

Portfolio Holder decision record sheet

Name of decision maker:	Graham Sutton
Portfolio:	Planning and Regeneration
Date of Portfolio Holder decision:	

Title of decision:	Article 4(1) Town and Country Planning (General Permitted Development) (England) Order 2015
	Delegation for future urgent Article 4 cases

Part II:	Part I
Part II reason:	

Decisions made and reasons:	<p>1. That authority be delegated to the Assistant Director – Planning Development & Regeneration or the Group Manager – Development Management & Planning to issue, confirm, amend or revoke Article 4 directions which are Executive functions in cases where (in consultation with the Solicitor to the Council) it is felt such a case is urgent</p> <p><u>Reason:</u> To enable the authority to respond urgently, and be pro-active in preventing harmful development by the use of Article 4 Directions</p>
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Reports considered: (here reference can be made to specific documents)	<p>Officer report outlined below</p>
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Officers/Councillors/Ward Councillors/Stakeholders consulted:	
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Monitoring Officer comments:	<p>An officer decision sheet must be completed each time that this delegation is exercised which must clearly explain the justification for the Direction and the urgency.</p>
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Implications:	<p>Publication costs for advertising the order, which will be met within existing budgets</p> <p>The withdrawal of permitted development rights may mean an increase in planning applications which officers will have to determine, albeit a significant rise in applications is not expected. There is no fee for a planning application when permitted development rights have been withdrawn.</p> <p>On balance, the protection that the Direction will give to the area outweighs any associated costs and the risk of compensation</p>
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Compensation

If an Article 4 Direction is made which removes certain permitted development rights from a property, a person who then makes a planning application for a development which would have been permitted development in the absence of the Article 4 direction has a right to compensation if that planning permission is refused. However, the right to claim compensation is hedged around with certain restrictions, in particular: compensation can only be claimed if the planning application is made within 12 months from the date when the Article 4 Direction takes effect.

The measure of compensation is the capital value the property would have had if the planning permission had been granted, compared with the capital value of the property without the permission. The compensation does not include any element for the expenses incurred by the applicant in attempting to obtain planning permission or for any other consequential losses, and certainly nothing for wounded feelings, hurt pride and general annoyance.

Exclusions from delegation

Classes K and M of Part 17 may not be subject to an Article 4 Direction, so cannot be included within the authorisation sought.

**Deputy Chief
Financial Officer
comments:**

There are no direct financial implications of this decision. Any potential compensation claim that could be triggered requires a planning submission in each case within 12 months that is refused. Therefore the risk of compensation cannot be factored in to this decision and each case will need to be considered on its own.

Options considered and reasons for rejection:

Not to grant the delegated authority. There is concern that this would negatively impact on the authority's abilities to respond urgently, and be pro-active in preventing harmful development by the use of Article 4 Directions. In cases where urgent decisions are required, any delay likely to be caused would seriously prejudice the Council's or the public's interests.

Portfolio Holder's signature:

Date:

Details of any interests declared and any dispensations given by the Standards Committee:

For Member Support Officer use only

Date decision record sheet received from portfolio holder:

Date decision published:

Decision no:

Date of expiry of call-in period:

Date any call-in received or decision implemented:

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Background

DELEGATED AUTHORITY FOR FUTURE URGENT CASES

Authority is sought to delegate the decision to issue, confirm, amend or revoke Article 4 directions in cases of urgency to the Assistant Director (Planning, Development & Regeneration) or the Group Manager (Development Management & Planning). A decision as to whether a particular case is urgent would be taken in consultation with the Solicitor to the Council.

It is frequently the case that the local planning authority will receive reports from local residents regarding proposed development which could have a harmful effect on the area and which the authority may wish to seek to protect by means of an Article 4 Direction. Officers will only use this authority selectively with due regard to possible claims for compensation, but to enable the authority to respond urgently, and be pro-active in preventing harmful development by the use of Article 4 Directions, it is the view of officers that an urgency provision is required.

The constitution currently delegates the making of a Direction under Article 4 in relation to certain parts of Schedule 2 where the Assistant Director (Planning, Development & Regeneration) or the Group Manager (Development Management & Planning) in consultation with the Solicitor to the Council considers urgent action is necessary.

The delegation sought would cover all other elements which are not Council functions within Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended or replaced) other than Class K or M of Part 17.