

Wiltshire Council
Planning Enforcement Delegated Report
23/10/2020

Subject: Article 4 Direction

At: Land at 'Old Nurseries', adj. Burton Field, Mere, Warminster, Wiltshire, BA12 6FH

1. Purpose of Report

- 1.1 To consider the confirming of a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (An "Article 4 Direction") to remove 'permitted development' rights for the above Land, as outlined in red on the Location Plan at Appendix 1, under Part 2 ('Minor Operations'), Class A ('gates, fences, walls, etc.') of Schedule 2.
- 1.2 Having regard to all considerations, the decision is that the Article 4 Direction should be confirmed.

2. Background

- 2.1 On 7 September 2020 Wiltshire Council made an 'immediate' Article 4 Direction to remove 'permitted development' rights under Part 2 ('Minor Operations'), Class A ('gates, fences, walls, etc.') of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
- 2.2 As set out in Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015 ("*Procedure for article 4(1) directions with immediate effect*"), an immediate Direction will expire at the end of the period of 6 months beginning with the date on which it comes into force unless confirmed by the local planning authority after notice of it being given.
- 2.3 Accordingly, and also in accordance with Schedule 3, notice of the Direction has been given by local advertisement, by site display, and by serving notice on the known owners/occupiers of every part of the land within the area to which the Direction relates. The notice period was 28 days; Schedule 3 states that in deciding whether to confirm a Direction the local planning authority must take into account any representations received following the giving of notice.
- 2.4 Separately Schedule 3 requires the local planning authority to notify the Secretary of State of the Direction. The Secretary of State has been notified.

3. Representations following the giving of notice

- 3.1 Three representations have been received – one from the owner/occupier of the residential property, Burton Field, and two from separate owners of two of the plots. The representation from Burton Field is summarised as follows:
 - Part of the Land within the area covered by the Article 4 Direction forms a section of the 'garden' to Burton Field. Until recently this was enclosed by fencing, and

supported fenced chicken runs. As this land does not comprise part of the wider nursery where the sub-divided plots are being created, it should be excluded from the Direction.

In response to the representation the following is stated:

- It is agreed that as this part of the wider Land does not fall within the area where sub-divided plots are being created, it should be excluded from the Direction.

3.2 The second and third representations just seeks clarification as to the purpose of the Article 4 Direction.

4. Conclusion

4.1 The reasons for making the Article 4 Direction are set out in the earlier report for the initial 'immediate' Article 4 Direction. The purpose of the confirming process is to allow the decision to make an immediate Direction to be reviewed in the light of representations received during the notice period.

4.2 In this case it is considered that subject to the Land the subject of the Article 4 Direction being amended to take account of the one representation received, their remains sound planning reasons to confirm the Direction now.

4.3 It remains the case that having regard to the circumstances of this particular Land – namely, its tranquil situation with scattered nearby residential development and high visibility in views from public rights of way – there is the prospect of harm being caused to visual amenity from the exercise of these permitted development rights on an unregulated basis. It is, therefore, concluded that that the Article 4 Direction is now confirmed.

4.4 The confirmation of the Article 4 Direction does not prevent planning applications from being made on the land for the types of development excluded by the Direction. Such applications would be considered on their merits. The existence of a Direction does not convey any more restrictive policy approach to the determination of such applications, but would, for example, allow refusal of intrusive development or the imposition of conditions to potentially mitigate adverse impacts. Such conditions cannot be applied where permitted development rights remain.

Decision

That the Council CONFIRM the Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) to remove permitted development entitlements under Part 2 ('Minor Operations'), Class A ('gates, fences, walls, etc.') of Schedule 2.