



Bury Area Working Party 13 May 2013

Review of the Use and Management of Article 4 Directions in Bury St Edmunds

1. Summary and reasons for recommendations

- 1.1 A Task and Finish Group was set up at the meeting of the Overview and Scrutiny Committee on 6 July 2011 (Report C48 refers) tasked with improving the effectiveness and management of Article 4 Directions within Bury St Edmunds.
- 1.2 At its meeting on 24 April 2013 the Overview and Scrutiny Committee resolved that the proposals of the Task and Finish Group be submitted to the Bury St Edmunds Area Working Party to approve the proposed changes for public consultation (Report D338 refers).

2. Recommendations

- 2.1 That the Bury St Edmunds Area Working Party approve:

Coverage of Article 4 Directions

- (1) that consultation be carried out with a view to making an Article 4 Direction covering the entire area of the two Bury St Edmunds Conservation Areas, as outlined in Section 4.2 of Report D370;

Microgeneration (small-scale renewable energy generation such as solar panels)

- (2) that consultation be carried out with a view to removing the permitted development rights in the two Bury St Edmunds Conservation Areas relating to microgeneration equipment, as outlined in Section 4.3 of Report D370; and

Other recommendations

- (3) that the possibility of establishing a grant scheme to offer grants towards the repair and reinstatement of traditional features, including boundary walls and railings, in the Bury St Edmunds Conservation areas, be investigated, as outlined in Sections 4.6 to 4.8 of Report D370.

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3. Corporate priorities

3.1 The recommendations meet the following, as contained within the Corporate Plan:

Corporate priorities:

(2) *'working together for prosperous and environmental responsible communities'*; and

(3) *'working together for an efficient Council'*.

4. Key issues

4.1 The Task and Finish Group reviewed the existing Article 4 Directions in the two Bury St Edmunds Conservation Areas following a number of enforcement issues and concern that the current arrangement was leading to confusion for property owners who did not understand that restrictions did not apply uniformly in a street or area.

4.2 The Group has considered the coverage of the Article 4 Directions. The existing Directions were made on a selective basis, where individual properties were identified. This approach has led to confusion because owners do not realise that the restrictions do not apply to everyone. An alternative approach is to make a Direction which applies to a whole Conservation Area. A report was presented to the Group setting out the advantages and disadvantages of both approaches and the Group decided to proceed with the Directions on an area-wide basis. A copy of the full report is attached as Appendix 1.

4.3 The Group also considered using an Article 4 Direction to remove the permitted development rights relating to microgeneration equipment. The impact that microgeneration equipment could have on the character and appearance of the conservation area was considered and the Group decided that the relevant permitted development rights should be withdrawn. The full report relating to this is attached as Appendix 2.

4.4 The authority to serve Directions and Notices under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 is delegated to the Head of Planning and Regulatory Services. If no objections are received within the statutory consultation period, the Head of Planning and Regulatory Services can also confirm the Directions. If objections are received, however, the decision must be made by Cabinet. In the latter case, the report would first be presented to BAWP.

4.5 One of the key issues relating to the Article 4 Directions is the loss of front boundary walls to provide parking in front gardens. This has been a particular problem in the area of Springfield Road, where there is no residents parking scheme in place. A recent consultation has confirmed support for a scheme and it is anticipated that it will be introduced in October 2013.

4.6 In tandem with the introduction of residents parking, the possibility of establishing a grant scheme to offer grants towards the repair and reinstatement of traditional features, including boundary walls and railings, is being investigated. West Suffolk College have confirmed their interest in working in partnership on a scheme, involving the construction students to carry out the work.

- 4.7 The precise details of the grant scheme are being developed. In the first year it is proposed to limit the scope of the scheme to the reinstatement of boundaries in Springfield Road, where there is the immediate opportunity for this work to be undertaken following the introduction of the new residents parking scheme. Grant levels have not yet been set but will need to be sufficiently high to encourage residents to carry out the work.
- 4.8 If successful, it is proposed that the scheme will be rolled out for subsequent years to cover the Victoria Street and Town Centre Conservation Areas in their entirety. Grants would also be offered for the reinstatement of other features such as traditional windows and doors.

5. Other options considered

- 5.1 The complete removal of the Article 4 Directions in Bury St Edmunds was considered. This could result in significant changes being made to properties through permitted development rights, which would cause harm to the character and appearance of the two Conservation Areas. It was therefore decided that this option was not acceptable.
- 5.2 Not withdrawing the permitted development rights relating to the provision of microgeneration was considered. It was agreed that this would undermine to impact of the Article 4 Directions which withdrew the rights to make changes to the exterior of the properties and would result in harm to the character and appearance of the Conservation Areas. It was therefore decided that this option was not acceptable.

