

WELWYN HATFIELD BOROUGH COUNCIL  
CABINET PLANNING AND PARKING PANEL – 29 OCTOBER 2020  
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING  
AND GOVERNANCE)

ARTICLE 4 DIRECTION ON LAND AT DIGSWELL PARK ROAD

**1 Executive Summary**

- 1.1 In June 2020 the Council became aware that two land parcels of land on either side of Digswell Park Road had been agreed for sale and one of those had been auctioned as seven split plots.
- 1.2 The land parcels are designated as Metropolitan Green Belt in the adopted District Plan. The land parcels are not proposed for release from the Metropolitan Green Belt in the Submitted Local Plan 2016 and nor do they form part of the recent new sites consultation exercise in January 2020. The land is within the setting of the Grade II\* listed Digswell/Welwyn railway viaduct.
- 1.3 The Council considered that at that time that there was likely potential for new landowners of these land parcels to erect gates, fences, walls and other means of enclosure, create access and temporarily use the land for other purposes which would be prejudicial to the proper planning of the area and constitute a threat to the amenities of that area.
- 1.4 The Council therefore considered it appropriate to serve an immediate Article 4 Direction on the land parcels to remove these nationally permitted development rights. This was done via the circulation of a report to members of this Panel for comments and then confirmed via an Executive Member Decision Notice.
- 1.5 The immediate Direction lasts for six months until 26 December 2020. The Council has until this date to decide whether to make it permanent if the threat remains or for it to lapse if the threat hasn't happened or isn't likely to happen.
- 1.6 Officers consider that the threat does remain, because although no unauthorised development has occurred to date, not all of the seven land parcels were sold at auction and they therefore remain available for purchase at future auctions.

**2 Recommendations**

- 2.1 That the Panel recommend a permanent Article 4 Direction on land at Digswell Park Road to remove nationally permitted development rights for gates, fences, walls and other means of enclosure, access and the temporary use of the land. The decision can then be made via an Executive Member Decision Notice if it is unanimously agreed or recommended to Cabinet if there is a split vote. It would come into effect on 26 December 2020 by replacing the immediate Article 4 Direction that already applies to the land. It would be advertised in accordance with Article 4 Direction regulations.

### **3 Explanation**

- 3.1 An explanation of the situation as it existed in June 2020 is set out in Appendix 1.
- 3.2 The question now at hand is whether to make the Direction permanent because the threat remains or allow it to lapse because the threat hasn't happened or isn't likely to happen.
- 3.3 Although no unauthorised development has occurred to date, not all of the seven land parcels were sold at auction and they therefore remain available for purchase at future auctions.
- 3.4 Officers therefore consider that there is still likely potential for new landowners of these plots of land to erect gates, fences, walls and other means of enclosure in order to delineate their newly acquired land. This is especially likely on the northern land parcel which has been split into seven plots. This has the potential to harm to character of the Green Belt and the setting of the Grade II\* listed railway viaduct. It is appropriate that such activities should only be acceptable through the granting of planning permission.
- 3.5 Officers also consider that there is likely potential for new landowners of these plots of land to form, lay out and construct means of access. Digswell Park Road is an unclassified road. This has the potential to harm to character of the Green Belt and the setting of the Grade II\* listed railway viaduct. It is appropriate that such activities should only be acceptable through the granting of planning permission.
- 3.6 Officers consider that there is likely potential for new landowners of these plots of land to use the land for temporary activities such as markets, motorcycle racing and the provision of moveable structures. This has the potential to harm to character of the Green Belt and the setting of the Grade II\* listed railway viaduct. It is appropriate that such activities should only be acceptable through the granting of planning permission.
- 3.7 In all three cases officers consider that the permitted development rights in the Schedule would be prejudicial to the proper planning of the area and constitute a threat to the amenities of that area.
- 3.8 The Council received a number of comments to the public consultation carried out as part of serving the immediate Article 4 Direction. They are all supportive. There have been no objections from the landowner, the seller, the auctioneers or the new auction purchasers.
  - Digswell Residents Association welcomed the action taken by the Council, given the land is sensitive green belt and the setting for a heritage asset. It would represent the loss of unimproved grassland and rich wildlife habitat. The fields form part of the Mimram ecological chalk stream corridor. The land is a green wedge between Welwyn Garden City and Digswell. There is a risk that in the absence of an Article 4 Direction disillusioned owners may attempt to carry out spoiling measures to degrade the site and therefore improve the prospects of obtaining planning permission for development.
  - Mr G expressed amazement at the range of factors that need to be considered, considered the logic behind the Council's decision was deeply

impressive and felt there was more than enough justification for making the Direction permanent. He also provided further information to strengthen the case, including comments on panoramic long distance views of unspoilt splendour, comments on idyllic views from the viaduct when travelling by train and English Heritage intervention in the viaduct upgrade.

