

REDDITCH BOROUGH COUNCIL

PLANNING COMMITTEE

11th March 2015

ARTICLE 4(1) – Removal of Permitted Development Rights to Demolish (Part 31) – CONFIRMATION

Chapel at Junction of Birchfield Road and Chapel Street, Headless Cross, Redditch

Relevant Portfolio Holder	Cllr Greg Chance
Portfolio Holder Consulted	No
Relevant Head of Service	Ruth Bamford, Head of Planning and Regeneration Guy Revans, Head of Environment
Ward(s) Affected	Headless Cross & Oakenshaw
Ward Councillor(s) Consulted	No
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 This report proposes the long term protection of a locally listed building which is considered to be of positive benefit to public amenity and a heritage asset in the wider public interest. Its value therefore makes it worthy of control in order to aim to achieve its retention in the longer term.

2. RECOMMENDATIONS

- 2.1 **The Committee is asked to RESOLVE that:**

The article 4(1) direction at Appendix 1 and its attached plan be confirmed without modification.

3. KEY ISSUES

Financial Implications

- 3.1 The costs of the administrative and technical processes associated with this matter may be met from within existing budgets, and the financial aspects are not a matter for the Planning Committee to consider. However, there are circumstances in which the Local Planning Authority may be liable to pay compensation having made an article 4 direction, although the potential liability is limited in many cases by the time limits that apply.

The Local Planning Authority may be liable to pay compensation to those whose permitted development rights have been withdrawn if they:

- Refuse planning permission for development which would have been permitted development if it were not for an article 4 direction; or
- Grant planning permission subject to more limiting conditions than the GDPO would normally allow, as a result of an article 4 direction being in place.

Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

All claims for compensation must be made within 12 months of the date on which the planning application for development formerly permitted is rejected (or approved subject to conditions that go beyond those in the GPDO).

Any planning application required as a consequence of an article 4 direction is exempt from the usual planning application fee.

Legal Implications

- 3.2 These matters are completed in line with the provisions of the Town & Country Planning Act 1990 (as amended).
- 3.3 Legal Services has been consulted with regard to the legal implications and their advice incorporated into the content of this report.

Service / Operational Implications

- 3.4 Article 4 directions are a means of removing Permitted Development Rights in order for the Local Planning Authority to regain some control over premises. The particular rights being removed should be specified and their removal should be justified in planning terms. It should be done in the public interest. When it is considered expedient to do so, an Article 4 direction is made which can come into effect immediately and remains in force for a period of six months. During this time there is a consultation period where interested parties can make representations against or in favour of the direction. If a decision is not made at the end of the six month period, the direction lapses and ceases to have effect.
- 3.5 Following the consultation period a decision must be made to either confirm (i.e. make permanent) the Direction or not. If the decision is not to confirm then the direction lapses at the point the decision is made or 6 months from the making of the direction, whichever is the sooner.
- 3.6 On 20th November 2014 an application for the prior approval of the demolition of the building was received. It was noted that the building is on the local list and a heritage asset of merit and thus that planning policy, if it were applied, would

seek the retention and reuse of the premises. Such matters cannot be taken into account in the determination of a prior approval application and as such the building was considered to be at risk.

- 3.7 Therefore, on 5th December 2014 a direction was made to remove the permitted development rights in relation to the demolition of the building and this takes immediate effect such that the application for prior approval is superseded and no longer applies or falls to be considered. The applicant was notified accordingly.
- 3.8 Publicity of the direction was carried out in accordance with the requirements of the legislation and a consultation period for representations ran ending on 9th January 2015. Officers have worked with the owners proactively to try and assist in finding an appropriate way forward but that this is separate from the current considerations and matters are progressing.

Summary of representations received

- 3.9 Three representations have been received, one of which is from the owners of the property. The following matters are raised:
- Potential harm to roosting bats
 - Loss of church for developer profit
 - Congestion and noise to existing residents resulting from demolition works
 - Difficulty of parking for future developments
 - Concern and queries over process
 - Object to non-determination of prior approval application
 - Professional advisers claim retention and reuse of premises would be economically unviable and that in need of substantial repair
 - Threats to board up site – becoming target for vandalism
 - Background to previous uses of premises provided
 - No demand for community use in this location
 - No market demand for dwelling conversion if 1 or 2 houses formed
 - Design of building doesn't lend itself to conversion to flats
 - Limited open space associated with premises
 - Delay to decision making resulting in costs to owners

Summary of consultation responses

- 3.10 Building Control officers advise that:
- The roof appears to be in good condition with having had man made slate tiles fitted and vent tiles at some point over the last approx. 30 years;
 - The brickwork appears in good order with very little sign of pointing required;
 - The rain water pipes and guttering do require some attention/maintenance;

- There appears to be a timber shed attached building to the rear which is in poorer condition;
- Whilst the visit was only done from the outside I would be happy the general condition of the building would stand conversion. This would require virtually a complete internal strip out etc but I have seen many buildings in a lot worse condition converted into useable spaces.