6. Community impact

6.1 Crime and disorder impact

- 6.1.1 This recommendation has no implications for crime and disorder.

6.2 Diversity and equality

- 6.2.1 This recommendation has no implications for diversity and equality.

6.3 Sustainability impact

- 6.3.1 This recommendation has no implications for sustainability.

6.4 Other impact

- 6.4.1 The re-issuing of the Article 4 Directions on an area basis would bring them in line with current legislation and allow new classes of development to be included.

7. Consultation

- 7.1 Public consultation is a requirement of the legal procedure which must be followed.

8. Financial and resource implications

8.1 The re-issuing of the Article 4 Directions would be undertaken within existing resources. There would therefore be no financial or resource implications.

9. Risk/opportunity assessment

Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
	High/Medium/Low		High/Medium/Low

9.1 There are no risks associated with this recommendation.

10. Legal and policy implications

10.1 This recommendation has no legal or policy implications.

11. Wards affected

11.1 The Wards of Risbygate, Abbeygate, Minden and Eastgate are affected by this recommendation.

12. Background papers

12.1 None.

Article 4 Directions – selective and area coverage

1. Introduction

- 1.1 The existing Article 4 Directions in the two Bury St Edmunds conservation areas are being reviewed following a number of enforcement issues and concern that the current arrangement was leading to confusion for property owners who did not understand that restrictions did not apply uniformly in a street or area.
- 1.2 Some of the Article 4 Directions were made many years ago. The Town and Country Planning (General Permitted Development) Order 1995 (which contains details of permitted development) has been amended several times and new classes of development have been introduced which were not in place when the existing Directions were made.
- 1.3 The review would result in the Directions being updated and the way they are applied and managed being reconsidered.

2. The application of Article 4 Directions

- 2.1 Article 4 Directions can be applied in two ways. Blanket or Area Directions apply to all properties within a defined area such as the whole or part of a conservation area. Selective Directions are applied to specific properties.
- 2.2 Both approaches have benefits and drawbacks and these are summarised in the tables below:

Area Article 4 Directions	
Advantages	Disadvantages
Avoid confusion as applies to whole of conservation area or defined parts of it	Extends restrictions to properties which would not be selected individually
Would cover properties where uses change to bring them within the scope of the Article 4 Direction (eg shop to house)	More extensive monitoring and possible increase in planning applications and enforcement

Selective Article 4 Directions	
Advantages	Disadvantages
Only apply to properties where restrictions are considered necessary	Causes confusion for owners who don't realise that restrictions don't necessarily apply to their neighbours
Limits monitoring to specific properties	Requires thorough survey of whole area and Notices tailored to specific types of permitted development to be removed
	Only apply to buildings which were dwellinghouses at the time the Direction was made. Subsequent changes of use require individual Directions to be made.

3. Area Directions

- 3.1 These apply, where relevant, to all properties within a defined area. The Direction would list the permitted development rights which had been removed in the area. One very useful advantage of this approach is that subsequent changes of use of buildings would not necessitate individual Directions being issued.
- 3.2 For example, a property which is one of a uniform terrace and is occupied as an office at the time the Direction is made would be unaffected by the restrictions, if the restrictions only related to dwellinghouses. After the Direction is confirmed, the office use could cease and the property become a dwellinghouse. The restrictions included in the Area Direction would then apply to the property. If the selective approach had been taken, the building would not be subject to the Article 4 Direction unless an individual Direction was served on it.
- 3.3 The application of an Article 4 Direction to a whole area may extend the restrictions to properties which would not ordinarily have been selected individually. A survey of the Bury St Edmunds Town Centre and Victoria Street Conservation Areas has shown that the potential numbers of additional houses which could be brought within the remit of an Area Article 4 Direction are:

Town centre: approximately 250 houses
Victoria Street: approximately 100 houses

- 3.4 There are already over 1000 properties in the two conservation areas covered by an Article 4 Direction so the additional houses represent an increase of 35%. In addition to this would be those properties which may be brought within the scope of the Direction through a change of use.
- 3.5 If Area Directions were made, it would be appropriate to include the whole of the Victoria Street Conservation Area as this is predominantly residential. Some of the commercial uses within the area occupy buildings which were originally built as houses and conversion back to residential use could readily take place.
- 3.6 The Town Centre Conservation Area has a greater mix of uses. The central area, as expected, is predominantly commercial. Around this commercial core are residential areas, some including buildings in commercial uses, where the use of Area Directions would be appropriate.
- 3.7 Monitoring the Directions would take more time as there would be more properties to check, but the overall area to be checked would not be increased as the existing Directions are spread throughout the two conservation areas.

