiring the submission of a planning application to obtain planning permission first for particular types of development. An Article 4 Direction only means that a particular development cannot be carried out under permitted development and therefore needs a planning application. It does not mean that such development is not allowed.
- 1.2 The National Planning Policy Framework (NPPF) states that 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. Conservation Areas are designated because of their special character and appearance and their architectural and historic interest. The aim of such a designation is to try and preserve and enhance this special character and appearance.
- 1.3 The Conservation Advisory Working Party have been asked for their views on the proposal in this report. Their view is that the vernacular character of our Conservation Areas can and is being eroded through minor alterations and permitted development and it supports the making of an Article 4 Direction as set out in the report below in line with others that are in place within Betley, Basford, and Butterton Conservation Areas.
- 1.4 National Planning Practice Guidance

The Town and Country Planning (General Permitted Development) Order 2015, as amended, makes various forms of development permitted development and thus grants automatic planning permission for them.

The 2014 National Planning Practice Guidance supersedes provides easy accessible and up to date information on all aspects of Planning including the making of an Article 4 Direction. The following link sets out the information needed to make such a direction and answers general questions on procedure and the implications of a Direction.

<http://planningguidance.communities.gov.uk/blog/guidance/when-is-permission-required/what-are-permitted-development-rights/>

## 2.0 **Removal of Permitted Development Rights**

2.1 Local planning authorities can remove permitted development rights by either a condition on a planning permission or by an Article 4 Direction. The latter are made on a case by case basis and should be based on whether the exercise of permitted development rights, in the case of Conservation Areas, would harm the visual amenity of an area or damage the historic environment. The potential harm that the Direction is intended to address should always be clearly identified. An Article 4 Direction means that a particular development cannot be carried out under permitted development and therefore needs a planning application.

2.2 Not all areas have the same permitted development rights. There are a range of exclusions to what development is permitted in protected areas, which is known as Article 2(3) land. This covers Conservation Areas. Article 4 Directions are however a means to bring within the scope of planning control some of the incremental changes which can damage the important characteristics of a Conservation Area. The Guidance states that there should be a particularly strong justification for the withdrawal of permitted development rights relating to

- a wide area (such as the whole of a local authority area)
- agricultural and forestry development – such directions would need to demonstrate that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty
- cases where prior approval powers are available to control permitted development
- leisure plots and use
- the installation of microgeneration equipment.

2.3 There are two types of Directions:- non-immediate directions where rights are only withdrawn following consultation and immediate directions where permitted development rights are withdrawn straight away, but then must be confirmed following local consultation within 6 months.

2.4 Directions made with immediate effect can relate to development within the curtilage of dwelling houses, works to fences or walls, some changes of use, temporary buildings and demolition of walls and fences (as set out in Parts 1 to 4 and 31 of Schedule 2) of the General Permitted Development Order) but only where the local planning authority justifies that the development to which the Direction relates would pose an immediate threat to local amenity or would be prejudicial to the proper planning of an area. Immediate Directions can also be made in relation to certain more limited types of permitted development rights in Conservation Areas, such as certain alterations to dwellinghouses, if the Local Planning Authority consider this should be so. Article 4

Directions cannot be made for development which has already started or been carried out.

### 3.0 **Whitmore Conservation Area**

3.1 Whitmore Conservation Area was designated in 1971 by the County Council, within which a short appraisal was prepared to justify the designation. The following statement was made;

“Whitmore is fortunate in remaining practically unaffected by recent development, a tribute to the effectiveness of landlord control, and its buildings are almost without exception well maintained. Its distinctive unspoiled quality is vulnerable, particularly if there should be any fragmentation of the present unified ownership. Future policy will have to be especially sensitive to the delicate balance between unity and contrast which is held by the subtle combination of the siting, design and materials of buildings and their landscape setting. Any essential changes should be suitably small in scale and most carefully detailed so as to maintain the present character”.

3.2 No review has yet been undertaken for Whitmore Conservation Area which was designated over 40 years ago. The programme for reviewing the Borough's Conservation Areas was set by the Council in 2011, and taking into account progress to date, this now envisages such a review at Whitmore will be undertaken in 2019/20. A Conservation Area Appraisal and Management Plan highlights ways of protecting and improving an Area but it is not a requirement.

