

 <b>Executive Report</b> <b>13 March 2013</b>		<b>Agenda Item No.</b>  <b>6</b>
<b>Title</b>	Article 4 Direction for Leamington Spa Conservation Area	
<b>For further information about this report please contact</b>	Alan Mayes (Principal Architect/Planner)	
<b>Wards of the District directly affected</b>		
<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Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?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>		
<b>Background Papers</b>	Article 4 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>	Yes Ref. No. 468
<b>Equality &amp; Sustainability Impact Assessment Undertaken</b>	Yes (If No state why below)
Not applicable.	

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	11.02.13	Chris Elliott/Bill Hunt
Head of Service	11.02.13	Tracy Darke
CMT		
Section 151 Officer	11.02.13	Mike Snow
Monitoring Officer		
Finance	11.02.13	Jenny Clayton
Portfolio Holder(s)	11.02.13	Councillor John Hammon
Consultation & Community Engagement		
This report seeks consent to serve Notice on properties affected by the Direction and to invite public consultation.		
Final Decision?		No
Suggested next steps (if not final decision please set out below)		
A further report within 6 months of the Service of Notice on those properties to be affected by the Direction recording public consultation and recommending confirmation or not of the 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 Leamington Spa Conservation 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 permanent 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 Permitted Development Rights have already been removed from the New Milverton area of the Leamington Spa Conservation Area in 2012 and therefore this area would not be included.

## 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 the 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 of all unlisted single dwellings in Leamington Spa (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 (see **Appendix A**) with an explanatory letter inviting comments and a copy of the Direction Notice (see **Appendix B**), with an information sheet (see **Appendix C**).
- 2.2 That the making of Direction (see **Appendix D**) under seal and service of Notice be made from April 2013 onwards.
- 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 materials, 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** – Policy DAP8 Protection of Conservation Areas of the Warwick District Local Plan, paragraph 9.37 makes provision for the service of Article 4 Directions to restrict Permitted Development Rights in order to maintain areas of high quality townscape.
- 4.2 **Fit for the Future** – The serving of Article 4 Direction 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 removal 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 in 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 It is anticipated that the increase in Planning Applications should be able to be accommodated within the existing resources.

#### 6. **ALTERNATIVE OPTION(S) CONSIDERED**

- 6.1 An alternative option would be to not to 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.

**TOWN AND COUNTRY PLANNING ACT 1990**

**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)  
ORDER 1995**

**DIRECTION MADE UNDER ARTICLE 4 (2)**

Notice is hereby given that on \_\_\_\_\_ 2012, Warwick District Council made a Direction under Article 4 (2) of the Town and Country Planning (General Permitted Development) Order 1995.

The Direction relates to that part of the Royal Leamington Spa Conservation Area set out in Schedule 1 below, and removes the permitted development rights for the carrying out of development of those descriptions set out in Schedule 2 below. The effect is that any person wishing to carry out development of any of the descriptions set out in Schedule 2 below at any property within the area covered by the Direction will first be required to obtain a specific grant of planning permission for such work.

A copy of the Direction, and of the map defining that part of the Royal Leamington Spa Conservation Area to which it relates, may be inspected at the offices of Warwick District Council, Riverside House, Milverton Hill, Leamington Spa CV32 5HZ during normal office hours.

Any person who wishes to make representation regarding this Direction may do so by writing to \_\_\_\_\_ or by email to \_\_\_\_\_ so that such representations are received no later than \_\_\_\_\_ 2013.

This Direction will remain in force until \_\_\_\_\_ 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.

