

URN: 22-015
Subject: Proposed Article 4 Direction
Report to: Development Control Committee – 2 February 2022
Report by: Kim Balls – Senior Strategic Planner



SUBJECT MATTER

This paper presents to Development Control Committee the need to progress a new Article 4 Direction which would remove certain permitted development rights within parts of three conservation areas in Great Yarmouth. This is considered necessary to successfully implement the aims of the Council's High Street Heritage Action Zone (HSHAZ) and help safeguard the local historic amenity of the area.

RECOMMENDATION

It is recommended that members:

- Endorse the report; and,
- Agree that the draft Article 4 Direction be made available for public consultation.

1. Background

- 1.1. An Article 4 Direction is a direction made under the Town and Country Planning (General Permitted Development Order "GPDO") 2015 which gives local planning authorities the ability to withdraw specified permitted development rights across a defined area. This means that a particular form of development would not benefit from the "automatic" planning permission granted by statute but would instead require a planning application to be submitted.
- 1.2. National Policy advises that Article 4 Directions are only used in exceptional circumstances, for example where it is necessary to protect the local amenity or well-being of an area. They should be based on robust evidence, cover the smallest geographic area possible and be applied in a measured and targeted way.
- 1.3. The Council has Article 4 directions in place, most notably one which operates borough-wide and restricts the changes of use between dwelling-houses and houses in multiple occupation (HIMO). It is now considered necessary to introduce an additional Article 4 Direction within the Great Yarmouth High Street Heritage Action Zone (HSHAZ) and in parts of the connected conservation areas. This would remove permitted development rights in relation to new doors, windows, roofs, porches, gates, railings and some exterior painting in order to better maintain the historic fabric and heritage assets within these protected areas.

2. New Article 4 Direction

- 2.1. As part of the HSHAZ award, Historic England made it a condition upon the Council that an Article 4 direction be put in place to protect the investments that would be made on properties via its implementation, and which could otherwise be undermined by permitted development rights.
- 2.2. There are three Conservation Areas which partially fall within the HSHAZ where an Article 4 Direction could be considered (see map in Appendix 1). These are:
 - Market Place, Rows & North Quay (Conservation Area No.2)
 - King Street (No.4)
 - St Nicholas and Northgate (No.5)
- 2.3. Two of the Conservation Areas (No.2 & No.4) are currently identified on Historic England's 'at risk' register as being in a poor condition due to erosion of their character as a result of inappropriate development. Thus it has been considered that their whole inclusion within the new Article 4 Direction would help protect the local historic amenities of the areas. The St Nicholas and Northgate Conservation Area (No.5) is not at risk and, where parts of it lies outside of the HSHAZ area, it is mostly in non-residential use. Therefore it has not been considered necessary or appropriate to include all of this specific conservation area within the Article 4 Direction. The defined geographic coverage of the Article 4 direction has been agreed in liaison with the Council's Conservation Team and is presented in Appendix 2 of this report.
- 2.4. To safeguard the local historic amenities within this geographic area, the Article 4 Direction will seek to remove permitted development rights where this relates to:
 - New doors and windows, alterations to roofs and construction of new front porches on dwelling-houses;
 - Gates, fences, walls and other forms of enclosure; and,
 - The painting of the exterior of any buildings or work where the building has been previously unpainted and where this fronts the highway.
- 2.5. The Conservation Team are satisfied with the above selection of removed permitted development rights, and NPLAW have also been engaged on the exact wording of the draft order which would make the Article 4 Direction. This is presented in Appendix 2 of this report.
- 2.6. It should be noted that the Government often makes changes to the GPDO and this may create other unplanned changes within the Article 4 area which may require additional control in the future. However, the Council has the ability to revise or amend the Article 4 Direction (subject to legal requirements) which could respond to this potential threat.

3. Timeline

- 3.1. Under the Council's Constitution, the Development Control Committee have the decision-making authority to create an Article 4 Direction. There is also a legal requirement under the 2015 GPDO to undertake (at least) a 3 week public consultation and to notify the Secretary of State of the Council's intention to create one. A provisional timeline to adopt the Article 4 Direction is presented below:

Date	Committee/Action	Notes
26 Jan 2022	ELT	Endorse report to Development Control Committee
2 Feb 2022	Development Control Committee	Sign off draft Article 4 Direction for public consultation
7 Feb – 28 Feb 2022	Public consultation	3 week public consultation – comms & local advertisement. Serve notice to Secretary of State (DHLUC) of Council's intention
Early March 2022	Consultation analysis	Consider representations and any necessary changes. Re-engage NPLAW if required.
30 March or early April 2022 (tbc)	Development Control Committee	Sign off Final Article 4 Direction
Early-mid April 2022	Article 4 Direction in force	Serve notice to Secretary of State; Comms & local advertisement

- 3.2. Through this report Development Control Committee are being asked to endorse the wording of the proposed Article 4 Direction and its geographical coverage (as per Appendix 2) and to allow it to proceed to a 3-week public consultation.
- 3.3. A report will be brought back to Development Control Committee in either late March or April where members will be able to consider any representations that were received during the consultation and to seek to adopt the Article 4 Direction.

