

PROPOSED ARTICLE 4 DIRECTION FOR STUBBS WALK CONSERVATION AREA

Purpose of the report

This report proposes the making of an Article 4 Direction in Stubbs Walk 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 the Conservation Area.

Recommendation

To agree to the making of a non-immediate Article 4 Direction for Stubbs Walk 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 Conservation Areas which are key elements to their distinctive special character, and to give effect to the proposals within the agreed Conservation Area Appraisal and Management Plan for Conservation Areas.

1.0 Background

- 1.1 The Council resolved in March 2011 to undertake a rolling programme of Conservation Area Appraisals and Management Plans (CAMPs) for the Conservation Areas in the Borough. A Conservation Area Appraisal and Management Plan have been adopted by the Council for Stubbs Walk Conservation Area. One of the proposals set out in the Management Plan was that the Borough Council would consider the making of an Article 4 Direction for certain relevant types of development.
- 1.2 This process has already been carried out in Butterton, Betley, Basford and more recently last year in Madeley, Audley and Whitmore following similar Appraisals, and relevant consultation, Article 4 Directions have been made and confirmed in all of these areas.
- 1.3 Extensive consultation was undertaken on the Management Plans for Stubbs Walk, involving the seeking of the views of local stakeholders on the particular issues facing the Conservation Area. Support in principle for such a Direction was given during this consultation from residents.
- 1.4 The final version of the Appraisal and Management Plan for Stubbs Walk was approved by the Borough Council as a Supplementary Planning Document on 14 September 2016.
- 1.5 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 Town and Country Planning (General Permitted Development) Order (the GPDO) and they can withdraw selected automatic planning permissions 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.

1.6 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.

1.7 The Conservation Advisory Working Party has been asked for their views on this proposal and these will be reported to the Committee.

1.8 **National Planning Practice Guidance**

1.9 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.

1.10 The 2014 *National Planning Practice Guidance* 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 or uses of buildings 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, which covers Conservation Areas and other 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 of at least 21 days and only come into force on a specified date which is not less than 28 days after the notice is published. Permitted development rights are withdrawn after consideration has been given to any representations and the Direction is formally confirmed by the Local Planning Authority.
- 2.4 Directions can also be made with immediate effect are where permitted development rights are withdrawn straight away. This is only where the local planning authority considers 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. They can only relate to development within the curtilage of dwelling houses, works to fences or walls or other minor operations, some changes of use and temporary buildings and works of demolition (other than by Historic England). To remain in force immediate directions must be confirmed following consultation within 6 months of when it was originally made otherwise it will no longer remain in force. Article 4 Directions cannot be made for development which has already started or completed.

3.0 **Stubbs Walk Conservation Area**

- 3.1 The proposal within the Management Plan, drawn up after consultation, is limited to a removal of certain permitted development rights and that indicated that if such a Direction was made planning permission might then be required for
- all extensions to houses whatever the size, including porches, on the front of the building
 - changing roof materials and insertion of rooflights on front-facing roofslopes
 - replacing windows or doors on the front elevation
 - the removal or partial demolition of a chimney
 - the erection, alteration or removal of a wall, gate, or fence at the front of the building as well as its demolition (front means facing a public highway or road or open space)
- 3.2 Important features such as windows, doors, roofs, frontages, chimneys and boundary walls all play a part in defining the character of an area. This is especially relevant in Conservation Areas such as Stubbs Walk which has a high percentage of buildings with original windows, doors and walls and railings.

