

	Executive Report 24 August 2020	Agenda Item No. 5
Title	Article 4(1) Direction for Sherbourne Conservation Area	
For further information about this report please contact	Robert Dawson, Principal Conservation Officer, Development Services E: Robert.dawson@warwickdc.gov.uk T: 01926 456546	
Wards of the District directly affected	Sherbourne	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	N/A	
Background Papers	Appendix A - Properties to which the Direction relates Appendix B - Explanatory letter Appendix C - Information Sheet Appendix D - Copy of the notice Link to Sherbourne Conservation Area appraisal document <i>An assessment on the effects of conservation areas on value, London School of Economics and Political Science:</i> https://historicengland.org.uk/content/docs/research/assessment-ca-valuepdf/	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	Ref. 1127
Equality Impact Assessment Undertaken	No, not applicable

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	17/07/2020	Chris Elliot
Head of Service	17/07/2020	Gary Fisher
CMT	17/07/2020	Chris Elliot, Bill Hunt, Andy Jones

Section 151 Officer	17/07/2020	Mike Snow
Monitoring Officer	17/07/2020	Andy Jones
Finance	17/07/2020	Mike Snow
Portfolio Holder(s)	17/07/2020	Cllr John Cooke
Consultation & Community Engagement		
This report seeks consent to make the initial Direction to serve Notice on the properties affected and invite public consultation.		
Final Decision?		No
Suggested next steps (if not final decision please set out below)		
That the Executive receives a report with the findings of the consultation and recommendations for the final confirmation or otherwise of the Article 4 Direction within 6 months		

1. Summary

- 1.1 The purpose of this report is to seek approval from Executive to make an immediate Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 resulting in the removal of certain permitted development rights outlined in Appendix D in the Sherbourne Conservation Area and to undertake the related public consultation. A further report will be submitted within 6 months of the service of the Notice recording public consultation and recommending confirmation or otherwise of the Direction.

2. Recommendation

- 2.1 That the Executive authorise the immediate making of a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 to remove the permitted development rights outlined in Appendix D and serve Notices upon all owners and occupiers of such properties with an explanatory letter and the undertaking of the associated consultation and publicity.
- 2.2 That the Executive receive a report with the findings of the consultation and recommendations for the confirmation or otherwise of the Article 4 Direction (which must be confirmed or otherwise within 6 months from the period of the service of the Notice).

3. Reasons for the Recommendation

- 3.1 It is a requirement under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that local planning authorities determine which parts of their area are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance, and to designate these areas as Conservation Areas. This results in additional planning controls and considerations to protect the historic and architectural elements which make the place special. Local Planning Authorities also have a duty under Section 72 of the same Act to pay special attention to the desirability of

preserving or enhancing the character or appearance of that area when exercising planning functions.

- 3.2 Single dwellings within Conservation Areas do nonetheless have certain permitted development rights meaning that no planning permission is required to undertake a range of works including replacing windows, removing and replacing roofing materials, installing panels on roofs (such as solar panels) and removing or replacing boundary walls. The cumulative impact of these small alterations can result in the gradual erosion of the appearance and character of the District's Conservation Areas.

The Council has been made aware that certain changes currently benefitting from permitted development rights, such as use of modern materials when replacing historic windows and removal of original boundary walls to facilitate parking, have taken place in Sherbourne Conservation Area. This Direction seeks to prevent further changes that detract from the Area's special characteristics.

- 3.3 The making of an Article 4(1) Direction is a mechanism available to Local Planning Authorities which offers a level of protection to prevent such alterations that can detrimentally change the character of the Conservation Area.
- 3.4 The Direction will be made immediately for a temporary period of up to 6 months and further consideration will be given to making it permanent after consultation with residents affected. An alternative option would be to make a non-immediate Direction; however, the risk in doing so may be that it may encourage the implementation of work that the Direction seeks to control prior to it coming into force.
- 3.4 The Notice under Article 4(1), together with an explanatory letter and information sheet, would be served upon the owners of single dwellings in the streets listed in Appendix A. Upon receipt of the Notice, permitted development rights are removed for 6 months and any works listed in the schedule accompanying the Notice would during that period require planning permission.
- 3.5 The recipients of the Notice will be invited to make comments on the possibility of the Notice becoming permanent or not. During the 6-month period, it will therefore be necessary to bring back a report to the Executive with the findings of the consultation and a recommendation or otherwise of the confirmation of the Notice. If the Notice is not confirmed within 6 months, then it will expire and a temporary need for planning permission for the items listed in the schedule will also have expired.

