

**Article 4 Direction for Bearsted Conservation Area**

<b>Final Decision-Maker</b>	Strategic Planning and Infrastructure Committee
<b>Lead Head of Service</b>	Rob Jarman – Head of Planning and Development
<b>Lead Officer and Report Author</b>	Deanne Cunningham – Team Leader (Heritage Landscape and Design) Jeremy Fazzalero – Principal Conservation Officer
<b>Classification</b>	Public
<b>Wards affected</b>	Bearsted

**Executive Summary**

This report follows a request by councillors for an Article 4 Direction for Bearsted Conservation Area to prevent the demolition of certain types of boundary treatment from being demolished without planning permission. It sets out the options, risks and next steps.

**Purpose of Report**

The purpose of this report is to provide an overview of the current situation in the conservation area and suggests options for implementing an Article 4 Direction, the risks and next steps.

**This report makes the following recommendations to this Committee:**

1. That the contents of the report be noted
2. The committee agrees that a review of the conservation area boundary is undertaken and an Article 4 Direction is applied

**Timetable**

<b>Meeting</b>	<b>Date</b>
Strategic Planning and Infrastructure Committee	8 February 2022

## Article 4 Direction for Bearsted Conservation Area

### 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims.	Head of Planning and Development
<b>Cross Cutting Objectives</b>	The report recommendations support the achievements of the Heritage is Respected cross cutting objective.	Head of Planning and Development
<b>Risk Management</b>	Refer to Section 5	Head of Planning and Development
<b>Financial</b>	There is no specific funding identified for this area of work and it would need to be included in the work programme for Conservation Area appraisals and management plans.	Section 151 Officer & Finance Team
<b>Staffing</b>	There will be staffing implications, and these are set out in section 3	Head of Planning and Development
<b>Legal</b>	Accepting the recommendations will fulfil the Council's duties under the Planning (Buildings and Conservation Areas) Act 1990 and the The Town and Country Planning (General Permitted Development) (England) Order 2015.	Head of Planning and Development
<b>Privacy and Data Protection</b>	Accepting the recommendations will increase the volume of data held by the Council. We will hold that data in line with our retention schedules.	Head of Planning and Development
<b>Equalities</b>	The preservation of the historic environment is of a positive benefit for all members of the community, helping achieve a strong sense of belonging. Community engagement and an equalities assessment would be carried out as part of the development of individual management plans to consider issues such as accessibility.	Head of Planning and Development
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Head of Planning and Development

<b>Crime and Disorder</b>	No direct implications have been identified.	Head of Planning and Development
<b>Procurement</b>	No procurement will be required	Head of Planning and Development

## **2. INTRODUCTION AND BACKGROUND**

- 2.1 The Bearsted Conservation Area was first designated by the Kent County Council on 3 July 1970 and revised on 19 October 1977 as part of a general review of conservation areas in the Borough. Prior to this review, the question of extending the boundary of the Conservation Area has been raised by Bearsted Parish Council on a number of occasions. The assessments that resulted in the 1990s led to the designation of a new conservation area on 9 June 1992: Bearsted (Holy Cross Church) Conservation Area. In addition, it was determined to expand the Bearsted Conservation Area to include the site surrounding Snowfield on 29 October 1999.
- 2.2 The Conservation Area Appraisal revealed that significant damage to the character of the Conservation Area had been occasioned by alterations to unlisted single dwelling houses carried out under permitted development rights granted by the Town and Country Planning (General Permitted Development) Order (GPDO). Such alterations include re-roofing in inappropriate materials and replacement windows and doors of inappropriate design or materials (they are often in uPVC). Whilst individually such alterations may be minor, their cumulative impact is substantial.
- 2.3 There are no Article 4 Directions currently in force within the Bearsted Conservation Area or the Bearsted Holy Cross Conservation Area. The lack of pavements around The Green is an important factor in the character of the conservation area. There are a variety of boundary treatments including, hedges, ragstone walls, brick walls, and decorative cast iron railings which make a positive contribution to the character of the conservation area.
- 2.4 Concern has been raised regarding the loss of boundary walls, in particular ragstone walls in the conservation area. These features have been identified in the conservation area appraisal as being positive features that contribute to its special character. It should be noted that some of the existing ragstone walls have poor quality pointing which detracts from the character of the conservation area. Councillors have suggested an Article 4 Direction be imposed to prevent such works being carried out without planning permission.

