



Officer Key Decision

**Report to the Strategic Director,
Regeneration & Environment**

NEW ARTICLE 4 DIRECTIONS TO REPLACE THE EXISTING DIRECTIONS FOR BRENT'S RESIDENTIAL CONSERVATION AREAS

| | |
|--|--|
| Wards Affected: | Barn Hill, Brondesbury Park, Dollis Hill, Fryent, Kenton, Kilburn, Mapesbury, Northwick Park, Queensbury, Queen's Park, Tokyngton and Welsh Harp. |
| Key Decision: | Yes |
| Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act) | Open |
| No. of Appendices: | 3 Appendix A – Article 4 Direction Consultation Appendix B – Draft Article 4 Direction Appendix C – Borough map showing the extent of conservation areas where the proposed new Article 4 Directions will be made |
| Background Papers: | None |
| Contact Officer(s): (Name, Title, Contact Details) | Mark Price Principal Heritage Officer mark.price@brent.gov.uk |

1.0 Purpose of the Report

- 1.1 The purpose of the report is to consider the representations received in relation to making of non-immediate Article 4 Directions to replace the existing Directions for its residential conservation areas as set out at 2.3. The report also seeks confirmation of the Directions.

2.0 Recommendations

That the Strategic Director of Regeneration and Environment, in consultation with the Cabinet Member for Regeneration, Property and Planning, having considered the

representations received to the consultation and Officer responses as set out in Appendix A:

- 2.1 Approves the confirmation of the Article 4 Directions to replace the existing Directions for its residential conservation areas as set out in Appendix B except for the Article 4 Directions proposed for the Sudbury Court Conservation Area.

3.0 Detail

Background

- 3.1 On 7 September 2021 Cabinet considered a paper 'Proposed new Article 4 Directions to replace the existing Directions for its residential conservation areas'.

Cabinet approved the issuing of a non-immediate Article 4 Directions to replace the existing Directions for the conservation areas in the table below. It confirmed the Article 4 Directions would commence from 18 December 2021. A map of the Borough showing the conservation areas where the new Article 4 Directions will be made can be seen in Appendix C.

| Conservation area | | |
|-------------------|------------------|---------------------|
| Barn Hill | Mapesbury | Roe Green Village |
| Brondesbury | Mount Stewart | St Andrews |
| Buck Lane | Neasden Village | Sudbury Cottages |
| Homestead Park | North Kilburn | Sudbury Court |
| Kensal Green | Northwick Circle | Wembley High Street |
| Kilburn | Queen's Park | |

- 3.2 In addition, Cabinet delegated authority to the Strategic Director for Regeneration and Environment in association with the Cabinet Member for Regeneration, Property and Planning to consider consultation responses and the decision on whether to confirm the Article 4 Directions.

Consultation Process

- 3.3 The Council consulted for 4 weeks from 19 November to 18 December 2020, over the statutory minimum of 21 days. It placed a notice in the Brent and Kilburn Times. Four public notices (twice the minimum) were placed in each conservation area where the new Article 4 Direction would be made. The Council advertised the consultation on its website and sent notifications to statutory consultees and those on the Local Plan consultation list. The Direction was available to view in the Brent libraries. Members were made aware through the members' bulletin.

Response from the Secretary of State

- 3.4 The Secretary of State responded acknowledging that non-immediate Article 4 Directions relating to conservation areas in Brent was made on 19 November

2020. It reminded the Council to advise the Secretary of State about confirmation of the Directions as set out in the regulations.

Representations

- 3.5 Twelve representations were received, five neither for nor against (one resident, Canal & River Trust, Highways England, Natural England and Transport for London). Six in support of the Article 4 Directions including Historic England, Brondesbury Residents and Tenants Association (BRAT), Queen's Park Area Residents Association (QPARA), Sudbury Town Residents' Association (STRA) Neighbourhood Forum, with the remainder being residents. A fuller summary of the representations, together with officer responses is set out in Appendix A.
- 3.6 Historic England, the Government's adviser on the historic environment supported the Article 4 Directions for the role that they play in enabling the suitable assessment of development affecting the historic environment. It also pointed out that the control of this change will enable the Council to ensure continued, sustainable development where it is an integral and positive element of character.
- 3.7 BRAT were in support of the proposals, particularly the restriction on erection of outbuildings at the rear, although was concerned that the Article 4 Directions did not cover the rear elevations.
- 3.8 QPARA unanimously supported the changes proposed and for continuing the process of scrutiny of any developments in the Queen's Park Conservation Area as part of the national planning reforms.
- 3.9 STRA Neighbourhood Forum supported the Article 4 Directions but was concerned that there may be a loss of protection by the omitting the words 'relevant location'. However, the new Directions provide better protection as they apply to all of the front façade even if it does not face a relevant location. Note that the Forum's remit does not include the Sudbury Court Conservation Area.
- 3.10 Conservation area residents focused on the commitment to protecting the environment and heritage of the conservation areas. Some pointed out that the Council were merely 'playing catch-up in dealing with unsightly paraphernalia resulting from technological advances that were not anticipated at the time of the previous direction'. One focused on the Planning White Paper proposals 2020 and its proposed division into protected neighbourhoods, renewal neighbourhoods and Growth Area (unprotected neighbourhoods).

Sudbury Court Conservation Area

- 3.11 None of the representations raised fundamental concerns that the Council needs to address with the Article 4 Directions other than those proposed for the Sudbury Court Conservation Area.