4. Policy Framework

4.1 Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
External		
Health, Homes, Communities	Green, Clean, Safe	Infrastructure, Enterprise, Employment
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Becoming a net-zero carbon organisation by 2025 Total carbon emissions within Warwick District are as close to zero as possible by 2030 Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/ productivity of local economy Increased employment and income levels
Impacts of Proposal		
<p><i>The Direction allows for the retention of important architectural and historic features to single-dwellings that contribute directly to the conservation area's appearance and character.</i></p> <p><i>This in turn will contribute towards the health and wellbeing of residents with the increased protection of the conservation area's important characteristics.</i></p>	<p><i>The proposal will enable the heightened protection of existing landscape and open space, which forms one of the key characteristics of this particular conservation area as highlighted in the conservation area appraisal.</i></p>	<p><i>Estate villages such as Sherbourne form an important characteristic of Warwick District. The proposal will allow for greater preservation of this character and enhance the attractiveness of the District to visitors.</i></p> <p><i>The protection that an Article 4 Direction provides results in the greater retention of local distinctiveness, which brings about social and economic benefits.</i></p>
Internal		
Effective Staff	Maintain or Improve Services	Firm Financial Footing over the Longer Term
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities

The right people are in the right job with the right skills and right behaviours		Seek best value for money
Impacts of Proposal		
<p><i>The Article 4 Direction is clear as to what permitted development rights have been restricted, enabling officers in Development Management to give informed advice to members of the public, Councillors and colleagues</i></p> <p><i>It should be noted that WDC officers are already familiar with this type of Direction, with these in place elsewhere in New Milverton (Leamington Spa) and Stoneleigh.</i></p> <p><i>GIS will be informed of as soon as the Direction is in place so it will show as a land charge.</i></p>	<p><i>The implementation of Article 4 Directions relate directly to the responsibilities of WDC Conservation & Design. Part of the team's objectives is to review existing Conservation Areas and consider the need for Article 4 Directions where appropriate.</i></p> <p><i>A copy of the Direction will be available online during the consultation process. Information relating to Article 4 Directions is already available on our website, however consideration will be given to providing more detailed information, including creation of a subpage to cover areas affected by Directions.</i></p>	<p><i>A study undertaken by the London School of Economics has indicated that properties located in conservation areas generally have greater value. The greater protection of features that make this conservation area special will retain and enhance the value of properties affected by the Direction.</i></p> <p><i>Protecting the qualities of a place that make the area attractive encourages more people to live, work and visit the District, which in turn may result in greater investment and result in benefits for the local economy.</i></p> <p><i>The properties subject to the Direction have been carefully considered and it is expected that its impact can be met with existing resource.</i></p>

4.2 Supporting Strategies

- 4.3 Protecting and enhancing the historic environment is an important component of the National Planning Policy Framework's drive to achieve sustainable development. The appropriate conservation of heritage assets forms one of the 'Core Planning Principles' that underpin the planning system.
- 4.3 In policy HE2 (Conservation Areas) of the Local Plan, explanatory note 5.166 explains that the Council will continue to seek directions to restrict permitted development rights with Article 4 Directions in order to maintain areas of high quality townscape. Policy (HE3 (Locally Listed Historic Assets) also explains that within conservation areas, permitted development rights may be removed by the service of an Article 4 Direction on locally listed assets.

5. **Budgetary Framework**

- 5.1 Amendments to the GPDO (Reg. No. 1314) in January 2017 means that a planning fee now applies for planning applications required where an Article 4 Direction is in place.
- 5.2 Compensation for abortive expenditure or other loss or damage directly contributable to the withdrawal of permitted development rights may be payable to persons affected by the Article 4 Direction.

