

FAREHAM

BOROUGH COUNCIL

EXECUTIVE MEMBER DECISION MAKING (PLANNING AND DEVELOPMENT)

- Date:** Thursday, 9 October 2014
- Time:** 3:00 pm
- Venue:** Executive Meeting Room - Civic Offices
- Executive Member:** Councillor K D Evans, Executive Member



1. Report Published

To consider the following matters for decision for which reports have been published:-

Non-Key Decision(s)

- (1) Portchester (Castle Street) Conservation Area - Article 4 Directions**
(Pages 1 - 14)

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Chief Executive Officer

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1 October 2014

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FAREHAM

BOROUGH COUNCIL

Report to the Executive Member for Planning and Development

| | |
|-----------------------------|--|
| Portfolio: | Planning and Development |
| Subject: | Article 4 Directions: Portchester (Castle Street) Conservation Area |
| Report of: | Director of Planning and Development |
| Strategy/Policy: | Fareham Borough Local Plan/ Core Strategy |
| Corporate Objective: | Protecting and Enhancing our Environment |

Purpose:

This report sets out the case for an Article 4 Direction to be made within Portchester (Castle Street) Conservation Area in accordance with the Town and Country Planning (General Permitted Development) Order 1995 (As Amended).

Executive summary:

This report seeks authorisation for an Article 4 Direction to be made for the Portchester (Castle Street) Conservation Area in accordance with The Town and Country Planning (General Permitted Development) Order 1995 (As Amended).

The use of Article 4 Directions in the conservation area was recommended in the conservation area character appraisal and management strategy that was adopted on 6th January 2014. At that meeting the Council's Executive resolved that the making of an Article 4 Direction in the above conservation area should be supported. This report recommends the use of an Article 4 Direction to conserve the character and appearance of the conservation area; it specifies which permitted development rights are to be removed and which buildings it is proposed that they apply to. The report recommends the use of the non-immediate procedure which includes a period of public consultation prior to the Article 4 Direction being confirmed by the Council and coming into force. Any representations received will be reported back to the Executive Member for Planning and Development to be taken into account in deciding if the Article 4 Direction should be confirmed.

Recommendation:

That authorisation is given for an Article 4 Direction to be made in accordance with the non-immediate procedure set out in The Town and Country Planning (General Permitted Development) Order 1995 (as amended) at Portchester (Castle Street) Conservation Area and as set out in this report.

Reason:

To preserve the character and appearance of the Portchester (Castle Street) Conservation Area.

Cost of Proposals:

These can be met from within existing budgets.

FAREHAM

BOROUGH COUNCIL

Executive Briefing Paper

Date: 9 October 2014

Subject: Article 4 Directions: Portchester (Castle Street) Conservation Area

Briefing by: Director of Planning and Development

Portfolio: Planning and Development

BACKGROUND

1. This report seeks authority to serve Article 4 Directions in the Portchester (Castle Street) Conservation Area resulting from conservation area character appraisal.
2. The Council adopted a revised conservation area character appraisal and management strategy document for Portchester (Castle Street) Conservation Area on 6th January 2014. The management strategy document recommended that permitted development rights relating to a range of alterations that are currently permitted development should be removed with the use of an Article 4 Direction making a planning application necessary. The Council's Executive resolved at the meeting of the 9th January 2014 to support the making of an Article 4 Direction in the conservation area. Leading on from that decision this report seeks approval to serve an Article 4 Direction in accordance with the non-immediate procedure set out in The Town and Country Planning (General Permitted Development) Order 1995 (As Amended).

PERMITTED DEVELOPMENT AND ARTICLE 4 DIRECTIONS

3. Permitted development rights contained in the General Development Order are a national grant of planning permission allowing certain building works and alterations to be carried out without having to make a planning application to the council. For example; the replacement of doors and windows, changes to roof materials and chimneys, the fitting of roof lights, micro-generation equipment or the alteration and demolition of boundary walls can all be undertaken, within certain limits, without making a formal planning application to the council.
4. The council has no control over how development that is permitted by the General Development Order is undertaken and its impact on the character and appearance of the conservation area cannot be considered or influenced. Permitted development rights therefore have the potential to undermine the character and appearance of a conservation area by allowing insensitive change. Harm can often be incremental resulting from many small changes to different buildings over time. By using an article 4 direction the council can restrict 'permitted development rights' and make a planning application necessary for

types of development in places that might cause harm; in this way the impact of proposals on the character and appearance of the conservation area can be properly considered through the planning process. A direction does not necessarily prevent development occurring, although sometimes this might be the case, but it allows the impact of a proposed change to be looked at carefully, for amendments to be discussed to secure a more appropriate design, or maybe for an application to be approved but subject to planning conditions.

