

FAREHAM

BOROUGH COUNCIL

Report to the Executive Member for Strategic Planning and Environment

Portfolio:	Strategic Planning and Environment
Subject:	Article 4 Directions: Warsash and Hook Conservation Areas
Report of:	Director of Planning and Environment
Strategy/Policy:	Fareham Borough Local Plan/ Core Strategy
Corporate Objective:	Protecting and Enhancing our Environment

Purpose:

This report sets out the case for Article 4 Directions to be made within Hook and Warsash Conservation Areas in accordance with the Town and Country Planning (General Permitted Development) Order 1995 (As Amended).

Executive summary:

This report seeks authorisation for Article 4 Directions to be made for the conservation areas at Warsash and Hook following in accordance with The Town and Country Planning (General Permitted Development) Order 1995 (As Amended).

The use of Article 4 Directions in both conservation areas was recommended in the conservation area character appraisal and management strategy documents that were adopted for each conservation area on 9th January 2012. At that meeting the Council's Executive resolved that the making of Article 4 Directions in the above conservation areas should be supported. This report recommends the use of Article 4 Directions to protect two boundary walls in Warsash Conservation Area and the open front garden of the residential property 'The Nook' in the Hook Conservation Area both of which contribute to the character and appearance of the conservation areas concerned. 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 Strategic Planning and Environment to be taken into account in deciding if the Article 4 Directions should be confirmed. It is proposed that if confirmed the Article 4 Direction should come into force on the 22 November 2013.

Recommendation:

That authorisation is given for Article 4 Directions 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;

1. Warsash Conservation Area to remove permitted development rights relating to demolition of the whole or any part of the walls around the Sailing Club and on

the road frontages surrounding Stone Cottage shown marked between the points “x” and “y” on the plan forming an appendix to this report; and

2. Hook Conservation Area to remove permitted development rights for the laying of hard surfacing within the front garden for the residential property known as the Nook.

Reason:

To preserve the character and appearance of the conservation areas at Warsash and Hook.

Cost of Proposals:

These can be met from within existing budgets.

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Executive Briefing Paper

Date: 11 July 2013

Subject: Article 4 Directions: Warsash and Hook Conservation Areas

Briefing by: Director of Planning and Environment

Portfolio: Strategic Planning and Environment

BACKGROUND

1. This report seeks authority to serve two Article 4 Directions in the conservation areas at Warsash and Hook resulting from conservation area character appraisal.
2. The Council adopted revised conservation area character appraisal and management strategy documents for the conservation areas at Hook and Warsash on 9th January 2012. The character appraisals identified the walls around the Sailing Club and Stone Cottage in Warsash and the open front garden of the Nook in Hook as contributing to the character and appearance of the conservation areas. The management strategy documents recommended that permitted development rights for alteration of these features should be removed with the use of Article 4 Directions. The Council's Executive resolved at the meeting of the 9th January 2012 to support the making of Article 4 Directions in the above conservation areas. Leading on from that decision this report seeks approval to serve Article 4 Directions 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 allow a range of minor development and alterations to take place without the need to make a formal planning application to the Council. By serving an Article 4 Direction, the Council can withdraw specified 'permitted development rights' and make a planning application necessary. The use of an Article 4 Direction does not necessarily prevent development occurring, although this might be the case, but by requiring a planning application allows proper consideration to be given to its impact and to the use of appropriate planning conditions.

4. Government guidance¹ advises that Article 4 Directions can be appropriate where the exercise of permitted development rights would undermine the visual amenity of an area or damage the historic environment. English Heritage expects a management strategy resulting from a conservation area character appraisal to identify areas where removal of 'permitted development rights' may be necessary to prevent the loss of characteristic architectural detailing or the gradual erosion of the character and appearance of the conservation area through inappropriate alterations. Permitted development rights should only be removed where there is a real and specific threat and properties where there is no need for the direction to apply should not be included.

