

FAREHAM

BOROUGH COUNCIL

Report to the Executive Member for Strategic Planning and Environment

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| Portfolio: | Strategic Planning and Environment |
| Subject: | Confirmation of 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 seeks confirmation of Article 4 Directions served in accordance with the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

Executive summary:

This report seeks confirmation of the Article 4 Directions that have been served for the conservation areas at Warsash and Hook in accordance with The Town and Country Planning (General Permitted Development) Order 1995 (as amended). The directions, which were served on 2nd August, have now been subject to the statutory period of public notification and one representation has been received. The report recommends confirmation of the article 4 directions which have been served using the non-immediate procedure and which would come into force on the 22 November 2013.

Recommendation:

That the Article 4 Directions for Warsash Conservation Area and Hook Conservation Area are confirmed in accordance with the procedure set out in The Town and Country Planning (General Permitted Development) Order 1995 (as amended) to come into force on the 22 November 2013.

Reason:

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

Cost of Proposals:

There are no significant cost considerations in relation to this report. The costs associated with public notices are covered within existing budgets.

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BOROUGH COUNCIL

Executive Briefing Paper

Date: 4 November 2013

Subject: Article 4 Directions: Warsash and Hook Conservation Areas

Briefing by: Director of Planning and Environment

Portfolio: Strategic Planning and Environment

INTRODUCTION

1. This report relates to two article 4 directions that were served on properties in the conservation areas at Hook and Warsash on 2nd August 2013. It seeks confirmation of both directions following the expiry of the required public notification period and consideration of the representations received in accordance with the procedure set out in The Town and Country Planning (General Permitted Development) Order 1995 (as amended).

BACKGROUND

2. The use of Article 4 Directions to control the potentially harmful exercise of permitted development rights in both conservation areas was recommended in their adopted conservation area appraisals and management strategies. A decision to serve them was made following a report to the Executive Member for Strategic Planning and Environment on 11 July 2013. 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. There is no fee for a planning application that is required resulting from an Article 4 Direction.
3. The Warsash direction was served on 2nd August 2013 (Appendix A) and the Hook direction was served on the 16th August (Appendix B) both using the non-immediate procedure. Using this procedure the article 4 directions come into force at a future date, specified by the local planning authority, after a statutory period of public consultation and the consideration of any representations received. The period of public consultation has now expired and if confirmed, as recommended in this report, the directions will come into force on the 22nd of November 2013.

THE OUTCOME OF PUBLIC CONSULTATION

4. The period of public consultation has now been completed. This included a letter to every owner and occupier affected, site notices posted within the conservation

areas, a local press advertisement and notification of Hampshire County Council and the Secretary of State. It included details of the area to which the directions related, a description of the development affected and named place where a copy of the direction could be inspected. The consultation period was 6 weeks and was undertaken in August and September. The notification also specified the proposed date that the article 4 would come into force if confirmed by the Council.

5. **Warsash Conservation Area** - The Warsash direction relates to the brick and stone walls surrounding two properties, Stone Cottage and Shore House (The Sailing Club) both of which contribute to the character and appearance of the conservation area. The direction requires a planning application to be made for works that include the alteration or demolition of the walls. No representations have been received resulting from public consultation.
6. **Hook Conservation Area** - In Hook Conservation Area the direction relates to the residential property 'The Nook'. It requires a planning application to be made for the formation of a hard standing on its garden frontage. The open front garden is considered to contribute to the character and appearance of the conservation area and to the setting of listed buildings.
7. One representation has been received resulting from public consultation. In preparing the public consultation it has come to light that the front garden of the property, although currently used as such by the owners of The Nook, is not in their ownership. The land is partly owned by Hampshire County Council (County Farms land) and partly unregistered; it has not been possible to identify the owner of the unregistered part.
8. The representation received suggests that the front garden of the Nook might also benefit from permitted development rights contained in part 9 of The Town and Country Planning (General Permitted Development) Order 1995 which allows the maintenance or improvement of an unadopted street or private way. It is suggested that as the front garden area is in different ownership and that as old photographs seem to show the road closer to the house than it is now (on land now used as the front garden) that private rights of way may exist over it. It suggests that if this is so then permitted development rights in part 9 could be used to hard surface the front garden.
9. The interpretation of part 9 of the GPDO has been clarified by previous legal cases. For development to be permitted development a recognisable street or way must already be in existence and the proposed works must be within its boundaries. Any works must also be related to the ordinary meaning of the word 'improvement', i.e.: changes that do not alter the 'basic character' of the thing that is improved. Proposed works could only affect the surface and foundations of the way and could not alter or widen its route. Any proposed work to the front garden of the Nook would be considered in the light of the present arrangement of garden and street. The front garden of the Nook is clearly not part of the recognisable street or way and any hard surfacing would not be within the existing street boundaries and could not be said to maintain or improve the street. Hard surfacing of the garden would obviously require widening of the existing highway. For these reasons officers are of the view that hard surfacing of the front garden of the Nook could not be undertaken using permitted development rights contained in Part 9 of the GPDO and therefore there is no need to remove part 9 permitted development rights.

NOTIFICATION OF CONFIRMATION

10. If it is resolved to confirm the directions then a further period of local notification, as described in paragraph 5 of this report, is necessary as part of the confirmation procedure.

CONCLUSION

11. It is recommended that the Article 4 Directions for Warsash Conservation Area and Hook Conservation Area are confirmed in accordance with the procedure set out in The Town and Country Planning (General Permitted Development) Order 1995 (as amended).

Appendices

Appendix A - Article 4 Direction - Warsash Conservation Area

Appendix B - Article 4 Direction - Hook Conservation Area