National Planning Guidance

5. Government guidance concerning the use of article 4 directions can be found in the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG). The NPPF advises that the use of Article 4 directions should be limited to situations where it is necessary to protect local amenity or the wellbeing of an area. The NPPG advises that provided there is justification for both its purpose and extent, an article 4 direction can cover an area of any geographic size, remove specified permitted development rights in relation to operational development or change of use and remove permitted development rights with temporary or permanent effect. It expects the potential harm that the direction is intended to address to be clearly identified and there to be a particularly strong justification for the withdrawal of permitted development rights for the installation of micro-generation equipment.

English Heritage Guidance

6. English Heritage is the the Government's statutory adviser on the historic environment. Advice concerning the use of article 4 directions is contained in 'Understanding Place: Conservation Area *Designation, Appraisal and Management*' (March 2011). It advises that a conservation area appraisal should provide the evidence base on which to assess the need for and scope of an Article 4 direction by identifying areas where removal of 'permitted development rights' is necessary to prevent the loss of characteristic architectural detailing or gradual erosion of the character and appearance of the conservation area through inappropriate development. It also advises that it is only appropriate to remove permitted development rights where there is a real and specific threat and that properties where there is no need for a direction to apply should be excluded.

PORTCHESTER (CASTLE STREET) CONSERVATION AREA CHARACTER APPRAISAL AND MANAGEMENT STRATEGY

7. Portchester (Castle Street) Conservation Area was designated in 1969 to protect the character and appearance of the village of Portchester including Portchester Castle. Its boundary was extended in 1975 to include an area north of White Hart Lane.
8. The council adopted a conservation area character appraisal for Castle Street in 2014 which included a management strategy. The appraisal identified an erosion of traditional architectural features resulting from the exercise of permitted development rights on unlisted buildings, such as the replacement of traditional doors and windows with modern designs. It also identified the contribution made by existing front boundary walls to the character of the street and the potential for further harm to occur to the character and appearance of the conservation area

by the exercise of permitted development rights in the future. The Management Strategy recommended that consideration should be given to the restriction of permitted development rights to prevent further harm.

9. The conservation area character appraisal and management strategy recommended consideration should be given to restricting permitted development rights relating to the following;
 - (a) Alterations and extensions
 - (b) Means of enclosure and hard surfaces
 - (c) Micro-generation equipment

Alterations and Extensions

10. The General Development Order grants permitted development rights for various alterations and extensions to dwelling houses and in the case of microwave antenna also for flats and other buildings. It is recommended that the rights in the following parts are restricted as set out below;

| ALTERATIONS AND EXTENSIONS | |
|---|--|
| Development within the curtilage of a dwellinghouse | |
| PD Right | Restriction |
| Part 1 | |
| Class A. The enlargement/ improvement or other alteration of a dwellinghouse. | In relation to replacement doors and windows on a front elevation where facing, and on a side elevation where visible, from a highway, waterway or open space. |
| Class C. Any other alteration to the roof. | For a change of roof material or insertion of roof windows on a front elevation where facing, and on a side elevation where visible, from a highway, waterway or open space. |
| Class D. The erection or construction of a porch. | On an elevation fronting a highway, waterway or open space. |
| Class G. Installation, alteration/ replacement of a chimney. | For the installation, alteration/ replacement of a chimney. |
| Class H. Installation, alteration/ replacement of a microwave antenna. | On a side elevation where visible from a highway, waterway or open space. |
| Part 2 | |
| Class C. The painting of the exterior of any part of a dwellinghouse or building or enclosure within its curtilage. | Painting of unpainted surfaces where facing, and on a side elevation where visible, from a highway, waterway or open space. |

| Development relating to flats and other buildings | |
|--|---|
| Part 25 | |
| CLASS B. The installation, alteration or replacement on any building or other structure of a height of less than 15 metres of a microwave antenna. | On a side elevation where visible from a highway, waterway or open space. |

