

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No.

meeting date: THURSDAY, 16 JANUARY 2014
title: PROPOSED ARTICLE 4 DIRECTION AT 30-31 CHURCH STREET,
RIBCHESTER
submitted by: DIRECTOR OF COMMUNITY SERVICES
principal author: ADRIAN DOWD – PRINCIPAL PLANNING OFFICER
(DESIGN AND CONSERVATION)

1 PURPOSE

- 1.1 To seek Member agreement to the withdrawal of permitted development rights from two unlisted dwelling houses in Ribchester Conservation Area by means of Article 4 direction.
- 1.2 Relevance to the Council's ambitions and priorities
- Council Ambitions – To protect and enhance the existing environmental quality of our area.
 - Community Objectives – The Ribble Valley Sustainable Community Strategy 2007-2013 has three relevant strategic objectives – maintain, protect and enhance all natural and built features that contribute to the quality of the environment. Ensure that the design of buildings respects local character and enhances local distinctiveness. Sustainably manage and protect industrial and historical sites.
 - Corporate Priorities - Objective 3.3 of the Corporate Plan commits us to maintaining and improving the environmental quality of the Ribble Valley. Objective 3.8 of the corporate plan commits us to conserving and enhancing the local distinctiveness and character of our towns, villages and countryside when considering development proposals.
 - Other Considerations – None.

2 BACKGROUND

- 2.1 The Planning (Listed Buildings and Conservation Areas) Act 1990, Section 69, states that every local planning authority shall from time to time 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, shall designate these areas as conservation areas.
- 2.2 Section 71 of the Act states that it shall be the duty of a local planning authority from time to time to formulate and publish proposals for the preservation and enhancement of any parts of their area which are conservation areas.
- 2.3 Section 72 of the Act states that in the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the planning acts, special

attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

- 2.4 The most recent Government guidance on when and how to make an article 4 direction is provided in Replacement Appendix D to Department of Environment Circular 9/95: General Development Consolidation Order 1995 , June 2012, Department for Communities and Local Government. This states:

Article 4 directions are one of the tools available to local planning authorities in responding to the particular needs of their areas. They do this by allowing authorities to withdraw the 'permitted development' rights that would otherwise apply by virtue of the *Town and Country Planning (General Permitted Development) Order 1995* as amended (the 'GPDO'). An article 4 direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development.

This Appendix reflects changes to the article 4 process introduced in April 2010 [The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 (Statutory Instrument 2010/654), and The Town and Country Planning (Compensation) (No. 2) (England) Regulations 2010 (Statutory Instrument 2010/1220)] and changes to related compensation arrangements introduced in October 2010 [The Town and Country Planning (Compensation) (No.3) (England) Regulations 2010 (Statutory Instrument 2010/2135)].

Local planning authorities should consider making article 4 directions only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area. For all article 4 directions the legal requirement is that the local planning authority is satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless permission is granted for it on an application (see paragraph (1) of article 4 of the GPDO). Additionally, for directions with immediate effect, the legal requirement is that the local planning authority considers that the development to which the direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenity of their area (see paragraph (1)(a) of article 6 of the GPDO).

In deciding whether an article 4 direction would be appropriate, local planning authorities should identify clearly the potential harm that the direction is intended to address.

In deciding whether an article 4 direction might be appropriate, local planning authorities may want to consider whether the exercise of permitted development rights would:

- Undermine the visual amenity of the area or damage the historic environment.

Local authorities should regularly monitor and review the appropriateness of their article 4 directions, considering whether the original rationale for the directions remains valid.

In procedural terms there are two main types of article 4 direction:

- Non-immediate directions (permitted development rights are only withdrawn upon confirmation of the direction by the local planning authority following local consultation);

- Immediate directions (where permitted development rights are withdrawn with immediate effect, but must be confirmed by the local planning authority following local consultation within six months, or else the direction will lapse).

Immediate directions can only be used to withdraw a small number of permitted development rights [Development permitted by Parts 1-4 and 31 of Schedule 2 to the GPDO (development within the curtilage of a dwellinghouse, minor operations, changes of use, temporary buildings and uses, and demolition of buildings)].

Non-immediate directions can be used where the threat from the exercise of permitted development rights is not immediate.

The immediacy of the threat and potential compensation liability may be considerations in determining whether to use a non-immediate or immediate direction.

Any planning application required as a consequence of an article 4 direction is exempt from the usual planning application fee.

It is now for local planning authorities to confirm all article 4 directions (except those made by the Secretary of State) in the light of local consultation.

