

## **CONFIRMATION OF AN ARTICLE 4 DIRECTION TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR SINGLE STOREY REAR EXTENSIONS OF OVER 4M DEPTH**

*Reporting Officer: Deputy Chief Executive and Director of Residents Services*

### **Background**

In February 2013 Council agreed that officers should undertake the necessary statutory processes to create an Article 4 Direction to protect Hillingdon's residents from the impacts of legislative changes which would enable extensions of up to 6m and 8m depth (dependent on house type) to be built without the need for planning permission.

Following the introduction of the legislation, a formal notice (setting out the Council's intention to create an Article 4 Direction) was sent to the Secretary of State for Communities and local Government incorporating the statutory 12 month notice period. This advised the Secretary of State of the Councils intention to adopt an Article 4 Direction on 23 September 2014.

Furthermore from 25 September 2013 and 25 October 2013 a 1 month consultation period occurred with residents and interested parties in the borough's wards.

Only one response was received, which was in favour of the adoption of the Article 4 Direction. It is therefore recommended that Council take note of the consultation response and agree the commencement of the Article 4 Direction. Should the recommendations be approved (and subject to there being no intervention by the Secretary of State) the Article Direction would come into force on 22 September 2014.

### **RECOMMENDATIONS: That, subject to the Secretary of State not intervening:**

- (i) The response to the consultation be noted and the intention to impose the Article 4(1) Direction (which subject to the Secretary of State not intervening, would come into force on 22 September 2014) be confirmed, withdrawing permitted development rights for single storey rear extensions over 4m depth.**
- (ii) Officers be authorised to undertake the necessary advertising and prepare and circulate the relevant documentation required in order to implement the Article 4 Direction.**

### **Reasons for recommendation**

The recommendation seeks to protect Hillingdon's residents from the impacts of legislative changes which enable extensions of up to 6m and 8m depth (dependent on house type) to be built without the need for planning permission.

The impact of over-sized single storey rear extensions on Hillingdon's largely suburban housing stock (where rear gardens are modestly sized and the space between properties is limited) is significant, particularly in terms of changing the character and appearance of the Borough. Furthermore extensions of over 4m depth can adversely impact upon residential amenity with regard to loss of light and over-dominance.

## **Alternative options considered / risk management**

Council could choose not to confirm the Article 4 Direction. However, this is not considered to be in the public interest given the adverse impact of single storey rear extensions exceeding 4m depth.

### **Supporting Information**

1. The present situation is that the Government has implemented changes to permitted development (PD) in several areas, and of particular concern it has increased the PD limits for the depth of single-storey domestic extensions from 4m to 8m (for detached houses) and from 3m to 6m (for all other houses), in non-protected areas, for a period of three years.
2. There are numerous concerns with this new form of development, not least of which is the impact on Hillingdon's largely suburban housing stock where rear gardens are modestly sized and space between properties limited. Overly large extensions have a dramatic impact on the character and appearance of the Borough. Furthermore extensions of either 6m or 8m depth (dependent on house type) can have a dramatic impact on residential amenity with regard to loss of light and over-dominance.
3. In February 2013 Council agreed to embark on the processes necessary to introduce an Article 4 direction removing permitted development for overly large extensions. Article 4 Directions are a tool whereby the Council can override normal permitted development rights and require a planning application for a specific type of development outlined in the Article 4 Direction.
4. The process to create an Article 4 Direction is far from straightforward and involves extensive consultation (which has been undertaken) and to avoid compensation, a full 12 months notice will be given to residents.
5. Because there are complexities associated with taking enforcement action against those who utilised the legislation ahead of the Article 4 direction coming into force, the Planning Service agree with the relevant Area Planning Committee's a sensible and defensible approach to enforcement action.

### **Results of Public Consultation Undertaken in September/October 2013**

6. Letters were sent to all Resident Associations, notices were placed in all Council libraries, at least 1 site notice was erected in every town centre in the borough, and at least 3 notices were erected in each ward. Details were published on the Council's web site. A newspaper advert placed in the Uxbridge Gazette. The public consultation was comprehensive, and included communications from the Council's Planning Information Officers and Local Land Charges Team. In response to the consultation, the Ruislip Resident Association confirmed support for the imposition of the Article 4 Direction. No objections have been received in relation to the consultation exercise.

## **Financial Implications**

7. If confirmed (and the Secretary of State does not intervene) the Article 4 Direction will be in place in the middle of the 2014/15 financial year, all and any planning applications greater than the 4 metre and up to the 8 metres will be subject to planning application process.
8. It should be noted that no fee can be charged on any planning application made necessary by an Article 4 Direction and there is no fee associated with Prior Approval Applications either. As such there is no loss of income either prior to or after commencement of the Article 4 Direction.
9. However, the processing of prior approval and householder planning applications is handled through the outsourced Planning Contract with Terra Quest. There is a cost of £97.54 per Prior Approval application (chargeable to us by Terra Quest for processing the applications) and with the introduction of Article 4 Direction; should the applicant choose to proceed they must lodge full planning applications, which require more robust application submissions and are subject to a more complex assessment and consultation regime. The cost to the Council, per full application is £142.36.
10. To this end, there is an additional cost of introducing article 4 direction (i.e. the difference between £97.54 and £142.36 or £44.82 per application). Between May 2013 and May 2014 some 654 Prior Approval Applications were processed. The Government's policy to relax the Applications rules will expire in May 2016; the article 4 direction is expected to commence in September 2014. On a straight line basis (and assuming that applicants will continue to lodge applications using the full planning application route), then 1,144 applications may be submitted in the 21 months before the expiration of the prior approval regime. This therefore equates to an extra cost of £51,296 which will be managed through the Council's Medium Term Financial Forecast process.
11. It is worth noting that many potential applicants (i.e. those wishing to build overly large extensions) may well be put off from making a submission when they realise that the Prior Approval application route is not longer available.

## **Effect on Residents, service Users and Communities**

It will enable Council to determine whether an Article 4 Direction should be created.

## **Financial Implications**

The additional administrative cost associated with moving from Prior Approval Applications to full applications through the Article 4 direction has been estimated at approximately £50k for the period to May 2016; however the actual cost will reflect numbers of applications received. The financial implications of the legislative changes and implementation of the Article 4 direction will be reflected in the Council's Medium Term Financial Forecast as appropriate.

## **Legal Implications**

In accordance with The General Permitted Development Order 1995 (as amended) ('GPDO'), an article 4 direction shall not come into force unless confirmed by the Council. In deciding whether or not to confirm the Article 4 Direction, Article 5(9) of the GPDO states that the Council must take into account any representations received during the period in which the direction was advertised.

If the Article 4 Direction subject to this report is confirmed, the Council must shall, as soon as practicable after a direction has been confirmed give notice of such confirmation and the date on which the direction will come into force by the methods required by Article 5(12) (i.e by way of a press advert, site notices in at least two locations to which the direction applies and unless considered impracticable, by serving the notice on the owner and occupier of every part of the land within the area or site to which the direction relates). Additionally a copy of the direction as confirmed must be sent to the Secretary of State.

If Council resolves to confirm the Article 4 Direction it shall come into force on 22 September 2014. Council should note that the Secretary of State, notwithstanding any resolution of confirmation by the Council, is empowered by article 5(13) GPDO to cancel the article 4 direction at any time before or after it is confirmed.

The Council can, by making a subsequent direction, cancel the Article 4 Direction (if confirmed) at any time. To modify the Article 4 Direction, it would need to be cancelled and a replacement Direction prepared incorporating the required modifications.

### **Corporate Landlord Implications**

None.

Background Papers: None