Means of Enclosure and Provision of Hard Surfaces

11. Permitted development rights are granted by the GDO to construct, alter or demolish boundary walls, gates, fences and other means of enclosure. These rights are not all limited to dwellings. It is permitted development to put up an enclosure less than 1m high adjacent to a highway or under 2m elsewhere. It is also permitted development to alter an enclosure provided it does not exceed its former height.
12. Enclosures under 1m in height abutting a highway or under 2m high in any other case can be demolished without requiring an application.
13. The character appraisal identified the contribution made to character and appearance of the existing older enclosures and also the continuous enclosure of the street provided by the many walls, railings and fences at the back of the pavement that contribute to overall character. It is considered that their loss has the potential to be harmful to the character and appearance of the conservation area.
14. Permitted development rights are granted for the provision of a hard surface in the curtilage of a dwellinghouse, including listed buildings. Loss of frontage garden areas and use of inappropriate surfacing materials has the potential to harm the character and appearance of the conservation area.
15. It is recommended that permitted development rights to alter and demolish enclosures and to form hard-standings should be removed to make a planning application necessary as set out below;

| MEANS OF ENCLOSURE AND PROVISION OF HARD SURFACES | |
|---|--|
| PD Right | Restriction |
| Part 1 | |
| Class F - Provision/ replacement of a hard surface. | Provision where fronting a highway, waterway or open space. |
| Part 2 | |
| Class A - The erection, construction, maintenance, improvement, or alteration of a gate, fence wall or other means of | Where fronting or visible from a highway, waterway or open space |

| | |
|---|---|
| enclosure. | |
| Part 31 | |
| Class B - The demolition of the whole or any part of a gate fence wall or other means of enclosure. | Where fronting or visible from a highway, waterway or open space. |

Micro-Generation Equipment (Solar Panels & Wind Turbines)

16. Permitted development rights are granted for the installation of Solar Panels (PV and thermal) on dwellinghouses flats and outbuildings in a conservation area (with the exception of front walls but including front roof slopes). Permitted development rights are also granted for the installation of wind turbines on detached dwellinghouses (except on a wall or roof slope fronting a highway). The provision of these on roofslopes and walls in a historic area could be harmful to the character and appearance of the conservation area. It is recommended that permitted development rights to install micro generation equipment should be removed as set out below to make a planning application necessary and proper consideration of their impact possible;

| MICRO-GENERATION EQUIPMENT (SOLAR PANELS & WIND TURBINES) | |
|--|--|
| GDO | Restriction |
| Part 40 | |
| The installation replacement or alteration of Solar PV or Solar Thermal equipment. | Installation on side walls and side and front roofslopes |
| The installation replacement or alteration of a wind turbine. | Installation on side elevations |

PROPERTIES TO BE INCLUDED

17. The following categories of buildings are considered appropriate and are recommended for inclusion in the article 4 direction where alterations have potential to affect the character and appearance of the conservation area and the setting of listed buildings.
- (a) Buildings of traditional design, construction and material.
 - (b) Modern buildings where their design and materials make a positive contribution to character and appearance and / or where, owing to their prominence, alterations would have the potential to be harmful.
 - (c) Buildings that have a boundary wall, railing or enclosure that fronts or is visible from a highway, waterway or open space.

Listed Buildings

18. Buildings that are included on the Statutory List of buildings of Special Architectural or Historic Interest are not included in most of the article 4

recommendations as control over alteration and demolition exists using a separate listed building consent procedure. A structure within the curtilage of a listed building (including walls and other means of enclosure) that is older than 1948 is treated as part of the listed building, this would include the majority of boundary walls. In addition some permitted development rights do not apply to listed buildings and their curtilages such as the alteration of a wall or other means of enclosure that surrounds a listed building. Two instances where permitted development does apply to listed buildings are the demolition of boundary walls (see para.12 above) that are not part of the listed building (built after 1948) and the formation of hard surfaces within the curtilage of a dwellinghouse (see para 14 above).