Development plans officers advise that the building is on the local list of buildings of historic merit and that as such it is considered to be a heritage asset. It is a landmark building due to its prominent location and distinctive design and planning policies locally and nationally seek to protect such properties and then to retain/reuse them. Locally listed buildings that are perceived to be at risk are being reviewed with a view to applying further article 4 directions as appropriate. A report is scheduled to be considered at a forthcoming executive committee meeting.

County Archaeologist supports this very positive step by Redditch Borough Council towards preserving the remainder of the built historic environment within Redditch. It is also a good demonstration of how the local list can be employed to demonstrate significance.

Officer assessment

- 3.11 The reasons in the legislation for putting an article 4 direction on a building are given as being where it is necessary to protect the historic environment, local amenity and wellbeing of an area and requires that the harm of the loss of the building should be identified.

The legislation also requires that all the representations received should be taken into account.

Non Designated heritage assets are worthy of significant protection as noted at section 12 of the NPPF. The response should be proportionate to the significance of the asset, and in this case it is considered that the building makes a significant contribution to the character of the streetscene in this location and as such its loss would have a negative visual impact on the surrounding area.

National and local policies seek the retention and reuse of heritage assets such as this one and state that buildings should be protected in accordance with such policies. Therefore, it was considered necessary to ensure that the LPA retained control over the premises and its loss in order to ensure compliance with the retention and reuse objectives of policy. In policy terms, the reuse of the premises for a variety of other uses would be acceptable in principle and therefore it is considered that it would indeed be possible to retain and reuse the premises, albeit with some repairs and modification.

Local interest in its retention has also been voiced in the representations made, and some weight is given to this in the consideration of the case. Further, the comments from the consultees are such that it seems that the building is not in imminent danger of collapse and therefore its retention would be practically possible. It is noted that some repair would be required, however the owner seems to claim that more significant and costly works would be required but at this stage, simply whether it is practical and possible or not is all that needs to be considered.

The applicant has argued economic reasons for the demolition of the premises, however it is not considered that this is the correct arena for dealing with such matters – this would need to form part of a justification in support of a planning application.

Members should be aware that an article 4, whilst protecting the building in the short term, does not necessarily prevent the future demolition of the premises, however it does render the control back in the hands of the local planning authority through considering a planning application for demolition, which would be supported by significant information in relation to its loss and justification thereof.

Procedural matters and those related to potential future uses/developments on site not relevant here

Representations have been made in relation to potential ecological issues, however these would be dealt with under separate legislation from the planning process.

Customer / Equalities and Diversity Implications

- 3.12 The customers have been provided with the relevant notification, and will receive a formal notification of the committee decision.
- 3.13 Equalities and Diversity implications – none.
- 3.14 As this case forms part of the wider review of LLBs and has been brought forward as a result of the submission of an application for prior approval of demolition, and this would be likely on any LLB as a result of this review, then it is not considered that the owner of the premises has been unfairly treated.

4. RISK MANAGEMENT

- 4.1 The risk of not protecting the building is that in the long term it is likely to be demolished such that its significance and contribution to the wider area would be lost.

5. APPENDICES

Appendix 1 - Article 4 direction and plan for confirmation.

6. BACKGROUND PAPERS

Relevant documentation on file

AUTHOR OF REPORT

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REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

11th March 2015

**Town and Country Planning (General Permitted
Development) Order 1995 (as amended)**

**DIRECTION MADE UNDER ARTICLE 4 TO WHICH ARTICLE
6 APPLIES**

WHEREAS Redditch Borough Council being the appropriate local planning authority within the meaning of article 4(4) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) are satisfied that it is expedient that development of the description set out in the Schedule below should not be carried out on the land shown edged orange and cross hatched pink on the attached plan, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 (as amended).

NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995, as amended, hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description set out in the Schedule below.

THIS DIRECTION is made under article 4(1) of the said Order and, in accordance with article 6(7), shall remain in force until **5th June 2015** (being six months from the date of this direction) and shall then expire unless it has been confirmed by the appropriate local planning authority in accordance with paragraphs (9) and (10) of article 5 before the end of the six month period.

