



CABINET

Report of: Councillor Mike King
Cabinet Member for Economy and Development

Report to:	CABINET
Date:	12 April 2018
Subject:	PLA11 Article 4 Direction - Stamford

Decision Proposal:	Key Decision
Relevant Cabinet Member:	Councillor Mike King Cabinet Member for Economy and Development
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Approved for publication	Councillor M King. Cabinet Member for Economy and Development Mike.king@southkesteven.gov.uk Date: 22 March 2018

SUMMARY

The purpose of this report is to set out proposals for and seek Cabinet approval to designate an Article 4 Direction to removepermitted development rights for unlisted buildings in Stamford Conservation Area.

RECOMMENDATION

It is recommended that Cabinet approves the commencement of a formal process to remove permitted development rights for specific types of development within the designated Stamford Conservation Area as shown at Appendix 1 to this Report PLA11 under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

1.0 BACKGROUND TO REPORT

- 1.1 The purpose of an Article 4 Direction is to bring under planning control development which would otherwise be permitted by virtue of the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). If an Article 4 Direction were to be made, this would mean that any development within the area of the proposed Direction would need planning permission and would not acquire permitted development rights.
- 1.2 This action is considered necessary for the Stamford Conservation Area due to the increasing number of instances of alterations being carried out under permitted development rights which may be harmful to the character and appearance of the Conservation Area. This includes the replacement of timber windows with uPVC, the removal of traditional roofing slates and the removal of chimneys which together with other alterations to unlisted dwelling houses have gradually eroded the architectural details of the historic fabric of unlisted residential buildings within the area.
- 1.3 It should be noted, however, that works which are exempted from the definition of what is development, as set out in Section 55 of the Town and Country Planning Act 1990, cannot be controlled by this Direction. Works that do not amount to development do not require any form of permitted development rights so cannot be subject to this control. This may include instances where traditional windows, doors or rain water goods are replaced with more modern equivalents that do not materially affect the appearance of the building as a whole. In some instances, however, where the design of such items is significantly different from the originals, a material change to the appearance of the building may occur and would therefore amount to development which could be controlled through this Direction.
- 1.4 Both Stamford Civic Society and Stamford Town Council have previously expressed a view that Stamford Conservation Area should be the subject of an Article 4 Direction.
- 1.5 District Councillors whose Wards include Stamford Conservation Area have been made aware of the recommendation to propose an Article 4 Direction. There are eight Ward Councillors affected. Seven of the Ward Councillors have responded in support of the proposal. At the time of writing this report, the remaining Ward Councillor's response is awaited. Cabinet will be updated on the remaining response once received.

- 1.6 The Stamford Conservation Area is quite extensive, as shown at Appendix 1, comprising a high proportion of residential properties. Within the Conservation Area, many buildings are listed for their historic or architectural merit. The Article 4 Direction would mostly apply to single dwellings but may also apply to the limited permitted development rights for flats and commercial properties. It is unnecessary to make an Article 4 Direction in respect of alterations and extensions to Listed Buildings as works to these will usually require listed building consent, planning permission or both.
- 1.7 A Direction of this kind does not automatically prevent development which would otherwise be permitted from taking place. Rather, it means that an application for express permission would need to be submitted for such development. The application would be determined on its merits, having regard to relevant planning policies and planning guidance. The provisions of the Equality Act 2010 would also be taken into account, where relevant.
- 1.8 There are two types of Article 4 Direction: one which takes place without immediate effect and one which takes place with immediate effect.
- 1.9 An Article 4 Direction (without immediate effect) is considered to be a more appropriate procedure for introducing controls over permitted development within the Stamford Conservation Area. This would not come into effect until after public consultation has been carried out.

2.0 Benefits of Article 4 Directions

- 2.1 Article 4 Directions bring many benefits to people living, working or visiting a conservation area, they can:
 - Protect the special character of a conservation area;
 - Help to project and enhance the quality of the environment;
 - Encourage the use of local and traditional building materials. These are often more environmentally friendly and sustainable than modern products;
 - Ensure that buildings which contribute positively towards the area's special character are protected from unsympathetic and damaging change; and
 - Align with the Council's priority to promote tourism, leisure and the arts.