4.0 **Proposed Stubbs Walk Article 4 Direction**

- 4.1 Officers have considered carefully the buildings in the Conservation Area including some of those identified as “positive buildings” within the Conservation Area Appraisal, to determine which buildings are the most appropriate for an Article 4 Direction. Schedule A below sets out the specific buildings for which it is proposed to remove certain permitted development rights in the Stubbs Walk Conservation Area, which your officers feel is the minimum necessary to achieve the objectives of preserving and enhancing a Conservation Area.
- 4.2 A plan of the Conservation Area indicating the location of these properties will be displayed at the meeting and a draft of it is attached as Appendix 1. It should be noted that Listed Buildings already have protection from alterations which are considered to affect their special character.
- 4.3 It is legally possible for the Council to implement an immediate Direction as long as the Council perceives that there is a direct threat to the amenity or character of the

Conservation Area even though there are more limited types of permitted development rights that may be restricted in this way. The Conservation Area Appraisal and Management Plan for Stubbs Walk has already proposed the making of such a Direction and this has been the subject of a consultation exercise. It is also possible to make a non-immediate Direction. Your officers consider that given that there is no immediate identifiable threat the Council should now proceed with a non-immediate Direction, for the properties referred to in Schedule 1 and the rights listed, which would come into effect following the now required formal consultation and after the required consideration of any representations that may be received.

- 4.4 Consideration has been given to the removal of Permitted Development rights for extensions and alterations to financial or professional services, offices and schools in the Conservation Area.
- 4.5 Insofar as financial and professional services and offices are concerned (a significant use in this Conservation Area) such uses do not have the same permitted development rights within Conservation Areas and planning permission is required for most alterations and extensions or is restricted and controlled by conditions to ensure that materials match. Given the non-domestic uses in this Conservation Area are generally within former houses the space around them for extensions is limited and many have no or very little front gardens where the most harm can be done to character and appearance of the area. It is therefore not proposed to take away permitted development rights for commercial premises for these forms of development because there is little to gain and Article 4 Directions should only be used when there is real threat to the amenity of an area. The main impact on the area is probably the signage erected on commercial premises and this comes under a different set of regulations which cannot be controlled by an Article 4 Direction.
- 4.6 Newcastle-under-Lyme School is the main landowner within the Conservation Area and has many buildings across two main sites. Schools have extensive permitted development rights such as for new buildings, extensions and alterations and consideration has been given to removing this permitted development right. There are already more restrictions and conditions under this right within a Conservation Area, meaning any new building or extension should be constructed using materials which have a similar external appearance to those used on the original school building. In addition for this Class of development planning permission is required for any development if it is within 5 metres of a boundary edge of the school premises. Given the nature of the location of the school buildings, across two main sites, the consequences of the School taking advantage of its permitted development rights is quite limited and the likelihood of this kind of development causing harm to the character and appearance of the Conservation Area is unlikely. It is your officer's view that it is not appropriate and necessary to take away permitted development rights specifically relating to schools.

5.0 **Consultation**

5.1 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.

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. Claims for compensation must be made within 12 months of the date on which the planning application for development, formerly permitted is rejected or permitted with conditions which are more limiting than before the Direction was in place. The intention in this case is however not to delay the coming into force of the Article 4 Direction so that there would be that gap of at least 12 months, but rather to proceed more promptly.

7.0 **Conclusions**

- 7.1 The Conservation Area Management Plan for the Conservation Areas contain a number of recommendations which when successfully implemented will meet the Council's statutory duties and responsibilities under the planning and conservation legislation to preserve and enhance the special architectural or historic interest of this area.

Schedule A

Stubbs Walk Conservation Area - Article 4 Direction Property Schedule

1. The following dwellings would be affected by removal of Permitted Development rights relating to extensions; the provision of replacement windows and doors, porches; any alteration to the roof on front roof slopes; the removal of chimneys; and boundary treatments

7 – 19 (odd), 19, 25, 27, 29, 31, 33 & 35 (odd) Mount Pleasant
96 & 104, 106, 108 (even) Lancaster Road
1 and 2 Gladstone Villas, Victoria House & 12 – 22 Victoria Road
48 - 64 West Street
37, 39, 41, 43 West Street
21 Clarence Street
35 Princess Street
2 North Street
111 York Street
1, 2, 3 & 4 Lancaster Avenue

2. The following properties would be affected by removal of Permitted Development rights for boundary treatments only including erection, alteration or demolition.

92 & 94, 98, 100 & 102 Lancaster Road
45 West Street & 6 & 8 Marsh Parade
Newcastle-under-Lyme School in respect of Victoria Road, Mount Pleasant and Lancaster Road.