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## **3. POLICY CONSIDERATIONS**

- 3.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to review their conservation areas from time to time, to formulate and publish proposals for their preservation and enhancement and consult the public in the area in question, taking account of views expressed (Sections 69(2) and 71(1 and 2)).
- 3.2 National planning policy guidance advises that a conservation area appraisal can be used to help authorities to develop a management plan and appropriate policies for the Local Plan, and that a good appraisal will consider features that made a positive or negative contribution to the area, thereby identifying opportunities for beneficial change or planning protection (PPG, Para 025).
- 3.3 The legal framework for Article 4 Directions is set out in The Town and Country Planning (General Permitted Development) Order 2015 which sets out the procedures for Article 4 directions.
- 3.4 An Article 4 direction restricts the scope of permitted development rights either in relation to a particular area or site, or a particular type of developments. Once in effect, a planning application may be required for development that would otherwise have been permitted development. Once adopted, planning permission would be required for the types of building works or uses listed in the direction. Article 4 directions are used to control works that could threaten the character of a conservation area. They are not necessary to prevent works to listed buildings as listed building consent would be required for before any harmful works could be carried out. This also applies to curtilage listed structures such as walls. Article 4 directions are more likely to be effective if the Council undertakes regular monitoring for compliance and appropriate enforcement, and if reviewed when circumstances change.
- 3.5 Historic England's guidance on *Conservation Area Appraisal, Designation and Management* provides further discussion on the use of and implementation of Article 4 Directions:

*'Minor developments such as domestic alterations and extensions can normally be carried out without planning permission under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Article 4 of the GPDO gives local planning authorities the power to limit these 'permitted development rights' where they consider it necessary to protect local amenity or the wellbeing of the area. Using the provisions of Article 4 of the GPDO brings certain types of development back under the control of a local planning authority so that potentially harmful proposals can be considered on a case by case basis through planning applications.'*

- 3.6. The Council will need to consider carefully whether to consult the public at the outset since:

*"In some cases, a lengthy consultation period may provoke the carrying out of the very works which the direction would control. If this seems likely, the direction should be served and consultation undertaken subsequently".*

## 4. AVAILABLE OPTIONS

- 4.1 The Bearsted CAAMP recommends boundary changes to the conservation area, however, these have not been progressed to date. It will be necessary to review the boundary of the conservation area prior to issuing the direction.

The Town and Country Planning (General Permitted Development) Order 2015 which sets out the procedures for non-immediate and immediate Article 4 directions. This will require a public consultation and the Council will need to give notice as soon as practicable after the direction has been made. The notice must include a description of the development to which the direction relates, or the site to which it relates, specify a period of at least 21 days stating the date on which that period begins within which any representations may be made to the local authority; and specify the date on which it is proposed that the direction will come into force. The Council must also send a copy of the direction and notice with a map of the area to the Secretary of State.

4.2 There are several options for consideration:

- **Non-immediate Article 4 Direction**

The Council could implement a non-immediate Article 4 Direction to restrict permitted development rights, however this will require an extensive consultation exercise which may result in additional threats to the conservation area should residents choose to implement inappropriate works prior to them being restricted. Furthermore, should the conservation area boundary be extended in the future, an additional Article 4 Direction will be required to include the buildings within the extended area. Non-immediate directions can be used where the threat from the exercise of permitted development rights is not immediate, or where permitted development rights cannot be withdrawn by an immediate direction

- **Immediate Article 4 Direction**

The Council could implement an immediate Article 4 Direction, however there are compensation risks that would need to be considered and as stated above, this will require an extensive consultation exercise that may result in additional threats to the conservation area. Immediate directions can only be used to withdraw a small number of permitted development rights. Furthermore, should the conservation area boundary be extended in the future, an additional Article 4 Direction will be required to include the buildings within the extended area.

- **Conservation Area Review**

The third option is to review the conservation area boundary as recommended in the appraisal which could include issuing an Article 4 direction alongside the review. -If Article 4 Directions to restrict permitted development rights are taken forward this will require an extensive consultation exercise which may result in additional threats to a conservation area should residents choose to implement inappropriate works prior to them being restricted. In terms of additional actions, boundary changes should take priority over Article 4

Directions, as an amended boundary would then necessitate a review of the Article 4. If this work is included in the conservation area appraisal programme, it will mean other proposed work will have to be delayed. See Conservation Area Appraisal Management Plan Work Programme report for further information.

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## **5. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 5.1 The preferred option would be to carry out a review of the conservation area boundary and then consider a non-immediate Article 4 Direction, resources permitting. An immediate Article 4 Direction is not recommended for the reasons set out above.
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## **6. RISK**

- 6.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

## **7. NEXT STEPS**

- 7.1 If the committee agrees with the recommendation of this report the work will need to be added to the programme of conservation area appraisals and management plans considered elsewhere on this agenda. The relevant members and Parish Councils will be informed of the plans for the 2022 works programme.