19. The properties affected by the article 4 direction are shown in the table below. The table shows which permitted development rights are to be removed from each property or group of properties using a tick. Where an n/a is entered in the table either permitted development rights are already removed or do not apply to the building, or in the case of a listed building, control can be exercised through the listed building consent process. Where there is no entry in the table (-) it is not considered necessary to remove these permitted development rights from the building.

| Property Address | Type/ Grade if a Listed Building | Alterations and Extensions (Para 10) | Enclosures and Hard Surfaces (Para 11) | Micro-Generation Equipment - (Para 16) |
|----------------------------------|----------------------------------|--------------------------------------|--|--|
| Castle Street (East Side) | | | | |
| 74 to 86 (even) (Terrace) | - | ✓ | ✓ | ✓ |
| 88 | Grade II | n/a | ✓ | n/a |
| 94 | Grade II | n/a | ✓ | n/a |
| 96 | Grade II | n/a | ✓ | n/a |
| 98 | Grade II | n/a | ✓ | n/a |
| 98a | - | ✓ | ✓ | ✓ |
| 98b | - | ✓ | ✓ | ✓ |
| 102 | - | ✓ | ✓ | ✓ |
| 104 | - | ✓ | ✓ | ✓ |
| 106 | - | - | ✓ | - |
| 110 | - | ✓ | ✓ | ✓ |
| 110a | - | ✓ | ✓ | ✓ |
| 112 | - | ✓ | ✓ | ✓ |
| 112a | - | ✓ | ✓ | ✓ |
| 112b (1-3) (Portchester Gate) | - | ✓ | ✓ | ✓ |
| 114 | - | ✓ | ✓ | ✓ |

| Property Address | Type/ Grade if a Listed Building | Alterations and Extensions (Para 10) | Enclosures and Hard Surfaces (Para 11) | Micro-Generation Equipment - (Para 16) |
|--------------------------------|---|---|---|---|
| 116 | - | ✓ | ✓ | ✓ |
| 118 | Grade II | n/a | ✓ | n/a |
| 120 to 128 (even) (Terrace) | - | ✓ | ✓ | ✓ |
| 130 to 138 (even) (Terrace) | - | ✓ | ✓ | ✓ |
| 140 | - | ✓ | ✓ | ✓ |
| 142 | - | ✓ | ✓ | ✓ |
| 144 | - | ✓ | ✓ | ✓ |
| 146 | Grade II | n/a | ✓ | n/a |
| 146a | - | - | ✓ | - |
| 146b | - | - | ✓ | - |
| 148 | - | - | ✓ | - |
| 150 | - | - | ✓ | - |
| 152 | - | - | ✓ | - |
| 154 | - | - | ✓ | - |
| 156 | - | - | ✓ | - |
| 158 | Grade II | n/a | ✓ | n/a |
| 164 | - | ✓ | ✓ | ✓ |
| 168 | Grade II | n/a | ✓ | n/a |
| 192 | - | ✓ | n/a | ✓ |
| 194 | - | ✓ | ✓ | ✓ |
| 196 | Local | ✓ | ✓ | ✓ |
| 202 | Grade II | n/a | ✓ | n/a |
| 204 | Grade II | n/a | ✓ | n/a |
| 206 | - | ✓ | ✓ | ✓ |
| 208 | - | - | ✓ | - |
| 210 | - | - | ✓ | - |
| 212 | - | - | ✓ | - |
| 214 | - | ✓ | ✓ | ✓ |

Castle Street (West Side)