Compensation - there are circumstances in which local planning authorities may be liable to pay compensation having made an article 4 direction, although the potential liability is limited in many cases by the time limits that apply.

Local planning authorities may be liable to pay compensation to those whose permitted development rights have been withdrawn 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.

Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights [See Section 108 of the *Town and Country Planning Act 1990* as amended].

All claims for compensation must be made within 12 months of the date on which the planning application for development formerly permitted is rejected (or approved subject to conditions that go beyond those in the GPDO).

Additionally, for certain permitted development rights withdrawn by an article 4 direction, compensation may only be claimed if an application for planning permission is submitted within 12 months following the effective date of the direction (and, if 12 months prior notice of the withdrawal of permitted development rights is given, there is no ability to claim compensation.) These specified permitted development rights are currently set out in Statutory Instrument 2012/749, but may apply to permitted development rights subsequently introduced.

2.5 National Planning Policy Framework, paragraph 200 foresees the removal of national permitted development rights where this is necessary to protect local amenity or the wellbeing of the area.

2.6 English Heritage (website; 2013) advice:

The (GPDO) rules are the same across England and so inevitably cannot take account of local sensitivities

Article 4 directions are used to control works that could threaten the character of an area of acknowledged importance, such as a conservation area.

Article 4 directions can increase the public protection of designated and non-designated heritage assets and their settings.

2.7 English Heritage 'Understanding Place: Conservation Area Designation, Appraisal and Management' (March 2011) discusses the making of article 4 directions:

Article 4 of the GPDO gives local planning authorities the power to restrict 'permitted development rights' where they have the potential to undermine protection for the historic environment.

The specific requirement on local authorities under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to carry out a conservation area appraisal provides a robust evidence base on which to assess the need for and scope of an Article 4 direction.

It is only appropriate to remove permitted development rights where there is a real and specific threat and exclude properties where there is no need for the direction to apply. Article 4 directions are most commonly used to control changes to elevations of buildings in conservation areas fronting a highway, waterway or open space.

Article 4 directions are more likely to be effective if:

- there is a dated photographic record of the properties affected for the purposes of tracking any subsequent changes;
- guidance is provided for homeowners on how the direction affects them with advice on appropriate repair and alteration;
- the local authority undertakes regular monitoring for compliance and appropriate enforcement;
- the need for the article 4 direction is reviewed if circumstances change.

Increase in planning applications - is likely to be minimal as clear, concise controls, backed up by appropriate guidance, tend to encourage like-for-like repair or replacement in matching materials, which do not require planning permission (paragraphs 3.18-3.19 *RPS Planning Research into the use of Article 4 directions on behalf of the English Historic Towns Forum* October 2008, paragraphs 3.18-3.19).

Compensation claims - have been extremely rare. The RPS 2008 study found no evidence for any compensation payments actually being made (*Op cit*, paragraphs 3.20-3.21)

Cost of preparation - integrating proposals for article 4 directions with local plan preparation and conservation area appraisals minimises costs.

- 2.8 Charles Mynors discusses Article 4 direction in 'Listed Buildings, Conservation Areas and Monuments' (2006, page 180-189):

“Some buildings are particularly susceptible to harm caused by a succession of small changes – things that might in other circumstances be of no consequence eg a row of traditional cottages might be spoiled if the occupier of one of them replaced the traditional windows with modern ones with crude plastic frames. And what one does, others are likely to copy”.

For unlisted buildings in conservation areas, the only protection is through a requirement for planning permission. However, many alterations eg window and door replacement, some boundary wall and chimney demolition, small extensions may be “permitted development”.

- 2.9 The gradual erosion of the character and appearance of conservation areas has resulted in English Heritage incorporating conservation areas within its yearly “Heritage at Risk” report and indicators. The initiating 2008 report in this regard formed part of a campaign to redress the 1 in 7 conservation areas found to be at risk (ie deteriorated over last 3 years or expected to do so over the next 3 years). The report states that “the problems fall into two categories: what owners and residents do or fail to do to their properties and how the council maintains the streets and public spaces..”.

The report indicated the top 10 threats facing conservation areas:

1. Unsympathetic replacement doors and windows (83% of conservation areas) - the English House Condition Survey (2006) found that 40% of houses built between 1850 and 1899 now have PVCu double glazed windows and all the evidence suggests that the proportion of historic houses with PVCu windows will continue to rise significantly.
4. Loss of boundary walls, fences or hedges (43%).
5. Unsightly satellite dishes (38%).
7. Alterations to front elevations, roofs and chimneys (34%).
8. Unsympathetic new extensions (31%).

