

CABINET MEETING – 11 MARCH 2009 EXECUTIVE SUMMARY SHEET – PART I	
Title of Report: Confirmation of making of Article 4(2) Direction: St. Michael's Conservation Area	
Author(s): Director of Development and Regeneration	
Purpose of Report: This report seeks Cabinet's approval to confirm the making of an Article 4(2) Direction covering 6 properties in St Michael's Conservation Area, Houghton.	
Description of Decision: Cabinet is recommended to approve the confirmation of making an Article 4(2) Direction covering 6 properties in St Michael's Conservation Area, Houghton.	
Is the decision consistent with the Budget/Policy Framework? *Yes	
If not, Council approval is required to change the Budget/Policy Framework	
Suggested reason(s) for Decision: This decision will enable the Council to protect the architectural qualities and features of distinctive unlisted historic buildings in Church Street from inappropriate alteration, thereby preserving the special character and appearance of the St Michael's Conservation Area.	
Alternative options to be considered and recommended to be rejected: Alternative options would be to allow the Direction to lapse or to amend the range of Permitted Development Rights to be removed. However, in view of the general support from residents for the Direction and the level of additional control it has introduced, it is recommended these options are rejected.	
Is this a "Key Decision" as defined in the Constitution? <div style="text-align: center;">No</div>	Relevant Review Committee: Environmental and Planning
Is it included in the Forward Plan? <div style="text-align: center;">No</div>	

CONFIRMATION OF MAKING OF ARTICLE 4(2) DIRECTION: ST. MICHAEL'S CONSERVATION AREA**REPORT OF DIRECTOR OF DEVELOPMENT AND REGENERATION****1.0 Purpose of Report**

- 1.1 This report seeks Cabinet's approval to confirm the making of an Article 4(2) Direction covering 6 properties in St Michael's Conservation Area, Houghton.

2.0 Description of Decision

- 2.1 Cabinet is recommended to approve the confirmation of making an Article 4(2) Direction covering 6 properties in St Michael's Conservation Area, Houghton.

3.0 Background

- 3.1 Article 4(2) Directions ¹ are mechanisms whereby local planning authorities can impose additional protection for unlisted, yet important buildings in conservation areas in relation to undesirable alterations which could otherwise be carried out as permitted development not requiring permission from the Council. Even relatively minor alterations, such as replacement windows and doors, if carried out in an insensitive manner, can significantly detract from the character and appearance of conservation areas. This Direction removes one or more classes of permitted development, which has the effect of requiring a planning application for, in this case, alterations to residential properties which would otherwise be permitted development.
- 3.2 Policy B6 of the adopted City of Sunderland Unitary Development Plan (UDP) states that the Council will preserve the character and appearance of conservation areas by seeking, where appropriate, to control development by the use of Article 4 Directions. Management Proposal 4a of the Planning Guidance 'Houghton's Conservation Areas Character Appraisal and Management Strategy (CAMS)', adopted by Cabinet in December 2007, proposes the making of an Article 4(2) Direction on 6 houses in the St. Michael's Conservation Area.
- 3.3 The selected properties are considered to be of such architectural and historic significance to warrant the extra protection that the Direction would bring. The distinctive characteristics of the houses are largely preserved with many historic features remaining intact. They contribute significantly to the special architectural and historic interest of St. Michael's Conservation Area. Several properties in Church Street are listed buildings and are thus already afforded a high degree of protection.

¹ Directions under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995 (As Amended) restricting permitted development.

There is a risk that residents of unlisted houses in exercising their permitted development rights could, despite being well-intentioned, carry out works such as the inappropriate replacement of traditional windows that would harm the character of the properties and the historic street scene. Indeed, there is evidence of such alterations in recent times.

- 3.4 It is therefore considered reasonable to protect the character and appearance of the distinctive unlisted houses in Church Street and thereby sustain the special interest of the Conservation Area by the implementation of Management Proposal 4a in the adopted Houghton's Conservation Areas CAMS.

4.0 Current Position

- 4.1 Approval was given on the 8 April 2008 under the Council's Delegation Scheme by the Director of Development and Regeneration for the making of an Article 4(2) Direction covering 6 houses in St. Michael's Conservation Area. These properties are numbered 6, 6a, 7, 8, 9 and 10 Church Street, are indicated on the attached plan, and are listed in the Direction, copies of which are available from the Director of Development and Regeneration.
- 4.2 The Direction was provisionally put in place on the 13 October 2008 and has effectively removed a range of Permitted Development Rights from householders in the properties bringing certain types of minor development within the scope of planning control. The Direction lists the classes of development that are no longer permitted. A location plan showing the properties affected is also attached.
- 4.3 The recent amendment to the General Permitted Development Order (October 2008) has had no impact on the basis on which Article 4(2) Directions are used, with the exception that an additional class of development (Class G) was included in the schedule of classes of development that have been removed by the Direction.

