

NORTH SOMERSET COUNCIL DECISION



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

WITH ADVICE FROM: THE HEAD OF PLANNING

DECISION NO: 22/23 DP 385

SUBJECT: Removal of Article 4 Direction – Land at Blackmoor Road, Abbots Leigh

KEY DECISION: NO

REASON: The decision does not incur expenditure of £500,000 or over and is not significant in terms of its effects on communities living or working in two or more wards

BACKGROUND:

A request has been received from the occupier of Wildacre (formerly Green Peace and Park View), Blackmoor Road, Abbots Leigh to cancel an Article 4 Direction no. ATD27 at Land at Blackmoor Road, Abbots Leigh.

Details of the Direction and the plan which shows which properties are affected are on the council website at the following link [Article 4 - No. ATD27](#). It applies to 8 houses in the road – Mansfield (now Pear Tree Lodge), Sherwood, Sunnyside, Ferncliffe, Park View (now Wildacre), Oaklea, Oaklands, Moor Croft and Hillview.

An “Article 4 Direction” is made under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. Schedule 3 of the Order sets out the procedures to be followed in imposing, modifying or cancelling a Direction.

An Article 4 Direction removes or restricts normal “permitted development” rights on an area of land. The effect of this is that a planning application is required for the works specified in the Direction. This particular Direction was created in 1967 by Somerset County Council and restricts the permitted development rights of certain properties in Blackmoor Road to prevent the following works for domestic extensions and outbuildings being carried out as permitted development. In this case the limits are as follows:

1. The enlargement, improvement or other alteration of a dwellinghouse so long as the cubic content of the original dwellinghouse (as ascertained by external measurement) is not exceeded by more than 1,750 cubic feet* or one-tenth whichever is the greater, subject to a maximum of 4,000 cubic feet**; provided that the erection of a garage, stable, loose-box or coach-house within the curtilage of the dwellinghouse shall be treated as the enlargement of the dwellinghouse for the purposes of this permission.

2. The erection, construction or placing, and the maintenance, improvement or other alteration, within the curtilage of a dwellinghouse, of any building or enclosure (other than a dwelling, garage, stable, loose-box or coach-house) required for a purpose incidental to the enjoyment of the dwellinghouse as such, including the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

* 1750 cubic feet = 49.55 cubic metres

** 4000 cubic feet = 113.3 cubic metres

It is understood that the Article 4 Direction had been justified by Somerset County Council in 1967 on the basis that the 8 dwellings to which it applied could “be termed substandard” as part or whole of the external structure were of a “shortlived materials”.

The removal or cancellation of an Article 4 Direction is an unusual request but such a request must be considered and in doing so the Council must consider whether the Article 4 Direction is still necessary to protect local amenity or the well-being of the area. An Article 4 Direction can remain in place permanently once it has been confirmed. However, it is important for local planning authorities to monitor Article 4 Directions to make certain that the original reasons the Direction was made remain valid. Where an Article 4 Direction is no longer necessary it can be cancelled if the local planning authority is satisfied that it is no longer expedient to control development by an application for planning permission.

Since the Article 4 Direction was approved in 1967, the 8 houses covered by it have been the subject of various planning applications which have further changed the circumstances since the Direction was imposed. Planning permission was granted to replace Mansfield (now Pear Tree Lodge) with an entirely new dwelling in 1990 and a single storey extension was approved in 2016. Planning permission was granted to replace Sunnyside in 2011 (albeit with PD rights for outbuildings and extensions removed by conditions). Oaklea has received planning permission for various alterations and a garage but more recently had planning permission for an annex refused in 2022 with the decision being upheld on appeal. Planning permission was granted for a replacement dwelling at Oaklands in 1988 and replacement garage in 1990. Moorcroft has also received planning permission for extensions and alterations. This suggests that the reasons used by the then County Council to impose the Direction have largely been overtaken by improvements to the dwellings.

Limitation (1) above was imposed to restrict national permitted development rights concerning the amount a property can be extended by. It was limited to a maximum 1750 cubic feet (49.55 cubic meters) or one tenth whichever is the greater, subject to a maximum of 4,000 cubic feet (113.3 cubic metres). Any garage, stable, loose-box or coach-house within the curtilage of the dwellinghouse was to be counted against the volumetric allowance. However there is no information about why these particular limits were chosen and the use of volumetric measures for house extensions were removed in the last significant revision to the Town and Country Planning (General Permitted Development) Order.

Limitation (2) was to restrict national permitted development rights concerning the erection of any building or enclosure for a purpose incidental to the enjoyment of the dwellinghouse limiting to prevent a garage, stable, loose-box or coach-house being built without a

planning application. However there is no information about why these particular restrictions were proposed and what planning aim they were hoping to achieve other than to restrict certain but not all outbuildings.

