

REPORT TO: Planning Committee
Cabinet
Council

DATE: 2nd June 2010
10th June 2010
8th July 2010

SUBJECT: Moor Park Conservation Area Article 4(2) Direction

**WARDS
AFFECTED:** Manor

REPORT OF: Planning and Economic Development Director

**CONTACT
OFFICER:** Dorothy Bradwell

**EXEMPT/
CONFIDENTIAL:** No

PURPOSE/SUMMARY:

Following public consultation to seek confirmation of the Moor Park Article 4(2) Direction, making its effects permanent.

REASON WHY DECISION REQUIRED:

Pursuant to the Council's duty under sections 69 and 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

RECOMMENDATION(S):

That Planning Committee recommend to Cabinet that the Moor Park Article 4(2) Direction be confirmed without modification.

That Cabinet recommend to Council that the Moor Park Article 4(2) Direction be confirmed without modification.

That Council confirm the Moor Park Article 4(2) Direction without modification

KEY DECISION: No

FORWARD PLAN: No

IMPLEMENTATION DATE: With immediate effect

ALTERNATIVE OPTIONS:

There are two alternative options available;

- a) The first is to confirm the direction in a modified state. Any of the householder’s permitted development rights that are currently removed could at this stage be reinstated.
- b) Alternatively members could elect not to confirm the direction. The effect of this would be that the restrictions currently in place would lapse and permitted development rights would be reinstated to householders.

IMPLICATIONS:

Budget/Policy Framework:

Financial:

	2009 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
<u>CAPITAL EXPENDITURE</u>				
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal:

Risk Assessment:

Asset Management:

N/A

CONSULTATION UNDERTAKEN/VIEWS

EXTERNAL

1.1 A questionnaire was sent to all properties (copy attached) The questionnaire sought to establish whether there is local support for the measures to remain in place.

1.2 Of the 90 questionnaires sent out, the conservation team received 33 responses - a response rate of 37%

Headline statistics

- **94% of respondents thought that it was important to preserve the character and appearance of the conservation area.**
- **73% were generally in favour of an article 4(2).**

1.3 Turning to the specific restrictions the greatest levels of support were for removal of permitted development rights over alterations to roofs and hard surfaces.

- **82% over alterations to roof slopes,**
- **82% on hard surfaces**

1.4 Strong support was also shown for the removal of permitted development rights for other alterations:

- **73% on alterations and removals of chimneys; and,**
- **76% new porches**
- **76% painting (other than maintenance)**
- **61% architectural features, such as windows and doors.**

1.5 Some respondents wanted greater removals of rights than the article 4(2) provides for:

- **50% wanted greater regulation than the article 4(2) provides for alterations at the side.**
- **20% wanted greater regulation than the article 4(2) provides over rear alterations and extensions**

INTERNAL

Finance – No need for re-consultation

Legal – The Legal Department have confirmed that the prescribed procedures for the making of the direction have been correctly followed.

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		*	
2	Creating Safe Communities		*	
3	Jobs and Prosperity		*	
4	Improving Health and Well-Being		*	
5	Environmental Sustainability	*		
6	Creating Inclusive Communities		*	
7	Improving the Quality of Council Services and Strengthening local Democracy		*	
8	Children and Young People		*	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Planning Policy Statement 5: Planning for the Historic Environment

'Heritage at Risk' English Heritage, 2009.

Moor Park Conservation Area Appraisal, Sefton MBC, March 2008

Background

- 1.1 Despite living in a conservation area householders have rights to make quite a number of changes to their properties, which though relatively minor individually, can have a significant cumulative effect on the character of the building and the wider area.
- 1.2 Changes that can be permitted without there being an Article 4(2) direction in place include changes to roof materials, addition of porches, erection of walls and gates, replacement windows and creation of hardstandings.
- 1.3 The residents association have written letters to the Council requesting an Article 4(2) Direction be implemented
- 1.4 On 13th January 2010 Council agreed to the making of an Article 4(2) Direction within the Moor Park Conservation Area, to restrict the range of permitted development rights, pending public consultation. A copy of the report is at appendix 1.
- 1.5 The range of rights which have been removed by the Direction are listed in the attached notice (appendix 2). The Direction is now in force, but to remain so it needs to be confirmed by the Council. Without confirmation the Direction will expire on 13th July 2010.
- 1.6 The aim of the Direction is not to prevent alteration, but to control development through requiring planning permission to ensure that alterations to properties are in keeping with the character of the area.
- 1.7 The results of the public consultation have now been received and are as detailed above. It was stated in the covering letter that a non-response would be taken to mean that householders were happy with the measures. Consequently the actual rate of support may be higher than can be proven numerically.

