

Subject: Approval of proposed Great Yarmouth Article 4 Direction

Report to: Development Control Committee – 30 March 2022

Report by: Kim Balls – Senior Strategic Planner

SUBJECT MATTER

This paper presents the outcome of the public consultation that was undertaken to progress the proposed Great Yarmouth Article 4 Direction, and recommends to the Committee that it be formally approved.

RECOMMENDATION

That the Development Control Committee:

1. Consider the consultation responses received as set out in the report, and
2. Approve the Great Yarmouth Article 4 Direction by ‘confirming’ that it will formally take effect from 11 April 2022.

1. Introduction

- 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 a few 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).
- 1.4. At its meeting on the 2nd of February 2022, the Development Control Committee agreed in principle (subject to the outcome of public consultation) to endorse a new Article 4 Direction. This would cover an area within the town of Great Yarmouth, comprising the Great Yarmouth High Street Heritage Action Zone (HSHAZ); all of the conservation areas of Market Place, Rows and North Quay (No.2); King Street (No.4); and, a small part of the St Nicholas and Northgate conservation area (No.5).
- 1.5. To safeguard the local historic amenities within this specific area, the new Article 4 Direction will 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.
- 1.6. A map of the defined area and the wording of the Article 4 Direction Order has been re-supplied in Appendix 1 of this report.
- 1.7. The extent of control to be introduced by the proposed Article 4 Direction is set out at Schedule 1 of the Direction, which for the avoidance of doubt is re-supplied here:

“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.”

2. Consultation

- 2.1. As explained in paragraph 1.4, the Council undertook public consultation on the draft Article 4 Direction between Monday 14th February and Tuesday 8th March 2022. All residents and business occupiers within the defined area were sent a letter inviting comment on the Article 4 Direction and its proposed coverage. Consultation was also extended to statutory undertakers, relevant interest groups, as well as placing site notices around the defined area. The Council also notified the Secretary of State, as required by the GPDO.

- 2.2. Three members of the public responded to the consultation and Norfolk County Council's Historic Environment Service confirmed that they had no comments to make. A Consultation Statement is supplied in Appendix 2 of this report detailing the responses that were received and how these were considered in relation to the wording of the Article 4 Direction. No subsequent changes have been considered necessary.
- 2.3. During consultation the Council also received a small number of general enquiries from property owners seeking clarification on how the Article 4 Direction would operate with respect to their own specific intentions. The Council responded to these directly and are not reported on in the Consultation Statement.

3. Next Steps

- 3.1. The wording of the final Article 4 Direction and its proposed coverage remains unchanged from the consultation version, and is included in Appendix 1 of this report.
- 3.2. Under the Council's Constitution the Development Control Committee is now being asked to formally remove the permitted development rights by 'confirming' the Article 4 Direction as set out in Appendix 1. In doing so, the removal of these prescribed permitted development rights will come into force from Monday 11 April 2022.
- 3.3. It is also noted that the Council has recently commissioned a photographer to create a photographic record of all relevant properties within the Article 4 Direction area. This will help to provide the Council with evidence if any subsequently required enforcement action is undertaken. The creation of the record is being funded through the Great Yarmouth HSHAZ and will be completed prior to the 11th April, providing an up to date 'snapshot' of the area before the Article 4 Direction comes into force.

4. Financial Implications

- 4.1. As reported previously to the Development Control Committee, 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.
- 4.3. 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 process for making the Article 4 Direction has been undertaken 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.
- 5.2. As reported previously, the risk of compensation is considered to be low and time-limited until 11 April 2023.

6. Conclusion

- 6.1. No changes are proposed to the Great Yarmouth Article 4 Direction following public consultation, therefore it is recommended that the Development Control Committee approve the Direction by 'confirming' that it will formally take effect from 11 April 2022.

