

NORTH SOMERSET COUNCIL DECISION

DECISION OF: COUNCILLOR MARK CANNIFORD. THE EXECUTIVE MEMBER FOR PLACEMAKING AND ECONOMY



WITH ADVICE FROM: DIRECTOR OF PLACE

DECISION NO: 21/22 DP 232

SUBJECT: DECISION TO ESTABLISH ARTICLE 4 DIRECTIONS TO REMOVE PERMITTED DEVELOPMENT RIGHTS TO DEMOLISH STONE WALLS UNDER 1 METRE HIGH IN THE GREAT WESTON CONSERVATION AREA.

KEY DECISION: NO

REASON: Likely income will be less than £500,000. While the decision covers more than one ward in Weston the effect will not be significant.

BACKGROUND:

An article 4 direction is a direction under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, (see Appendix 1) which enables the Secretary of State or the local planning authority to withdraw specified permitted development rights across a defined area. There are two types of directions under the General Permitted Development Order: non-immediate directions and directions with immediate effect. This direction is a non-immediate direction.

Provided that there is justification for both its purpose and extent, an article 4 direction can:

- remove specified permitted development rights related to operational development or change of use
- remove permitted development rights with temporary or permanent effect.

The potential harm that the direction is intended to address needs to be clearly identified. Government Guidance provides there will also need to be a strong justification for the withdrawal of permitted development rights relating to [most relevant listed]:

- a wide area (eg those covering a large proportion of or the entire area of a local planning authority, National Park or Area of Outstanding National Beauty)
- an area extending beyond the essential core of a primary shopping area
- cases where prior approval powers are available to control permitted development

Article 4 directions are used to control works that could threaten the character of an area of acknowledged importance, such as a conservation area. An article 4 direction only means that a particular development cannot be carried out under permitted development rights and therefore needs a planning application. This gives a local planning authority the opportunity to consider a proposal in more detail.

Article 4 Directions and the National Planning policy Framework (NPPF) updated July 2021.

Paragraph 53 of the NPPF states:

“The use of Article 4 directions to remove national permitted development rights should:

- where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)
- in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)
- in all cases, be based on robust evidence, and apply to the smallest geographical area possible.”

DECISION:

To first consider responses from public representations and, provided that these representations do not raise any significant issues, establish Article 4 Directions removing permitted development rights to demolish stone walls under 1 metre in height in the Great Weston Conservation Area. If established the Article 4 Directions would come into force 9am on 01 February 2022.

REASONS:

In 2018 after a year of work and extensive public Consultation, the Great Weston Conservation Area was adopted by the Council. The Management plan for the Conservation Area included the establishment of Article 4 directions to remove permitted development rights to demolish stone Walls less than 1 metre high.

Stone walls over 1 metre currently require planning permission prior to demolition.

Stone walls in Weston were traditionally built to 3 feet height, this means that many walls can currently be demolished without gaining planning permission.

In July 2021 we commissioned an updated report on the value of stone walls to the Conservation Area. The report is provided as a supporting document.

The report notes:

“Weston-super-Mare's stone walls are a major feature of the Victorian stone town and make a significant and positive contribution to the character of Weston. The incremental loss of boundary walls within the Great Weston Conservation Area is harming the overall cohesiveness, integrity and character of individual buildings, streets and neighbourhoods.

Historic value: many of Weston's walls were built at the same time as their houses at a defining time for Weston-super-Mare when the town experienced rapid growth. The town's identity and distinctiveness today is greatly influenced by this period of development. The boundary walls often reflect the architectural style of the building and can indicate the status of the original occupier.”

OPTIONS CONSIDERED:

1. Do nothing: This option could lead to a serious decline in the number of stone walls in Weston. Causing detrimental effect to the character of the Conservation Area.

2. Article 4 directions for a smaller area than the Conservation Area: The work that has been carried out to analyse stone walls in the Conservation Area shows that there is a significant risk of detriment across the whole of the Conservation Area if stone walls are destroyed.

3. Consider an area wider than the Conservation Area to take in a larger part of Weston: This option was favoured by The Weston Civic Society. However given the updated NPPF (revised July 2021) setting out article 4 directions should apply to the smallest area possible, and provide a robust case, the option to concentrate on the Conservation Area is deemed appropriate.