Summary

- There is a demonstrably good level of support from people living in the area for the introduction of the Article 4(2) Direction
- The measures will prevent further harmful alterations from taking place within the Moor Park conservation area
- In determining planning applications received as a result of the direction, individual proposals will be assessed on their own merits, taking into account the contents of the Moor Park Conservation Area Appraisal

Appendix 1 Copy of report authorised by Council 13th January 2010

REPORT TO: Planning Committee
Cabinet
Council

DATE: 13th January
14th January
14th January

SUBJECT: Article 4(2) Direction for
Moor Park Conservation Area

**WARDS
AFFECTED:** Manor

REPORT OF: Planning and Economic Regeneration Director

**CONTACT
OFFICER:** Dorothy Bradwell

**EXEMPT/
CONFIDENTIAL:** No

PURPOSE/SUMMARY:

To seek Committee, Cabinet and Council's Agreement to make an Article 4(2) Direction within Moor Park Conservation Area so that planning permission will be required for a greater range of alterations to properties, helping to ensure that the character of the Conservation Area is maintained.

REASON WHY DECISION REQUIRED:

- a) To meet the Council's duty under section 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- b) To follow up on the recommendations of the adopted Moor Park Conservation Area Appraisal.

RECOMMENDATION(S):

That Planning Committee:

recommend to Cabinet that the Moor Park Article 4(2) be made.

That Cabinet, subject to Planning Committee's recommendation above:

recommend to Council that the Moor Park Article 4(2) be made.

That Council subject to the above recommendations:

authorises the making of a Direction under Article 4[2] of the Town and Country Planning [General Permitted Development] Order 1995 (as amended) in respect of the Moor Park Conservation Area.

KEY DECISION: N/A

FORWARD PLAN: N/A

IMPLEMENTATION DATE: N/A

ALTERNATIVE OPTIONS:

a) Article 4(1) Direction

This would require the Secretary of State's agreement and is a more lengthy process. The scope of permitted development rights that could be removed is much wider and more applications would be submitted as a result. In the Moor Park conservation area it is felt that the scope of an Article 4(2) Direction is sufficient and therefore an Article 4(1) is not recommended.

The operation of the Article 4(2) Direction will be kept under review as to its effectiveness and ease of use and it may be necessary to revisit an Article 4(1) as a future option.

b) Not to make a direction

This would be against the wishes of the local residents association and would leave the conservation area open to further harm from unsuitable development.

IMPLICATIONS:

Budget/Policy Framework: N/A

Financial: There is the potential for compensation claims. However, as the claimant has to demonstrate that abortive expenditure or other loss or damage has been incurred, claims very rarely arise.

Legal: N/A

Risk Assessment: N/A

Asset Management: N/A

CONSULTATION UNDERTAKEN/VIEWS

INTERNAL

The Development Control Service, who will be administering the applications, have been consulted for their views and are in support of the proposal.

Legal Department have been consulted and their recommendations have been incorporated into the report

FD280 – THE FINANCE AND IS DIRECTOR HAS BEEN CONSULTED AND HIS COMMENTS HAVE BEEN INCORPORATED INTO THIS REPORT

EXTERNAL

Letters have been received from the Moor Park Residents Association whom have been asking for an Article 4 Direction to be made for the conservation area. Specific problems that have been identified by the Residents Association include the loss of grass verges, erection of uncharacteristic walls, changes to roofing materials and insertion of upvc windows.

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		*	
2	Creating Safe Communities		*	
3	Jobs and Prosperity		*	
4	Improving Health and Well-Being		*	
5	Environmental Sustainability	*		
6	Creating Inclusive Communities		*	
7	Improving the Quality of Council Services and Strengthening local Democracy		*	
8	Children and Young People		*	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

1. BACKGROUND:

- 1.1 Section 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on local planning authorities to prepare proposals for the preservation and enhancement for any conservation areas that they designate.
- 1.2 It is under this duty that the Moor Park Conservation Area appraisal was carried out. The appraisal identifies the elements that contribute to the character of the area, and notes negative factors and suggests opportunities for enhancement. The appraisal recognises that a growing number of properties have lost historic features and had uncharacteristic alterations made to them. As a consequence one of the recommendations of the appraisal was for an Article 4 Direction to be made.
- 1.3 An Article 4 Direction brings about the removal of permitted development rights, meaning that a greater range of alterations to houses will require planning permission before being carried out. This would help to avoid the further loss of historic features important to the character of the conservation area.
- 1.4 Applications for planning permission for work, which prior to the Direction would have been automatically permitted, do not incur a fee. In Sefton one conservation area, Sefton Village, has an Article 4 Direction. Overall a relatively low number of applications are received as a result of this. The Council's experience with the Sefton Village Article 4 Direction is that it has been successful and is well understood by residents.