ARTICLE 4 DIRECTION PROCEDURES

5. Article 4 Directions can be served by one of two methods depending upon the nature of the property concerned and the immediacy of the perceived threat. The two methods are;
 - (a) **Immediate** - this procedure can be used to withdraw a range of permitted development rights including from houses in a conservation area where the development faces a highway, waterway or open space or outside a conservation area where development would be prejudicial to the proper planning of the area or constitutes a threat to the amenities of the area. The article 4 comes into force immediately after which there is a period of public consultation. It must be confirmed within 6 months or it expires. The advantage of the use of the immediate direction procedure is that the power to control development comes into force prior to public consultation.
 - (b) **Non - Immediate** - this procedure can be used where the threat from the exercise of permitted development rights is not considered immediate or where permitted development rights cannot be withdrawn by using the immediate method. The article 4 comes into force on a future date specified by the local planning authority following a period of public consultation. The local planning authority can use a non immediate direction where it would be legally possible to use the immediate method if the threat is not considered immediate and where compensation liability might be a consideration. The disadvantage of the use of the non-immediate direction procedure is that the power to control development comes into force at a future date after the public consultation period allowing the possibility of works being undertaken in the intervening period.

Public Consultation

6. A period of public consultation precedes the direction coming into force, should it be confirmed by the Council, this 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 a named place where a copy of the direction can be inspected. The consultation period is 6 weeks. For the non-immediate procedure it must also specify the date

¹ Replacement Appendix D to Department of the Environment Circular 9/95: General Consolidation Order 1995.

that the article 4 will come into force, if confirmed by the Council; the suggested date is 22nd November 2013.

7. Any representations received will be reported back to the Executive Member for Strategic Planning and Environment to be taken into account in deciding if the Article 4 Directions should be confirmed. If confirmed a further local notification procedure is required giving notice of the confirmation, this will include updating local ward members.
8. There is no fee for a planning application that is required resulting from an Article 4 Direction.

WARSASH CONSERVATION AREA

9. The Warsash Conservation Area Character Appraisal identified the walls around the Sailing Club and on the road frontages surrounding Stone Cottage as contributing to the character and appearance of the conservation area. The Management Strategy proposed the use of an Article 4 Direction to protect these features. It is considered that works to these features could potentially harm the character and appearance of the conservation area.
10. The partial demolition or the alteration not exceeding the existing height of these walls is presently permitted development. It is therefore recommended that Article 4 Directions are served to restrict these permitted development rights. The areas and properties to be subject to the Article 4 Direction are shown in the map at Appendix 1.
11. The non - immediate procedure is recommended to be used in Warsash as there is not considered to be an immediate threat.

HOOK CONSERVATION AREA

12. The Hook Conservation Area Character Appraisal identified that the historic cobbled frontages of some of the listed buildings and the open front gardens of the Nook contributed to the character and appearance of the conservation area. The Management Strategy proposed the use of an Article 4 Direction to protect these features.
13. Legal advice has clarified the extent of control over the features identified. The cobbled surfaces of the listed building frontages form part of the listed buildings by virtue of being curtilage structures and a separate listed building consent would be required for their removal or alteration. Further restriction of permitted development rights is not required to preserve them. The statutory list entry 'The Nook', formerly the wheelwright's house and workshop, is split into two properties. The eastern part, the former workshop, is now a restaurant and the western half is a residential property. Permitted development rights that allow hard surfacing of the front gardens apply only to the part in residential use; these rights are already removed nationally for a restaurant use.

14. To preserve the character and appearance of the conservation area it is therefore recommended that an Article 4 Direction is served on the residential property 'The Nook' to remove the permitted development right to form a hard standing on its garden frontage. The area and properties to be subject to the Article 4 Direction are shown in the map at Appendix 1.
15. The non - immediate procedure is recommended to be used in Hook as there is not considered to be an immediate threat.