**SCHEDULE 1**

(Area to which the Direction relates)

<b>Leamington Spa</b>
<b>Road or Street</b>
Abbots Street
Adelaide Road
Archery Road
Arlington Avenue
Arlington Mews
Augusta Place
Avenue Road
Avenue Station Approach
Bamburgh Grove (Part)
Barwell Close (Part)
Bath Street
Beaconsfield Street
Beaconsfield Street West

Beauchamp Avenue
Beauchamp Hill
Beauchamp Road
Bedford Street
Binswood Avenue
Binswood Street
Brownlow Street
Brunswick Street
Camberwell Terrace
Campion Road (part)
Campion Terrace
Chandos Street
Charlotte Street
Chesham Street
Church Street
Church Terrace
Church Walk
Clapham Square
Clapham Terrace
Claremont Road
Clarendon Avenue
Clarendon Crescent
Clarendon Place
Clarendon Square
Clarendon Street
Clemens Street
Clinton Street
Cloister Crofts (part)
Comyn Street (part)
Court Street (part)
Cross Street
Dormer Place
Duke Street (part)
Earl Street (part)
Eastfield Road
Eastnor Grove
Euston Place
Farley Street
Forfield Place
Gem Place
George Street
Glebe Place
Gloucester Street
Gordon Street
Granville Street

Greatheed Road
Guy Place East
Guy Place West
Guy Street
Hall Road
High Street
Hill Street
Holly Street
Innage Close
John Cullis Gardens
John Street
Kenilworth Road
Kenilworth Street
Lansdowne Circus
Lansdowne Road
Lansdowne Street
Leam Street
Leam Terrace
Leicester Street
Lillington Avenue
Lillington Road
Livery Street
Lower Leam Street
Lower Villiers Street
Mill Street
Morrell Street
New Street
Newbold Place
Newbold Street
Newbold Terrace
Newbold Terrace East
Norfolk Street
North Villiers Street (part)
Northcote Street
Northumberland Road
Oxford Place
Oxford Street
Packington Place
Plymouth Place
Princess Drive (part)
Princes Street
Priory Street
Priory Terrace
Purcell Close
Radford Road (part)

Ranelagh Terrace
Regent Grove
Regent Place
Regent Street
Rosefield Street
Rotherfield Close
Rushmore Street
Rushmore Terrace
Russell Street
Satchwell Place
Spencer Street
St. Mary's Crescent
St. Mary's Road (part)
St. Mary's Terrace
Station Approach
Suffolk Street
Swan Street
Tachbrook Road (part)
Tavistock Street
Tower Street (part)
Trinity Street
Upper Hill Street
Upper Holly Walk
Vernon Close (part)
Victoria Road
Victoria Street
Victoria Terrace
Villiers Street
Vincent Street (part)
Waller Street
Warwick Street
Waterloo Street
Wathen Road
Willes Road
Willes Terrace
William Street
Windsor Street
Wood Street
Woodcote Road (part)
York Road

## **SCHEDULE 2**

### **(Development for which planning permission is now required)**

1. The enlargement, improvement or other alteration of a dwelling house, being development comprised in Class A of part 1 of Schedule 2 to the Order, where such enlargement, improvement or alteration would affect the windows and doors to the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
2. Any other alteration of the roof of a dwelling house, being development comprised in Class C of Part 1 of Schedule 2 to the Order, where such alteration would affect the roof or roofs to the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
3. The erection or construction of a porch outside any external door of a dwelling house, being development comprised in Class D of Part 1 of Schedule 2 to the Order, where the external door in question forms part of the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
4. The provision within the curtilage of the dwelling house of any building or enclosure required for a purpose incidental to the enjoyment of the dwelling house as such, or the maintenance, improvement, or other alteration of such a building or enclosure, being development comprised in Class E of part 1 of Schedule 2 to the Order, where any part of the building or enclosure to be provided or the part of the building or enclosure maintained, improved or altered is or will be viewable from a public highway.
5. Development consisting of:-
  - (a) The provision within the curtilage of a dwelling house of a hard surface for any purpose incidental to the enjoyment of the dwelling house as such; or
  - (b) The replacement in whole or in part of such a surface being development comprised in Class F of part 1 of Schedule 2 to the Order, where such development would affect a hard surface to the front elevation of the dwelling house or any elevation which is viewable from a public highway.
6. The installation, alteration or replacement of a microwave antenna on a dwelling house or within the curtilage of a dwelling house, being development comprised in Class H of Part 1 of Schedule 2 to the Order, where the antenna to be installed, altered or replaced is or will be located on the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
7. The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwelling house or on a building within the curtilage of a dwelling house, being development comprised in Class G of Part 1 of Schedule 2 to the Order, where the installation, alteration or replacement would affect the roof or roofs to the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
8. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, being development comprised in Class



