

Officer delegated decision

Decision date 31 March 2016

Hyde Farm Conservation Area (CA48)

Wards: Thornton Ward

Report Authorised by: David Joyce, Programme Director – Planning and Development

Portfolio: Cabinet Member for Jobs and Growth Jack Hopkins

Contact for enquiries:

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Report summary

Changes were made to the boundary of the Hyde Farm Conservation Aea with effect from 29 October 2015 to remove certain addresses on Haverhill Road from the conservation area. It was also decided to seek to adjust the boundary of the area covered by the Article 4 Direction made in 2002 so that the extent of Article 4 controls will correspond to the revised conservation area boundary. The process of alignment requires the cancellation of the existing Article 4 Direction and the making of a new Article 4 Direction corresponding to the revised conservation area boundary, because there is no other process of amending the geographical coverage of an Article 4 Direction.

A Direction cancelling the existing Article 4 Direction and a new Article 4 Direction were made on 29 December 2015. The necessary consultation and notifications were carried out during January 2016.

No objections have been received to the making of the new Article 4 Direction. Four objections have been received expressing concern about the removal of Article 4 controls from the area that is no longer within the Hyde Farm Conservation Area. Officers have considered the objections but are of the view that the retention of Article 4 controls over the properties that have been removed from the conservation area cannot be justified. Accordingly it is recommended that the Direction cancelling the existing Article 4 Direction, and the new Article 4 Direction, are confirmed.

Finance summary

The issuing of statutory notices and associated notification and correspondence with residents will be undertaken within existing budgets.

Recommendations

- (1) To confirm as coming in to force on 1 April 2016 the Direction made on 29 December 2015 cancelling the Hyde Farm Conservation Area Article 4 Direction made in 2002.
- (2) To confirm as coming in to force on 1 April 2016 the Hyde Farm Conservation Area Article 4 Direction made on 29 December 2015.

1. Context

- 1.1 The legislation that governs the making of Article 4 directions does not give a local planning authority the ability to amend such a direction (either the area covered by it or the classes of permitted development rights that are removed). The only means of changing the geographical coverage and/or scope of an Article 4 direction is for an authority to cancel the direction that it does not wish to continue to have effect and to make a new direction.
- 1.2 On 29 December 2015 the Council made a direction cancelling the Article 4 Direction that applies to the area corresponding to the Hyde Farm Conservation Area as it was prior to the boundary change on 29 October 2015, and made a new Article 4 Direction applying to the area corresponding to the Hyde Farm Conservation Area as it stands following the boundary change on 29 October 2015. It was proposed that these directions would come into force on 1 April 2016.
- 1.3 The directions made on 29 December 2015 will not come into force unless they are confirmed by the Council. The purpose of this report is to address whether those directions should be confirmed and if so, the date of their coming in to force.
- 1.4 The classes of permitted development rights which are the subject of the new Article 4 Direction made on 29 December 2015 correspond to the classes of those rights that are the subject of the pre-existing Article 4 Direction. Therefore, the only change that has been proposed is to the geographical extent of the Article 4 controls.

2. Proposal and Reasons

- 2.1 The Council has undertaken a process of notification and consultation in accordance with the statutory requirements relating to the imposition of Article 4 controls, and officers have considered the responses received as explained in section 5 of this report.
- 2.2 In summary, officers cannot identify any justification in planning terms for continuing to apply restrictions on the exercise of permitted development rights as contained in the existing Article 4 direction in relation to those properties that are now no longer within the Hyde Farm Conservation Area. It is therefore recommended to confirm the directions as coming in to force on 1 April 2016

3 Finance

- 3.1 There are no direct financial implications arising from the recommendations. The issuing of any statutory notices, notifications and correspondence will be undertaken and funded from existing approved budgets.