| Property Address | Type/ Grade if a Listed Building | Alterations and Extensions (Para 10) | Enclosures and Hard Surfaces (Para 11) | Micro-Generation Equipment - (Para 16) |
|-------------------------------|----------------------------------|--------------------------------------|--|--|
| 77 | - | ✓ | ✓ | ✓ |
| 79 | - | ✓ | ✓ | ✓ |
| 83 | - | ✓ | ✓ | ✓ |
| The Co-operative | - | ✓ (part 25) | ✓ | - |
| Boxtree Court | - | ✓ (part 25) | n/a | ✓ |
| 99 to109 (odd) (Terrace) | - | ✓ | ✓ | ✓ |
| 111 - 115 (odd) (Terrace) | - | ✓ | ✓ | ✓ |
| 121 – 127 (odd) (Terrace) | - | ✓ | ✓ | ✓ |
| 119 | - | ✓ | ✓ | ✓ |
| 135a | - | ✓ | ✓ | ✓ |
| 137 | - | ✓ | ✓ | ✓ |
| 139 | - | ✓ | ✓ | ✓ |
| 141 to 147 (odd) (Terrace) | - | ✓ | ✓ | ✓ |
| 157 | Local | ✓ | ✓ | ✓ |
| 163 | Local | ✓ | ✓ | ✓ |
| 165 | Local | ✓ | ✓ | ✓ |
| 175 | Local | ✓ | ✓ | ✓ |
| 181 | - | ✓ (part 25) | ✓ | - |
| 191 | - | - | ✓ | - |
| 221 | - | - | ✓ | - |
| Wicor Path | | | | |
| Castle Barn, | - | ✓ | ✓ | ✓ |
| Wicor Oak | - | ✓ | ✓ | ✓ |
| Anchor House | - | - | ✓ | - |
| Hospital Lane | | | | |
| Beach Cottage | - | ✓ | ✓ | ✓ |
| Castle Acre | - | ✓ | ✓ | ✓ |

Barbican Mews

| Property Address | Type/ Grade if a Listed Building | Alterations and Extensions (Para 10) | Enclosures and Hard Surfaces (Para 11) | Micro-Generation Equipment - (Para 16) |
|------------------------|----------------------------------|--------------------------------------|--|--|
| 1 | - | ✓ | ✓ | ✓ |
| White Hart Lane | | | | |
| 1a | - | ✓ | ✓ | ✓ |
| 1b | - | ✓ | ✓ | ✓ |

20. The properties affected by the article 4 direction are shown on the map attached at Appendix A.

21. ARTICLE 4 DIRECTION PROCEDURES

22. Article 4 directions can be served by an immediate or non-immediate procedure. Use of the non-immediate procedure is proposed. Using this procedure, the article 4 comes into force on a future date specified by the local planning authority after a period of public consultation has been undertaken and representations received and considered.
23. Public consultation includes a letter to every owner and occupier affected, site notices, a local press advertisement and notification of Hampshire County Council and the Secretary of State. It must include details of the area to which the direction relates, a description of the development affected and name a place where a copy of the direction can be inspected. The consultation period is 21 days.
24. There is no fee for a planning application that is required resulting from an article 4 direction.
25. Any representations received will be reported back to the Executive Member for Planning and Development to be taken into account in deciding if the article 4 directions should be come into force. When confirmed a further local notification procedure is required.
26. As a result of concerns relating to traffic congestion, the possibility of parking restrictions on the east side of Castle Street is currently being considered by the Council's Traffic Management Team for likely implementation in or before Spring 2015. A reduction in on street parking availability may result in pressure for provision of further private off street alternatives. Members attention is drawn to the possible implications for existing boundary walls and loss of front garden areas should these changes be considered prior to an article direction comes into force.
27. In some circumstances and subject to a time limit the Council may be liable to pay compensation when a planning application is refused or granted subject to conditions resulting from an article 4 direction. The claim must relate to abortive expenditure or other loss or damage directly attributable to the withdrawal of the permitted development rights. A claim must be made within 12 months of the

date on which the application is determined; for certain rights a claim can only be made within 12 months of the direction being made. English heritage guidance advises that compensation claims have been extremely rare.

Conclusion

28. It is considered that the exercise of the permitted development rights the subject of this report have the potential to be prejudicial to the proper planning and constitute a threat to the amenities of the Portchester (Castle Street) Conservation Area. Officers consider that in order to preserve the character and appearance of the Portchester (Castle Street) Conservation Area and to ensure the proper planning of the area it is recommended that Article 4 Directions are made in accordance with the procedures set out in The Town and Country Planning (General Permitted Development) Order 1995 (As Amended).