3.0 Scope of Withdrawing Permitted Development Rights

- 3.1 It is recommended within the Stamford Conservation Area, in the case of unlisted dwellinghouses and commercial properties, that the following permitted development rights are removed. These relate to the rights under Schedule 2, Part 1, Classes A, B, C, D, E, F and H, Part 2 Classes A and C, Part 11, Class C, Part 14 Classes A, E, F, J, N and O, Part 16, Classes B and C of the GPDO 2015 and refer to:

- the erection, alteration or removal of a chimney or flue on a dwellinghouse, or on a building within the curtilage of a dwellinghouse.

And any of the following permitted development rights for development which would be facing onto and visible from a highway, footpath or open space:

- the enlargement, improvement or other alteration of a dwellinghouse (including alterations to windows, doors, stone and brickwork);
- any alteration of the roof of a dwellinghouse;
- the erection or construction of a porch outside an external door of a dwellinghouse;
- the provision within the curtilage of a dwellinghouse of any building, enclosure, swimming pool 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;
- the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such;
- the installation, alteration or replacement of a satellite antenna on a building;
- the replacement of cast iron guttering with plastic, or the addition of new guttering and downpipes;
- the erection, alteration or demolition of the whole or any part of any gate, fence, wall or other means of enclosure within the curtilage of a building;
- the painting of the exterior of a building or a building or enclosure within the curtilage of the building; and
- the installation, alteration or replacement of solar photovoltaic (solar panels) or other solar thermal equipment.

4.0 Article 4 Direction Designation Process

4.1 The process for confirming an Article 4 Direction (without immediate effect) is as follows:

- **Stage 1** - Following a formal decision, a date is set in the Notice for when the Direction will come into force which must be at least 28 days and no more than 2 years after representations can first be made, which is usually after the last publication/service date;

- **Stage 2** . Publicity / Consultation stage. The process is set out in legislation and would involve consultation before confirmation.
- **Stage 3** . As soon as practicable, the Council refers its decision to the Secretary of State who has powers to modify or cancel a Direction.
- **Stage 4** . The Council cannot confirm the Direction until after a period of at least 28 days from publication/service of the Notice. Once a Direction has been confirmed, the Council must give notice of the confirmation in the same way as it gave notice of the initial Direction, and must specify the date that the direction comes into force.

5.0 CANCELLATION OF EXISTING WARRENNE KEEP ARTICLE 4 DIRECTION

5.1 There is an existing Article 4 Direction that applies to the Warrenne Keep residential development which was designated in the early 1980s immediately following the construction of the scheme. The development is located entirely within the Stamford Conservation Area. It is proposed that this Direction would be cancelled following the confirmation of the proposed area wide Article 4 Direction for Stamford Conservation Area which would replace it.

6.0 OTHER OPTIONS CONSIDERED

6.1 The only other option would be not to designate an Article 4 Direction. There has been no area-wide control over permitted development across the Stamford Conservation Area since it was first designated in 1967. However, there has since been a gradual erosion of the architectural details of the historic fabric of a number of unlisted buildings within the Conservation Area.

7.0 RESOURCE IMPLICATIONS

7.1 There will be an increase in the number of planning applications received by the Council. Regulation 5(2) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits)(England)(Amendment) Regulations 2017 amends the 2012 Regulations and now enables a planning application fee to be charged by the local planning authority where they have made an Article 4 Direction. Previously these types of application were exempt from planning fees. Following the completion of the designation of the Direction, the Council would need to consider the need for and level of a suitable fee for this type of application.

8.0 RISK AND MITIGATION

8.1 Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
There is a risk, without Article 4 Directions, that the special interest and character of Stamford Conservation areas	The designation of Article 4 Directions will enable the Council to better protect the special character and appearance of the conservation

<p>could be eroded.</p> <p>There are circumstances in which councils may be liable to pay compensation having made an Article 4 Direction, although the potential liability is limited in many cases by the time limits that apply.</p> <p>There is a risk associated with an Article 4 Direction that comes into effect after a period of consultation.</p>	<p>areas.</p>
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9.0 ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)

9.1 An Equality Analysis has been undertaken and there are not considered to be any direct equality issues arising from this report. The Analysis is included in the Appendix 2 to this report.

