

PERTH AND KINROSS COUNCIL**Enterprise and Infrastructure Committee - 13 June 2012****ARTICLE 4 DIRECTIONS IN CONSERVATION AREAS****Report by Executive Director (Environment)**

This report recommends Committee approves the updating of Article 4 Directions operating in conservation areas so that the directions relate to the Town and Country Planning (General Permitted Development) (Scotland) Order as amended.

1 RECOMMENDATION

- 1.1 The Committee is asked to Approve the updating of Article 4 Directions operating in conservation areas so that the directions relate to recent changes in the Town and Country Planning (General Permitted Development) (Scotland) Order.

2 BACKGROUND

- 2.1 Under Article 4 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992 certain normally permitted development rights for minor works can be restricted. This includes permitted development rights for householders, statutory undertakers and the local authority. Development is not necessarily precluded, but such developments or alterations would be assessed through the planning process. The capacity for additional controls exist to ensure that the quality of the environment is not eroded in sensitive areas by inappropriate forms of minor development that might normally otherwise be allowed. Over the last six years "Article 4 Directions" have been put in place for a total of 15 conservation areas within the Perth and Kinross Council area which have either been designated or re-designated after a conservation area appraisal process.
- 2.2 The Scottish Government has recently issued an amendment to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. This amendment is called the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 and came into force on 6 February 2012. This now restricts alterations and minor development works within Conservation Areas that were previously covered through the additional controls introduced by Article 4 Directions
- 2.3 Now that the Amendment Order 2011 is in force there is no longer any need to have an Article 4 Direction for these types of householder development in conservation areas as these will now be controlled through the planning process
- 2.4 The Scottish Government has also commenced a consultation process for the non-domestic elements of the General Permitted Development Order. It is not certain at this stage if and when the Order will be further amended.

- 2.5 In theory the existing Article 4 Directions could be left as they are until further changes are made to the General Permitted Development Order, although this may lead to confusion for customers. There is also the possibility that the need to pay a fee for a planning application could be challenged if it is a development which comes under one of the old “permitted development” classes listed in the Article 4 Direction.
- 2.6 The Scottish Government’s Directorate for the Built Environment has advised that approval would be required from Scottish Ministers to update the existing Article 4 Directions so that they are in line with the General Permitted Development Order as currently amended.

3 PROPOSALS

- 3.1 It is considered that the best course of action is to re-draft all of the 15 Article 4 Directions in place for conservation areas which have been through the appraisal process and submit the amended directions to the Scottish Ministers for approval.
- 3.2 It is assumed that the Ministers will have no objections to the amended directions. The directions cover the conservation areas of Aberfeldy; Blairgowrie; Comrie; Coupar Angus; Crieff; Dunkeld; Dunning; Errol; Grandtully & Strathtay; Kinross; Muthill; Perth Central; Perth Kinnoull; Pitlochry and Scotlandwell. (An example of the existing Article 4 Direction for Aberfeldy and the proposed direction as amended are illustrated in Appendix 1). Kenmore Conservation Area has been appraised and re-designated recently and the Article 4 Direction for Scottish Ministers approval has already been drafted to reflect the Amendment Order 2011 so does not require any further revision.
- 3.3 Restrictions will continue in respect of other types of development which are currently covered by the Article 4 directions and which are not covered by the changes to the GPDO. , These include the alteration or removal of stone walls or railings which do not bound the curtilage of a dwelling-house; some forms of telecommunications development; development by statutory undertakers (water, gas, electricity, road transport, sewerage) and development by local authorities, including lamp standards and street furniture.
- 3.4 The Council is asked to approve the updating of Article 4 Directions operating in the above conservation areas so that the directions fully relate to the recent changes in the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 in relation to alterations to dwelling houses to provide consistency and clarity for customers living in historic settlements in the area.

4 CONSULTATION

- 4.1 The Head of Legal Services, Acting Head of Finance and the Head of Democratic Services have been consulted in the preparation of this report.

5 RESOURCE IMPLICATIONS

5.1 Capital

- 5.1.1 There are no capital implications arising from the recommendations of the report.

5.2 Revenue

- 5.2.1 There are no revenue implications arising from the recommendations of the report.

6 COUNCIL CORPORATE PLAN OBJECTIVES 2009-2012

- 6.1 The Council's Corporate Plan 2009-2012 lays out five Objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. This report impacts on the following:

- (i) A Safe, Secure and Welcoming Environment
- (iii) A Prosperous, Sustainable and Inclusive Economy
- (iv) Educated, Responsible and Informed Citizens
- (v) Confident, Active and Inclusive Communities

7 EQUALITIES IMPACT ASSESSMENT (EqIA)

- 7.1 An equality impact assessment needs to be carried out for functions, policies, procedures or strategies in relation to race, gender and disability and other relevant protected characteristics. This supports the Council's legal requirement to comply with the duty to assess and consult on relevant new and existing policies.
- 7.2 The function, policy, procedure or strategy presented in this report was considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:
- i) Assessed as not relevant for the purposes of EqIA.