A of Part 2 of Schedule 2 to the Order, where the erection, construction, maintenance, improvement or alteration would affect a gate, fence, wall or other means of enclosure to the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.

9. Any building operation consisting of the demolition of the whole or any part of any gate, fence, wall or other means of enclosure, being development comprised in Class B of Part 31 of Schedule 2 to the Order, where the building operation would affect a gate, fence, wall or other means of enclosure to the front elevation of the dwelling house or any elevation of the dwelling house is viewable from a public highway.

Dear Sir/Madam

**Royal Leamington Spa Conservation Area  
Article 4 Direction**

The Council has made an Order (known as an 'Article 4 Direction') under the Town and Country Planning (General Permitted Development) Order 1995, 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 at the Council offices during normal office hours.

By law, 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 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 XXXXXXXXXXXX.

If you wish to discuss any aspect of the making of the Direction, or its effects, you may contact the Council's Principal Architect Planner, Alan Mayes, on 01926 456545 or email him at [alan.mayes@warwickdc.gov.uk](mailto:alan.mayes@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.

Yours sincerely

**Royal Leamington Spa Article 4 Direction**

**Information Sheet**

In order to help maintain the character and identity of the Leamington Conservation Area the Council have decided to carry out certain measures under the Planning Acts known as an Article 4 Direction.

The effect of the Article 4 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 planning permission (and could be carried out under permitted development rights). Set out below are those works for which a planning application will now need to be made. If you have any doubts 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 Warwick District Council and will require planning applications to be made for those elements of a building that are important to the maintenance of the character of the Conservation Area.

If you have received this communication and your property is a flat or commercial premises then you are already required to obtain planning permission for the items listed below and the content of this letter and Direction is not applicable to you.

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**

1. Alterations to windows and doors fronting onto or viewable from a public highway. This would include the replacement of windows and doors either to a new design or an alternative material for instance changing wooden windows to UPVC. Replacing windows like for like, matching exactly the existing windows, or repairs, would not require planning permission. The installation of secondary glazing 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 roofs viewable from a public highway. This would include re-roofing in a material other than that already on the building. Re-roofing in the same materials would not require planning permission. The installation of roof-lights, solar or photovoltaic panels would require planning permission. (Any changes to roof pitch or installation of dormer windows already requires consent).
3. The erection of a porch outside or onto any external door viewable from a public highway. This would include both a closed in and open porch.
4. The erection of a separate building or enclosure within the curtilage of the dwelling that would be viewable from a public highway. It would include any

structures such as sheds or bin housings viewable from a public highway (it should be noted that certain sized sheds/structures not viewable from a highway already require consent).

5. The provision of new or replacement hard-surfacing to a dwelling house that will be viewable from a public highway. This would include new and replacement paths and hard-standing for vehicles generally to the front or side of a house where it is viewable from the public highway.
6. The installation, alteration or replacement of a microwave antenna on a dwelling house or within the curtilage of a dwelling that would be viewable from a public highway.
7. The installation, alteration (including demolition) or replacement of a flue or soil and vent pipe on a dwelling house or building within the curtilage of a dwelling that is viewable from a public highway.
8. The erection, construction or maintenance (where it will change the appearance) improvement or alteration of a gate, fence, wall or other means of enclosure at a dwelling house that is viewable from a public highway.
9. The demolition of the whole or part of any gate, fence, wall or other means of enclosure (irrespective of height) to the front elevation of a dwelling house or any elevation viewable from a public highway.