10.0 CRIME AND DISORDER IMPLICATIONS

10.1 None.

11.0. COMMENTS OF FINANCIAL SERVICES

11.1 The costs of advertising the Article 4 Direction can be met from the DevelopmentManagement budget.

11.2 There will be an increase in the number of applications for planningpermission for which a fee (yet to be determined) will be payable. It is considered that the additional workload can be met using existing resources.

11.3 It should be noted that there are circumstances in which Councils may be liable to pay compensation having made an Article 4 Direction, although the potential liability is limited in many cases by the time limits that apply.

11.4 A without immediate effect approach is considered to be the most risk averse and significantly reduces the risk of compensation claims.

11.5 English Heritage (now Historic England) commissioned research has found claims for compensation in connection with the Article 4 designations are negligible.

12.0 COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

12.1 The formal processes set out in the GPDO must be followed in the making of Article 4 Directions.

12.2 Local planning authorities may be liable to pay compensation to those whose permitted development rights have been withdrawn if they:

- refuse planning permission for development which would have been permitted development if it were not for an Article 4 direction; or
- grant planning permission subject to more limiting conditions than the GPDO would normally allow, as a result of an Article 4 direction being in place.

12.3 Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

12.4 All claims for compensation must be made within 12 months of the date on which the planning application for development formerly permitted is rejected (or approved subject to conditions that go beyond those in the GPDO).

12.5 Additionally, for certain prescribed classes of permitted development rights withdrawn by Article 4 Directions, compensation may only be claimed if an application for planning permission is submitted within 12 months following the effective date of the Direction. Also, if 12 months prior notice of the withdrawal of permitted development rights is given, there is no ability to claim compensation.

12.7 There are other specific compensation provisions in relation to statutory undertakers.

12.8 Issues in relation to the payment of compensation as a result of the withdrawal of permitted development rights are covered principally in sections 107 and 108 of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Compensation) (England) Regulations 2015 (SI 2015/598).