4. Financial Implications

- 4.1. In limited circumstances the Council can be liable to pay compensation to those whose permitted development rights have been withdrawn, such as if the Council would subsequently refuse planning permission for development (which would otherwise have been permitted development); or grants planning permission subject to more limiting conditions than what is prescribed in the GPDO.
- 4.2. The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. The Council can avoid compensation liability entirely if it were to publicise its intention to make an Article 4 Direction at least 12 months ahead of the direction taking effect, however this would likely incur a significant delay in the Council's ability to draw down grant funding from the HSHAZ (as set out under paragraph 2.1 of this report).
- 4.3. The cost of making the Article 4 direction relates primarily to staff resources and consultation costs. Staff resources will also be required to create a photographic record of all relevant properties to evidence any subsequently required enforcement action. It is anticipated that costs for undertaking the recording activity will be met from existing planning and conservation budgets; it is not possible to estimate what impact these proposals would have in terms of enforcement. Any planning applications that arise (for development that would previously have been permitted development) will be accompanied by a planning fee although it is widely recognised that planning fees do not cover the whole cost of determining a planning application. A rise in applications associated with this process along with any associated enforcement burden will need to be monitored moving forward.

5. Legal and Risk Implications

- 5.1. The Article 4 Direction will be prepared in accordance with the legal requirements set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 and Town and Country Planning Act 1990. Following public consultation, NPLAW will be re-engaged should Article 4 Direction require further amendment prior to the final wording of the direction being taken to Development Control Committee in late March or April for formal sign off.
- 5.2. The risk of compensation is considered to be low and time-limited from the date in which the Article 4 would take effect.

6. Conclusion

- 6.1. A new Article 4 Direction has been proposed which will remove certain permitted development rights to help safeguard the local historic amenity within the Great Yarmouth High Street Heritage Action Zone (which includes part of Conservation Area No.5 St Nicholas/Northgate Street) and all the areas lying within Conservations Areas No2 (Market Place, Rows & North Quay) and No4 (King Street).
- 6.2. It is recommended that Development Control Committee endorse the report and agree that the draft Article 4 Direction be made available for public consultation.