4. Selective Directions

- 4.1 The existing Article 4 Directions were applied on a selective basis, where individual properties have been identified. Before reissuing the Directions, a full survey of both of the conservation areas would be necessary to identify any properties which are not covered but which are considered now to be eligible, and those which are now in a different use to when the original Directions were made.
- 4.2 These Directions are tailored to fit individual properties. Directions could be issued which just relate to the boundary structures in order to maintain garden enclosures, without restricting the permitted development relating to the house itself. The selective nature and tailoring of the Directions has resulted in confusion for owners, however.

5. Conclusion

- 5.1 The review of the Article 4 Directions in Bury St Edmunds came about in part because of the confusion owners have experienced due to the selective nature of the existing Article 4 Directions.
- 5.2 The introduction of an Area Article 4 Direction would remove this uncertainty, as all properties would be brought within the scope of the Article 4 Direction. This may, however, extend restrictions to properties which would not have been selected individually, although it would allow the impact of changes to these properties on the character and appearance of the conservation areas to be considered.

5.3 An area approach would be the most straightforward for residents to understand. The approach set out in the current leaflet about Article 4 Directions would need to be revised to take the more modern properties into account.

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Microgeneration and its impact on conservation areas

1. What is microgeneration equipment?

- 1.1 Microgeneration is the production of heat and power on a small scale, usually to serve a single property. There are various products available which convert natural energy to heat or power:

Solar panels: typically located on a roof slope, although they can be ground-mounted. The panels use solar energy to heat water.

Photovoltaic (PV) cells: again, typically mounted on a roof slope but can be ground-mounted. The cells convert solar energy to electricity.

Ground and air source heat pumps: Ground source heat pumps use pipes which are buried in the garden to extract heat from the ground. This heat can then be used to heat radiators, underfloor or warm air heating systems and hot water in your home. As the ground stays at a fairly constant temperature under the surface, the heat pump can be used throughout the year, even in the middle of winter.

Air source heat pumps absorb heat from the outside air which can be used in the same way as that from a ground source heat pump. An air source heat pump extracts heat from the outside air and can get heat from the air even when the temperature is as low as -15°C .

Heat pumps have some impact on the environment as they need electricity to run, but the heat they extract from the ground or air is constantly being renewed naturally.

Wind turbines: domestic turbines use the power of the wind to generate electricity. They can be mounted onto a building or on a pole in the garden.

2. Permitted development for microgeneration equipment

- 2.1 The Town and Country Planning (General Permitted Development) Order 1995 sets out development which does not need an individual permission. This is often subject to certain conditions which the development permitted must comply with. In April 2008, a new part – Part 40 – came into force which specified permitted development for certain forms of microgeneration equipment on domestic properties. In this version, solar panels and PV cells which would be on a wall or roof slope of the principal (usually the front) or side elevation of the house, or on a wall or roof slope of a building within its curtilage, and which would be visible from a highway, required planning permission (i.e they were not permitted development).
- 2.2 This part was soon amended – in October 2008 – to omit ‘roof slope’ from the work which was not permitted development. Therefore the installation of solar panels and PV cells on a roof slope of a house within a conservation area (subject to certain conditions) does not require planning permission.

- 2.3 A further amendment to the permitted development for microgeneration equipment came into force in December 2011 and relates to houses and blocks of flats. The installation of microgeneration equipment now requires planning permission in the following circumstances:
- Solar panels and PVs – on a wall which fronts a highway (they are still permitted development on a roof slope subject to conditions)
 - Stand alone solars and PVs – on land within the curtilage where they would be nearer to a highway than the nearest part of the building
 - Biomass and CHP flues – on a wall or roof slope which fronts a highway
 - Air source heat pumps – on a wall or roof fronting a highway or on land within the curtilage nearer to a highway than the nearest part of the building
 - Wind turbines – on a terraced or semi-detached building, on a wall or roof slope of a detached building which fronts a highway
 - Stand alone wind turbines - on land within the curtilage where they would be nearer to a highway than the nearest part of the building

2.4 In most cases, domestic microgeneration equipment requires planning permission in a conservation area where it would be visible from a highway i.e the public realm, in recognition of the fact that it could have an impact on the character or appearance of a conservation area. The notable exception to this is the installation of solar panels and PV cells on the roof slopes of houses, blocks of flats and buildings within their curtilages, which is permitted development irrespective of whether it is visible from a highway or not.