13.0 COMMENTS OF OTHER RELEVANT SERVICES

13.1 None.

14.0 APPENDICES

14.1 Appendix 1: Map of Stamford Conservation Area

14.2 Appendix 2: Equality Analysis Assessment

15.0 BACKGROUND PAPERS

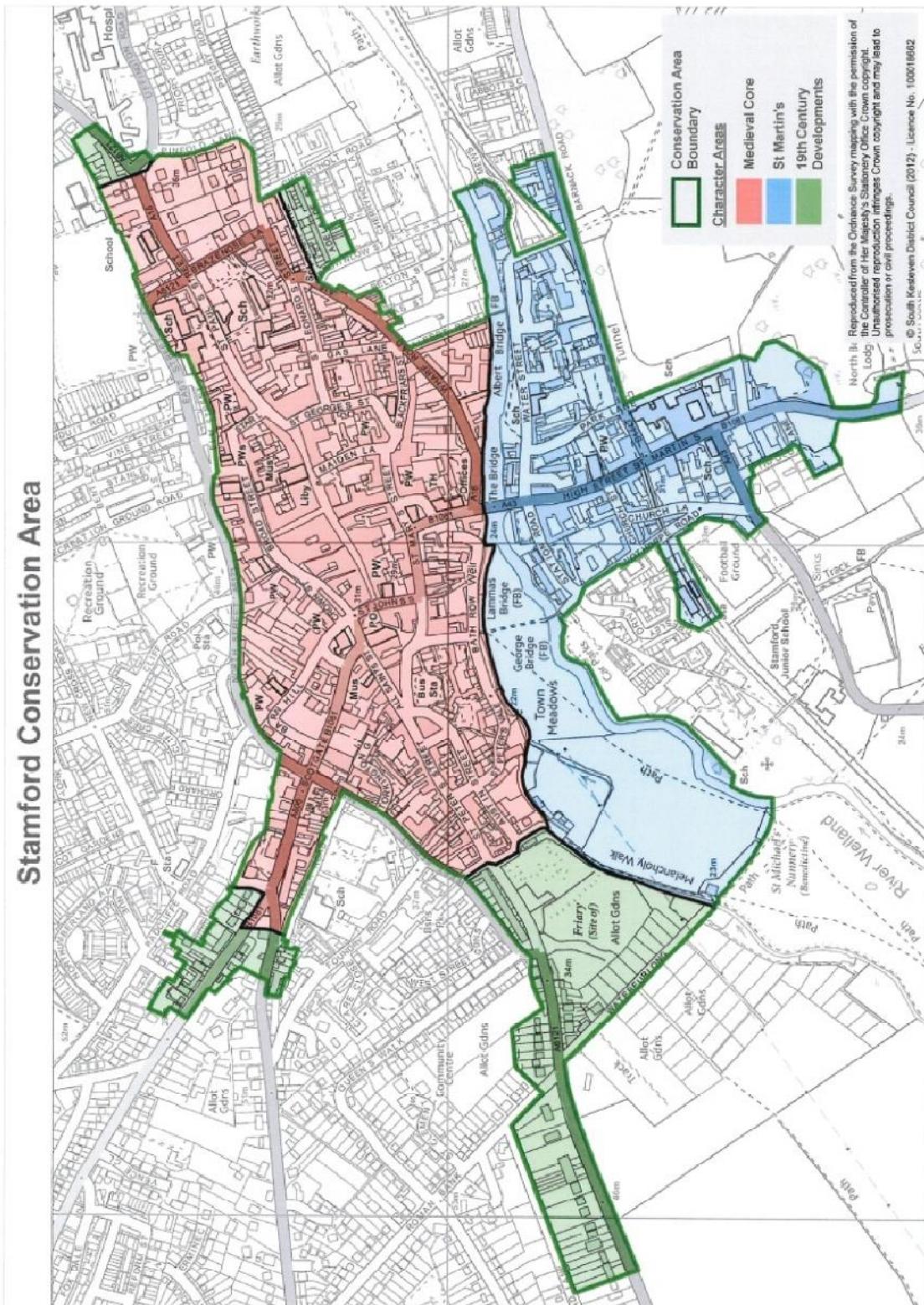
15.1 Town and Country Planning (General Permitted Development) (England) Order 2015
<http://www.legislation.gov.uk/uksi/2015/596/contents/made>

15.2 The Town and Country Planning (Compensation) (England) (Amendment) Regulations 2017
<http://www.legislation.gov.uk/uksi/2017/392/contents/made>

- 15.3 The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits)(England)(Amendment) Regulations 2017. <http://www.legislation.gov.uk/ksi/2017/1314/made>
- 15.4 National Planning Policy Framework (March 2012)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf
- 15.5 Historic England publication: ~~Restricting Permitted Development: Article 4 Directions and Heritage+~~
<https://historicengland.org.uk/advice/hpg/historic-environment/article4directions/>

APPENDIX 1

MAP OF STAMFORD CONSERVATION AREA



APPENDIX 2
EQUALITY ANALYSIS

South Kesteven District Council

Equality Analysis (Stage 1)

ARTICLE 4 DIRECTION - STAMFORD CONSERVATION AREA

Service Area:	Lead officer: Ian Wright	Date of Meeting
Development Management	Assessors: Sylvia Bland	12/04/18
	Neutral Assessor: Carol Drury	

1. Name and description of policy/service/function/strategy

It is proposed to designate an Article 4 Direction to remove specific permitted development rights from residential properties within the Stamford Conservation Area. This is being carried out in order to prevent the continued gradual erosion of architectural details relating to the historic fabric of unlisted buildings in the Stamford Conservation Area in the interests of preserving the character and appearance of the Conservation Area.

The designation is procedural in nature. The effect of the Article 4 Direction would be to require the submission of a planning application in order to assess the merits of the proposals against national and local planning policy together with any other material planning considerations. There is provision for compensation to be paid to the landowner for abortive expenditure and any loss or damage caused by the loss of rights. Research has shown that this is very unlikely to be evoked.

A fee may be charged for a planning application required as a result of designating an Article 4 Direction. It will not be higher than the current fee for a householder planning application.

Is this a new or existing policy?

New

2. Complete the table below, considering whether the proposed policy/service/function/strategy could have any potential positive, or negative impacts on groups from any of the protected characteristics (or diversity strands) listed, using demographic data, user surveys, local consultations evaluation forms, comments and complaints etc.