FINANCIAL IMPLICATIONS:

Increase in planning applications is likely to be minimal as clear, concise controls, backed up by appropriate guidance, tend to encourage like-for-like repair or replacement in matching materials, which do not require planning permission (RPS Planning Research into the use of Article 4 directions on behalf of the English Historic Towns Forum, October 2008, paragraphs 3.18-3.19).

If a local planning authority makes an article 4 direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently:

- refuses planning permission for development which would otherwise have been permitted development; or
- grants planning permission subject to more limiting conditions than the General Permitted Development Order

The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

Compensation claims have been extremely rare. The RPS 2008 study found no evidence for any compensation payments actually being made (op. cit., paragraphs 3.20-3.21).

There will be a cost to applicants who wish to submit a planning application to demolish a stone wall under 1 metre.

Funding

A grant of £2,930 has been provided by Historic England to develop the Stone Walls report

LEGAL POWERS AND IMPLICATIONS

The Local Planning Authority has the power to make this decision in accordance with Article 4 (1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

If the Secretary of State or the local planning authority is satisfied that it is expedient that development described in any Part, Class or paragraph in Schedule 2 of the General Permitted Development Order, other than [Class DA of Part 4 or] Class K[, KA] or M of Part 17, should not be carried out unless permission is granted for it on an application, the Secretary of State or (as the case may be) the local planning authority, may make a direction under paragraph 4 that the permission granted by article 3 does not apply.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

The Decision supports the Council's response to the Climate Emergency and has positive environmental impact. The rationale for removing walls is often to create parking areas in front gardens, this is likely to add hard surfaces and reduced permeability, reducing biodiversity and increasing flood risk.

Retaining stone walls has a zero carbon impact.

CONSULTATION

To date consultation has been with Weston Civic Society and across services including Planning and Regeneration teams, Legal Team and Climate Change Officer.

Scrutiny panel on Monday 27th September 12 noon.

Public Representations regarding the proposed Article 4 Directions will be invited for a period of 6 weeks on North Somerset Council Consultation portal.

The consultation period will run from 18 October until 5pm on 30 November 2021
To read the documents and have your say visit www.n-somerset.gov.uk/westonwalls
Feedback can also be given via email: planning.policy@n-somerset.gov.uk

- The consultation phase will also be promoted via local media and social media on North Somerset Council's facebook page and through North Somerset Life magazine November edition. The magazine goes to every household in North Somerset.
- A hard copy of the supporting documentation and Map is available to view, in The Central Library Weston-super-Mare.
- On eight public notice boards within the Great Weston Conservation Area

Following an evaluation of the representations an Executive Member decision will be made in December 2021 whether or not to proceed with the making of an Article 4 direction. If the decision is to proceed the Article 4 directions will come into force 9am on 01 February 2022.

RISK MANAGEMENT

To minimise risk we propose that awareness is raised with the public through a representation phase running for 6 weeks from 18 October to 5pm on 30 November 2021

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? No

CORPORATE IMPLICATIONS

Not applicable.

APPENDICES

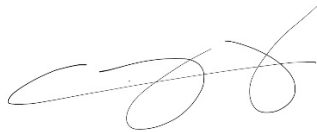
The Town and Country Planning (General Permitted Development) (England) Order 2015
Schedule 3 Procedures for Article 4 Directions Paragraph 1 Procedure for article 4(1)
directions without immediate effect.

BACKGROUND PAPERS

- Great Weston Conservation Area Appraisal and Management Plan Adopted
December 2018
<https://www.n-somerset.gov.uk/sites/default/files/2020-02/Great%20Weston%20conservation%20area%20introduction.pdf>
- Stone Walls review report August 2021

SIGNATORIES:

DECISION MAKER:



Signed:

Cllr Mark Canniford. Executive Member for Placemaking and Economy

Date: 21 October 2021

WITH ADVICE FROM



Signed:

Director of Place

Date: 21 October 2021

The Town and Country Planning (General Permitted Development) (England) Order 2015

SCHEDULE 3 Procedures for Article 4 Directions

Article 4

Procedure for article 4(1) directions without immediate effect

1

(1) Subject to paragraph 2, notice of any direction made under article 4(1) of this Order must, as soon as practicable after the direction has been made, be given by the local planning authority—

(a) by local advertisement;

(b) by site display at no fewer than 2 locations within the area to which the direction relates, or, if the direction is made under article 4(1)(b), on the site of the particular development to which the direction relates, for a period of not less than 6 weeks; and

(c) subject to sub-paragraph (2), by serving the notice on the owner and occupier of every part of the land within the area or site to which the direction relates.

