

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

### **Purpose of the report**

This report proposes the making of an Article 4 Direction, which will remove some permitted development rights from certain properties and land and require planning approval for certain minor works.

### **Recommendation**

**To agree to the making of an Article 4 Direction for Maer 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 Maer Conservation Area which are key elements to its distinctive special character, and to give effect to the proposals within the agreed Conservation Area Appraisal and Management Plan for Maer Conservation Area.

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

- 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 can withdraw selected automatic planning permissions granted by the GPDO. An Article 4 Direction only means that a particular development cannot be carried out under permitted development rights 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- 1.3 There are two types of Directions:- non-immediate directions where rights are only withdrawn following consultation of at least 21 days and only come into force on a specified date which is not less than 28 days after the notice is published. Permitted development rights are withdrawn after consideration has been given to any representations and the Direction is formally confirmed by the Local Planning Authority.
- 1.5 Directions can also be made with immediate effect and are where permitted development rights are withdrawn straight away.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.

## 2.0 **Scope of Maer Article 4 Direction**

2.1 A Conservation Area Appraisal and Management Plan has been adopted by the Council for the Maer Conservation Area as a Supplementary Planning Document. The review of the Conservation Area in 2018/19 gave consideration to controlling the removal of and erection of boundary treatments on the road frontages within the village given the stone walls play an important part in the special character of the area. One of the proposals set out in this Management Plan was that the Borough Council would consider the making of an Article 4 Direction for certain and relevant types of development. Given the fact that residents have already changed windows and doors largely to upvc and this has not been particularly harmful given the nature of the changes and location of the properties, it is not proposed to remove the right, via an Article 4 Direction, to make such changes.

2.2 The removal of front boundary hedges cannot be controlled other than under the Hedgerow Regulations which apply only in certain circumstances and involve limited considerations. It is not "development". Whilst there are controls over certain works of demolition in Conservation Areas, permission is not required to take down any wall, gate or fence which is less than 1 metre high where abutting a highway, or less than two metres high. Similarly the installation of new boundary walls, piers or fences up to a metre in height do not require any form of planning consent. With an Article 4 Direction any new walls and fences or other boundary treatments can be controlled by requiring a planning application to be submitted for consideration. Some walls are protected by their Listed Building status from demolition but elsewhere they could be protected by a Direction.

2.3 The Direction has been limited to walls which are either significant to the character and appearance of the Conservation Area, by their quality or are boundaries within the most publicly visible parts of the Area or involved in important views within the Conservation Area. In addition the Direction also aims to control the type of new boundary features which are proposed. Schedule A below sets out the specific walls and road frontages for which it is proposed to remove certain permitted development rights within part of Maer Conservation Area. A plan for the Conservation Area indicating the location of these locations is shown at Appendix 1.

2.4 It is proposed that given there is no immediate threat to local amenity in this case the Council should proceed via the use of a non-immediate Direction for Maer which could come into effect following the proposed consultation and after the required consideration of any representations that may be received.

2.5 The views of the Conservation Advisory Working Party are being obtained and will be reported to the Committee

## 3.0 **Consultation**

3.1 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 property affected by the Direction. A site notice in three locations will also be placed within the Area to explain the effect of 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
- Following the consultation, consideration will be given to any representations before decided to confirm the Direction at Planning Committee on 13<sup>th</sup> August 2019.

#### 4.0 **Compensation**

- 4.1 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 12 months' notice is given of withdrawal of the above rights, the issue of potential compensation does not arise at all. Additionally applicants of a permission which is refused by the Council must apply for compensation with 12 months of the date of that refusal (or attachment of conditions which go further than those in the GPDO), and must be applied for within 12 months of the date Direction is effective.

### **Schedule A**

#### **Maer Conservation Area - Article 4 Direction Address Schedule**

1. *The following properties and land would be affected by removal of Permitted Development rights for removal, including partial demolition, alteration and construction of boundary treatments where they would front a road*

St Peters Church, Maer Village and land north of the church and churchyard  
 The Old Vicarage, Home Farm, Haddon Lane, Maer Village  
 1, 2, 3,& 4 Maer Mews, Haddon Lane  
 Primrose Cottage, Haddon Lane  
 1(Bramble Cottage), 2, 3, 4(Beekeepers Cottage), 5(Jubilee Cottage), 6, 7, 8, 9, 10  
 Maer Village  
 The New House, Stone Cottage  
 The Old Laundry  
 Maer Village Hall  
 Holly Cottage, Maer Cottage, Bothy House, The Old Post Office  
 Gardener's Cottage  
 The Garden House, Croft House  
 Maer Hall & Estate, Maer Lodge and Maer Estate Cottages