2. PROPOSAL

- 2.1 There are two options available to the Council, either an Article 4(1), or an Article 4(2) Direction. The Article 4(1) direction has been ruled out as an option for reasons given above.
- 2.2 With an Article 4(2) the range of rights which can be removed affect only works to properties on elevations that front the highway. In the Moor Park area the fronts of the properties are the key area where restriction over changes would be most beneficial and would have the greatest effect on preserving the appearance of the conservation area.
- 2.3 The works that will be newly brought under planning control include the following:

Changes to front elevation (e.g. windows & doors, rendering, painting)
Alterations to roofs and chimneys

Erection of front walls/gates
Hard landscaping front gardens

- 2.4 The formal wording of the Article 4(2) Direction is given in Appendix 1
- 2.5 The public consultation process is built into the way that Directions are made. Once a direction is in force it remains so for up to 6 months, during this time the opinions of residents are canvassed and representations can be made to the Council. A leaflet and questionnaire is being prepared to help gain resident's views.
- 2.6 Unless, the Direction is confirmed, by the Council within 6 months, then the Direction will cease to be in effect.
- 2.7 While it is possible to carry out consultation before making an Article 4 Direction this is not the preferred option as it helps to avoid a situation arising whereby a resident may rush to carry out uncharacteristic works prior to the direction being made. Additionally it is helpful in that residents can 'try out' the system, therefore enabling them to make more informed judgements about its effects. Also, residents would not in effect be consulted twice.
- 2.8 A further report will be presented to Council before the end of the six month consultation period, so that a final decision can be made, to either confirm the Article 4 Direction or remove it.

Appendix 2- formal text of the Article 4(2) Direction:

TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
ORDER 1995 (as amended)

DIRECTION MADE UNDER ARTICLE 4(2)

WHEREAS Sefton Metropolitan Borough Council being the appropriate local planning authority within the meaning of article 6 of the Town and Country Planning (General Permitted Development) Order 1995, are satisfied that it is expedient that development of the descriptions set out in Schedule I below should not be carried out on land in the Moor Park Conservation Area being the land shown edged in red in Schedule II, unless permission is granted on an application made under 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 Town and Country Planning (General Permitted Development) Order 1995 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the descriptions set out in the Schedule below to the extent permitted by Article 4(2)-(5) of the 1995 Order.

THIS DIRECTION is made under article 4 (2) of the said Order and in accordance with article 6 (7) shall remain in force until the 14th July 2010 and shall then expire unless it has been confirmed by the said Council. Any representations concerning the Direction should be made to:

Planning Director, Sefton MBC, Magdalen House, 30 Trinity Road, Bootle, L20 2NJ by the .

SCHEDULE I

Class A of Part 1 of Schedule 2 to the said Order, consisting of the enlargement, improvement or other alteration of a dwellinghouse, where any part of the enlargement, improvement or alteration would front a highway, waterway or open space;

Class C of Part 1 of that Schedule, where an alteration would be made to a roof slope which fronts a highway, waterway or open space

Class D of Part 1 of that Schedule, consisting of the erection or construction of a porch outside any external door of a dwellinghouse where the external door in question fronts a highway, waterway or open space;

Class F of Part 1 of that Schedule, consisting of the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or the replacement in whole or in part of such a surface, where the hard surface would front a highway, waterway or open space;

Part 1 of that Schedule, consisting of the erection, alteration or removal of a chimney on a dwellinghouse or on a building within the curtilage of a dwellinghouse.

Class A of Part 2 of that Schedule, consisting of the erection, construction improvement or alteration of a gate fence wall or other means of enclosure, where the gate, fence, wall or other means of enclosure would be within the curtilage of a dwellinghouse and would front a highway, waterway or open space;

Class C of Part 2 of that Schedule, consisting of the painting of the exterior of any building or work, where the painting of the exterior of any part, fronts a highway, waterway or open space, of –

- (i) a dwelling house; or
- (ii) any building or enclosure within the curtilage of dwellinghouse.

Class B of Part 31 of that Schedule, consisting of the demolition of the whole or part of any gate, fence wall or other means of enclosure, where the gate, fence, wall or other means of enclosure is within the curtilage of a dwellinghouse and fronts a highway, waterway or open space.