## **Notes**

All the items above relate to works that are visible from a public highway – for most houses this is the front elevation only. Where properties are on a corner or have a public highway to the rear the Direction may also apply – in cases of uncertainty advice can be given by Development Services at Warwick District Council.

## **Fees**

For works which require planning permission as a result of the Article 4 Direction, there is no fee applicable. If other works are to be carried out that would ordinarily require planning permission then fees would still apply to that area of work.

**TOWN AND COUNTRY PLANNING ACT 1990**

**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)  
ORDER 1995**

**DIRECTION MADE UNDER ARTICLE 4 (2)**

WHEREAS the Warwick District Council being the appropriate local planning authority within the meaning of Article 4(6) of the Town and Country Planning (General Permitted Development) Order 1995 ("the Order"), are satisfied that it is expedient that development of the descriptions set out in the Schedule below should not be carried out within that part of the Royal Leamington Spa Conservation Area shown edged red on the attached plan unless permission is granted on an application made under Part III of the Town and Country Planning Act 1990.

NOW THEREFORE the said Council in pursuance of the power conferred on them by Article 4(2) of the Order hereby direct that the permission granted by Article 3 of the Order shall not apply to development on the said land of the descriptions set out in the Schedule below.

THIS DIRECTION is made under Article 4(2) of the Order and, in accordance with Article 6(7), shall remain in force until ..... (being six months from the date of this Direction) and shall expire unless it has been confirmed by the Council.

**SCHEDULE**

1. The enlargement, improvement or other alteration of a dwelling house, being development comprised in Class A or Part 1 of Schedule 2 to the Order, where such enlargement, improvement or alteration would affect the windows and doors to the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
2. Any other alteration to the roof of a dwelling house, being development comprised in Class C of Part 1 of Schedule 2 to the Order, where such alteration would affect the roof or roofs to the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
3. The erection or construction of a porch outside any external door of a dwelling house, being development comprised in Class D of Part 1 of Schedule 2 to the Order, where the external door in question forms part of the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
4. The provision within the curtilage of the dwelling house of any building or enclosure required for a purpose incidental to the enjoyment of the dwelling house as such, or the maintenance, improvement or other alteration of such a building or enclosure, being development comprised in Class E of Part 1 of Schedule 2 to the Order, where any part of the building or enclosure to be provided or the part of the building or enclosure maintained, improved or altered or will be viewable from a public highway.

5. Development consisting of:-

- (a) the provision within the curtilage of a dwelling house of a hard surface for any purpose incidental to the enjoyment of the dwelling house as such; or
- (b) the replacement in whole or in part of such a surface

being developed comprised in Class F of Part 1 of Schedule 2 to the Order, where such development would affect a hard surface to the front elevation of the dwelling house or any elevation which is viewable from a public highway.

- 6. The installation, alteration or replacement of a microwave antenna on a dwelling house or within the curtilage of a dwelling house, being development comprised in Class H of Part 1 of Schedule 2 to the Order, where the antenna to be installed, altered or replaced is or will be located on the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
- 7. The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwelling house or on a building within the curtilage of a dwelling house, being development comprised in Class G of Part 1 of Schedule 2 to the Order, where the installation, alteration or replacement would affect the roof or roofs to the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
- 8. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, being development comprised in Class A of Part 2 of Schedule 2 to the Order, where the erection, construction, maintenance, improvement or alteration would affect a gate, fence, wall or other means of enclosure to the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.
- 9. Any building operation consisting of the demolition of the whole or any part of any gate, fence, wall or other means of enclosure, being development comprised in Class B of Part 31 of Schedule 2 to the Order, where the building operation would affect a gate, fence, wall or other means or enclosure to the front elevation of the dwelling house or any elevation of the dwelling house which is viewable from a public highway.

THE COMMON SEAL of                   )  
WARWICK DISTRICT COUNCIL        )  
was hereunto affixed the            )  
          day of                                )  
in the presence of:                    )

Authorised Officer