Appendix A - [Portchester \(Castle Street\) Conservation Area – Article 4 Direction](#)

Legend

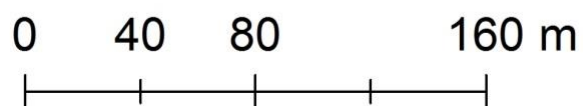
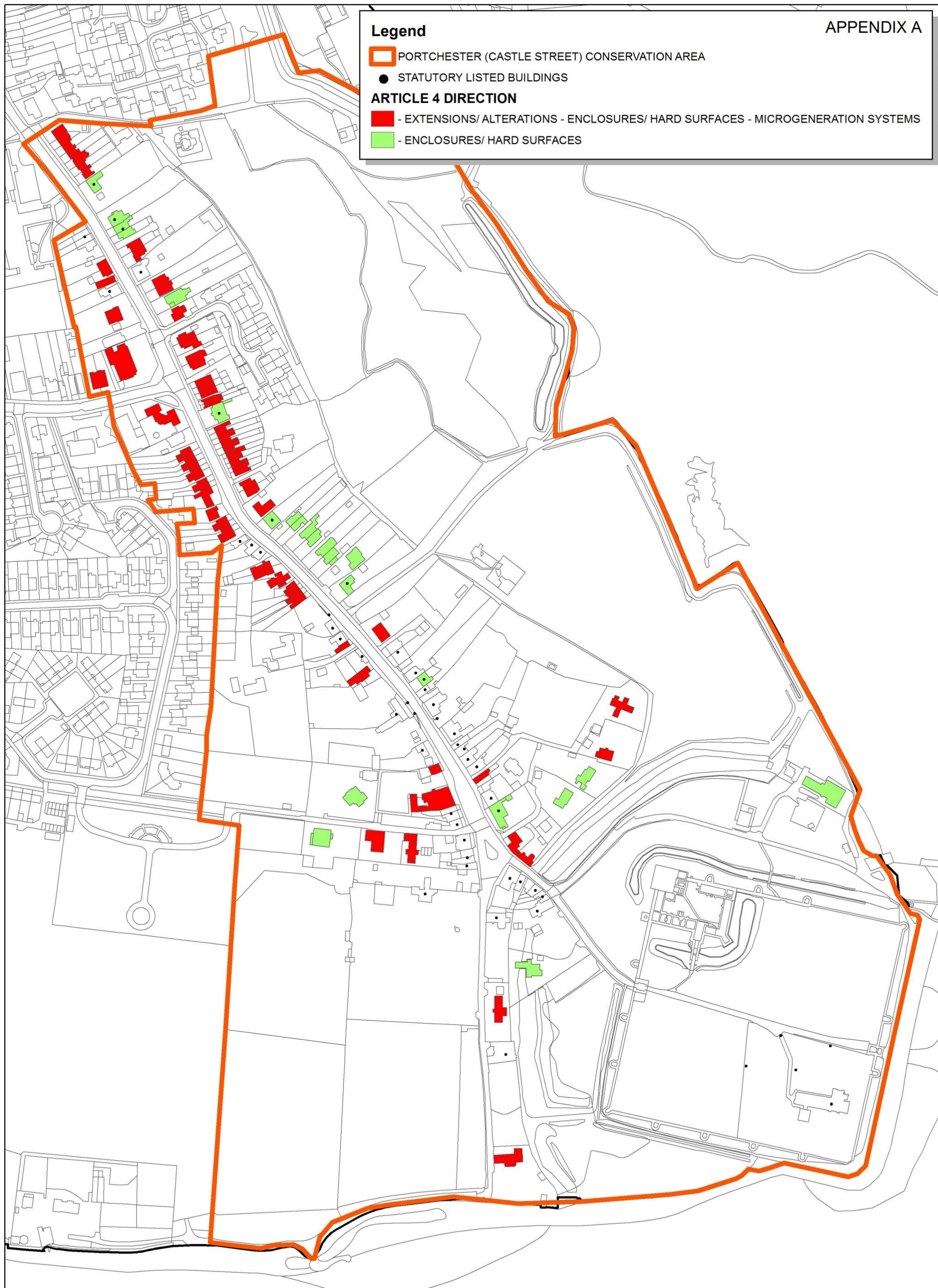
 PORTCHESTER (CASTLE STREET) CONSERVATION AREA

 STATUTORY LISTED BUILDINGS

ARTICLE 4 DIRECTION

 - EXTENSIONS/ ALTERATIONS - ENCLOSURES/ HARD SURFACES - MICROGENERATION SYSTEMS

 - ENCLOSURES/ HARD SURFACES



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