Equality Group	Does this policy/service/function/strategy have a positive or negative impact on any of the equality groups? Please state which for each group	Please describe why the impact is positive or negative. If you consider this policy etc is not relevant to a specific characteristic please explain why
Age	Neutral	This protected characteristic is not a determinant of this designation.
Disability	Potential for negative impact	This protected characteristic is not a determinant of this designation. However it is recognised that the access needs of persons with a disability could be negatively impacted upon should this designation be applied without consideration of individual requirements. Reasonable adjustments required to meet the needs of an individual with a disability will be positively addressed on a case-by-case basis in the execution of this designation.
Race	Neutral	This protected characteristic is not a determinant of this designation. However, should an individual require information in their language of origin this will be supplied on request.
Gender Reassignment	Neutral	This protected characteristic is not a determinant of this designation.
Religion or Belief	Neutral	This protected characteristic is not a determinant of this designation.
Sex	Neutral	This protected characteristic is not a determinant of this designation.
Sexual Orientation	Neutral	This protected characteristic is not a determinant of this designation.
Pregnancy and Maternity	Neutral	This protected characteristic is not a determinant of this designation.
Marriage and Civil Partnership	Neutral	This protected characteristic is not a determinant of this designation.

Carers	Neutral	No direct impact has been identified in relation to those with caring responsibilities beyond those already addressed under the protected characteristic of disability
Other Groups (e.g. those from deprived (IMD*) communities; those from rural communities, those with an offending past) *(IMD = Indices of multiple deprivation)	Neutral	People within the other groups identifier were not a determinant of this designation.
General comments	<p>This designation relates to buildings rather than persons directly and as such impacts on all the protected characteristics.</p> <p>Information in alternative formats will be provided on request to persons with disabilities, literacy issues and to those whose first language is not English.</p>	

3. What equality data/information did you use to inform the outcomes of the proposed policy/service/function/strategy? (Note any relevant consultation who took part and key findings)

No equality data or information has informed the intention to commence the formal process to designate an Article 4 Direction to date.

Public consultation would take place following the resolution to commence the formal process to designate an Article 4 Direction and the comments received will be taken on board before final decision is made. This is a statutory requirement of the designation process as set out in Schedule 3 of the General Permitted Development Order 2015.

If there are any gaps in the consultation/monitoring data, how will this be addressed?

None

4. Outcomes of analysis and recommendations (please note you will be required to provide evidence to support the recommendations made): Please check one of the options.

a)	Equality analysis has not identified any potential for discrimination or for negative impact and all opportunities to promote equality have been taken	<input checked="" type="checkbox"/>
<p><i>If you have checked option a) you will need to complete a Stage 3 analysis when your policy/service/function/strategy has been implemented</i></p>		

b)	Adjust the proposal to remove barriers identified by equality analysis or to better promote equality.	<input type="checkbox"/>
<i>If you have checked option b) you will need to answer questions b.1 and b.2</i>		
c)	Adverse impact but continue	<input type="checkbox"/>
<i>If you have checked option c) you will need to answer questions c.1</i>		
d)	Stop and remove the policy/function/service/strategy as equality analysis has shown actual or potential unlawful	<input type="checkbox"/>

b.1 In brief, what changes are you planning to make to your proposed policy/service/function/strategy to minimise or eliminate the negative equality impacts?

Not applicable

b.2 Please provide details of whom you will consult on the proposed changes and if you do not plan to consult, please provide the rationale behind that decision.

There is statutory requirement to consult the general public, Stamford Civic Society and Stamford Town Council as part of the formal designation process.

If you have checked option b) you will need to complete a Stage 2 equality analysis

c.1 Please provide an explanation in the box below that clearly sets out your justification for continuing with the proposed policy/function/service/ strategy.

Not applicable

If you have checked option c) you will need to complete a Stage 2 equality analysis. You should consider in stage 2 whether there are sufficient plans to reduce the negative impact and/or plans to monitor the actual impact.

Signed (Lead Officer):
(Name and title)

Ian Wright
Principal Conservation Officer

Date completed: 9.3.18

Signed (Neutral Assessor): Carol Drury
(Name and title)

Community Engagement and Policy Development Officer

Date signed off: 13.3.18