

ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management
DATE	17 March 2016
DIRECTOR	Pete Leonard
TITLE OF REPORT	Review of Article 4 Direction Orders
REPORT NUMBER	CHI/16/044
CHECKLIST COMPLETED	Yes/No

1. PURPOSE OF REPORT

- 1.1 To cancel the Article 4 Direction Orders which historically restricted all householder permitted development rights in parts of ten of Aberdeen's conservation areas and city-wide with regard to dormer windows and mansard roofs, as they are now superfluous, following the introduction of more recent legislation including the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011.
- 1.2 To cancel the Article 4 Direction Order which currently restricts householder permitted development rights in parts of Kingswells as the context in which Kingswells is situated has changed, meaning that the Article 4 Direction is no longer required.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Committee:
 - (a) Approves the cancellation of Article 4 Direction Orders currently in place in conservation areas and instructs officers to undertake the necessary actions.
 - (b) Approves the cancellation of the Article 4 Direction Order currently in place in Kingswells and instructs officers to undertake the necessary actions.
 - (c) Approves the cancellation of the Article 4 Direction Order currently in place restricting dormer windows and mansard roofs and instructs officers to undertake the necessary actions.

3. FINANCIAL IMPLICATIONS

- 3.1 Any financial implications relating to the removal of the Article 4 Directions will be covered by existing budgets.

4. OTHER IMPLICATIONS

- 4.1 There are no known legal, personnel, property, equipment, sustainability and environmental, health and safety policy implications arising from this report.
- 4.2 Staff time and resources will be saved through ceasing to process unnecessary planning applications from Kingswells.

5. BACKGROUND/MAIN ISSUES

Conservation areas

- 5.1 Conservation areas are defined as "areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance" *S.61 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997*. The loss or alteration of any one small element in a conservation area can have an impact in its special architectural or historic interest. Article 4 Directions were put in place in most of the City's conservation areas in order to protect them from cumulative minor alterations to buildings that would otherwise be householder permitted development. It was considered that the planning system already afforded adequate protection to non-householder properties.
- 5.2 Prior to the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, development was controlled in conservation areas through the implementation of Article 4 Direction Orders. These restricted the permitted development rights of householders within certain geographical boundaries and required planning permission for specified categories of development. The householder permitted development rights that were removed covered Class 1 (The enlargement, improvement or other alteration to dwelling houses) and Class 2 (Any alteration to the roof of a dwelling house including the enlargement of a dwelling house by way of an addition or alteration to its roof) – please see the Appendix 1 for further details of each Article 4 Direction and maps showing the areas covered. Restricting these forms of development was considered key to maintaining the character of the conservation areas.
- 5.3 The introduction of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 has negated the need for Article 4 Direction Orders in conservation areas. This legislation removes Class 1 and 2 householder permitted development rights in conservation areas. The Article 4 Direction Orders in these areas are now superfluous and are not used to inform decision making in conservation areas.

- 5.4 Removing Article 4 Directions will lead to uniformity across all of Aberdeen's conservation areas and clarity for local residents. The coverage of Article 4 Directions in conservation areas is inconsistent. Rosemount Conservation Area is not covered by one, due to the significant amount of minor alterations to properties that had already taken place when the Conservation Area was designated in 2006, and several other conservation areas have been extended since their initial designation, but without corresponding new Article 4 Directions being put in place.

Kingswells

- 5.5 The Article 4 Direction in Kingswells was put in place in 1987. This was done because Kingswells was considered to be at that time in a 'fundamentally rural' location (*Kingswells Design Guide, 1984*). The Article 4 aimed to preserve the rural feel of Kingswells and it was considered that 'suburban type housing layouts will not be acceptable'. A Design Guide was introduced when Kingswells was first built in the 1980s however it no longer has any weight in terms of planning policy.
- 5.6 Since 1987 the context in which Kingswells is located has altered dramatically. Kingswells has been extended and the new areas which have been built were not done in accordance with the original design guide and are not covered by an Article 4 Direction. Nearly thirty years on, the rural feel of Kingswells is no longer evident. There is now no planning justification for the removal of householder permitted development rights.
- 5.7 In conservation areas it was necessary to control these minor changes because aspects such as historic windows have a positive impact on conservation areas. In Kingswells it is not necessary to restrict development such as this.
- 5.8 Even though there is no fee for planning applications made under an Article 4 Direction, there is a cost to members of the public for submitting applications as plans must be drawn up and often an agent engaged. Requiring Kingswells residents to have this extra burden, without there being a current planning justification, undermines the Council's credibility.
- 5.9 Since 2009, the City Council has taken approximately 54 planning applications in Kingswells because of the Article 4 Direction, which would normally be considered permitted development. No fee was received for these, which if had it been, would have brought an income in to the Council of approximately £10,500. This however is not the true cost of staff time for dealing with these applications, which is much higher. Cancelling the Article 4 Direction in Kingswells would remove this cost for future years. As such, the removal of Article 4 Directions in Kingswells will save the Council money.