Dr Simon Thurley, Chief Executive, English Heritage commented:

“If we were to ask for just two things from this campaign, they would be these. First, that councils use the powers they already have to apply Article 4 directions in conservation areas, giving them control over small changes to things like doors, windows, roofs and fences, which, unchecked, lead to slow but irreversible decline. Does a row of Victorian villas with plastic windows lift your spirits? I doubt it. Second, that councils pay more attention to the public elements ... Conservation areas help to underpin community cohesion. They are the local heritage that local people pass on”.

The report also refers to a recent survey of estate agents which reveals that:

- (i) Unsympathetic replacement windows and doors, particularly plastic/PVCu, is the single biggest threat to property values in conservation areas;
- (ii) 82% feel that original features tend to add financial value to properties and 78% think they help a property to sell more quickly;
- (iii) Three quarters believe that a well maintained conservation area adds to the value of the properties within it. Confidence in the area keeping its character and the attractive environment are the two key reasons;
- (iv) Residential properties within conservation areas sell for more than equivalent properties not in a conservation area;

2.10 The Historic Environment Planning Practice Guidance advises:

- (i) doors and windows are frequently key to the significance of a building (paragraph 152);
- (ii) the insertion of new elements such as doors and windows, (including dormers and roof lights to bring roof spaces into more intensive use) is quite likely to adversely affect the building's significance (paragraph 185);
- (iii) small-scale features will frequently contribute strongly to a building's significance and removing or obscuring them is likely to affect the asset's significance (paragraph 187);
- (iv) new services can have a considerable, and often cumulative, effect on the appearance of a building and can affect significance (paragraph 189).

2.11 The Ribchester Conservation Area Appraisal (The Conservation Studio consultants; adopted by the Borough Council following public consultation 3 April 2007) identifies:

- (i) the architectural and historic interest of the area's buildings within Summary of Special Interest;
- (ii) 30-31 Church Street to be Buildings of Townscape Merit (making a positive contribution to the character and appearance of the conservation area) on the Townscape Appraisal map;
- (iii) Ribchester's historic character and the appearance of its core area to be a Strength of the conservation area;
- (iv) the loss of architectural detail (original windows, doors etc) and the insensitive alteration of historic buildings (spoiling the conservation area's historic character and appearance) to be Weaknesses of the conservation area;
- (v) the continuing loss of original architectural details and use of inappropriate modern materials or details to be a Threat to the conservation area;

2.12 'Ribchester: A Short History and Guide' (Hodge A.C. and Ridge J.F, 1986, page 9) pictures 28-29 Church Street (Grade II listed) and notes "*a pair of unusual Georgian houses ... there are very few brick town houses such as these in this part of the country. They are dated to 1745*".

At a recent appeal relating to 28 Church Street (APP/T2350/A/12/2185263), the Planning Inspector described the listed building as "*a handsome narrow two storey house ... The pair dates from 1745, as embossed on the original lead rainwater hoppers, and is built of brick with fine dressed stone details including rusticated quoins, moulded architrave surrounds at window and door openings as well as a stone plinth, string band and eaves cornice. It opens directly onto the footway on Church Street, part of the original Roman route in the town, and is prominently located close to the heart of the*

Ribchester Conservation Area ... together with No 29 the adjoining part of the pair, the appeal listed building has a substantial degree of significance and plays an important role in the historic character and appearance of the conservation area, which is also a designated historic asset of high significance”.

The front windows to 29 Church Street are recent replacements – authenticity was ensured by listed building consent 3/2006/0909.

- 2.13 'Energy Efficiency and Historic Buildings: Application of Part L of the Building Regulations to Historic and Traditionally Constructed Buildings' (English Heritage, 2010) states:

“The Importance of Windows in Older Buildings: Window openings and frames give a building’s elevation its character. They should not be altered in their proportions or details, as they are conspicuous elements of the design ... Replacing traditional single-glazed sash windows with double-glazed PVCu windows can be very damaging to the special character and appearance of the building. The fundamental objections, amongst many, are that double-glazed sealed units thicken the dimensions of glazing bars inappropriately, or result in extremely poor facsimiles stuck to the face of the glass. The frames and glazing of many historic windows have fallen victim to inappropriate replacements, but over the past decade greater appreciation of their value has begun to develop. However, many windows are still threatened and Part L must not become the agent for their thoughtless destruction. While listed buildings enjoy some protection, unlisted buildings are at high risk – even where they are in conservation areas.