5.0 Consultation and Procedure

- 5.1 The Houghton's Conservation Areas CAMS was subject to consultation with residents, national/local heritage groups, local architects and councillors, prior to its adoption as Planning Guidance. A public exhibition was also held on the document where, amongst other issues relating to the CAMS, the proposed Direction was discussed with residents who were generally supportive of it.
- 5.2 The statutory requirement of publicity upon a Local Planning Authority (LPA) when making an Article 4(2) Direction is to insert a notice in a local newspaper and serve a similar notice on the owner / occupier of every dwelling house affected. The notice must identify the properties affected and classes of development to be restricted, explain the effect of the Direction, name a place where the Direction can be viewed and specify a period of at least 21 days within which representations may be made to the Local Planning Authority. There is no requirement for a LPA to inform

residents of the making of an Article 4(2) Direction prior to it being provisionally put in place.

- 5.3 The Article 4(2) Direction was made provisionally on the 9 October 2008 by the City Solicitor. In accordance with the above requirements, owners and occupiers were notified of the making of the Article 4(2) Direction via the serving of a letter by hand on the 13 October 2008 and the Direction came into force immediately upon receipt of this letter. The making of the Direction was also advertised in the Sunderland Echo.
- 5.4 Owners/occupiers were formally consulted for their views on the Direction and were given 28 days from the date of notification in which to make any representations. Of the 6 questionnaires delivered 2 responses were received; one in favour of the Direction and one against it. The respondents who supported the Direction (who actually own 2 of the properties covered by the Direction) considered the level of protection given to their properties by the Direction to be generally appropriate. The resident who was against the Direction objected to it on the grounds that they had not been properly consulted. However, as described above, the council has in fact exceeded the statutory consultation requirements for the making of the Direction by giving residents seven more days than the minimum 21 day period to comment. The objection is not about the substance of the Direction and therefore is not considered to be a relevant consideration.
- 5.5 The consultation responses have been taken into account and in view of the general support from residents approval is sought from Cabinet to confirm the making of the Direction. Confirmation must be made within six months of the making of the Direction i.e. by 9 April 2009, or it will lapse. The decision on confirming the Direction needs to be referred to Cabinet because an objection has been received.
- 5.6 Separate Directions for Nesham Place Conservation Area (which is also included in Proposal 4a of the Houghton's Conservation Areas CAMS) and Whitburn Bents Conservation Area were put in place at the same time as St Michael's. The confirmation of both of these Directions was approved on the 28 January under the Council's Delegation Scheme by the Director of Development and Regeneration. These did not need to be referred to Cabinet as no objections were received.
- 5.7 Residents will be notified of the confirmation of the Direction in the same manner as they were on the making of it.

6.0 Reason for Decision

- 6.1 This decision will enable the Council to protect the architectural qualities and features of distinctive unlisted historic buildings in Church Street from inappropriate alteration, thereby preserving the special character and appearance of the St Michael's Conservation Area.

7.0 Alternative Options

- 7.1 Alternative options would be to allow the Direction to lapse or to amend

the range of Permitted Development Rights to be removed. However, in view of the general support from residents for the Direction and the level of additional control it has introduced, it is recommended these options are rejected.

8.0 Relevant Considerations

- 8.1 Financial / legal implications** - There is no fee for a planning application that is only required as a result of the Article 4 Direction. However, if planning permission is subsequently refused, it may be possible under certain scenarios for the applicant to claim compensation from the council under section 108 of the Town & Country Planning Act 1990, particularly if the refusal of the works results in an adverse affect on the value of the property. Any such claim can only be made within 12 months of the making of the Direction. This is a very complex matter however and, to date, no claims have ever been made against the council for the refusal of permission under an Article 4 Direction.

9.0 List of Appendices

- Appendix 1: Copy of Article 4(2) Direction.

10.0 Background Papers

- City of Sunderland adopted Unitary Development Plan
- Houghton's Conservation Areas Character Appraisal and Management Strategy.

St Michael's Conservation Area Proposed Article 4(2) Direction