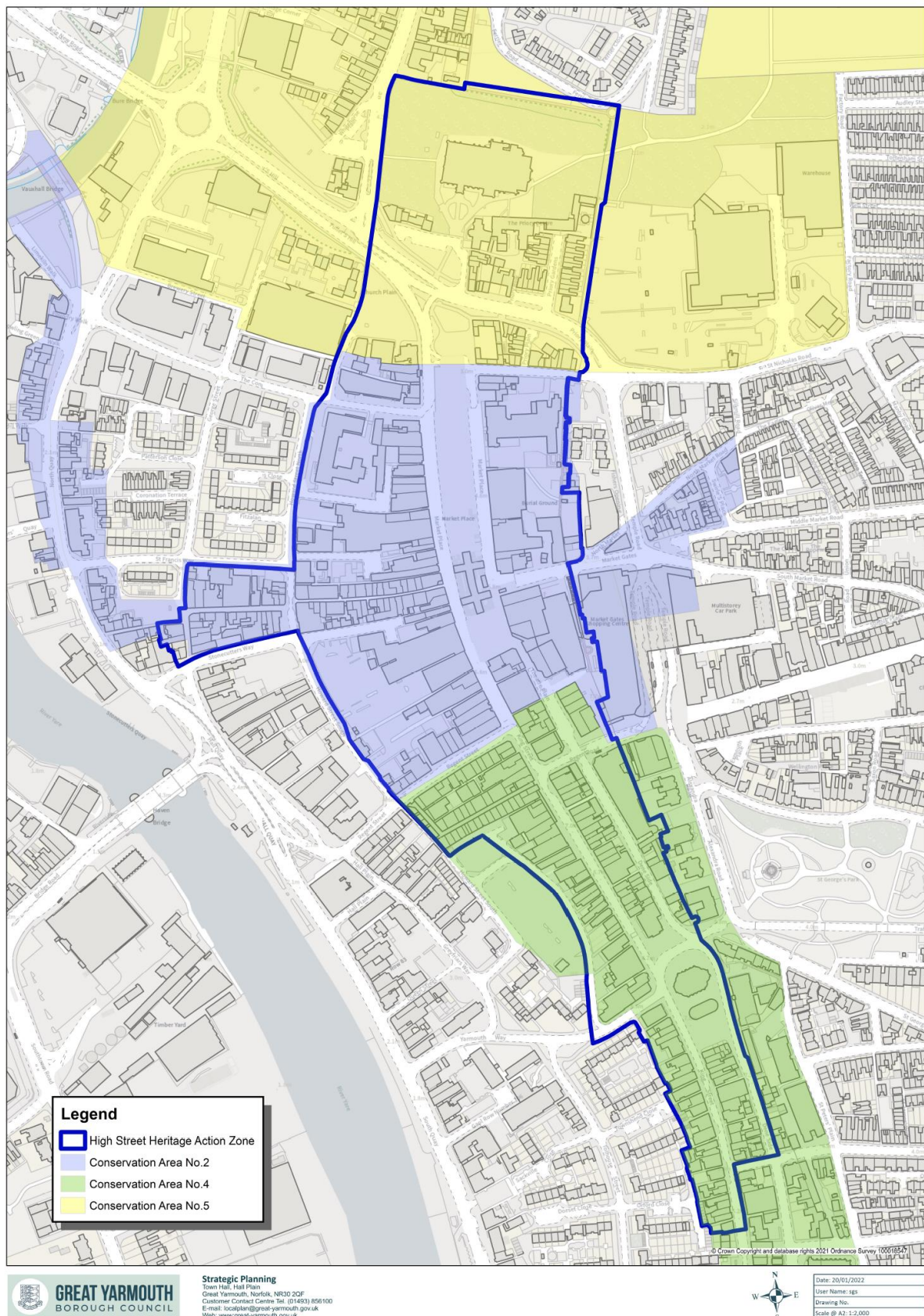
7. Appendices

- Appendix 1 –GY HSHAZ and Conservation Areas
- Appendix 2 – Draft Article 4 Direction Order and Map

Area for consideration	Comment
Monitoring Officer Consultation:	Discussed through ELT – 26 January 2022
Section 151 Officer Consultation:	Discussed through ELT – 26 January 2022
Existing Council Policies:	Local Plan Part 1: Core Strategy
Financial Implications (including VAT and tax):	See Section 4
Legal Implications (including human rights):	See Section 5
Risk Implications:	See Section 5
Equality Issues/EQIA assessment:	n/a
Crime & Disorder:	n/a
Every Child Matters:	n/a

Appendix 1 - GY HSHAZ and Conservation Areas

High Street Heritage Action Zone and Conservation Areas



**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
(ENGLAND) ORDER 2015 AS AMENDED**

DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH SCHEDULE 3 APPLIES

WHEREAS the Great Yarmouth Borough Council being the appropriate local planning authority within the meaning of article 4(5) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the Order”) , are satisfied that it is expedient that development of the description set out in the First Schedule below should not be carried out on the land shown cross hatched in blue on the plan in the Second Schedule, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 as amended.

NOW THEREFORE the said Council in pursuance of the power conferred in them by article 4(1) of the Order hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the descriptions set out in the Schedule below:

SCHEDULE 1

- 1) The installation including replacement of new doors and windows (where such installation amounts to development) comprising the enlargement or other alteration of a dwellinghouse being development comprised within Class A of Part 1, Schedule 2 to the said Order and not being development comprised within any other Class.
- 2) Alteration to the roof of a dwellinghouse (including removal, replacement, demolition and/or removal of chimneys and pots) being development comprised within Class C of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Class.
- 3) The erection or construction of a porch outside any external door of a dwellinghouse which forms part of the principal elevation of the dwellinghouse being development comprised within Class D of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Class.
- 4) The erection, construction, maintenance, improvement, alteration, demolition and/or removal of any parts of a gate, fence, wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 to the said Order and not being development within any other Class.
- 5) The painting of the exterior of any building or work where the building has been previously unpainted and forms a principal elevation and/or is visible from the highway, being development comprised within Class C of Part 2 of Schedule 2 to the said Order and not being development within any other Class.

SCHEDULE 2

This Direction shall apply to those parts of Great Yarmouth shown within the red outline on the attached Plan.

MADE under the COMMON SEAL of Great Yarmouth Borough Council this Day of20....

This COMMON SEAL of the Council was affixed to this Direction in the presence of

.....

Authorised Signatory

CONFIRMED under the Common Seal of Great YARMOUTH Borough Council thisDay of20....

This COMMON SEAL of the Council was affixed to this Direction in the presence of

.....

Authorised Signatory

Area Covered by Proposed Article 4 Direction



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Date: 20/01/2022
User Name: sgs
Drawing No:
Scale @ A2: 1:5,000