

## **ARTICLE 4 DIRECTIONS FOR MADELEY AND AUDLEY CONSERVATION AREAS**

### **Recommendation**

**That the Working Party indicate its views on a proposal going to the Planning Committee to make Article 4 Directions for the Madeley and Audley Conservation Areas as set out in the report below.**

### **Purpose of the report**

**For the Working Party to consider the making of Article 4 Directions in the Madeley and Audley Conservation Areas 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.**

### **Reasons**

**To help protect features in the Conservation Areas which are key elements to their distinctive special character, and to give effect to the proposals within the agreed Conservation Area Appraisals and Management Plans for these Conservation Areas.**

### **Background**

The Council resolved in March 2011 to undertake a rolling programme of Conservation Area Appraisals and Management Plans (CAMPs) for the 20 Conservation Areas in the Borough. Conservation Area Appraisal and Management Plans have been adopted by the Council for Madeley and Audley Conservation Areas. One of the proposals set out in these Management Plans was that the Borough Council would consider the making of what was then termed an "Article 4 (2)" Direction for certain and relevant types of development. Since then there have been legislative changes.

This process has already been carried out in Butterton, Betley, and Basford following similar Appraisals, and relevant consultation, Article 4(2) Directions have been made and confirmed in all of these areas.

Extensive consultation was undertaken on the Management Plans for both Audley and Madeley, involving the seeking of the views of local stakeholders on the particular issues facing the Conservation Area. No comments were received on any of the proposals for either of the Conservation Areas.

The final version of the Appraisal and Management Plan for Madeley was approved by the Borough Council as a Supplementary Planning Document on 17 October 2012 and that for Audley on 18 September 2013.

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 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.

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.

### **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* 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/>

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

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.

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.

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.

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.

### **Audley and Madeley Conservation Areas**

The proposal within each of the Management Plans was limited to a removal of certain 'domestic' permitted development rights. The Management Plans indicated that if such Directions were brought in planning permission might then be required for

- all extensions whatever the size, including porches, on the front of the building referred to
- changing roof materials and insertions of rooflights on front-facing roofslope
- replacing windows or doors on the front elevation
- painting a house, and the removal or partial demolition of a chimney
- the erection, alteration or removal of a wall, gate, or fence at the front of the house can also be controlled as well as demolition (front means a public highway or road)

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 Audley and Madeley which have a high percentage of houses.

### **Proposed Audley and Madeley Article 4 Directions**

Officers have considered carefully the buildings in both Conservation Areas including those identified as "positive buildings" within the relevant Conservation Area Appraisal and those identified as potential buildings in the Appraisal and Management Plan which might be added to the Council's Local Register of Buildings of Architectural or Historic Interest, to determine which buildings are the most appropriate for an Article 4 Direction. Schedules A and B below set out the specific buildings for which it is proposed to remove certain permitted development rights in Audley and Madeley respectively, which your officers feel is the minimum necessary to achieve the objectives of preserving and enhancing a Conservation Area.

Plans for each Conservation Area indicating the location of these properties have been prepared and are attached as Appendices to this report (Appendix 1 and 2). It should be noted that Listed Buildings already have protection from alterations which are considered to affect their special character.

It is proposed that the Council should proceed via the use of a non-immediate Direction which could come into effect following the proposed consultation and after the required consideration of any representations that may be received

### **Consultation**

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 the Parish Councils involved

### **Compensation**

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. Were 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.

### **Conclusions**

The Conservation Area Management Plans 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.

### **Future Involvement of the Working Party**

If the Planning Committee agree to progress with non-immediate Directions reports will be brought back to the Working Party for comment setting out any representations received regarding the Directions, before the Planning Committee give consideration to whether the Directions should be confirmed.

## **Schedule A**

### **Audley Conservation Area - Article 4 Direction Property Schedule**

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

1-3 (odd) Church Bank  
1-13(odd) Church Street  
7 Nantwich Road  
17 Nantwich Road  
23-31 (Odd) Nantwich Road  
8- 30 (even) Nantwich Road  
2-16 (even) Wilbraham's Walk  
32-44 (even) Wilbraham's Walk  
The Old Rectory, Wilbraham's Walk  
Bulls Head House, Nantwich Road  
Bulls Head Cottage, Nantwich Road  
6-16 (even) Dean Hollow  
7-11 (odd) Dean Hollow  
19-27(odd) Alsager Road

*2. The following properties would be affected by removal of Permitted Development rights relating to the removal of chimneys; the provision of replacement windows and doors, porches; and any alteration to the roof on front roof slopes*

26-32 (even) Church Street  
4 Nantwich Road

*3. The following properties would be affected by removal of Permitted Development rights for boundary treatments.*

50 Wilbraham's Walk  
2 Alsager Road  
33 Nantwich Road

## **Schedule B**

### **Madeley Article 4 Direction Property Schedule**

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

*1 & 2 Greyhound Cottages  
Sycamore House, corner of Furnace Lane  
1 & 2 Madeley Mill, Moss Lane  
1,2,3 & 4 Post Office Square  
Buff House, Bar Hill  
Bridge House, Moss Lane  
Rose Cottage, Moss Lane  
Brush End, Moss Lane  
Smithy Cottages, Bar Hill  
Pool Villa, Poolside  
Church House, Woore Road  
Church Cottage, Woore Road  
Broomcroft, Poolside  
Pool Villa, Poolside  
Poolside, Poolside  
Cygnet Studio and Swan Cottage, Poolside  
The Cottage, Poolside  
Pool House, Poolside  
Pool Farmhouse, Poolside  
Yew Tree House, Poolside  
Yew Tree Cottage, Poolside  
Spring Cottage, Poolside  
Hillview Cottage, Holborn Cottage, The Holborn  
Mullberry Cottage and Berry Barn, The Holborn  
Holborn House, The Holborn  
Holly Cottage, The Holborn  
Prospect House, The Holborn  
Smithy Cottages, Bar Hill  
Old Vicarage, Vicarage Lane  
2-12 (even) Vicarage Lane  
Birches Cottage, Castle Lane*

*2. The following properties would be affected by removal of Permitted Development rights relating to the removal of chimneys, the provision of replacement windows and doors, porches, and any alteration to the roof on front roof slopes*

*The Coach House, The Holborn  
Pool View, Poolside*

*3. The following properties would be affected by removal of Permitted Development rights for boundary treatments.*

12 Station Road  
Cherry Orchard, Poolside  
Pineview, Poolside  
Suo Marte, Poolside  
Leeside, The Holborn  
Trencrom, The Holborn  
Orchard House, The Holborn  
Turnpike, The Holborn  
Church View, The Holborn  
New Vicarage, Vicarage Lane  
Inchequin, Vicarage Lane  
Maydale, Castle Lane