

| | | | |
|--------------------------|--|--|--------------------------|
| Subject: | Queen's Park Conservation Area Proposed Article 4 Direction | | |
| Date of Meeting: | 18 June 2020 | | |
| Report of: | Executive Director, Economy, Environment & Culture | | |
| Contact Officer: | Name: | Jody Blake | Tel: 01273 292261 |
| | Email: | Jody.Blake@brighton-hove.gov.uk | |
| Ward(s) affected: | Queen's Park ward | | |

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The report seeks approval to make a non-immediate Article 4 Direction for the Queen's Park conservation area together with the required statutory consultation. Careful consideration will be given to the timing of the consultation in light of the current COVID-19 situation.
- 1.2 The report summarises the response to informal public consultation on the proposed Article 4 Direction to remove certain householder permitted development rights, under Parts 1, 2 and 11 of Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to front elevations of single dwelling houses within the Queen's Park conservation area.

2. RECOMMENDATIONS:

- 2.1 That the Committee authorises the making of a non-immediate Article 4 Direction to the Queen's Park conservation area to remove the permitted development rights listed in Appendix 2, to come into effect in twelve (12) months from this date, subject to statutory consultation.
- 2.2 That the Committee notes the representations (listed in Appendix 1) made during the informal consultation period.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Queen's Park Conservation Area is centred on the public open space of Queen's Park, which is a grade II registered park/garden. The conservation area was designated in 1977 and covers an area of 18.56 hectares.
- 3.2 The Queen's Park Conservation Area Character Statement was approved at the September 2018 meeting of the Tourism, Development & Culture Committee (TDC). The Character Statement identified the cumulative loss of architectural

details on the front of single dwelling houses as being detrimental to the character and appearance of the conservation area. As a result, a recommendation was made in the Character Statement to prepare an Article 4 Direction under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to halt these harmful changes where they affect the street frontages of houses.

- 3.3 The Queen's Park conservation area is included in Historic England's 'Heritage at Risk' register. This is due to the gradual loss of historic architectural features and materials under permitted development rights, which has been harmful to the special character of the area.
- 3.4 An Article 4 Direction will result in certain types of development requiring express planning permission, allowing the authority to retain some control over design and detailing, which may otherwise be harmful to the character and appearance of the conservation area.
- 3.5 Informal consultation was carried out, with residents, on a proposed Article 4 Direction in February and March of this year. The response has helped to shape the Direction and more details are set out in section 5 below and appendix 2.
- 3.6 Permitted development rights relating to the front elevation of dwellinghouses proposed to be removed include:
 - Painting of front elevations;
 - Removal of render from a front elevation;
 - Change of roofing material;
 - Installing or enlarging rooflights;
 - Replacing or altering windows or doors;
 - Demolishing or altering or erecting a front boundary wall, fence, railing or gate;
 - Providing or replacing a hard surface within the front garden;
 - The installation, alteration or removal of a chimney, flue or soil and vent pipe;
 - The removal of traditional tiled paths and entrance thresholds; and
 - Erecting a porch to a front elevation.
- 3.7 These additional controls are particularly important for those conservation areas that have large numbers of single dwellings that are not listed buildings. Around half of the city's 33 conservation areas currently have an Article 4 Direction of this type in place.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 65% of 75 respondents to the informal consultation either agreed or strongly agreed that an Article 4 Direction would help to preserve the character and appearance of the Queen's Park conservation area. Therefore, there is overall support for the making of an Article 4 Direction in the Queen's Park conservation area.
- 4.2 There is an option for the Queen's Park conservation area to remain without an Article 4 Direction restricting householder permitted development rights. This

would be contrary to the recommendation of the approved Queen's Park Conservation Area Character Statement, agreed by this committee, and would result in the continued presence of the conservation area on the Historic England's 'at risk' register.

- 4.3 There is an option to make an immediate Article 4 Direction for the Queen's Park conservation area, which would come into effect immediately, but it would only remain in force for six months unless confirmed by the council following statutory consultation. However, under current Covid-19 restrictions it may not be possible to meet the legal requirements for consultation and confirmation within six months. This option could also lead to applications for compensation under s.108 of the Town and Country Planning Act 1990 (as amended).

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Informal consultation was undertaken in February and March 2020 over a six-week period. The consultation was targeted at residents within the Queen's Park conservation area who would be directly affected by an Article 4 Direction. A total of 75 responses were received via the Consultation Portal. The respondents were asked whether they would support the removal of permitted development rights for certain types of development to the front elevations of single dwelling houses within the conservation area

- 5.2 40% of the respondents were located within the conservation area, 18.7% were located within the immediate setting of the conservation area (within 50m of the boundary) and 41.3% outside of the conservation area. 65% of respondents either agreed or strongly agreed that Article 4 Directions would help to preserve the character and appearance of the Queen's Park conservation area, whilst 9% neither agreed or disagreed and only 26% disagreed or strongly disagreed.

