

<b>Title of Report</b>	<b>CONFIRMATION OF CASTLE DONINGTON (APIARY GATE &amp; CLAPGUN STREET) ARTICLE 4(1) DIRECTION</b>	
<b>Presented by</b>	Councillor Robert Ashman Planning & Infrastructure	
<b>Background Papers</b>	Provisional direction, schedule and maps <a href="http://www.nwleics.gov.uk/article-four">www.nwleics.gov.uk/article-four</a>	<b>Public Report:</b> Yes
		<b>Key Decision:</b> No
<b>Financial Implications</b>	None.	
	<b>Signed off by the Section 151 Officer:</b> Yes	
<b>Legal Implications</b>	None.	
	<b>Signed off by the Monitoring Officer:</b> Yes	
<b>Staffing and Corporate Implications</b>	None.	
	<b>Signed off by the Head of Paid Service:</b> Yes	
<b>Purpose of Report</b>	<p>(a) To consider responses to the recent public consultation;</p> <p>(b) To confirm the Castle Donington (Apiary Gate &amp; Clapgun Street) Article 4(1) Direction;</p> <p>(c) To note the making of the supplementary direction set out in appendix 2;</p> <p>(d) To delegate confirmation of the supplementary direction to the Strategic Director of Place in consultation with the Portfolio Holder for Planning and Infrastructure provided that no objections are received.</p>	
<b>Reason for Decision</b>	Confirmation of the Article 4(1) Direction and making of the supplementary provisional direction would support the Council in fulfilling its duties under the Planning (Listed Buildings & Conservation Areas) Act 1990 relating to the management of conservation areas.	
<b>Recommendations</b>	<p><b>IT IS RECOMMENDED THAT THE CABINET:</b></p> <ol style="list-style-type: none"> <li><b>1. CONFIRMS THE CASTLE DONINGTON (APIARY GATE &amp; CLAPGUN STREET) ARTICLE 4(1) DIRECTION;</b></li> <li><b>2. NOTES THE MAKING OF THE SUPPLEMENTARY DIRECTION SET OUT IN APPENDIX 2;</b></li> <li><b>3. DELEGATES CONFIRMATION OF THE SUPPLEMENTARY DIRECTION TO THE STRATEGIC DIRECTOR OF PLACE IN CONSULTATION WITH THE PORTFOLIO HOLDER FOR PLANNING AND INFRASTRUCTURE, PROVIDED THAT NO OBJECTIONS ARE RECEIVED.</b></li> </ol>	

## 1.0 BACKGROUND

- 1.1 The Castle Donington conservation area was designated in November 1972. Revisions to the designated boundary took effect in December 2000 and a character appraisal was adopted in March 2001.

- 1.2 On 5 February the District Council published a draft character appraisal for the Castle Donington conservation area, for public consultation. The draft character appraisal considers the conservation area as sixteen character zones. The draft character appraisal says that “timber windows dominate the ‘Barroon’ and ‘Clapgun Street’ character zones, where about 80% of buildings have timber windows”.
- 1.3 Under article 4(1) of the Town & Country Planning (General Permitted Development) Order 2015, the District Council may serve a direction restricting permitted development if it is “satisfied that it is expedient that development ... should not be carried out unless permission is granted for it on an application”. The District Council has confirmed article 4(1) directions for dwellings in the Lockington and Staunton Harold conservation areas.
- 1.4 On 5 February the District Council served a provisional article 4(1) direction upon about 50 dwellings in the ‘Barroon’ and ‘Clapgun Street’ character zones (“the provisional direction”). The effect of the provisional direction is that one would need Planning Permission to alter windows in an elevation that “fronts a highway”. The provisional direction will lapse on the 5 August 2020 “unless confirmed by the Council”.
- 1.5 The provisional direction was served in accordance with schedule 3, paragraph 2(2) of the Town & Country Planning (General Permitted Development) Order 2015. Notification was given by local advertisement, by “site display at no fewer than two locations” and by “serving notice on the occupier of every part of the land ... to which the direction relates” (see paragraphs 3.1 and 3.2 below). The Secretary of State for Housing, Communities and Local Government was notified of the provisional direction.
- 1.6 The dominance of timber windows in the ‘Barroon’ and ‘Clapgun Street’ character zones contributes positively to the character of the conservation area. In the absence of an article 4(1) direction householders would be within their rights to remove these windows and this would be detrimental to the conservation area’s character. Under the Planning (Listed Buildings and Conservation Areas) Act 1990 the District Council has a duty to “formulate and publish proposals for the preservation and enhancement of [their] conservation areas”. Confirmation of the provisional direction and service of the supplementary direction would support the District Council in fulfilling this duty.
- 1.7 The approval of the Chairman of the Council has been given to the exemption of the Council’s Scrutiny Procedure rules in relation to the call-in of the decision on this item, since any call-in would prejudice the ability of the Council to confirm the provisional direction on or before the 5 August 2020. The Chairman has considered the timetable for confirmation and agrees that the matter before Cabinet is urgent for this reason.