4 Legal and Democracy

- 4.1 The procedure for the making of a non-immediate Article 4 direction, and the power to make a direction cancelling an existing Article 4 direction, are contained in Schedule 3 of the 2015 General Permitted Development Order.
- 4.2 Once a direction (whether amounting to a new Article 4 direction or cancelling an existing Article 4 direction) has been made by an authority, it is necessary to notify affected properties of the making of the direction(s) and to advertise the making of the direction(s) by means of site and press notices. The start date of a consultation period

of a minimum of 21 days must be specified, along with the date when it is proposed that the direction(s) will come into force. It is also necessary to notify the Secretary of State (via the National Planning Casework Unit at the Department for Communities and Local Government) of the making of the direction(s).

- 4.3 After the consultation period has ended, the authority must take into account any responses that are received in deciding whether to confirm a direction. A direction must not be confirmed until at least 28 days after the latest date of service or publication of any notice of the making of the direction (or such longer period as may be specified by the Secretary of State).
- 4.4 If a direction is confirmed, the authority will also specify the date when it will come into force. Notice of the confirmation of the direction, and the date of its coming into force, will need to be given in the manner set out in Schedule 3 of the GPDO.

5 Consultation and co-production

- 5.1 In making or cancelling an Article 4 Direction the Council must send notice of the making of the directions to affected properties, display site notices and place press adverts. In this case, notice was published in the Weekender newspaper on 8 January 2016. Site notices were put up in the area affected on 11 January 2016. A total of 830 notification letters were sent to affected properties. The Hayes Dashwood Foundation (a local property owner) was also notified in writing. The National Planning Casework Unit at DCLG was notified and no direction has been made by the Secretary of State cancelling or modifying the new Article 4 Direction made by the Council on 29 December 2015.
- 5.2 The notices and letters invited representations to be made between 11 January 2016 and 1 February 2016.
- 5.3 Details of the six representations received are provided in Appendix 1 together with officers' assessment of those responses. None of the six respondents objected to the making of the new Article 4 Direction. Two respondents sought clarification and offered no view on the proposals. The four remaining respondents expressed the view that properties on Haverhill Road, which were removed from the conservation area on 29 October 2015, should remain subject to the existing Article 4 Direction controls.
- 5.4 The National Planning Practice Guidance (NPPG) says that *"the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified"*. Officers have considered the objections but they are unable to say that the test contained in the NPPG is satisfied in respect of the properties on Haverhill Road that have been removed from the conservation area. The properties that were removed from the conservation area on 29 October 2015 are not considered to be of special architectural or historic interest. They are no longer part of the conservation area. Nor are officers able to identify any other reason why the retention of Article 4 Direction controls over the relevant properties would be necessary in order to protect the amenity of the local area. There is therefore no justification for continuing to impose the stricter planning controls represented by an Article 4 Direction on those properties.

6 Risk management

6.1 None.

7 Equalities impact assessment

7.1 There are no equalities issues arising.

8 Community safety

8.1 There are no implications for community safety.

9 Organisational implications

9.1 Environmental

None.

9.2 Staffing and accommodation

None

9.3 Procurement

None.

9.4 Health

None.

10 Timetable for implementation

10.1 See below:

Action	Timetable
Statutory Press Notice	April 2016
Site Notices	April 2016
Letters to affected properties	April 2016
Letter to National Planning Casework Unit	April 2016
Update website	April 2016

Audit trail				
Consultation				
Name/Position	Lambeth cluster/division or partner	Date Sent	Date Received	Comments in para:
Sue Foster	Strategic Director, Neighbourhoods and Growth	02/03/2016	04/03/2016	n/a
Hamant Bharadia (finance clearance@lambeth.gov.uk)	Business Partnering	02/03/2016	n/a	

Peter Flockhart	Legal Services	02/03/2016	n/a	
Wayne Chandai (democracy@lambeth.gov.uk)	Democratic Services	02/03/2016	n/a	
Katy Shaw	Governance - Neighbourhoods and Growth	02/03/2016	04/03/2016	
Councillor Hopkins	Cabinet Member, Jobs and Growth	02/03/2016	n/a	n/a
Councillor L Peck	Ward Councillor	02/03/2016	02/03/2016	n/a
Councillor D Morris	Ward Councillor	02/03/2016	n/a	
Councillor L Davie	Ward Councillor	02/03/2016	n/a	