3.3 The statement from the designation appraisal of Whitmore Conservation Area is still true of the character of the village today and it is still controlled by the same estate and the buildings are well maintained. However subtle small changes are likely to cause harm to this unique village and despite the above statement, no control through planning policies can stop the incremental minor changes to important features such as windows, doors, roofs, porches, chimneys and boundary walls. Solar panels and other forms of micro-generation do not require any prior approval. There are also agricultural permitted development rights which potentially apply at Church Farm on junction of the A53 with Bent Lane which if exercised might cause harm to the character and appearance of the Conservation Area

3.4 Officers consider that some control over these changes through an Article 4 Direction will help to preserve the special character of the village. Some properties on the estate within the Conservation Area now have upvc windows which does not reflect the traditional pattern of glazing bars and they have a shiny appearance and the glass a completely different reflective quality. A significant number of properties retain their original windows, doors and other features of interest, such as porches and decorative barge boards.

3.5 The Council needs to be aware of the benefits of keeping buildings in use and of landlord requirements to provide Energy Performance Certificates (EPC) given that the Energy Act introduced a legal minimum energy efficiency standard for homes rented from a landlord so the Council will need to work with the owner to help them improve their ratings but there are many ways to do this. Listed Buildings are exempt from the requirement to provide an EPC.

3.6 It should be noted that Listed Buildings already have protection from alterations which are considered to affect their special character and it is illegal to carry out such work

without the appropriate consent. It is not proposed to make an Article 4 Direction to any Listed Buildings in the Conservation Area.

#### **4.0 Proposed Whitmore Article 4 Direction**

4.1 Officers have considered carefully the buildings in Whitmore Conservation Area to determine which buildings are the most appropriate for an Article 4 Direction. The Schedule below sets out the specific forms of development rights that it is proposed should be removed in the Whitmore Conservation Area and the properties involved, , which your officers feel is the minimum necessary to achieve the objectives of preserving and enhancing a Conservation Area. Given that some of the rights that are proposed to be removed in Whitmore Conservation Area can be removed with immediate effect and others cannot, it is proposed to elect to make a non-immediate Direction which could come into effect following the proposed consultation and after the required consideration of any representations received.

4.2 It is proposed to apply an Article 4 Direction to the locations set out below. The plan attached as Appendix 1 to this report indicates the properties involved.

1. The following properties to be considered for the removal of Permitted Development rights including those for the removal of chimneys, replacement windows and doors, porches, any alteration to the roof on front roof slopes, alteration, erection or demolition of boundary treatments and installation of micro-generation equipment.

*1-5 Maltkiln Cottages, Bent Lane*

*1-3 Bent Lane Cottages*

*Yew Tree, Bent Lane*

*Church Farmhouse, Bent Lane*

*Lilac Cottage, Whitmore Road*

*Church View, Whitmore Road*

*Ivy House, Whitmore Road*

*The Old Parsonage*

2. The following property to be considered for the removal of Permitted Development rights including those for the removal of chimneys, any alteration to the roof on front roof slopes and alteration, erection or demolition of boundary treatments and installation of micro-generation equipment.

*Box Cottage*

3. The following property to consider for the removal of Permitted Development rights for the extension or alteration of a building on agricultural land comprised in an agricultural unit of 5 ha. or more in area, which are reasonably necessary for the purposes of agriculture within that unit

*Church Farm barn, A53/Bent Lane*

#### **5.0 Consultation**

5.1 Any representations received during the consultation must be taken into account by the local planning authority in deciding or not to proceed with the Direction. Consultation will be done through the following:

- By production of a leaflet explaining the effect of the Direction and how to make representations and the serving of the required notice on the owner/occupier of every house affected by the Direction
- Placing an advert in The Sentinel which will set out the properties and classes of development affected, explain the Direction's effects and specify a period of 21 days to make representations to the Local Planning Authority.
- By informing Whitmore Parish Council

## 6.0 **Compensation**

- 6.1 Following the making of an Article 4 Direction, the local planning authority may be liable to pay compensation to those whose permitted development rights have been removed if permission is refused (or granted subject to more limiting conditions than the GPDO), where development would normally be permitted. The grounds for compensation are limited to abortive expenditure (for example on the drawing up of plans) or other loss or damage directly relating to the withdrawal of permitted development rights. These rights for compensation are set out in sections 107 and 108 of the Town and Country Planning Act (as amended) and the Town and Country Planning (Compensation) (England) Regulations 2015 set out when time limits apply. Where notice of withdrawal of the above rights published not less than 12 months and no more than 2 years before the withdrawal took place, the issue of potential compensation does not arise at all.