FINANCIAL IMPLICATIONS

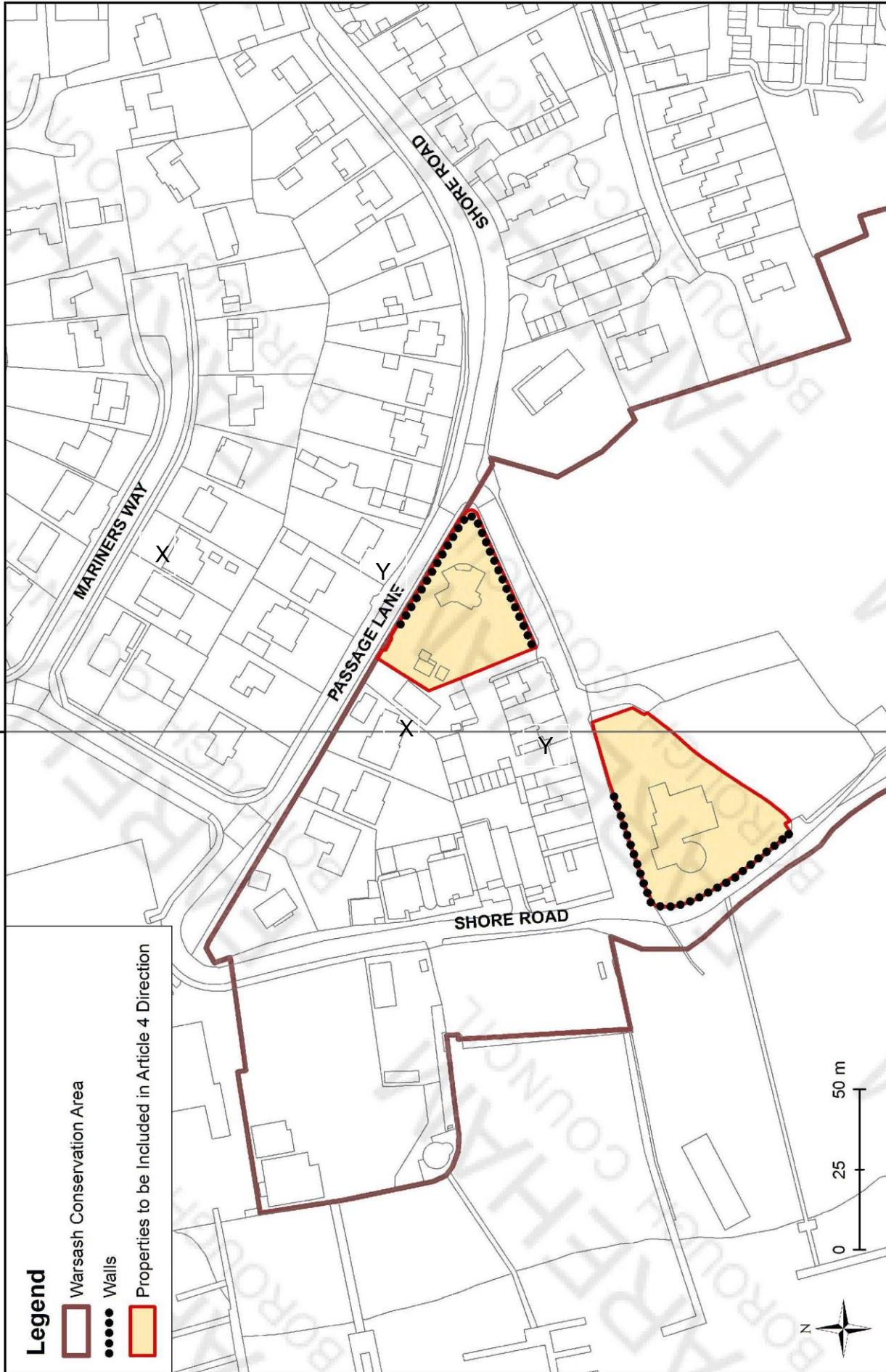
16. In some circumstances and subject to a time limit the Council may be liable to pay compensation when a planning application is refused or granted subject to conditions resulting from an Article 4 Direction. The claim must relate to abortive expenditure or other loss or damage directly attributable 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

17. In order to preserve the character and appearance of the conservation areas at Hook and Warsash and to ensure the proper planning of the area it is recommended that Article 4 Directions are made in accordance with the non-immediate procedure set out in The Town and Country Planning (General Permitted Development) Order 1995 (As Amended).