Report history	
Original discussion with Cabinet Member	N/A
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	No
Date first appeared on forward plan	n/a
Key decision reasons	Non Key
Background information	
Appendices	Appendix 1 – representations received

APPROVAL BY ASSISTANT DIRECTOR OF PLANNING IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:

Signature PP N. Xugres Date 31/3/16

Doug Black, Delivery Lead, Conservation & Urban Design.

PP NICOLA XUGRES PRINCIPAL CONSERVATION OFFICER

I approve the above recommendations:

Signature David T. Joyce Date 31/3/16
David Joyce, Programme Director – Planning and Development

Any declarations of interest (or exemptions granted):

Issue

Interest declared

APPENDIX 1 Responses for Article 4 Direction Notifications

Response	Summary of Submitted Comments	Officers' Response
HF1		
Member of the public	The paperwork includes no mention of Nos. 70 to 74 Emmanuel Road, SW12.	The properties at 70-74 Emmanuel Road are not covered by either the existing (2002) or new Article 4 Direction because they are modern properties of no particular special interest and are only in the conservation area by virtue of their location amongst the historic properties.
HF2		
	No reason why some of the houses on Haverhill Road should be excluded from the tight controls, while others remain in the restriction controls. All houses on the street should be subject to the same controls.	The properties at 4-62 and 1-71 were removed from the Hyde Farm Conservation Area on 29 October 2015; they were not considered to be of sufficient special architectural or historic interest to warrant continued inclusion within the Hyde Farm Conservation Area. The remaining properties on Haverhill Road within the conservation area are Tyneside Flats, not houses. These are considered to exhibit special interest and therefore still worthy of the protection afforded by an Article 4 Direction.
		No justification in planning terms can be identified for continuing to impose the stricter controls contained in an Article 4 Direction in respect of the properties on Haverhill Road that have been removed from the Hyde Farm Conservation Area.

<p>HF3</p>	<p>Strongly object to the proposal. Value the fact that there are restrictions with regards to what people can do to their properties.</p> <p>Changing the planning controls to allow sections of Haverhill Road to be exempt from this appears very nonsensical.</p>	<p>As per the response at HF2 above.</p>
<p>HF4</p>	<p>Object to these changes which would:</p> <ul style="list-style-type: none"> • Reduce the area of the Hyde Farm Direction Conservation Area Article 4 Direction. • Make it easier for new and larger scale development to take place to properties on Haverhill Road, within the Hyde Farm Estate, but which will no longer be included in the Article 4 Direction. 	<p>The properties at 4-62 and 1-71 were removed from the Hyde Farm Conservation Area on 29 October 2015; they were not considered to be of sufficient special architectural or historic interest to warrant continued inclusion within the Hyde Farm Conservation Area.</p> <p>The remaining properties on Haverhill Road within the conservation area are Tyneside Flats, not houses. These are considered to exhibit special interest and therefore still worthy of the protection afforded by an Article 4 Direction.</p> <p>No justification in planning terms can be identified for continuing to impose the stricter controls contained in an Article 4 Direction in respect of the properties on Haverhill Road that have been removed from the Hyde Farm Conservation Area.</p> <p>The houses on Haverhill Road which are now outside the conservation area will have permitted development rights for rear and roof extensions but this will be domestic scale and not 'large scale'.</p>