6. **Risks**

- 6.1 As stated above, the making of an Article 4 Direction may result in compensation claims. Local planning authorities may be liable to pay compensation if they:
- Refuse planning permission for development which would have been permitted development if it were not for an Article 4 Direction; or
 - Grant planning permission subject to more limiting conditions than the GPDO would normally allow, as a result of an Article 4 Direction being in place.
- 6.2 Compensation is only payable in respect of planning applications submitted within 12 months beginning on the date the direction took effect. In addition, the compensation does not include any element for the expenses incurred by the applicant in attempting to obtain planning permission, or for any other consequential losses.
- 6.3 Compensation claims are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. This includes the preparation of plans for the purposes of any work, or upon other similar matters preparatory to it, and loss or damage directly attributable to the withdrawal of permitted development rights that would include the depreciation in the value of land or a building(s), when its value with the permitted development right is compared to its value without the right.
- 6.4 However, a [study on Article 4 Directions commissioned by the English Historic Towns Forum](#) found that of 72 planning authorities contacted in England, 81% of which had an Article 4 Direction for one or more conservation areas, none reported any incidences of compensation claims for withdrawing permitted development rights in conservation areas.
- 6.5 It is therefore considered that compensation claims arising from making Article 4 Directions is rare and combined with the low volume of properties affected, the benefits of protecting the unique characteristics of the conservation area significantly outweighs the risk in potential compensation payments.
- 6.5 The same study indicated that local authorities with blanket Article 4 Directions in place noted an increase in one to two applications per week. The purpose of this direction is to strictly limit the number of properties affected by the Direction to those that contribute positively towards the character and appearance of the Conservation Area. It is therefore anticipated that whilst there may be a very small increase in the number of planning applications, this will be accommodated within existing resource.

7. Alternative Option(s) considered

- 7.1 An alternative option would be to not serve the Notice. This would however mean that the Conservation Area only benefits from limited protection and therefore a gradual erosion of the character of the Conservation Area could continue.
- 7.2 Another option would be to consider a non-immediate Direction; however, this poses the risk that work may be implemented during this period prior to making the Direction.
- 7.3 A further option would be to consider a blanket Article 4 Direction across the whole of Sherbourne Conservation Area. This would however result in an unnecessary level of planning control to properties that do not necessarily contribute positively towards the appearance and character of the Conservation Area.

Appendix A - Properties to which the Direction relates

1 Church Road, Sherbourne, Warwick, CV35 8AN
2 Church Road, Sherbourne, Warwick, CV35 8AN
3 Church Road, Sherbourne, Warwick, CV35 8AN
4 Church Road, Sherbourne, Warwick, CV35 8AN
5 Church Road, Sherbourne, Warwick, CV35 8AN
6 Church Road, Sherbourne, Warwick, CV35 8AN
7 Church Road, Sherbourne, Warwick, CV35 8AN
1 Sherbourne Court, Vicarage Lane, Sherbourne, Warwick, CV35 8AW
29 Stratford Road, Sherbourne, Warwick, CV35 8AH
30 Stratford Road, Sherbourne, Warwick, CV35 8AH
31 Stratford Road, Sherbourne, Warwick, CV35 8AH
32 Stratford Road, Sherbourne, Warwick, CV35 8AH
Park Lodge, Barford Road, Sherbourne, Warwick, CV35 8AA
5 Sherbourne Court, Vicarage Lane, Sherbourne, Warwick, CV35 8AW
6 The Stables, Vicarage Lane, Sherbourne, Warwick, CV35 8AB
The Old Post Office, 14 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
Milton Cottage, 15 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
16 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
24 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
25 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
26 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
27 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
The Studio, Church Road, Sherbourne, Warwick, CV35 8AN
Church Farm Cottage, Church Road, Sherbourne, Warwick, CV35 8AN

Appendix B – Notification letter

ARTICLE 4(1) DIRECTION FOR SHERBOURNE CONSERVATION AREA

Dear Sir/Madam,

The Council has made an Order (known as an Article 4(1) Direction) under the Town and Country Planning (General Permitted Development) (England) Order 2015, which removes the rights of householders to carry out various works to their properties without first obtaining planning permission. The purpose of the Order is to prevent inappropriate development within the Conservation Area. Full details of the works which now require planning permission are set out in the enclosed notice. A copy of the Direction, and the map showing the area which it covers, can be inspected on our website at: www.warwickdc.gov.uk.