- Mrs M-C adds her support to making the direction permanent.
- Mrs B supports a permanent direction.
- Mr and Mrs A support the continuation of the direction, as the land is green belt, sits under an iconic landmark and is a key part of the character of the area.
- Mr O adds his voice to making the direction permanent. He is distressed at the thought of this natural beauty spot being lost, which would erode the village environment, add traffic, put strain on local infrastructure and harm views of the historic viaduct.
- Mrs S supports the continuation of the direction.
- Mr and Mrs S support the direction becoming permanent and are delighted that the Council has moved so quickly to protect this land.
- Mrs H urges the Council to confirm the Article 4 Direction, as it is an asset to the county to have this famous viaduct in its beautiful setting and because any sort of development would effectively join Digswell village and Welwyn Garden City.
- Grant Shapps MP advised that he had been in correspondence with constituents concerning worries over the potential development of green belt land at Digswell Park Road. He thanks the Council for their prompt Article 4 declaration, which will hopefully ensure the land is not riddled with unwanted developments which would ruin the character and enjoyment of the important green belt land. He would further like to express support for the permanent confirmation of the Article 4 Direction.
- There is a Save Digswell Green Belt petition with 4,313 signatures at the time of writing.  
[https://www.change.org/p/welwyn-hatfield-council-save-digswell-green-belt?recruiter=526803950&recruited\\_by\\_id=4882f4a0-0206-11e6-a0bd-fd73a66ef028&utm\\_source=share\\_petition&utm\\_medium=copylink&utm\\_campaign=petition\\_dashboard](https://www.change.org/p/welwyn-hatfield-council-save-digswell-green-belt?recruiter=526803950&recruited_by_id=4882f4a0-0206-11e6-a0bd-fd73a66ef028&utm_source=share_petition&utm_medium=copylink&utm_campaign=petition_dashboard)

## **4 Legal Implications**

- 4.1 An Article 4 Direction removes nationally permitted development rights.
- 4.2 The Council is allowed to serve an Article 4 Direction with immediate effect in accordance with Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 where they are satisfied that the type of development set out in the Schedule should not be carried out unless permission is granted for it on application, because it would be prejudicial to the proper planning of the area and constitute a threat to the amenities of that area.

- 4.3 Schedule 3 advises that an immediate Article 4 Direction takes effect upon publication and service of the notice, and remains in force for six months from the date it is given, until it is confirmed by the Council, having taking into account any representations received. The Council must notify the Secretary of State on the same day the notice is served.
- 4.4 Schedule 3 explains that the Council must consult on an Article 4 Direction by (a) local advertisement, (b) site display at no fewer than two locations within the area to which the direction relates for a period of no less than six weeks and (c) by serving the notice on the owner and occupier of every part of the land within the area to which the direction relates, unless this is impractical. This was all done in June 2020 and will be repeated if the Direction is confirmed by the Panel.
- 4.5 The immediate Direction runs until 25 December 2020, unless it is confirmed by the Council in accordance with paragraphs (9) and (10) of Schedule 3 before this date. Paragraph (9) advises that in deciding whether to confirm the Direction, the Council must take into account any representations received and Paragraph (10) advises that the Council must not confirm the Direction until after the expiration of (a) a period of at least 28 days following the latest date on which a notice relating to the direction was served/published or (b) such longer period as may be specified by the Secretary of State following notification of the Direction. The Council has considered representations received and the Council has not received any correspondence from the Secretary of State. The Council is therefore free to confirm the Article 4 Direction.
- 4.6 The ongoing sale and purchase of the land parcels means it will be difficult to confirm the owners and occupiers of every part of the land at the current time, as Land Registry will not have been updated. The Council will therefore use other sources of information to identify as many owners and occupiers as possible.
- 4.7 The Council has considered the human rights issues relevant to this matter, especially Article 1 of the First Protocol which is right to enjoy property and possessions. It is considered that the action proposed in this report represents an appropriate balance between the rights of the landowner (to enjoy land subject to the reasonable and proportionate control by a public authority) and in the interests of those affected by the matter and the wider public interest.
- 4.8 Owners and occupiers of the land should note that the Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the Council for that development. There is no fee for such planning applications.

## **5 Financial Implications**

- 5.1 There are no costs associated with the creation of an Article 4 Direction, other than officer time.

## **6 Risk Management Implications**

- 6.1 The serving of an immediate Article 4 Direction carried the risk of compensation. It is perhaps reassuring however that no such claims have been made to date since the Direction was served. It is also relevant that the permitted development being restricted does not create large amounts of additional land value. There therefore appears to be low risk in confirming a permanent Article 4 Direction.

6.2 It should be noted that in July 2020 Herts County Council Trading Standards contacted the sellers and auctioneers of the land to inform them that they considered the computer generated images of new houses is likely to mislead consumers that there is a realistic prospect that planning permission for housing is achievable for the plots and advise them to amend their advertising.

## **7 Security and Terrorism Implications**

7.1 There are no security or terrorism implications associated with this report.

## **8 Procurement Implications**

8.1 There are no procurement implications associated with this report.

## **9 Climate Change Implications**

9.1 There are no climate change implications associated with this report.

## **10 Human Resources Implications**

10.1 There are no human resources implications associated with this report.

## **11 Health and Wellbeing Implications**

11.1 There are direct no health and wellbeing implications associated with this report.

11.2 It could be argued that the wellbeing of local residents could be affected if they continue to be concerned about the possible use of this land. An Article 4 Direction goes some way to reassuring them that the Council is seeking to limit the possibility of inappropriate and harmful development.

## **12 Communications and Engagement Implications**

12.1 The Council will communicate the creation of an Article 4 Direction with the Secretary of State, owners and occupiers of every part of the land where they are currently known, statutory bodies and the wider community.

## **13 Link to Corporate Priorities**

13.1 The subject of this report is linked to the Council's Business Plan and particularly Priority 2 Our Environment to enhance our green spaces.

## **14 Equalities and Diversity**

14.1 An EqIA was not completed because this report does not propose changes to existing service-related policies or the development of new service-related policies.

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Date	October 2020

Appendices:

1. Report circulated to members of CPPP on 23 June 2020
2. Executive Member Decision Notice dated 25 June 2020
3. Direction made under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015