	<p>The special quality and character of the Hyde Farm Estate relies on its unity, the way it has been preserved and the lack of piecemeal development and alteration.</p>	<p>A large part of the Hyde Farm Estate has never been within part of the conservation area. The conservation area covers only the concentration of Tyneside Flats which are considered to be the only part of the Estate which is of architectural and historic interest.</p>
	<p>The different roads within the Hyde Farm have different but related building types. Haverhill Road is integral within this and should not be singled out for exemption from the Article 4 Direction.</p>	<p>The properties are no longer in the conservation area.</p> <p>There is no justification in planning terms for the imposition of stricter planning controls on properties that are not of special interest.</p>
	<p>Relaxing planning controls on a particular street within the Hyde Farm estate seems inappropriate and is likely to permit extensions, conservatories and other development and alterations which will impact negatively on the larger area and the character of the Hyde Farm Conservation Area as a whole. This seems to contravene the Hyde Farm Article 4 Direction as it would damage this.</p>	<p>Officers do not consider that the removal of Article 4 Direction coverage from the properties on Haverhill Road will have an adverse impact on the character or appearance of the conservation area. The houses on Haverhill Road will have normal permitted development rights which will allow for rear extensions and roof extensions. These are limited by planning control and will not be large.</p>
<p>HF5</p>	<p>Objects to the proposals on a number of grounds:</p> <p><u>1. Consultation process</u></p>	
	<p>Respondent does not believe that either they or residents more widely of the Hyde Farm Conservation Area were adequately consulted about the removal of Numbers 4-62 (evens) and 1-71 (odds) Haverhill Road, London SW12 from the Hyde Farm Conservation Area.</p>	<p>There is no obligation on the council to consult on conservation area designation. However, the council did consult residents in the properties affected and those immediately adjoining in the lead up to the decision to remove the houses which was made in October 2015..</p>

	<p>Response was submitted regarding Lambeth council's new draft Building Alterations and Extensions SPD including view about the Hyde Farm Conservation Area and the need to maintain the status quo. No response received.</p>	<p>It is not standard practice for the Council to provide individual responses to consultation responses, especially on large borough-wide consultations.</p>
	<p>Do not believe that respondent or residents more widely of the Hyde Farm Conservation Area have been consulted at all about the proposal to cancel the 2002 Article 4 Direction and the potential effects of this, before and until the 6 January 2016 letter.</p>	<p>There are statutory procedures which must be followed when cancelling or making new Article 4 Directions. Those require a minimum consultation period of 21 days, which was complied with. Letters were sent notifying all properties in the conservation area of the directions that had been made. The area to which letters were sent is more extensive in area than the properties affected by the cancellation/making of the Article 4 Direction.</p>
	<p><u>2. Removal of Numbers 4-62 (evens) and 1-71 (odds) Haverhill Road, London SW12 from the Hyde Farm Conservation Area and cancellation of the 2002 Article 4 Direction</u></p> <p>These properties should not be removed from the Hyde Farm Conservation Area, and that the 2002 Article 4 Direction should not be cancelled. Relaxation of the boundaries, status, or approach to planning for the Hyde Farm conservation area risk compromising the unique character of the Hyde Farm estate.</p>	<p>The properties have already been removed from the conservation area. This happened with effect from 29 October 2015.</p> <p>The boundary of the conservation area is not being further considered in this report. At the time of the change in question, officers did not consider that the boundary change would compromise the future management or integrity of the conservation area. The impact of the boundary change to the conservation area was assessed in the officer report dated 29 October 2015.</p>

	<p>Any removal of houses in Haverhill Road from the scope of the Hyde Farm conservation area risks allowing unsympathetic developments which not only damage the integrity of the conservation area, but which will also in effect be impossible to roll back at any future date, undermining our cultural and architectural legacy. Would also set a dangerous precedent for future reductions in the scope of the Hyde Farm estate conservation area.</p>	<p>The removed houses will have permitted development rights for porches, re-roofing, replacement windows etc. Officers consider that such changes are unlikely to lead to development that would harm the setting of the conservation area. When considering planning applications on those properties the impact on the setting of the conservation area will be a material consideration.</p>
<p>HF6</p>		
<p>National Planning Casework Unit</p>	<p>In response to the formal notification a map of the area was requested.</p>	<p>The map was provided and no further correspondence has been received from the NPCU.</p>