- 5.10 Officer time is spent assessing planning applications for development in Kingswells which would normally be considered permitted development. Were the Article 4 Direction to be removed from Kingswells, officers could spend their time processing other applications faster, which would improve the City Council's performance statistics.
- 5.11 Kingswells Community Council has been consulted regarding the potential removal of the Article 4 Direction – please see Appendix 2 for details of this. While it is acknowledged that they have objected to the change to the Article 4 Direction, no reason has been given for their objection. Further clarification was requested on 4 December 2015 for the reasoning behind their objection, but this has not been forthcoming, despite several engagement attempts by officers. As such it is difficult to understand the Community Council's argument for why the Article 4 Direction should not be cancelled.

Dormer windows and mansard roofs

- 5.12 Prior to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, development was controlled in regard to dormer windows and mansard roofs through the implementation of Article 4 Direction Orders. In this case the Article 4 covered 'the introduction, enlargement or replacement of, or alteration to, dormer windows or mansard roofs of dwellinghouses within the city' as described in the First Schedule to the Town and Country Planning (General Development) (Scotland) Order, 1950.
- 5.13 The introduction of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and subsequent legislation negated the need for this Article 4 Direction Order. This legislation restricts householder permitted development rights relating to the introduction, enlargement or replacement of, or alteration to dormer windows and mansard roofs. The Article 4 Direction Orders is therefore now superfluous.
- 5.14 The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 has since been superseded by the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, which further restricts householder permitted development.

Burnbanks Village

- 5.15 Burnbanks Village is also covered by an Article 4 Direction Order. No changes are proposed to this as, whilst Burnbanks is not considered suitable to be designated as a conservation area, the village is an isolated settlement, which has been subject to very little new development since it was restored in the 1980s, and has harmonious design elements, which it is desirable to preserve.

6. IMPACT

Improving Customer Experience –

- 6.1 There are no implications for the public with regard to cancelling the Article 4 Directions in conservation areas or to cancelling the Article 4 Direction concerning dormer windows and mansard roofs.
- 6.2 Removing the Article 4 Direction from Kingswells will improve customers' experience as planning applications will no longer be needed for some minor applications. This will save customers both time and money if they wish to make changes to their property.

Improving Staff Experience –

- 6.3 There are no implications for staff with regard to cancelling the existing Article 4 Directions in conservation areas or to cancelling the Article 4 Direction concerning dormer windows and mansard roofs.
- 6.4 Removing the Article 4 Direction in Kingswells will enable staff to spend more time working on other planning applications, meaning that they can be dealt with faster.

Improving our use of Resources –

- 6.5 Council resources are not currently being put to best use determining planning applications resulting from the Article 4 Direction in Kingswells for which no planning application fee is payable. This is not a good use of resources and is bringing the planning system in to disrepute as there is currently no justification for the Article 4 Direction. In line with the Council's duty to be open, transparent and accountable for the spending of public funds, efforts should be made to conserve resources wherever possible and the cancelling of the Article 4 Directions in Kingswells is a prime example of this.

Corporate -

- 6.6 The removal of the Article 4 Direction Order from Kingswells supports the Single Outcome Agreement principle 'Support the capacity of Aberdeen's citizens and communities to increase their self-sufficiency'.
- 6.7 The proposal contributes towards the Aberdeen City Council vision for Aberdeen: 2012-17: Aberdeen – the Smarter City. In particular creating a City which is a great place to live, bring up a family, do business and visit. It specifically contributes to the following objective: *Governance* – encouraging citizens to participate in design and development.

Public –

- 6.8 This report is likely to be of interest to the residents in the area of Kingswells currently covered by an Article 4 Direction.
- 6.9 This report has been reviewed for an Equality and Human Rights Impact Assessment (EHRIA) and has no impact on equality or human rights.
- 6.10 This report has been reviewed for a Privacy Impact Assessment (PIA) and has no impact on privacy.

7. MANAGEMENT OF RISK

- 7.1 There are no risks associated with this report.