(2) In a case where this paragraph applies, the local planning authority need not serve notice on an owner or occupier in accordance with sub-paragraph (1)(c), if they consider that—

(a) individual service on that owner or occupier is impracticable because it is difficult to identify or locate that person or

(b) the number of owners or occupiers within the area to which the direction relates makes individual service impracticable.

(3) Sub-paragraph (2) does not apply where the owner or occupier is a statutory undertaker or the Crown.

(4) The notice referred to in sub-paragraph (1) must—

(a) include a description of the development and the area to which the direction relates, or the site to which it relates, as the case may be, and a statement of the effect of the direction;

(b) specify that the direction is made under article 4(1) of this Order;

(c) name a place where a copy of the direction, and a copy of a map defining the area to which it relates, or the site to which it relates, as the case may be, may be seen at all reasonable hours;

- (d) specify a period of at least 21 days, stating the date on which that period begins, within which any representations concerning the direction may be made to the local planning authority; and
- (e) specify the date on which it is proposed that the direction will come into force, which must be at least 28 days but no longer than 2 years after the date referred to in paragraph (d).
- (5) Where a notice given by site display is, without any fault or intention of the local planning authority, removed, obscured or defaced before the period referred to in sub-paragraph (4)(d) has elapsed, the authority is treated as having complied with the requirements of that paragraph if they have taken reasonable steps for the protection of the notice, including, if need be, its replacement.
- (6) The local planning authority must send a copy of the direction and the notice under sub-paragraph (1), including a copy of a map defining the area to which it relates, or the site to which it relates, as the case may be, to the Secretary of State on the same day that notice of the direction is first published or displayed in accordance with sub-paragraph (1).
- (7) The direction comes into force in respect of any part of the land within the area to which it relates on the date specified in accordance with sub-paragraph (4)(e) but does not come into force unless confirmed by the local planning authority in accordance with sub-paragraphs (9) and (10).
- (8) On making a direction under article 4(1)—
 - (a) a county planning authority must give notice of it to any district planning authority in whose district the area or part of the area to which the direction relates is situated; and
 - (b) except in metropolitan districts, a district planning authority must give notice of it to the county planning authority, if any.
- (9) In deciding whether to confirm a direction made under article 4(1), the local planning authority must take into account any representations received during the period specified in accordance with sub-paragraph (4)(d).
- (10) The local planning authority must not confirm a direction until after the expiration of—
 - (a) a period of at least 28 days following the latest date on which any notice relating to the direction was served or published; or
 - (b) such longer period as may be specified by the Secretary of State following the notification by the local planning authority to the Secretary of State of the direction.
- (11) The local planning authority must, as soon as practicable after a direction has been confirmed—
 - (a) give notice of such confirmation and the date on which the direction will come into force; and
 - (b) send a copy of the direction as confirmed to the Secretary of State.

(12) Notice under sub-paragraph (11)(a) must be given in the manner described in sub-paragraphs (1) and (4)(a) to (c); and sub-paragraphs (2) and (3) apply for this purpose as they apply for the purpose of sub-paragraph (1)(c).

(13) A local planning authority may, by making a subsequent direction, cancel any direction made by them under article 4(1); and the Secretary of State may, subject to paragraphs 2(3) and (4), make a direction cancelling or modifying any direction under article 4(1) made by a local planning authority at any time before or after its confirmation.

(14) Sub-paragraphs (1) to (12) apply in relation to any direction made under sub-paragraph (13) by a local planning authority unless the direction it is cancelling is a direction to which paragraph 2 applied.

(15) Paragraphs 2(2) to (10) apply in relation to any direction made by a local planning authority under sub-paragraph (13) cancelling a direction to which paragraph 2 applied.

(16) The Secretary of State must notify the local planning authority as soon as practicable after making a direction under sub-paragraph (13).

(17) Sub-paragraphs (1) to (3) and (4)(a) to (c) apply to any direction made under sub-paragraph (13) by the Secretary of State.

(18) A direction made under sub-paragraph (13) by the Secretary of State comes into force in respect of any part of the land within the area to which it relates—

(a) on the date on which the notice is served in accordance with sub-paragraph (1)(c) on the occupier of that part of the land or, if there is no occupier, on the owner; or

(b) if sub-paragraph (2) applies, on the date on which the notice is first published or displayed in accordance with sub-paragraph (1).