SCHEDULE

Any building operation consisting of the demolition of a building being development comprised within Class A of Part 31 of Schedule 2 of the said Order and not being development comprised within any other Class.

1. Made under the Common Seal of The Council of the Borough of Redditch
this Fifth day of December 2014.

The Common Seal of
The Council of the Borough of Redditch
was affixed to this Direction
in the presence of

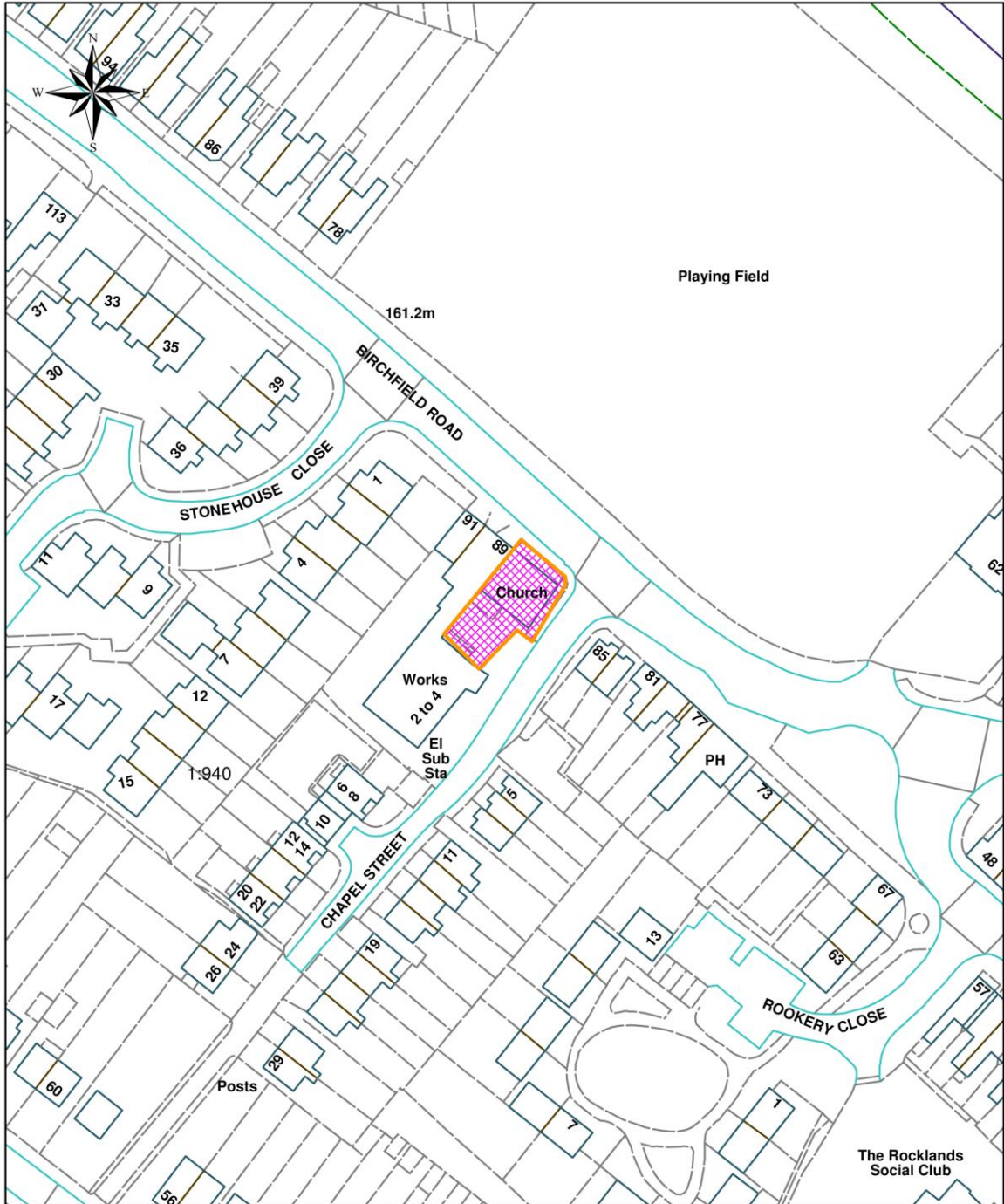
2. Confirmed under the Common Seal of The Council of the Borough of Redditch
this day of 20

The Common Seal of
The Council of the Borough of Redditch
was affixed to this Direction
in the presence of

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

11th March 2015



Planning & Regeneration
Town Hall
Walter Stranz Hall Square
Redditch
B98 8AH

Article 4(1) direction
Sub Title
5 December 2014

Not Set
Scale 1:940