8. BACKGROUND PAPERS

- 9.1 Town and Country Planning (General Permitted Development) (Scotland) Order 1992
- 9.2 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
- 9.3 Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011
- 9.4 Planning Advice Note PAN 71: Conservation Area Management

9. REPORT AUTHOR DETAILS

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Appendix 1 – Gazetteer of Article 4 Direction Orders

Article 4 Directions – in conservation areas

Area covered / Name	Old Aberdeen Conservation Area	Union Street Conservation Area	Bon Accord Street / Crown Street Conservation Area	Albyn Place / Rubislaw Conservation Area	Marine Terrace Conservation Area
CA Designated	01-Jul-68	01-Jul-68	01-Jul-68	01-Jul-68	01-Jul-68
CA extended	26-Jul-68 16-Apr-73 28-Jun-76 23-Apr-15	08-Apr-80 24-Apr-85 24-Nov-87 10-Oct-96		01-Mar-75 01-Jan-78	18-Apr-72 28-Jun-78
Initial Article 4 put in place	29-Feb-72	29-Feb-72	29-Feb-72	29-Feb-72	29-Feb-72
Scope of existing Article 4s and extensions	Restriction of Classes I and II of TCP(GD)(S)O 1950: Schedule 1, Part 1, Class I & Class II The 1972 Direction only covers the initial 1968 designation area	Restriction of classes I and II of TCP(GD)(S)O 1950: Schedule 1, Part 1, Class I & Class II 12 Feb 1982 extension of A4 to cover 1980 extension area	Restriction of classes I and II of TCP(GD)(S)O 1950: Schedule 1, Part 1, Class I & Class II	Restriction of classes I and II of TCP(GD)(S)O 1950: Schedule 1, Part 1, Class I & Class II 12 Feb 1982 extension of A4 to cover 1975 and 1978 extension areas	Restriction of classes I and II of TCP(GD)(S)O 1950: Schedule 1, Part 1, Class I & Class II 12 Feb 1982 extension of A4 to cover 1972 and 1978 extension areas
Proposed Action	Cancel Article 4 Direction Order	Cancel Article 4 Direction Order	Cancel Article 4 Direction Order	Cancel Article 4 Direction Order	Cancel Article 4 Direction Order

Area covered / Name	Footdee Conservation Area	Great Western Road Conservation Area	Cove Bay Conservation Area	Ferryhill Conservation Area	Lower Deeside / Pitfodels Conservation Area	Rosemount and Westburn Conservation Area
CA Designated	01-Jul-68	01-Mar-75	22-Dec-75	12-Apr-77	14-Nov-77	09-Apr-04
CA extended	10-Dec-15			21-Dec-98		
Initial Article 4 put in place	29-Feb-72	12-Feb-82	12-Feb-82	12-Feb-82	12-Feb-82	None
Scope of existing Article 4s and extensions	Restriction of classes I and II of TCP(GD)(S)O 1950: Schedule 1, Part 1, Class I & Class II	Restriction of Classes I and II of TCP(GD)(S)O 1981: Schedule 1, Part 1, Class I, Column 1 & Class II, Column 1	Restriction of Classes I and II of TCP(GD)(S)O 1981: Schedule 1, Part 1, Class I, Column 1 & Class II, Column 1	Restriction of Classes I and II of TCP(GD)(S)O 1981: Schedule 1, Part 1, Class I, Column 1 & Class II, Column 1	Restriction of Classes I and II of TCP(GD)(S)O 1981: Schedule 1, Part 1, Class I, Column 1 & Class II, Column 1	N/A
Proposed Action	Cancel Article 4 Direction Order	Cancel Article 4 Direction Order	Cancel Article 4 Direction Order	Cancel Article 4 Direction Order	Cancel Article 4 Direction Order	No change proposed

Article 4 Directions – not in conservation areas

Area covered / Name	Dorner Windows City-wide	Kingswells	Burnbanks Village
CA Designated	N/A	N/A	N/A
CA extended	N/A	N/A	N/A
Initial Article 4 put in place	14-Dec-73	27-Mar-87	10-Apr-91
Scope of existing Article 4s and extensions	To necessitate a planning application in respect of the introduction, enlargement, replacement of or alteration to dormer windows of mansard roofs of dwellinghouses within the City	Restriction of Classes I and II of TCP(GD)(S)O 1981: Schedule 1, Part 1, Class I, Column 1 & Class II, Column 1	Restriction of Classes I and II of TCP(GD)(S)O 1981: Schedule 1, Part 1, Class I, Column 1 & Class II, Column 1
Proposed Action	Cancel Article 4 Direction Order	Cancel Article 4 Direction Order	No change proposed

Appendix 2

Article 4 Direction Order Review: Consultation Results

1. Kingswells Community Council (KCC)		
<i>Summary of Representations</i>	<i>Officers Response</i>	<i>Action as a result of Representation</i>
KCC requested that the Article 4 Direction Order is not cancelled. Further use of the Article 4 Direction Order for new developments requested.	Noted however officers have no understanding as to why this view is held. Further use of Article 4 Directions is not in line with Council policy.	Explanation as to why KCC would like to keep the Article 4 requested. Officer offered to go to Community Council meeting and tried to elicit a response via email. No response received.