

PC 343-20

NEW FOREST NATIONAL PARK AUTHORITY

PLANNING DEVELOPMENT CONTROL COMMITTEE – 17 NOVEMBER 2020

ARTICLE 4 DIRECTION, CADNAM

Report by: David Williams, Enforcement Manager

1.0 Summary

- 1.1 As Members of the Committee will recall, an Article 4 Direction removes the 'deemed planning permission' afforded by Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO') for certain types of development. This means that express planning permission would be required for those types of development within the geographical boundaries of the Direction. An Article 4 Direction may either have immediate or non-immediate effect.
- 1.2 This report is to bring Members up to date with on progress on an Article 4 Direction that has been made with immediate effect under delegated powers, withdrawing permitted development rights in respect of land on the south side of Ringwood Road near Bartley as shown on the plan (**Annex 1**). The land in question is currently on the market and is being auctioned off online as 16 plots, which could then be delineated by means of fencing. It is considered that this would seriously undermine the visual amenity of this area of the Forest North East Conservation Area and the intrinsic landscape character of this part of the National Park.

2 Background

- 2.1 The National Planning Policy Guidance (NPPG) sets out 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 needs to be clearly identified. The GPDO also stipulates that immediately effective Directions may only be used where the development right being removed would otherwise be prejudicial to the proper planning of the area or would constitute a threat to the amenities of the area (paragraph 2(1)(a), Schedule 3, GPDO). Officers are of the view that these tests are met in respect of the site and the permitted development rights in question, as further detailed below.
- 2.2 The land consists of an agricultural field of approximately 4 hectares and is situated adjacent to the main A36 Ringwood Road at Bartley near Copythorne, within the Forest North East Conservation Area. The land is currently a grassy open field with a thick line of trees protected by TPOs fronting on to Ringwood Road. This section of Ringwood Road, which lies outside the main settlements, is characterised by mature trees and hedges and open fields. The entrance to the site lies on a prominent bend,

and visibility is poor onto the main road. The field has been used for temporary show events in the past, which appear to have fallen under permitted development rights.

- 2.3 The Authority has been made aware of concerns from neighbouring owners and the Parish Council as to the possible sale of the land. The organisation that appears to be selling the land is known as 'Exclusive Estates and Auctioneers', which seems to have been known previously as 'Exclusive Property Sales' and before that 'Country Land Conservation', but there is nothing in the current Land Registry entries relating to the land to suggest that this organisation has any interest in it. The Land Registry entry currently shows two joint landowners who live in Winsor and there are no pending applications on the title as at the time of writing this report. No direct approach from the land owner(s) has been made to the Authority, although some pre-application enquiries have been made by individual prospective purchasers.
- 2.4 If the land ownership were to be subdivided, it would be normal practice for individual landowners to fence their land and to create individual accesses. The subdivision of this land could well render it unsuitable for agriculture and the individual fencing of smaller properties would change the character of the field and be harmful to the visual amenity of both the Conservation Area and the wider landscape of the National Park. The field is important in landscape terms as it forms part of the open established agricultural land in this part of the National Park, and the clutter caused by separate and mixed types of boundary fencing of various sizes and designs would harm the wider character and visual amenity of the locality.
- 2.5 The site lies in the area identified as "Dispersed farms and arable land" character area within the Forest North East Conservation Area Character Appraisal. This character area is formed by an open undulating arable landscape of medieval and 18th century field systems, with wooded areas dotted throughout. The area is characterised by very little development, which is generally confined to the isolated farmsteads and any associated buildings and cottages, and a small section of linear development along Ringwood Road. The Conservation Area Appraisal identifies the pressures of modern development boundary ditch and bank along the northern boundary of the land together with the woodland in the same area as important features. The character appraisal also identifies the prominent hedges along various boundaries of the land as important enclosure features, which also contribute to the character of the area.
- 2.6 Officers therefore consider that there is sufficient evidence to demonstrate that if permitted development rights were not removed, any further development of this land would seriously harm the intrinsic character and appearance of the Conservation Area and the wider landscape character of the National Park. Accordingly, the Direction was made on 3 November 2020, taking effect on its subsequent service on the landowners.
- 2.7 The Direction that has been made removes permitted development rights under Class A, Part 2 of Schedule 2 of the GPDO, which permits the erection/construction of gates, fences, walls or other means of enclosure not exceeding 2 metres above ground level (or not exceeding 1 metre above ground level if adjacent to a highway used by vehicular traffic) without having to obtain express planning permission. The removal of permitted development rights relating to the erection of boundaries and means of enclosure enables the Authority to maintain control over development of this type. It does not mean that such development cannot be undertaken, but rather that it requires a formal planning application against which the Authority must consider it on its

planning merits. Note that a Direction does not have retrospective effect and so cannot affect development that has already commenced. It is not considered necessary at this time to remove any other permitted development rights, such as the temporary use rights allowed under the GPDO, although it remains open to the Authority to issue a further direction should this become necessary.

- 2.8 If a local planning authority makes an Article 4 Direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently either refuses planning permission for development which would otherwise have been permitted development, or else grants planning permission subject to conditions other than those set out in the GPDO. The relevant planning application must be made within 12 months of the effective date of the Direction.

3.0 Next steps

- 3.1 As of the date of the Committee meeting, the service and notice requirements as set out in the GPDO will have been met. This means that the Article 4 Direction is already in effect (an immediately effective Direction takes effect on the date of service on the owners and occupiers or, where these are not known, on the date that the notice of the Direction is first published or displayed). There is then a period of at least 21 days during which representations may be made to the Authority – although in view of the pandemic the Notice gives 6 weeks – which will be in progress by the time of the Committee meeting.
- 3.2 Following this, the Direction must be confirmed, at least 28 days after service/publication but within six months of its effective date (taking into account any representations that have been received during the relevant period), otherwise it will lapse. Accordingly, another report will be brought to the Committee for this purpose in due course. A further round of publicity will then be necessary.
- 3.3 Once the Direction has been confirmed it will continue in effect indefinitely unless cancelled by the Authority or the Secretary of State (although this is unusual). The Authority should continue to monitor it, to ensure the original reasons for making it remain valid, and if it appears no longer to be necessary it should be cancelled. Note that there is no appeal against an Article 4 Direction, although the decision to make it and the decision to confirm it may each be challenged by means of an action for judicial review.

RECOMMENDATION:

To note the report