- 3.12 A separate Zoom meeting was held on 11 February 2021 at the request of the residents of the Sudbury Court Conservation Area as many were concerned that they found out about the consultation at the last minute and wanted to understand more about the changes proposed. An extension of time was given for comments.
- 3.13 There were 59 representations received, 4 in support, 54 objected (41 standard email) and one neither for nor. A general summary of the representations, together with officer responses is set out in Appendix A.
- 3.14 It is clear that many residents were happy with the level of protection provided by the existing Article 4 Directions and what they restrict. They do not think it is necessary for a new direction restricting outbuildings in the Sudbury Court Conservation Area. Certainly, the rear gardens in Sudbury Court are relatively long and the construction of large outbuildings is not currently an issue within the area. Without consulting every single property within the conservation area it is difficult to tell what the overall view on the new Article 4 Directions, and in particular, this additional control for outbuildings might be. However, this could be carried out at some stage in the future.
- 3.15 Since the new Article 4 Directions cannot be amended and large outbuildings are not currently an issue in Sudbury Court it is recommended that the Article 4 Direction is not confirmed within the Sudbury Court Conservation Area and the existing direction remain in place.

Next steps

- 3.16 The Council has up to two years after making Article 4 Directions to confirm them. Prior to a decision to confirm, it must consider the representations received. On the basis of the representations received the options available to the Council are to:
- a) Not proceed with the confirmation.
 - b) Proceed with the confirmation.
- 3.17 Not proceeding with the confirmation is not recommended. The Council considered that it was appropriate to make the Article 4 Directions as the existing Directions are over 25 years old. In many cases they are difficult to understand because the wording is unclear. The legislation on permitted development rights has changed since they were made, and therefore the classes of development controlled in the Directions no longer relate to the current Town and Country Planning (General Permitted Development) (England) Order 2015. The representations received (other than those to Sudbury Court) have not identified any fundamental issues which challenge the merit of the new Directions. In general there was support.
- 3.18 On this basis, it is recommended to proceed with the confirmation with the Article 4 Directions as shown in Appendix B, coming into effect on 18 December 2021 with the exception of Sudbury Court.

- 3.19 On confirmation of the Article 4 Directions the Council will as soon as is practicable give notice of the date of confirmation and the date on which it comes into force (18 December 2021). It will publicise this in the same manner as occurred in the making of the Directions. The Council must also send a copy of the confirmed Directions to the Secretary of State, who has the power to modify the Directions at any time. Although possible, this is considered unlikely. The Secretary of State did not respond indicating any concerns with the made Directions and the Council has considered the representations made, which raise no significant concerns apart from those relating to Sudbury Court which will in any case not be confirmed.

4.0 Financial Implications

- 4.1 The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017 from 17 January 2018 allowed for the charging of fees for planning applications resulting from permitted development rights being removed through an Article 4 Direction. A fee will therefore accompany any planning applications submitted as a consequence of removing the permitted development rights.
- 4.2 The cost of the implementation of the Article 4 Directions will be met from existing budgets. Costs will be relatively low, limited to notices in the local press and production of site notices which will have to be displayed in the area affected, plus some minor printing for materials to be placed in libraries.

5.0 Legal Implications

- 5.1 The process for taking forward the Article 4 will be consistent with the regulations (Schedule 3 of the General Permitted Development Order 2015).
- 5.2 The Council can avoid compensation liability on withdrawal of the permitted development rights by publicising their intention to make an Article 4 Direction at least one year, and not more than two years, ahead of the Article 4 Direction taking effect ie a non-immediate Direction
- 5.3 The [Town and Country Planning Act 1990 \(TCPA 1990\)](#), section 108 provides that no compensation arises where adequate notice has been given of the removal of planning permission granted under a development order, local development order or neighbourhood development order. Where planning permission granted by a development order, a local development order or a neighbourhood development order is withdrawn, land owners may have a right to compensation under [TCPA 1990, s 108](#).

6.0 Equality Implications

- 6.1 The Equality Act 2010 introduced a new public sector equality duty under section 149. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and

maternity, race, religion or belief, sex and sexual orientation. The Council must, in exercising its functions, have 'due regard' to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c) Foster good relations between people who share a protected characteristic and those who do not.

6.2 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

6.3 The proposals in this report will involve minor changes to permitted development rights in the borough's residential conservation areas. Officers have completed the Council's Equalities Impact Assessment (EIA) screening tool. This indicated that a full EIA is not required. However, given that these conservation areas already have Article 4 Directions in place, and the new Directions will be the same, it is not thought that it would impact upon groups that share protected characteristics. Moreover, public consultation has been undertaken on the proposals and this has not raised any unforeseen equalities issues.

7.0 Consultation with Ward Members and Stakeholders

7.1 The consultation was publicised in the members' bulletin and sent directly to councillors where the Article 4 Direction related to their ward.

7.2 In terms of awareness raising for the consultation a public notice was placed in the local press. There were also special assigned webpages raising awareness, plus letters sent to statutory consultees and those on the Council's local plan consultation database. The documents were made available in libraries and on the council's website. Public notices were placed in each conservation area where the new Article 4 Direction would be made. There was a consultation period of over 28 days including a meeting for the Sudbury Court Conservation Area residents. This was longer than the statutory minimum 21 days.

7.3 On confirmation of the Article 4 Directions, the Council will as soon as is practicable have to give notice of the date of confirmation and the date on which it comes into force (18 December 2021). It will have to publicise this in the same manner as occurred in the making of the Directions. The Council must also send a copy of the confirmed Directions to the Secretary of State.

Report sign off:

Alice Lester

Operational Director, Regeneration