

## **NORTH SOMERSET COUNCIL DECISION**



**DECISION OF:** COUNCILLOR MARK CANNIFORD. THE EXECUTIVE MEMBER FOR SPATIAL PLANNING, PLACEMAKING AND ECONOMY

**WITH ADVICE FROM:** DIRECTOR OF PLACE

**DECISION NO:** 24/25 DP 98

**SUBJECT:** FORMAL CANCELLATION OF ARTICLE 4 DIRECTION ATD27 – 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:**

Requests have been made by residents to cancel an outdated Article 4 Direction (ATD27) covering Land at Blackmoor Road, Abbots Leigh.

Previous Executive Member decision number 22/23 DP 385 sets out the full background as to why the direction was initially made by Somerset County Council in 1967 and concluded that the original reasons for its imposition no longer apply.

The previous decision authorised officers to undertake a consultation on potential revocation of the direction. This consultation took place for a period of 28 days between Monday 26 February and Monday 25 March 2024. The properties affected by the direction, adjoining properties, the parish council and local ward member were notified of the consultation by letter and site notices were erected in the vicinity of the affected properties to allow other interested parties to engage with the consultation.

Seven responses were received during the consultation period. Five were from residents, one from the parish council and one from the local ward member. The responses were all supportive of revocation of the direction. The comments received are summarised in the table below.

Respondent	Summary of response
Abbots Leigh Parish Council	<p>The Parish Council re-considered their previous position and now considered that the Article 4 Direction is inappropriate, as it covers only 8 houses out of the 20 or so on Blackmoor Road. Some of those covered have already had permission to be rebuilt or extended. The PC voted that they now support the removal of Article 4.</p>
Councillor Jenna Ho Marris, local ward member	<p>Support removal of the Article 4 direction.</p> <p>As is pointed out in the consultation document, several of the houses have been altered since with planning permission, including several recently which have been demolished and entirely rebuilt, with two storeys.</p> <p>It is not possible to tell the integrity of materials from visual inspection from a distance, but when looking at the houses subject to the Article 4 direction now, you can see that they do not seem to have substandard construction or an external structure of shortlived materials.</p> <p>The previous Parish Council's concern about the lack of bungalows in the area, and excessive development, can be addressed by the fact that Blackmoor Road remains in the Green Belt, outside of the newly proposed village boundary and all development is subject to the usual restrictions. Also, there are many other houses on Blackmoor Road which do not have the Article 4 direction.</p>
Resident	<p>Support removal of the Article 4 direction.</p> <p>The reason for original imposition no longer stands and therefore as per their legal obligations the council should remove the direction as the dwellings are not substandard or constructed from short-lived materials.</p> <p>Welcomes the Parish Council's support for revocation.</p> <p>Notes that whilst it is open to affected residents to apply for planning permission this is not acceptable as this involves costs for residents, a significant amount of time for decisions to be made, and no guarantee of approval. There is significant inequity that results from having different rules and processes for properties on the same road.</p> <p>In line with the National Planning Policy Framework, the use of Article 4 directions should be limited.</p>
Resident	<p>Support the proposed removal of the Article 4 direction as the reason for its introduction is no longer valid.</p> <p>Many of the properties on Blackmoor Road have been allowed substantial development through planning permission and the eight</p>

	properties affected by the direction should have the same permitted development rights as all the other houses.
Resident	<p>Support removal of the Article 4 direction.</p> <p>The only reason given when the direction was imposed was that the dwellings were deemed substandard or constructed from short-lived materials. This reason no longer stands and the council have a duty to review and remove the direction.</p> <p>Whilst it is open to affected residents to apply for planning permission this is not acceptable as this involves costs for residents, a significant amount of time for decisions to be made, and no guarantee of approval.</p> <p>In line with the National Planning Policy Framework, the use of Article 4 directions should be limited.</p>
Residents	<p>Support removal of the article 4 direction.</p> <p>The conditions for keeping the direction in place are stringent and on the basis that this group of houses no longer meet the criteria the direction should be removed.</p> <p>It would be preferential to develop the houses in Blackmoor Road to create more family homes without causing any visual impacts than losing Green Belt land in the vicinity.</p>
Resident	<p>Support removal of the article 4 direction.</p> <p>The rationale for the original imposition of the direction no longer applies.</p> <p>Whilst applying for planning permission could be considered a viable alternative it carries financial burdens and emotional uncertainty.</p>

No objections were received. Taking into consideration the informal consultation responses and it no longer being expedient to retain the Article 4 direction it is recommended that the formal procedure set out in planning legislation is followed to cancel the direction. The Article 4 direction is no longer necessary to protect local amenity or the well-being of the area as set out in the previous decision no. 22/23 DP 385.

The procedure to revoke involves advertising the proposal, formally notifying any relevant occupiers and notifying the Secretary of State. The steps that must be taken are prescribed in Schedule 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

**DECISION:**

Authorise the Planning Policy Team Lead – Technical and Infrastructure (in conjunction with the Assistant Director Legal & Governance and Monitoring Officer) to proceed to cancel Article 4 Direction ATD27 covering Land at Blackmoor Road, Abbots Leigh by undertaking the process prescribed in Schedule 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

## **REASONS:**

In accordance with government advice that Local Planning Authorities should not restrict permitted development rights without strong grounds and having considered the content of the direction, outdated reasons for its imposition and the responses to the consultation it is concluded that there is no reason to continue to impose restrictions that previously applied.

## **OPTIONS CONSIDERED:**

To leave the Article 4 direction in place. This is not considered reasonable given the support expressed for revocation and the conclusion that the original reasons for imposing the direction no longer apply.

## **FINANCIAL IMPLICATIONS:**

There is a risk of claims of financial compensation in cases where planning permission is refused. This risk would be removed following the cancellation of the direction. Enforcement of Article 4 Directions can also incur costs, the potential for which would also be removed following cancellation.

### **Costs**

Minimal advertising costs associated with notification of the cancellation.

### **Funding**

Costs of the process would be met from existing budgets in cost centre DDM001.

## **LEGAL POWERS AND IMPLICATIONS**

An Article 4 Direction is made or cancelled 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 Council Constitution delegates functions of the local planning authority, amongst other matters, to officers to make legal decisions concerning an Article 4 Direction.

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

The Article 4 Direction currently limits alterations to or extensions of existing buildings. Cancellation of the direction will potentially allow small scale new building work without the need for a planning application.

## **CONSULTATION**

As explained above, an informal stage of consultation has already been undertaken. All comments received expressly support cancellation of the direction, including those from the Parish Council and ward member.

## **RISK MANAGEMENT**

Cancellation of the Article 4 Direction will allow extensions and outbuildings at the affected properties under permitted development rights, without residents needing to apply for planning permission. This could potentially impact on the openness of the Green Belt, but given the fact that other properties on Blackmoor Road already benefit from permitted development rights this risk is considered de minimis.

**EQUALITY IMPLICATIONS**

Have you undertaken an Equality Impact Assessment? No  
*The proposal does not raise any significant equality implications.*

**CORPORATE IMPLICATIONS**

The proposal is not considered to raise any significant corporate implications.

**APPENDICES**

Previous decision – 22/23 DP 385

**BACKGROUND PAPERS**

None

SIGNATORIES:

DECISION MAKER(S):

Signed: ..... Executive Member for Spatial Planning,  
Placemaking and Economy.

Date: .....

WITH ADVICE FROM:

Signed: ..... Director of Place

Date: .....

## APPENDIX 1 – Previous decision – 22/23 DP 385

### 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, Femcliffe, 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 it 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