7. Appendices

- Appendix 1 – Final proposed Article 4 Direction Order and Map
- Appendix 2 – Great Yarmouth Article 4 Consultation Statement

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 - Final proposed Article 4 Direction and Map

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 outlined in red 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

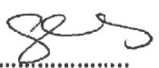
- 1) The installation including replacement of new doors and windows (where such installation amounts to development) comprising the enlargement or other alteration of a dwellinghouse being development comprised within Class A of Part 1, Schedule 2 to the said Order and not being development comprised within any other Class.
- 2) Alteration to the roof of a dwellinghouse (including removal, replacement, demolition and/or removal or replacement 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 outlined in red 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


.....
SHEILA OXTOPY
Authorised Signatory



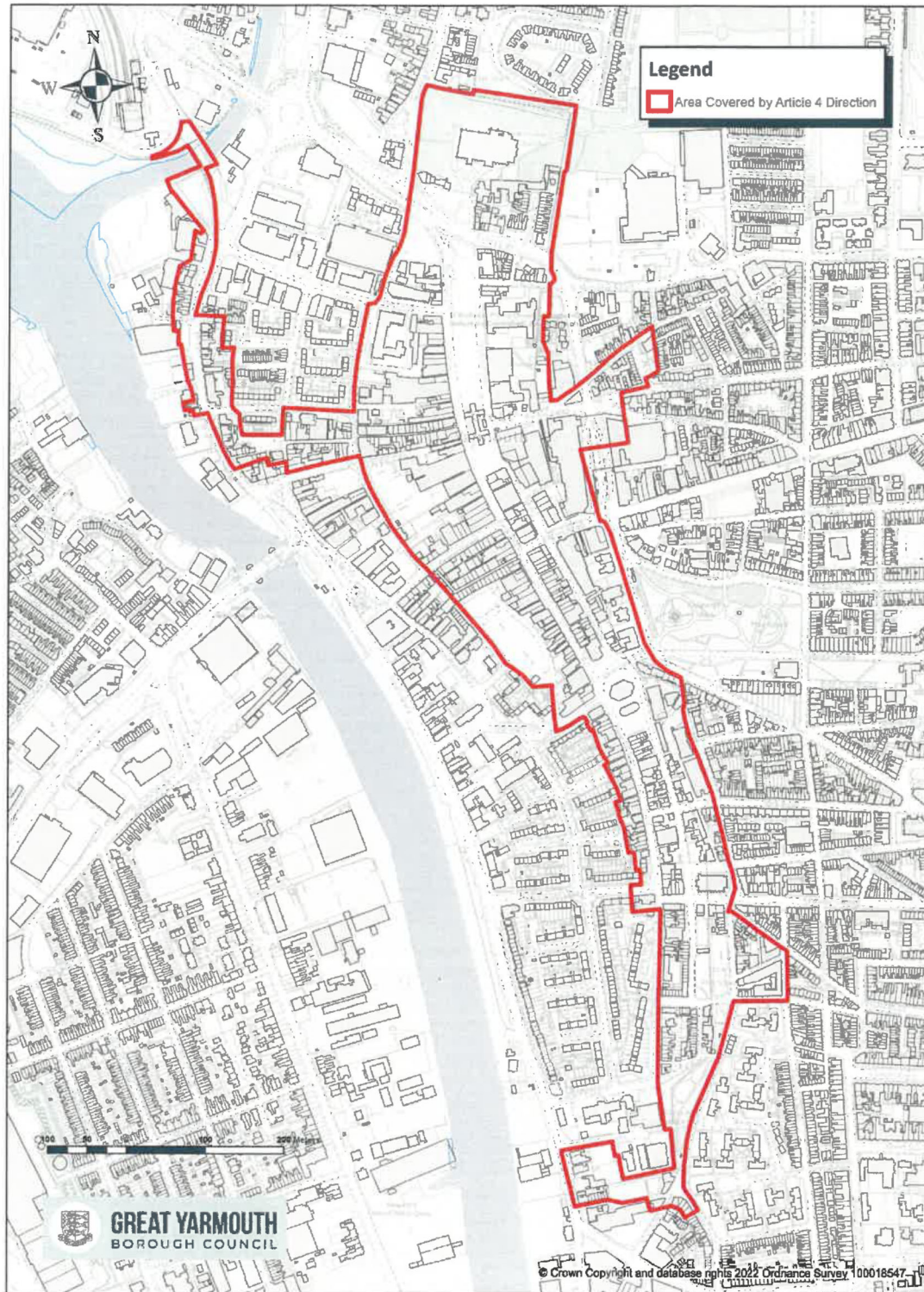
08/02/2022
171224

CONFIRMED under the Common Seal of Great YARMOUTH Borough Council thisDay of
.....20....

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

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Authorised Signatory



Appendix 2 – Great Yarmouth Article 4 Consultation Statement



Great Yarmouth Article 4 Direction

Consultation Statement

March 2022

Introduction

This document sets out the responses received to the consultation and how the Council has taken them into account in drafting the final version of the Great Yarmouth Article 4 Direction.