8 STRATEGIC ENVIRONMENTAL ASSESSMENT

- 8.1 Strategic Environmental Assessment (SEA) is a legal requirement under the Environmental Assessment (Scotland) Act 2005 that applies to all qualifying plans, programmes and strategies, including policies (PPS).
- 8.2 The matters presented in this report were considered under the Environmental Assessment (Scotland) Act 2005 and pre-screening has identified that the PPS will have no or minimal environmental effects, it is therefore exempt and the SEA Gateway will be notified. The reason for concluding that the PPS will have no or minimal environmental effects is that the document is primarily one of analysis with a small element identifying future possibilities for management or enhancement. Most of the impacts of these proposals will be covered by

other PPSs or require further guidance which will itself be considered under the SEA legislation.

9 CONCLUSION

- 9.1 The re-drafting of Article 4 Directions operating in conservation areas in order to be in line with the recent Town and Country Planning ((General Permitted Development) (Scotland) Amendment Order 2011 will provide clarity and ensure that the directions are fully up to date.

**JIM VALENTINE
EXECUTIVE DIRECTOR (ENVIRONMENT)**

Note:

No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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Date: 1 June 2012

APPENDICES

- 1 Samples of existing Article 4 Direction and proposed amended direction.

If you or someone you know would like a copy of this document in another language or format, (On occasion only, a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000



Council Text Phone Number 01738 442573

Town & Country Planning (Scotland) Act 1997
Form of Direction by Planning Authority under Article 4(8)
Town and Country Planning (General Permitted Development)
(Scotland) Order 1992

Aberfeldy Conservation Area

The Perth & Kinross Council (Restriction of Permitted Development)
(Aberfeldy) Direction 2008

Perth & Kinross Council in terms of article 4(1) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (SI 1992/223) being satisfied that it is expedient that all or any development comprising:-

- Class 1 - the enlargement, improvement or other alteration of a dwellinghouse;
- Class 3 - the provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse, or the maintenance, improvement or other alteration of such a building or enclosure;
- Class 6 - the installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse;
- Class 7 - the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure;
- Class 16 - the use of land, other than a building, as a caravan site;
- Class 27 - the carrying out on land within the boundaries of a private road or private way of works required for the maintenance or improvement of the road or way;
- Class 30 - the erection or construction and the maintenance, improvement or other alteration by a local authority;
- Class 38 - water undertakings;
- Class 39 - public gas transporters;
- Class 40 - electricity undertakings;
- Class 41 - tramway or road transport undertakings;
- Class 43 - universal service providers; and,
- Class 43A - sewerage undertakings;

should not be carried out within the Conservation Area of Aberfeldy (area of land as described in the Schedule hereto) unless permission is granted on an application in that behalf, hereby directs that the permission granted by article 3 in respect of:-

Classes 1, 3, 6, 7, 16, 27, 30, 38, 39, 40, 41, 43 and 43A, as described above, shall not apply.

This direction may be cited as the Perth & Kinross Council (Restriction of Permitted Development) (Aberfeldy) Direction 2008.

Signature

Designation

Planning Service
The Environment Service
Perth and Kinross Council
Pullar House
35 Kinnoull Street
Perth PH1 5GD

SCHEDULE

The area of land outlined in black on the plan annexed and executed as relative hereto, in the district of Perth & Kinross Council.

Note: The plan annexed to the Direction should be executed in the same way as the Direction and duly docquetted with reference thereto.

Town & Country Planning (Scotland) Act 1997
Form of Direction by Planning Authority under Article 4(8)
Town and Country Planning (General Permitted Development)
(Scotland) Order 1992

Aberfeldy Conservation Area

The Perth & Kinross Council (Restriction of Permitted Development)
(Aberfeldy) Direction 2012

Perth & Kinross Council in terms of article 4(1) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (SI 1992/223) being satisfied that it is expedient that all or any development comprising:-

- Class 7 - the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure;
- Class 16 - the use of land, other than a building, as a caravan site;
- Class 27 - the carrying out on land within the boundaries of a private road or private way of works required for the maintenance or improvement of the road or way;
- Class 30 - the erection or construction and the maintenance, improvement or other alteration by a local authority;
- Class 38 - water undertakings;
- Class 39 - public gas transporters;
- Class 40 - electricity undertakings;
- Class 41 - tramway or road transport undertakings;
- Class 43 - universal service providers; and,
- Class 43A - sewerage undertakings;

should not be carried out within the Conservation Area of Aberfeldy (area of land as described in the Schedule hereto) unless permission is granted on an application in that behalf, hereby directs that the permission granted by article 3 in respect of:-

Classes 7, 16, 27, 30, 38, 39, 40, 41, 43 and 43A, as described above, shall not apply.

This direction may be cited as the Perth & Kinross Council (Restriction of Permitted Development) (Aberfeldy) Direction 2012.

Signature

Designation

Chief Executive's Service – Legal
Perth and Kinross Council
2 High Street
Perth PH1 5PH

SCHEDULE

The area of land hatched in red on the plan annexed and executed as relative hereto, in the district of Perth & Kinross Council.

Note: The plan annexed to the Direction should be executed in the same way as the Direction and duly docquetted with reference thereto.