The Council is required to give this notice of the making of the Direction to all persons affected by it. The Direction lasts for 6 months from the date on which it was made unless, before the end of the 6 months, the Council confirms the Direction. Before then it can confirm the Direction, the Council is required to consider all representations made about it. If you wish to make representations, you can do so in writing or by email to the addresses given in the attached notice. In order to be considered, all representations must be received no later than (28 days after date of letter).

If you wish to discuss any aspect of the making of the Direction, or its effects, you may contact the Council's Principal Conservation Officer, Robert Dawson, on 01926 456546 or robert.dawson@warwickdc.gov.uk.

If you are not the owner of the property, please bring this letter and the attached notice to the attention of the owner as soon as possible.

Appendix C – Information Sheet

Sherbourne Conservation Area Article 4(1) Direction Information Sheet

In order to help maintain the character and identify of Sherbourne Conservation Area, the Council has decided to implement an Article 4(1) Direction under the Town and Country Planning (General Permitted Development) (England) Order 2015

The effect of the Direction will require anyone wishing to carry out certain works to a single dwelling-house to obtain planning permission. These works previously did not require an application for planning permission and could be carried out under permitted development rights. Set out below are works for which planning permission will be required to carry out. If you have any enquiries as to whether planning permission is required you should contact Warwick District Council Development Services for further advice.

The Article 4 Direction has been made after careful consideration by the Council and will require planning applications to be submitted for those elements of a building that are important to the maintenance of the character of the Conservation Area.

The Direction will come into force from the date of the letter accompanying it and will remain in place for up to six months during which time it will either be confirmed as a permanent Direction or will lapse after the six-month period. You will be notified either way in due course.

Proposals for which a planning application will be needed

These items relate to works that are visible from a public highway:

- 1.** The enlargement, improvement or alteration of a dwelling house. This includes replacement windows and doors either to a new design or an alternative material. Replacing windows like for like, matching exactly the existing windows, or repairs, would not require planning permission. The installation of double glazed units into existing frames, if it does not alter the size of the frame would also not require planning permission.
- 2.** Alterations to the roof slope including installation of windows and solar photovoltaics
- 3.** The erection or construction of a porch outside any external door of a dwelling-house.
- 4.** The construction of any building or enclosure, swimming or other pool, and any containers used for domestic heating purposes for the storage of oil or liquid petroleum gas.
- 5.** The construction of a hard surface, or replacement of such a surface.
- 6.** The installation, alteration or replacement of a chimney, flue or soil pipe.
- 7.** The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.
- 8.** The painting of the exterior of any building in a different colour to the existing.
- 9.** The demolition of the whole or any part of any gate, fence, wall.

Appendix D – Copy of the Notice

WARWICK DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990, AS AMENDED TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015, AS AMENDED

NOTICE OF AN ARTICLE 4 DIRECTION RELATING TO SHERBOURNE CONSERVATION AREA

Warwick District Council ("the Council"), being the appropriate local planning authority, has made a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended ("the Order"). The Direction was made on (insert date). The Direction applies to the properties and land as set out in Schedule 1 and shown edged red (for identification purposes only) on the Plan annexed to the Direction. The Council considers that the Direction, that affects part of the Sherbourne Conservation Area, should have immediate effect.

The Direction provides that the permitted development rights granted by article 3 of the Order shall not apply to the types of development detailed in Schedule 2 from the date the Direction comes into force. Planning permission granted following application under Part III of the Town and Country Planning Act 1990 (as amended) shall be required for the types of development detailed within the Schedule 2.

A copy of the Direction, including the Plan defining the area covered, can be viewed on the council's website at [www.warwick.gov.uk/\(insert link\)](http://www.warwick.gov.uk/(insert link))

The Council invites representations on the Article 4 Direction between (insert date) to (28 days after date) and will consider all representations received during this period.

This Direction will remain in force until (6 months after date of served Notice) when it will expire unless it has been confirmed by the Council before that date. In considering whether or not to confirm the Direction, the Council will consider all representations made.

Dated (insert date)

Signed...