Window Types and Materials: England has a rich tradition of window designs and materials from different periods of history. Most historic windows are timber-framed. Oak joinery (either fixed or in casements) predominated until the late 17th century, when, with the advent of the sash window, softwood was imported from Scandinavia and the Baltic. This slow-grown, high-quality, naturally durable timber continued to be widely used until the early 20th century. Thereafter use began to be made of inferior species, the timber from which needed chemical preservatives to provide some degree of longevity. It is very difficult to source timber of traditional quality and durability today. Where possible windows should be repaired and continue to be used All these windows are important historically and should be conserved (page 46).

- 2.14 In 'The Thermal Performance of Historic Windows', The Building Conservation Directory 2008, Chris Wood (Head of Building Conservation and Research Team at EH) suggests *“There is little dispute as to how important windows are to historic buildings. After all, the front windows of a building are often the first feature to draw the eye”.*
- 2.15 'Traditional Sash Windows', Nottinghamshire County Council, states *“Architectural fashion and technological progress working hand in hand may have led to the massive popularity of the vertical sliding sash from the end of the seventeenth century onwards ... By the Georgian period (1715-1830), the typical eighteenth century sash window had appeared with each sash having six panes of glass held by glazing bars of ovolo moulded profiles ... each individual pane was carefully proportioned as were the window openings as a whole ... the changing shape of the glazing bar is a subtle but important feature of the sash window”.*

3 RISK ASSESSMENT

3.1 The approval of this report may have the following implications:

- Resources - Planning applications generated by the making of an Article 4 direction are not fee earning. Where an application for planning permission is made following an Article 4 direction, compensation may be payable if permission is refused or permission is granted subject to more limiting conditions than the GPDO would normally allow. English Heritage advise that the most significant factor in the effectiveness of Article 4 directions is their monitoring and the undertaking of prompt enforcement action if breaches occur.
- Technical, Environmental and Legal – The Council has a statutory duty to keep conservation area designations under review and to prepare and monitor management proposals.
- Political – N/A.
- Reputation – N/A.

4 CONCLUSION

- 4.1 Nos. 30-31 Church Street Ribchester (see appended photographs) retain their late Georgian historic form and detail (including original and distinctive multi-paned sliding sash windows and doors) ensuring a pleasing, distinguished and consistent frontage to the row which also includes the adjoining C18, Grade II listed 28 and 29 Church Street.
- 4.2 In my opinion, unrestricted permitted development rights could seriously erode the important contribution made by 30-31 Church Street to: the character and appearance of Ribchester Conservation Area identified in the Appraisal; the setting of 28 and 29 Church Street; the historic street scene and the amenity of the area.
- 4.3 Nos. 29-31 Church Street was in single ownership for over a century. Following recent sale and subdivision, works have commenced on the refurbishment and modernisation of Nos.30-31 Church Street (including removal and replacement of rear windows). No pre-application inquiry has been received in respect to the nature and extent of works proposed. In my opinion, an Immediate direction would therefore appear appropriate and necessary to retain significance (including some of the last remaining historic windows in Ribchester) and should relate to the following:

The enlargement, improvement or other alteration or a dwelling-house being development comprised within Class A of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Class.

Any other alteration to the roof of a dwelling-house being development comprised within Class C of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Class.

The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwelling-house being development comprised within Class G of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Class.

The installation, alteration or replacement of a microwave antenna on a dwelling-house or within the curtilage of a dwelling-house being development comprised within Class H of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Class.

The painting of the exterior of any building or work being development comprised within Class C of Part 2 of Schedule 2 to the said Order and not being development comprised within any other Class.

- 4.4 The Immediate Article 4 direction procedure requires public consultation (including the property owner) following service of the direction. Mindful of the advice in English Heritage's 'Understanding Place' it is intended that the owner will be advised of the information contained within the Ribchester Conservation Area Appraisal and Management Guidance as well as other information sources.
- 4.5 If Members decide to issue an Immediate Article 4 direction, it will be necessary for Committee to consider its confirmation within six months or the direction will lapse.

5 RECOMMENDED THAT COMMITTEE

- 5.1 Authorise the Director of Community Services to expedite the making of an Immediate Article 4 Direction in respect of those permitted development restrictions detailed in 4.3 above, relating to 30 and 31 Church Street, Ribchester.

ADRIAN DOWD
PRINCIPAL PLANNING OFFICER (DESIGN AND CONSERVATION)

JOHN HEAP
DIRECTOR OF DEVELOPMENT SERVICES

BACKGROUND PAPERS

Are referenced in the report.

For further information please ask for Adrian Dowd, extension 4513.