

ARTICLE 4(1) DIRECTION, 20 NEWFIELD LANE, DORE

1. PURPOSE OF THE REPORT

The purpose of this report is to inform Committee Members of a decision taken under delegated powers to serve an Article 4(1) Direction upon the owner of land at 20 Newfield Lane, and of its implications.

2. BACKGROUND

2.1 20 Newfield Lane is a modest isolated dwelling on a large and generally open plot within the adopted Green Belt and an Area of High Landscape Value, as identified by the Unitary Development Plan. The dwelling, on the edge of Dore has previously been significantly extended over and above its original footprint. Views across the plot are prevalent to open countryside beyond.

2.2 The owner of 20 Newfield Lane is seeking to erect a substantial outbuilding within the extensive garden area to the side of the dwelling. Plans have been formally submitted (ref: 12/00610/LD2) to seek to establish that the proposed building falls within Class E to Part 1 of Schedule 2 to the GPDO. The application was due to be considered by Members at the City Centre South & East Planning and Highways Committee on 23 July 2012, however, it was withdrawn from the agenda by officers to allow for further examination of the legal interpretation of the case, and to allow the applicant to submit further evidence to demonstrate that the proposed building is 'permitted development' within the meaning of the GPDO. There is significant local opposition to the proposal. The report dealing with this application now appears elsewhere on this agenda.

2.3 The erection of any detached outbuildings within the curtilage of the dwelling or further extension of the dwelling is capable of having a significant and damaging impact on the open character of the Green Belt adjacent open countryside and fronting the west side of Newfield Lane, which is not substantially developed. Consequently, such developments are potentially damaging to the public interest.

2.4 There is therefore evidence of a significant threat to the open character of the Green Belt, and the Area of High Landscape Value in this

location. In recognition of this, and of the significant level of public opposition to the proposed outbuilding, officers considered that in order to ensure all forms of future development in this prominent location would be subject to an application for planning permission, it would be appropriate to exercise powers set out within the Town and Country Planning (General Permitted Development Order) 1995 (as amended) to remove permitted development rights from the property.

- 2.5 Article 4 of the General Permitted Development Order (GPDO) provides that the Secretary of State or the Local Planning Authority may direct either (i) that all or any of the developments permitted by any Part, class or paragraph in Schedule 2 of the Order shall not be carried out in a particular area without specific permission; or (ii) that any particular development shall not be carried out without specific permission.
- 2.6 In other words, an Article 4 Direction does not prevent the works that would otherwise be permitted development from taking place, but instead it requires that planning permission is first obtained.
- 2.7 Appendix D to Government Circular 9/95 on the subject advises that authorities should only consider making Article 4 directions in exceptional cases where evidence suggests the exercise of permitted development rights would harm local amenity or the proper planning of the area. It was considered in this case that such evidence existed in the form of the applicant's lawful development application, and previous stated intention to develop the site.
- 2.8 Directions relating to developments within Parts 1 to 4 of Schedule 2 may take effect for 6 months without the Secretary of State's approval, but must be confirmed following consultation before the end of this period.
- 3.0 THE ARTICLE 4 (1) DIRECTION
- 3.1 A report setting out the justification for the imposition of the Direction, and seeking authority for it was prepared by officers, and approved on 3rd September 2012, by the Executive Director under the powers conveyed to him through the Council's delegation scheme.
- 3.2 The Direction was made and has subsequently been served on the owner of the property and takes immediate effect. It removes permitted development rights relating to the following provisions in the Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Part 1 Development within the curtilage of a dwellinghouse

Class A:

The enlargement of a dwellinghouse.

Class B:

The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C:

Any other alteration to the roof of a dwellinghouse, (excluding the installation of rooflights).

Class D:

The erection or construction of a porch outside any external door of a dwellinghouse.

Class E:

The provision within the curtilage of the dwellinghouse of –

- (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or
- (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

Part 2 Minor Operations

Class A

The erection of a gate, fence, wall or other means of enclosure.

- 3.3 It will now be necessary, as set out in para 2.8 above to seek confirmation of the Direction from the Secretary of State, within 6 months of its service.

4.0 EQUAL OPPORTUNITIES

- 4.1 There are no equal opportunity implications arising from the recommendations in this report.

5.0 FINANCIAL IMPLICATIONS

- 5.1 The withdrawal of permitted development rights by the Article 4(1) Direction may give rise to a claim for compensation if subsequent applications for planning permission for works covered by the Article 4(1) Direction are refused planning permission or granted subject to conditions. Compensation may be claimed for abortive expenditure or for other loss or damage directly attributable to the withdrawal of the permitted development rights.

6.0 RECOMMENDATION

- 6.1 That Members note the imposition of an Article 4(1) Direction at 20 Newfield Lane, Dore removing permitted development rights from the property, as set out above.

David Caulfield
Head of Planning

3rd October 2012

Map of area subject of Article 4(1) Direction