SCHEDULE 1

(Properties to which the Direction relates)

1 Church Road, Sherbourne, Warwick, CV35 8AN
2 Church Road, Sherbourne, Warwick, CV35 8AN
3 Church Road, Sherbourne, Warwick, CV35 8AN
4 Church Road, Sherbourne, Warwick, CV35 8AN
5 Church Road, Sherbourne, Warwick, CV35 8AN
6 Church Road, Sherbourne, Warwick, CV35 8AN
7 Church Road, Sherbourne, Warwick, CV35 8AN
1 Sherbourne Court, Vicarage Lane, Sherbourne, Warwick, CV35 8AW
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25 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
26 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
27 Vicarage Lane, Sherbourne, Warwick, CV35 8AB
The Studio, Church Road, Sherbourne, Warwick, CV35 8AN
Church Farm Cottage, Church Road, Sherbourne, Warwick, CV35 8AN

SCHEDULE 2

(Development for which planning permission is now required)

Any of the following permitted development rights that would front onto a highway, waterway or open space (the terms "highway" and "open space" are defined in section 336 of the TCPA 1990):

1. The enlargement, improvement or alteration of a dwelling house (Class A, Part 1, Schedule 2, GPDO 2015) (paragraph 2(3)(a), Schedule 3, GPDO 2015);
 - The enlargement, improvement or other alterations to a dwelling-house is not permitted unless planning permission is granted.
 - This class covers many external alterations to a house, including replacing windows, doors and adding external insulation.
2. Any alteration to the roof slope (Class C, Part 1, Schedule 2, GPDO 2015) (paragraph 2(3)(b), Schedule 3, GPDO 2015);
 - Any alterations to the roof of a dwelling-house is not permitted unless planning permission is granted.
 - This class covers development such as inserting roof lights/windows into the roof slopes and installation of solar photovoltaics.
3. The erection or construction of a porch (Class D, Part 1, Schedule 2, GPDO 2015) (paragraph 2(3)(c), Schedule 3, GPDO 2015);
 - The construction of a porch outside any external door of a dwelling-house is not permitted unless planning permission is granted.
4. The provision within the curtilage of a dwelling house of a building, enclosure, swimming pool, other pool or a container used for domestic heating purposes for the storage of oil or liquid petroleum gas (Class E, Part 1, Schedule 2, GPDO 2015) (paragraph 2(3)(d), Schedule 3, GPDO 2015);
 - The construction of any building, enclosure, container, swimming pool or other pool within the curtilage of a dwelling-house, which is viewable from a public highway, is not permitted unless planning permission is granted.
5. The provision of a hard surface (Class F, Part 1, Schedule 2, GPDO 2015) (paragraph 2(3)(e), Schedule 3, GPDO 2015);

- The construction of a hard surface, or replace such a surface, within the curtilage of a dwelling-house is not permitted unless planning permission is granted.

6. The installation, alteration or replacement of a chimney on a dwelling house within a conservation area (Class G, Part 1, Schedule 2, GPDO 2015) (paragraph 2(3)(f), Schedule 3, GPDO 2015).

- The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwelling-house is not permitted unless planning permission is granted.

7. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure within the curtilage of the dwelling house (Class A, Part 2, Schedule 2, GPDO 2015) (paragraph 2(3)(h), Schedule 3, GPDO 2015);

- The erection or alteration of a gate, fence, wall or other enclosure is not permitted unless planning permission is granted.

8. The painting of the exterior of any part of the dwelling house or of a building or enclosure within the curtilage of the dwelling house (Class C, Part 2, Schedule 2, GPDO 2015) (paragraph 2(3)(i), Schedule 3, GPDO 2015);

- The painting of the exterior of any building is not permitted unless planning permission is granted.
- Changing the colour to a similar shade would not require planning permission.

9. The demolition of all or part of a gate, fence, wall or other means of enclosure within the curtilage of the dwelling house (Class C, Part 11, Schedule 2, GPDO 2015) (paragraph 2(3)(j), Schedule 3, GPDO 2015).

- The demolition of the whole or any part of any gate, fence, wall or other means of enclosure is not permitted unless planning permission is granted.

END OF NOTICE