- 5.3 A summary of responses received and how these have been addressed is included at Appendix 1. As indicated above, the comments received were generally supportive. The majority of those commenting were in agreement that permitted development rights should be subject to some control. A list of the permitted development rights to be removed under the proposed Article 4 Direction is included in Appendix 2.

- 5.4 Only 33% of respondents supported the removal of permitted development rights to change the colour of front elevations of buildings, including boundary walls and railings. A number of comments were received regarding having to apply for planning permission to change the colour of a building. As colour plays an important role in setting the character and appearance of a conservation area, it is proposed to prepare an approved colour scheme (similar to Brunswick Town, Avenues, Cliftonville and Pembroke and Princes conservation area) that allows for a range of approved colours, which if adhered to, would not necessitate a planning application. This part of the controls would also prevent the painting of unpainted brickwork, which was supported by 40% of respondents, and would further prevent the painting of murals.

- 5.5 UPVC is a non-renewable resource and current technology cannot match the fine detailing of historic timber windows, especially Queen Anne style multi-paned windows which are common throughout the Queen’s Park conservation area. Therefore, the use of double-glazing within timber frames will be supported for historic (non-listed) buildings within the conservation area. Draught-proofing and secondary glazing offer alternative ways of reducing heat loss without involving high costs or needing planning permission. As the main source of heat loss through windows is via the glass, low-e glass could be specified for replacement glass. Further information regarding energy efficiency improvements to historic buildings can be found in Council’s Planning Advice Note 9. The council’s policy can be reviewed in the future if technology improves sufficiently.
- 5.6 A further report will be brought to this Committee following the statutory consultation, with any proposed modifications, before the Direction is confirmed.

6. CONCLUSION

- 6.1 An Article 4 Direction within the Queen’s Park conservation area will help to minimise the cumulative loss of architectural details on the front of single dwelling houses which are detrimental to the character and appearance of the conservation area.
- 6.2 The introduction of an Article 4 Direction to control certain permitted development rights would remove the main threat to the area that has led to its inclusion on Historic England’s ‘at risk’ register and has been generally supported in public engagement. Further statutory consultation with local residents would be carried out before the Direction is made.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications associated with the introduction of an Article 4 Direction. It is assumed that the indirect associated costs (for example, consultation) will be contained within existing budgets.

Finance Officer Consulted: Jess Laing

Date: 15/05/20

Legal Implications:

- 7.2 The Town and Country Planning (General Permitted Development) (England) Order 2015 grants planning permission for certain types of development. A planning application would not therefore be required for such development unless the permitted development right had been removed.

Permitted development rights may be removed by way of an Article 4 Direction. This is a reference to Article 4 of the 2015 Order whereby a local planning authority (“LPA”) may make a direction if it is satisfied that it is expedient that development that would otherwise be permitted development should not be carried out unless permission is granted on an application. Once made, the direction must be advertised by the LPA and representations invited. Any

representations made within the relevant time period must be taken into account by the LPA in considering whether to confirm the direction. A copy of the direction must be sent to the Secretary of State who may cancel or modify it at any time before or after its confirmation.

Where a LPA makes an Article 4 direction the authority may be liable to pay compensation if it then refuses planning permission for development which would otherwise have been permitted development or grants planning permission subject to more limiting conditions than prescribed by the 2015 Order. However, s108 of the Town and Country Planning Act 1990 and the Town and Country Planning (Compensation) (England) Regulations 2015 provide that where permitted development rights for certain types of development, including Part 1 rights, are withdrawn no compensation is payable provided at least 12 months' notice of withdrawal is given.

Lawyer Consulted:

Hilary Woodward

Date: 20/5/20

Equalities Implications:

- 7.3 An Equalities Impact Assessment (EQIA) of the Conservation Service was undertaken in 2010 and covers work on conservation area designation and review.

Any physical alterations to make an entrance to a house more accessible would require planning permission. However, greater accessibility is seen as a public benefit that would likely overcome any minor harm to the conservation area. Planning applications for alterations to an existing dwellinghouse for providing means of access to or within it for a disabled person who is resident in it or proposing to take up residence, or for facilities designed to secure that person's greater safety, health and comfort, are exempt from planning application fees.

Sustainability Implications:

- 7.4 In acknowledgement to the consultation responses and the Council's commitment to become carbon neutral by 2030, no permitted development rights are proposed to be removed pertaining to energy efficient measures such as solar panels. Further information regarding energy efficiency improvements to historic buildings can be found in Council's Planning Advice Note 9.

Any Other Significant Implications:

- 7.5 None identified

SUPPORTING DOCUMENTATION

Appendices:

1. List of permitted development rights to be removed under Article 4 Direction.
2. Summary of informal consultation responses

Background Documents

1. Queen's Park Conservation Area Character Statement 2018