Appendix 1 - Proposed Article 4 - Warsash Conservation Area

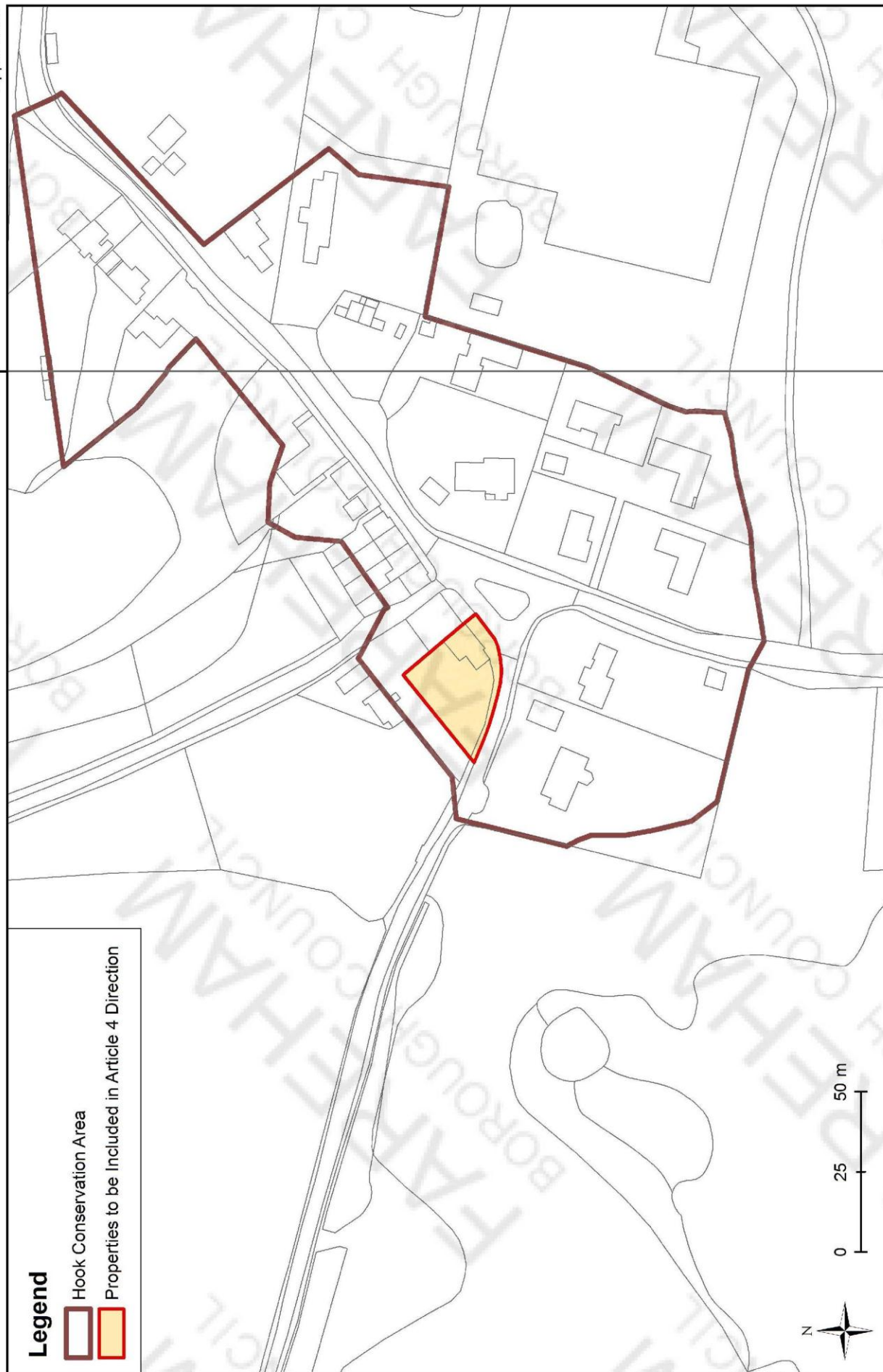
Appendix 2 - Proposed Article 4 - Hook Conservation Area



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WARSASH CONSERVATION AREA - ARTICLE 4 DIRECTION



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HOOK CONSERVATION AREA - ARTICLE 4 DIRECTION