

 <b>Executive, 13<sup>th</sup> July 2011</b>		<b>Agenda Item No. 6</b>
<b>Title</b>	Article 4 Direction in New Milverton, Leamington Spa	
<b>For further information about this report please contact</b>	Alan Mayes (Principal Architect/Planner)	
<b>Wards of the District directly affected</b>	Leamington Milverton	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Executive, 3 <sup>rd</sup> December 2008 and 19 <sup>th</sup> March 2010	
<b>Background Papers</b>	Article 4 Direction File	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality &amp; Sustainability Impact Assessment Undertaken</b>	N/A

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	10/06/11	Chris Elliott/Bill Hunt
Head of Service	10/06/11	Paul Pinkney
CMT	14/06/11	
Section 151 Officer	10/06/11	Mike Snow
Monitoring Officer	10/06/11	Andy Jones
Finance	10/06/11	Jenny Clayton
Portfolio Holder(s)	16/06/11	Councillor J Hammon
Consultation & Community Engagement		
None		
Final Decision?		No
<b>Suggested next steps (if not final decision please set out below)</b> To report back to the Executive with the findings of the Public Consultation and recommendations for the confirmation or otherwise of the Article 4 Direction.		

## 1. **SUMMARY**

- 1.1 This report seeks to provide additional protection to the Conservation Area in Leamington Spa by removing Permitted Development Rights from unlisted single dwellings in the New Milverton area. Most single dwellings have Permitted Development Rights to remove and replace windows, roof coverings and boundary treatments without the need for Planning Permission, which can significantly alter the character of the Conservation Area. The Planning Act makes provision following consultation for the removal of these rights by the service of an Article 4 (2) Direction thus requiring Planning Permission for the carrying out of these works.
- 1.2 The Executive of the 3<sup>rd</sup> December 2008 resolved to approve public consultations. This was not carried out as a consequence of waiting clarifications from the Government Office of the correct wording for the Notice. A further report taken to Executive in March 2010 also resolved to approve public consultation, however, again clarification on wording of the notice has further delayed this process, together with changes in Government Legislation. A final version of the Notice has now been agreed with Legal Services and therefore a further recommendation from the Executive is required for carrying out public consultation.

## 2. **RECOMMENDATION**

- 2.1 That the Executive authorise the making of a Direction under Article 4 (2) of the Town and Country Planning (General Development) Orders 1995, any Orders resolving and re-enacting that Order with or without modification to remove Permitted Development Rights in relation to specific purpose of controlling developments which effect the windows, doors, boundary/surface treatments and roofs to the front elevations and elevations viewable from a public highway on all unlisted single dwellings in New Milverton (see **Appendix A** of the Schedule of All Streets effected) and serve Notices under Article 4 (2) upon all owners and occupiers of such properties with an explanatory letter inviting comments and a copy of the direction notice (see **Appendix B**), and publish Notices in the local press (see **Appendix C**).
- 2.2 That the making of Direction (see **Appendix D**) under seal and service of Notice be made from September 2011 (to avoid Notices being served during the holiday months of July and August).
- 2.3 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 Single dwellings within the Conservation Area have certain Permitted Development Rights which enable them to change windows, remove roofing material, place panels on roofs (such as solar panels) and remove or replace boundary walls within a Conservation Area without the need for Planning Permission.
- 3.2 The removal of timber windows to replace them with metal or UPVC can significantly change the character of the property. Removal of slate roofs and

the application of solar panels and other roof extensions to the front roofs of properties and the removal of front walls and the provision of hard standing for parking, can also significantly change the character of the Conservation Area. Removal of Permitted Development Rights for these works does not necessarily mean that the development cannot be carried out but that it would require Planning Permission and consideration in the same way as any other building in the Conservation Area that does not have the benefit of Permitted Development Rights.

- 3.3 The service of Notice under Article 4 (2) together with an explanatory letter 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 temporarily for 6 months and therefore any works listed in the schedule accompanying the Notice would during that period require Planning Permission. 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 with 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 **Policy Framework** – N/A

- 4.2 **Fit for the Future** – The serving of the Article 4 Direction if confirmed following consultation will directly help to protect the environment of the District in accordance with the SCS which aims to protect the built environment.

#### 5. **BUDGETARY FRAMEWORK**

- 5.1 Because Article 4 Directions relate to the removing of permitted development rights the planning fee cannot be collected for planning applications which may result from an Article 4 Direction. A recent study carried out on behalf of English Heritage indicated that broadly Local Authorities with Article 4 Directions in place noted an increase of one to two applications per week.
- 5.2 Compensation for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights may be payable to persons affected by the Article 4 if their application for planning permission is refused or granted subject to conditions.
- 5.3 Whilst it is anticipated that the increase in planning applications should be able to be accommodated within existing resources, this position will need to be monitored. With the anticipated introduction of local authorities setting their own planning fees to fully recover the cost of the service, there is the possibility of being able to charge for these applications in the future. If charges are not to be levied for these applications yet the service is still expected to fully recover its costs, it will be necessary for there to be an element of cross subsidisation between different categories of applications. Full details of the proposed change in charging regime are still awaited from the Government.

6. **ALTERNATIVE OPTION CONSIDERED**

- 6.1 An alternative option would be to not serve the Notice. This would mean that no controls were possible upon unlisted buildings in this area of the Conservation Area and therefore gradual erosion of the character of the Conservation Area would continue and could not be controlled.

**Schedule of all Streets effected**

**Roads for Inclusion in Article 4 (2) Direction, New Milverton, Leamington Spa**

Portland Place  
Portland Street  
Dale Street  
Grove Street  
Dormer Place  
Church Hill  
Woodbine Street  
Milverton Terrace  
Hyde Place  
Warwick New Road  
Guys Cliffe Road  
Copps Road  
Lucas Court  
Warwick Street (part)  
Warwick Place  
Clarendon Place  
Clarendon Crescent  
Warwick Terrace  
Albany Terrace  
Union Road  
Beauchamp Hill  
Strathearn Road  
Milverton Crescent East and West  
Gulistan Road  
Heath Terrace  
Arley Mews  
Rugby Road (part)  
Cross Road  
Gunnery Terrace  
Percy Terrace  
Oswald Road  
Highfield Terrace  
Guys Cliffe Avenue East (part)  
Guys Cliffe Road  
St Marks Road (part)  
Old Stoneyard  
Gaveston Road  
Greatheed Road  
Westgrove Terrace