2.5 The installation of solar panels and PV cells on non-domestic buildings is contained in part 43 of the Town and Country Planning (General Permitted Development) Order 1995 which came into effect in April 2012. The permitted development relating to non-domestic equipment (which does not include wind turbines) on buildings or land within conservation areas is the same as for domestic properties, as set out above, with one notable exception – the installation of solar panels or PV cells on a roof slope facing a highway is **not** permitted development.

2.6 Listed building consent is required for the installation of microgeneration equipment on listed buildings. Planning permission is required to install equipment on land or buildings within the curtilage of a listed building.

3. The potential impact of solar panels and PV cells on the character or appearance of a conservation area

3.1 For optimum energy yields, the equipment should be on south-east to south-west facing slopes, free from shadow and as close as possible to a 30° pitch. Equipment can be installed on roof slopes facing east and west but the yield is likely to be lower. Shadows on solar panels would reduce the energy output.

PV cells are installed in 'strings' and if any of the string is shaded, the whole string will not produce energy. Alternatively, arrays can be positioned on the ground away from the building, if a suitable space is available.

- 3.2 The Energy Saving Trust advises that a domestic installation of 2-4m² of solar panels on a south-east to south-west facing roof slope would generate a significant yield of energy. Typical domestic installations of PV cells are between 10-40m².
- 3.3 The attached maps of the Bury St Edmunds and Victoria Street conservation areas show the optimum facing roof slopes for the installation of solar panels and PV cells on unlisted houses and blocks of flats. This does not take into account potential shadowing.
- 3.4 The majority of unlisted buildings within the two conservation areas, particularly the Victoria Street Conservation Area and the Brackland area of the Town centre Conservation Area, are in domestic use. As the maps show, the installation of solar panels and PV cells in accordance with the permitted development granted to these properties could have a huge impact on the character and appearance of these conservation areas, and in particular in streets where rows of properties face south-east to south-west.

4. The use of Article 4 Directions to control microgeneration installations

- 4.1 Article 4 Directions allow the local planning authority to remove permitted development rights where they are considered to undermine the visual amenity of an area or damage the historic environment. English Heritage supports the use of Article 4 Directions in conservation areas to prevent development which would harm their character or appearance.
- 4.2 Some classes of permitted development can be withdrawn with immediate effect. These include the works restricted by the existing Article 4 Directions relating to alterations such as replacement windows and doors, removal/replacement of boundary structures etc. The withdrawal of Parts 40 and 43 (installation of domestic and non-domestic microgeneration equipment respectively) can only be withdrawn after a period of at least 28 days, but not more than two years, from the start of a 21 day consultation period or the publication date of the latest notice. The Direction must be confirmed by the local planning authority.
- 4.3 DCLG Replacement Appendix D to circular 9/95 published in November 2012 states, in paragraph 2.4, that 'there should be particularly strong justification of the withdrawal of permitted development rights relating to ...the installation of microgeneration equipment'.
- 4.4 The removal of permitted development rights for microgeneration equipment would allow the local planning authority to manage its impact on the conservation areas. As microgeneration technology develops, products may become available which are discrete and which do not have a significant

impact on the appearance of the properties on which they would be installed. In these cases, it is probable that planning permission would be granted for its installation.

- 4.5 In tandem with withdrawing permitted development rights for domestic solar panels and PV cells installed on roof slopes facing a highway, alternative ways that homeowners can improve the energy performance of their buildings and reduce their energy consumption should be promoted. The day event at the Apex in March 2012 focussed on this and was very well attended, so a similar event should be held during any further consultations relating to Article 4 Directions.

5. Conclusion

- 5.1 The installation of solar panels and PV cells on roof slopes which front a highway within the two Bury St Edmunds conservation areas would be harmful to the character and appearance of these conservation areas.
- 5.2 Article 4 Directions should be used to withdraw these rights for domestic properties. This would mean that planning permission would be required before such equipment could be installed, allowing its impact on the conservation area to be properly assessed. This would bring them in line with such installations on non-domestic properties, which require planning permission.
- 5.3 The installation of microgeneration equipment on the rear roof slopes of domestic properties and on land within their curtilages would not need to be restricted by the Article 4 Direction as there are already conditions affecting such installations within the Town and Country Planning (General Permitted Development) Order.