Consultation on the proposed Article 4 Direction took place for 23 days between 14th February and 8th March 2022.

The following people/organisations responded to the consultation:

- 3x private individuals
- Historic Environment Services (NCC)

Summary of main issues raised and how they have been addressed

Respondent: Private individual 1

Summary of Main Issues Raised

Just an observation, maybe relevant – Yarmouth Way corner. Former international store – empty eyesore. Norton Peskett former office conversion is excellent. This section of King Street needs a smarten up.

How issues have been considered

Officer's response:

- The areas referred to are within the Great Yarmouth High Street Heritage Action Zone (HSHAZ) which supports the conversion, repair and regeneration of the area's historic buildings and sites. No changes are considered necessary to the proposed Article 4 Direction.

Respondent: Private individual 2

Summary of Main Issues Raised

I would like to congratulate you on the thoroughness in article 4, you certainly have left no stone unturned. Basically taking away the right to do any maintenance or minor works to any part of my own property, a property that you do not own but is unfortunate to be in a conservation area.

If I want to jet wash or repaint my highway fencing I need your permission to do so, or jet wash my highway facing boundary wall I need your permission, what if a vehicle leaves the road and knock's my wall or fence down I need your permission to replace or repair it.

Can you explain why there is the biggest billboard in Yarmouth that is very often not maintained in a conservation area do they need permission to change the advertising.

Why are the windows stained on these flats stained (sic) all other property's in the area are white. Why is a section of the flats built with blocks did they run out of bricks.

What's happening with the building in the middle it's blot (sic) on the landscape seen by every vehicle that comes into Yarmouth the fence looks like it is rotten, is this the picture of Yarmouth that you want badly maintained property's that greet everyone as they drive into town. Below another example of the view coming into town. Life is difficult enough without having to apply to you every time for the smallest thing.

How issues have been considered

Officer's response:

- The Article 4 Direction removes permitted development rights in limited and prescribed circumstances. It is not a blanket restriction on all types of maintenance or minor works. The Article 4 Direction does not remove property owner's liberties to undertake such work, but requires them to seek planning permission to do so first.
- Jet-washing is not classed as development. In most circumstances the painting of fences, walls etc will not require any consent unless they are statutorily protected e.g. a listed wall.
- As per the Article 4 Direction, permission will be required for the painting of buildings or work only where it had been previously unpainted and only where it forms the principle elevation or faces a highway.
- Advertising consent is needed when new advertising boards go up, but Consent is not required when new adverts are placed on the existing / consented billboards.
- The Article 4 Direction cannot apply retrospectively to any previous use of materials/building work prior to it coming into force.
- The Council cannot comment upon the intentions of buildings within private ownership. The general area is within the Great Yarmouth High Street Heritage Action Zone (HSHAZ) which supports the conversion, repair and regeneration of the area's historic buildings and site. The HSHAZ also makes available small grants to support building repairs within the HSHAZ area.

Respondent: Private individual 3

Summary of Main Issues Raised

I own a property at [redacted] which would be affected by these changes, and having read the proposed amendment I feel obliged to respond objecting to the various aspects of the proposed changes.

While I respect that there is good intent with providing greater scrutiny over modifications, I object to having the liberty of replacing doors and windows taken away completely. By not incorporating wording to permit replacement with a similar design it provides an additional income from scrutinising those who undertake to upkeep the general appearance of the area.

I also object to the removal of the ability to maintain fences, gates and walls. Again this removes the fundamental need of a property owner to maintain its appearance with this seemingly becoming a property maintenance tax.

How issues have been considered

Officer's response:

- The Article 4 Direction does not remove a property owner's liberty of replacing doors and/or windows, it only requires those to seek planning permission to do so first.
- In some circumstances or situations it may be considered inappropriate to allow replacement windows and doors to be installed where these are of a similar previous design, particular if the previous design or material was not sensitive to the quality and/or character of the conservation area. The planning application process allow this necessary level of individual scrutiny to take place.
- There is no intention to remove the ability to maintain fences, gates and walls, which does not form 'development', only the requirement to obtain planning permission first for the works that do comprise 'development', such as building a new wall or fence, or replacing windows and doors with non-identical materials or designs.

Respondent: Historic Environment Services (NCC)

Summary of Main Issues Raised

This type of direction falls very much within the sphere of GYBC's Conservation Officers and Historic England. We have no comments to make.

How issues have been considered

No changes necessary.