Since 1967, the national permitted development allowances for extensions to houses have been revised on a number of occasions and allow various different types and sizes of extensions. They now allow an extensive range of extensions to houses subject to various restrictions about their height, position and the distances from the boundaries. Similarly, outbuildings can be built subject to limits on their height, and position. In the case of both extensions and outbuildings, new building works must not exceed more than 50% of the curtilage of the original building. If the Article 4 Direction is removed, it is likely therefore that the houses in question could build much larger extensions or outbuildings as permitted development than would otherwise have been the case.

The general government advice is that Local Planning Authorities should not remove permitted development rights without strong grounds and restriction should be limited to situations where it is necessary to protect local amenity or the well-being of the area. Having considered the existing Article 4 direction, the original reasons for its imposition no longer seem to apply.

The procedures which must be followed in cancelling an Article 4 Direction are similar to the steps followed in the making of a Direction. The procedure includes advertising the proposal, notifying relevant occupiers and notifying the Secretary of State. It is recommended that the initial consultation process be carried out and the responses considered before a final decision is made on whether to progress the cancellation of the Direction.

DECISION:

Authorise the Head of Planning in conjunction with the Assistant Director Legal & Governance and Monitoring Officer to carry out appropriate notification and consultation on the proposed cancellation of the Article 4 Direction no. ATD27 at land at Blackmoor Road, Abbots Leigh.

REASONS:

The general government advice is that Local Planning Authorities should not remove permitted development rights without strong grounds and restriction should be limited to situations where it is necessary to protect local amenity or the well-being of the area. Having considered the existing Article 4 direction, the original reasons for its imposition no longer seem to apply.

OPTIONS CONSIDERED:

To leave the Article 4 Direction on place.

FINANCIAL IMPLICATIONS:

An Article 4 Direction can involve claims of financial compensation if planning permission is refused. An Article 4 Direction can use resources and increases costs involved in correspondence and enforcement.

Costs

Advertising costs associated with consultation.

Funding

The costs of the process would be met from existing budgets in cost centre DDM001

LEGAL POWERS AND IMPLICATIONS

An “Article 4 Direction” is made under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. Schedule 3 of the Order sets out the procedures to be followed. The Article 4 Direction restricts permitted development which is set at a national level. The Council Constitution delegates functions of the local planning authority, amongst other matters, to officers who have to make legal decisions concerning an Article 4 Direction including the function to make decisions on applications for legal determinations.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

The Article 4 Direction currently limits the alteration or extension of existing buildings. Its withdrawal will potentially allow new building work without the need for a planning application.

CONSULTATION

Both Abbots Leigh Parish Council and Easton-in-Gordano Parish Council were informally consulted in 2021 on the removal of the Article 4 Direction. Although the land affected by the Direction is in Abbots Leigh, it is also close to the boundary with Easton-in-Gordano.

Abbots Leigh Parish Council commented in April 2021 that if did “not support the lifting of the Direction in order a) to protect the Green Belt and the setting of Leigh Court in particular and b) to protect the existing scale of property and avoid Blackmoor Road (being a private road) ending up like Cadbury Camp Lane, which we believe could in time happen given the freedoms currently being granted to residential properties by the Government. Furthermore, in our view it is more important to seek to retain a mixture of types of accommodation in this village. Bungalows are (from a recent national survey) currently the most popular type of residential accommodation and perhaps need more protection from development than they currently receive. Many houses in Abbots Leigh have started off small and ended up vastly increased in size over the past 50 years; this process has toppled the balance of accommodation in the village in favour of large two story dwellings which are not in short supply. What we are short of is the type of accommodation in Blackmoor Road.”

The ward member (Councillor Davies) has been informally consulted and did not support removing the Direction.

The Council’s Legal Services team has advised on the draft report.

RISK MANAGEMENT

Removal of the Article 4 Direction would allow large extensions and outbuildings than is currently the case. This might impact on the openness of the Green Belt.

EQUALITY IMPLICATIONS

The proposal does not raise any significant equality implications.

CORPORATE IMPLICATIONS

Article 4 Directions should be reviewed on a regular basis as they limit what can be built under permitted development rights. As Abbots Leigh is in the Green Belt, reinstatement of PD rights by removing the Article 4 Direction could allow more substantial building in the Green Belt than might otherwise have been the case.

APPENDICES

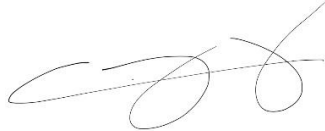
None

BACKGROUND PAPERS

Article 4 Direction ATD27
National Planning Policy Framework

SIGNATORIES:

DECISION MAKER(S):



Signed: Executive Member for Placemaking and Economy

Date: 20 January 2022

WITH ADVICE FROM:



Signed: Head of Planning

Date: 20 January 2022