

AGENDA ITEM 2

FALKIRK COUNCIL

Subject: CONSERVATION AREAS: APPLICATION FOR ARTICLE 4 DIRECTIONS
Meeting: LEISURE, TOURISM AND COMMUNITY COMMITTEE
Date: 28 FEBRUARY 2012
Author: DIRECTOR OF DEVELOPMENT SERVICES

1.0 INTRODUCTION

- 1.1 Members will recall that appraisals were approved for all nine conservation areas within the Council area between 2006 and 2010.
- 1.2 In approving the appraisals it is necessary to make application to Scottish Ministers to update the legislative position resulting from confirming the conservation area boundaries, which were variously retained, extended or reduced.
- 1.3 The original designation of the conservation areas introduced a range of automatic planning controls. These have been added to over time by Article 4 Directions under the Town and Country Planning (General Development) (Scotland) Orders of 1975 and 1981, and the Town and Country Planning (General Permitted Development) (Scotland) Order of 1992. These Directions removed certain other classes of permitted development and were applied to all nine of the Council's conservation areas prior to the recently approved appraisals. This had the effect of requiring planning applications for development falling into these classes that otherwise would not have required planning permission.

2.0 ARTICLE 4 DIRECTIONS

Current Position

- 2.1 The approved appraisals noted the Article 4 Directions currently applying to the conservation areas and proposed that the removal of the same classes of permitted development be continued for the new boundaries. In each case it was also considered necessary to update the Directions in line with the most up to date legislative position.
- 2.2 The approved list of development classes currently applying relate to the above Orders of 1975, 1981 and 1992, renumbered to their current form by the 1992 Order i.e.

PART 1: Class 1-6 Development within the Curtilage of a Dwellinghouse.
PART 2: Class 7-9 Sundry Minor Operations.
PART 12: Class 30-33 Development by Local Authorities.

Proposed Amendments

- 2.3 Taking into account recent changes in legislation and the need to establish a consistent approach across the Council's nine conservation areas, it is proposed to amend the list of development classes covered by Article 4 Directions as follows:

Development within the Curtilage of a Dwellinghouse

- a) The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 Schedule Part 1 removes virtually all permitted development rights relating to development within the Curtilage of a Dwellinghouse in a conservation area (the exception being classes 3A and D which cover structures and decking not exceeding 4 sq. mts.). There will therefore no longer be any need to apply for Article 4 Directions for these classes, which now also include works to "...any gate, fence, wall or other means of enclosure..." within a conservation area.
- b) It should be noted that Schedule Part 1ZA also removes permitted development rights from flatted development within a conservation area.

Sundry Minor Operations

- c) Notwithstanding (a) above, Class 7 remains relevant for works to gates, fences etc. in non-housing situations. The above Amendment Order also removes permitted development rights for Class 8/Formation of an Access and Class 9/Stone Cleaning and Painting in conservation areas and there will no longer be any need to apply for Article 4 Directions for these classes.

Development by Local Authorities

- d) Class 32/Sewerage is deleted since this is no longer a local authority service.

Statutory Undertakers

- e) There is concern over the effect which uncontrolled work by statutory undertakers may have on the special character of street surfaces and furniture within conservation areas e.g. the need to protect public realm works recently completed in Bo'ness and Falkirk town centres and at Airth Mercat Cross. It would be beneficial therefore to add Classes 38/Water, 39/Gas, 40/Electricity, 43/Universal and 43A/Sewerage service providers, to the list of undertakings covered by Article 4 Directions. This would be consistent with the current practice of local authorities elsewhere in Scotland.

Repairs to Private Roads and Private Ways

- f) The addition of this Class 27 would be consistent with the current practice of local authorities elsewhere in Scotland.

- g) The Article 4 Directions approved for Bo'ness Town Centre and Airth conservation areas in 2006 and 2008 respectively, differed only in that they did not include the Development by Local Authorities Classes 30-33. For the sake of good practice and consistency it is now proposed to make application for Article 4 Directions, in the cases of Bo'ness town centre and Airth, to match the other seven conservation areas.

3.0 CONSULTATION PROCESS

- 3.1 Consultation has been undertaken with Council Services and statutory undertakers explaining the proposed Article 4 Direction amendments and the reasons for applying for these. This took place over an 8 week period to 16 January 2012. Responses were generally supportive and no objections were received.

4.0 CONCLUSION

- 4.1 Following consideration of recent legislative changes, with particular reference to householder rights, and in recognition of the need to protect civic street surfaces and introduce consistency in the regulatory framework, it is proposed that applications for new Article 4 Directions under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, be made for all nine of the Council's conservation areas, specifically to remove the following classes of permitted development:

PART 2:	Classes 7 /Sundry Minor Operations.
PART 9:	Class 27/Repairs to Private Roads and Private Ways.
PART 12:	Classes 30, 31 and 33 /Development by Local Authorities.
PART 13:	Classes 38 /Water Undertakings, 39 /Public Gas Transporters, 40/ Electricity Undertakings, 43/Universal Service Providers and 43A/ Sewerage Undertakings.

5.0 IMPLICATIONS

- 5.1 **Policy:** - The application of Article 4 Directions in the Council's conservation areas will support the environmental and heritage objectives of the Strategic Community Plan, Corporate Plan, Development Plan, Built Heritage Strategy and Sustainable Falkirk.
- 5.2 **Financial:** - The additional Article 4 Direction classes relating to Development by the Local Authority and Statutory Undertakers, will help protect the built heritage of the Council's conservation areas, in particular the recent investments in Falkirk, Bo'ness and Airth town centres.

- 5.3 **Legal:** - The relevant Articles of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, came into force on 6 February 2012. The application for Article 4 Directions would update the legislative terms and references, thus strengthening the regulatory process.
- 5.4 **Personnel:** - The additional planning requirements are unlikely to have significant implications for the workload of Planning Officers. There should be benefits from the introduction of consistency and clarity into the regulatory process.

6.0 RECOMMENDATION

- 6.1 It is recommended that Committee refers to Falkirk Council a recommendation to authorise officers to make application to Scottish Ministers for new Article 4 Directions covering all nine conservation areas within the Council area, for the classes of permitted development noted in paragraph 4.1 of this report.

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Director of Development Services
Date: 14 February 2012

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LIST OF BACKGROUND PAPERS

- 1) Falkirk Council Built Heritage Strategy.
- 2) Town and Country Planning (General Permitted Development) (Scotland) Order 1992.
- 3) Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011.

Any person wishing to inspect the background papers listed above should telephone (01324) 504703 and ask for Stephen Downs.