## **2.0 IMPLICATIONS**

- 2.1 The District Council may remove certain permitted development rights from dwellings in a conservation area, through the service of an article 4(1) direction. An application for Planning Permission arising from the service of an article 4(1) direction would attract the standard householder application fee (£206).

## **3.0 CONSULTATIONS**

- 3.1 Between 5 February and 18 March 2020 the following people and organisations were consulted regarding the provisional direction:
  - District Councillors Tony Saffell and Rachel Canny;
  - Leicestershire County Council and Castle Donington Parish Council;
  - Castle Donington Museum;
  - Historic England and the seven National Amenity Societies;
  - Residents affected by the provisional direction.

- 3.2 The provisional direction was displayed near the junction of Apiary Gate and Clapgun Street and near the junction of Barroon and Clapgun Street.
- 3.3 The District Council's conservation officer met with the Parish Council's Planning Committee on the 13 February to discuss the provisional direction. The conservation officer held drop-in sessions at the Castle Donington parish hub on 20 February and 5 March.
- 3.4 Appendix 1 records the consultation responses received and explains how these responses have been taken into account.

#### 4.0 PUBLIC CONSULTATION RESPONSES

- 4.1 Only four consultation responses were received. Two responses were received from residents affected by the provisional direction. The residents supported the provisional direction.

##### The direction "treats us differently to anyone else"

- 4.2 A resident advised that the provisional direction "treats us differently to anyone else in the conservation area". Similar advice was received during the drop-in sessions.
- 4.3 The provisional direction applies to dwelling houses. The effect of the provisional direction is that one would need Planning Permission to alter windows in an elevation that "fronts a highway".
- 4.4 On 5 February the District Council published a draft character appraisal for the Castle Donington conservation area, for public consultation. The draft character appraisal considers the conservation area as sixteen character zones. The provisional direction applies to two of the character zones. The direction should not be extended to every character zone, for the following reasons:
- Generally the 'Borough Street' and 'Hillside' character zones contains buildings that are not in use as dwelling houses;
  - Generally the 'Castle', 'Manor House' and 'Vicarage' character zones contain buildings that are not in use as dwelling houses or which do not "front a highway";
  - Four character zones are 'opportunity zones' where we have identified "opportunities to enhance character through redevelopment";
  - The draft character appraisal says that "plastic windows dominate the Spittal 'east' character zone, where about 70% of buildings have plastic windows";
  - Two character zones on Bondgate coincide with an air quality management area (AQMA) designated due to the volume of queuing traffic.
- 4.5 The 'Dovecote' character zone adjoins the junction of Apiary Gate and Clapgun Street. In recognition of the resident's advice, officers have identified seven properties on Dovecote and Mount Pleasant that may be the subject of a supplementary direction. Please refer to appendix 2.

##### The direction introduces an "increased financial burden"

- 4.6 A resident advised that the provisional direction places an "increased financial burden on people trying to maintain properties".
- 4.7 One would not need Planning Permission to maintain or repair a window or to replace it on a like-for-like basis. One would not need Planning Permission to install draught proofing or secondary glazing. The provisional direction does not place an increased financial burden on people wishing to maintain properties.

- 4.8** One would need Planning Permission to alter a window in an elevation that “fronts a highway”. A planning application would attract the standard householder application fee (£206). The provisional direction does place an increased financial burden on people wishing to alter properties, but officers consider that this burden is proportionate to the aims of the provisional direction.
- 4.9** The provisional direction and the supplementary direction reflect best practice and take appropriate account of the responses received during the public consultation period. It is recommended that the Cabinet confirms the provisional direction as per appendix 3 and notes the making of the supplementary direction as per appendix 2.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	None relevant.
Policy Considerations:	The adopted local plan recognises that the Council has a “key role in the conservation of heritage assets” and that this role includes “making use of Article 4 Directions and Local Development Orders where appropriate” (paragraph 11.12).
Safeguarding:	No considerations made.
Equalities/Diversity:	No considerations made.
Customer Impact:	No direct impact identified.
Economic and Social Impact:	No direct impact identified.
Environment and Climate Change:	The article 4(1) direction would have a neutral impact on environment and climate change. Historic England has published guidance on draught proofing and secondary glazing as part of a series of advice notes regarding <i>Energy efficiency and historic buildings</i> .
Consultation/Community Engagement:	Please refer to section 2.0 above.
Risks:	If the cabinet does not confirm the provisional direction then its decision may not reflect best practice or take appropriate account of the public consultation responses received.
Officer Contact	James White Senior Conservation Officer <a href="mailto:james.white@nwleicestershire.gov.uk">james.white@nwleicestershire.gov.uk</a>