

Subject:	Queen's Park Conservation Area Article IV Direction		
Date of Meeting:	16 September 2021		
Report of:	Executive Director, Economy, Environment & Culture		
Contact Officer:	Name:	Tim Jefferies	Tel: 01273 293152
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Ward(s) affected:	Queen's Park		

FOR GENERAL RELEASE.

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The report summarises representations received on the Article 4 Direction to remove certain permitted development rights, under Schedule 1, Parts 1 and 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), within the Queen's Park Conservation Area.
- 1.2 The report seeks approval to confirm the Article 4 Direction for the Queen's Park conservation area, to come into force on 4 June 2022 (Appendix 2).

2. RECOMMENDATIONS:

- 2.1 That the committee notes the representations made during the statutory consultation period and the officer responses set out at Appendix 1.
- 2.2 That the Committee confirms the Article 4 Direction for the Queen's Park conservation area that was made on 26 May 2021.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Queen's Park Conservation Area is centred on the public open space of Queen's Park, a grade II registered park/garden. The conservation area is included in Historic England's 'Heritage at Risk' register, due to the gradual loss of historic architectural features and materials under permitted development rights, which has been harmful to the special character of the area.
- 3.2 Informal consultation was undertaken in February and March 2020 over a six-week period and 65% of the 75 respondents agreed or strongly agreed with an Article 4 Direction to control certain permitted development rights, whilst only 26% disagreed or strongly disagreed.

3.3 Following that, at the meeting of 18 June 2020, this committee authorised the making of a non-immediate Article 4 Direction, which was made on 15 October and publicised in accordance with the legislation. However, following closure of the period allowed for representations, it was noted that the Direction had not specifically made clear that permitted development rights were only to be removed in respect of elevations that front onto the public highway, as authorised by this committee. Therefore, that Direction will not be confirmed and will not come into force.

3.4 A new Direction was subsequently made on 26 May 2021, with additional wording referring to elevations that front onto a public highway, and will come into effect on 4 June 2022. The Direction was subject to statutory publicity and consultation and must be formally confirmed by the council before it can come into effect.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 If the Article 4 Direction is not confirmed it will not come into effect and permitted development rights would remain unchanged. The conservation area would remain on Historic England's 'Heritage at Risk' register.

4.2 There is no legal option to modify or amend the Article 4 Direction as made.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 A one-month statutory consultation period ran from 4 June to 4 July, exceeding the minimum 21 days required by the legislation. This was advertised by a notice in The Argus (as required by legislation) and by means of 7 site notices at different locations within the conservation area (exceeding the minimum of 2 locations required by legislation). Additionally, an advertisement was placed in the Queen's Park section of June's edition of 'The Brightonian' magazine. Notifications were sent to the Friends of Queen's Park, Friends of the Pepperpot and the St Luke's Residents Association, as well as to ward councillors. The Friends of Queen's Park posted details of the consultation on their own website and sent details to their database of nearly 400 local residents via direct mail.

5.2 Nine representations were received. This is likely to reflect the fact that many people had responded to the previous round of informal consultation and/or the later statutory consultation. All nine confirmed that they had not previously commented. One person had no objection to the Direction, two objected to any removal of permitted development rights; and six objected to the removal of some of the rights. With regard to the representations, the majority relate to the removal of permitted development rights for painting (see Appendix 1).

5.3 Ten representations had been received to the previous statutory consultation. Of those, three supported the proposed controls and three objected to any removal of permitted developments rights. Other objections and comments mainly related to the proposed controls over external painting.

5.4 Similar controls over painting already apply throughout ten of the city's conservation areas (as well as to some specific squares or streets) and have worked well. The Article 4 Direction for Queen's Park has allowed for eight colours, which is more than any other Directions permit. It would remain open for any householder to apply for planning permission for an alternative colour. A light touch approach will be taken to enforcement in any cases where there are minor

deviations from the approved colours. It is also the case that the Direction does not apply retrospectively, so householders may continue to paint their property the same colour even where it is not an approved colour.

6. CONCLUSION

- 6.1 Given the relatively small number of objections received to the Direction as made, which mostly refer to painting, and the high level of response and support expressed in the previous informal round of consultation, it is recommended that the Article 4 Direction as made be confirmed so that it may come into effect. The council is required to publicise the Direction again once confirmed.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications associated with the confirmation of an Article 4 Direction. The indirect associated costs (for example publicity) will be contained within existing service budgets.

Finance Officer Consulted: Name: John Lack

Date: 11/08/21

Legal Implications:

- 7.2 The Town and Country Planning (General Permitted Development) (England) Order 2015 grants planning permission for certain types of development. A planning application would not therefore be required for such development unless the permitted development right had been removed.
- 7.3 Permitted development rights may be removed by way of an Article 4 Direction. This is a reference to Article 4 of the 2015 Order whereby a local planning authority ("LPA") may make a Direction if it is satisfied that it is expedient that development that would otherwise be permitted development should not be carried out unless permission is granted on an application. Once made, the Direction must be advertised by the LPA and representations invited. Any representations made within the relevant time period must be taken into account by the LPA in considering whether to confirm the direction.
- 7.4 A "non-immediate" Article 4 Direction, such as the Queen's Park Article 4 Direction, cannot come into force unless it is confirmed by the LPA. Once confirmed, the LPA must give public notice of the confirmation and of the date on which the Direction will come into force.
- 7.5 Where a LPA makes an Article 4 Direction the authority may be liable to pay compensation if it then refuses planning permission for development which would otherwise have been permitted development or grants planning permission subject to more limiting conditions than prescribed by the 2015 Order. However, s108 of the Town and Country Planning Act 1990 and the Town and Country Planning (Compensation) (England) Regulations 2015 provide that where permitted development rights for certain types of development, including Part 1 rights, are withdrawn no compensation is payable provided at least 12 months' notice of withdrawal is given.

Lawyer Consulted:

Name: Hilary Woodward

Date: 27/07/21

Equalities Implications:

- 7.6 Alterations to make an entrance to a house more accessible would require planning permission. However, greater accessibility is seen as a public benefit that may overcome any minor harm to the conservation area. Planning applications for alterations to an existing dwellinghouse for providing means of access to it for a disabled person who is resident in it or proposing to take up residence, or for facilities designed to secure that person's greater safety, health and comfort, are exempt from planning application fees.

Sustainability Implications:

- 7.7 With regard to the council's commitment to become carbon neutral by 2030, no permitted development rights would be removed pertaining to renewable energy measures such as solar panels. Further information regarding energy efficiency improvements to historic houses can be found in the council's Planning Advice Note 9 and guidance on replacement windows (including double glazing) is available in Supplementary Planning Document SPD09 on Architectural Features.

Brexit Implications:

- 7.8 None identified

Crime & Disorder Implications:

- 7.9 None identified

Risk and Opportunity Management Implications:

- 7.10 None identified.

Public Health Implications:

- 7.11 None identified

Corporate / Citywide Implications:

- 7.12 None identified.

SUPPORTING DOCUMENTATION

Appendices:

1. Summary of Representations and Officer Response
2. Article 4(1) Direction made in respect of Queen's Park conservation area.

Background Documents

1. Queen's Park conservation Area Character Statement (2018)