

# Confirmation of Mark Hall North Article 4 Direction and Adoption of Management Plan and Guidance



<b>Report to:</b>	Cabinet
<b>Date:</b>	7 September 2023
<b>Portfolio Holder:</b>	Councillor Michael Hardware, Portfolio Holder for Economic Development
<b>Lead Officer:</b>	Pauline Elliott, Interim Head of Planning and Building Control (01279) 446595
<b>Contributing Officer:</b>	David Watts, Senior Forward Planning Officer (01279) 446577
<b>Key Decision:</b>	Yes
<b>Forward Plan:</b>	I016011
<b>Call In:</b>	This item is subject to call in procedures
<b>Corporate Priority:</b>	Restore pride in Harlow
<b>Wards Affected:</b>	Mark Hall

## Recommended that:

- A** Cabinet approves the confirmation of the Mark Hall North Article 4 Direction, which will be confirmed on the date specified in the Notice of Confirmation to be published and served by the Council.
- B** Cabinet adopts the related Management Plan and Guidance document, as set out at Appendix D.
- C** If the Department for Levelling Up, Housing and Communities (DLUHC) requests modifications must be made to the Direction before it is confirmed, Cabinet delegates authority to the Portfolio Holder, in consultation with the Interim Head of Planning and Building Control, to approve the confirmation of the modified Direction and approve any necessary amendments to the adopted Management Plan and Guidance document.

## Reason for decision

- A** To allow the Article 4 Direction to be confirmed (come into force), which is currently scheduled to happen on 28 October 2023.
- B** To allow the *Management Plan and Guidance* document to become a material planning consideration when determining planning applications which have been made due to the Article 4 Direction's removal of Permitted Development Rights.
- C** To ensure the most efficient governance process is in place if DLUHC requests modifications must be made to the Direction before it is confirmed.

## Other Options

- A** Not confirming the Article 4 Direction (and therefore it would not come into force). This could result in further uncontrolled changes being made to housing in Mark Hall North which may have an adverse impact, as identified in the Character Appraisal.

## Background

1. In Spring 2022, a Character Appraisal of the Mark Hall North Conservation Area was prepared, which details the history and development of the neighbourhood. For each housing estate, the styles and notable features of each housing estate are recorded, along with details of where changes to houses have taken place which deviate from the original style. The Appraisal concluded that if left unchecked in future, such changes could result in the overall character of the housing being eroded over time.
2. The Council has a legal duty to monitor and review a Conservation Area and publish proposals for its preservation and enhancement, while considering the views of local people. As such, the Appraisal proposed to introduce an Article 4 Direction in the Conservation Area and publish an associated Management Plan.

### *Proposal of the Article 4 Direction*

3. Permitted Development Rights (PDR), set out in legislation, are available to homeowners and occupiers, which allow certain changes to be made to houses without planning permission. This is known as permitted development. In Conservation Areas, the PDRs are restricted so alterations including side extensions and adding storeys to a house are not permitted development and would require planning permission.
4. However, a number of PDR remain available to homeowners in Conservation Areas. These include being able to paint the exterior of a house, erect a porch, gate, fence or wall, and convert part or all of a garden to hardstanding (subject to conditions).

5. The Character Appraisal identified a significant number of changes to houses which have resulted in the uniformity of the original housing designs and streetscenes being disrupted, along with the loss of original features.
6. The Appraisal proposed to make (draft) an Article 4 Direction affecting all houses in the Conservation Area. The Direction removes certain PDR. Assuming the Direction is 'confirmed' (brought into force), homeowners wishing to carry out any development covered by the PDR which have been removed by the Direction would first need to receive planning permission.
7. An informal consultation period on the Character Appraisal and its proposals (the Summer 2022 consultation) ran from Monday 25 July to Friday 26 August 2022. This consultation was not required by legislation. However, to ensure consistency and to follow best practice, the Council carried out the consultation in a similar way to statutory consultations. This included notifying all residents in Mark Hall North.
8. 97 comments from 17 people were received during the Summer 2022 consultation, which resulted in amendments being made to the proposed Article 4 Direction. Appendix A shows how the proposed Direction was amended.

*Making of the Article 4 Direction and publication of the 'Management Plan and Guidance' document*

9. In October 2022, Cabinet approved the making of the Article 4 Direction and it was formally made on 24 October 2022, with the intention that it comes into force on 28 October 2023. The 12-month period between making and confirming is a standard procedure for 'non-immediate' Article 4 Directions, to give sufficient notice of the Direction coming into force and avoid any potentially costly compensation claims.
10. A copy of the Article 4 Direction Notice, which was sent to all residents and other parties, is available at Appendix B. This details the PDR which would be removed by the Direction.
11. The Council also published a draft *Management Plan and Guidance* document for Mark Hall North. The document provides guidance on how the Council will determine planning applications which have been made due to the Direction's removal of PDR, assuming the Direction is confirmed.
12. At the same Cabinet in October 2022, approval was given to consult on this draft document.

*Consultation and Exhibitions*

13. A statutory consultation (notification period) was held on the Article 4 Direction (the Autumn 2022 consultation). This period ran from Thursday 27 October 2022 to Friday 9

December 2022, two weeks longer than the statutory minimum period. During this period, the draft *Management Plan and Guidance* document was also consulted on.

14. The consultation was run in the same way as the Summer 2022 consultation, including notifying all residents in Mark Hall North and sending them a copy of the Notice. In accordance with legislation, site notices were displayed and the Secretary of State for Levelling Up, Housing and Communities was notified.
15. As required by legislation when producing management plans for Conservation Areas, public exhibitions were held with Council Officers in attendance, at Harlow Museum on Tuesday 22 November 2022 between 10am and 12pm, and Thursday 24 November 2022 between 6pm and 8pm.
16. Comments made to the Council during consultations can usually only be submitted in writing. However, the specific legislation relevant to Conservation Area management states that the Council must “have regard to any views concerning the proposals expressed by persons attending the meeting”. Verbal comments made by visitors to the exhibitions were, therefore, recorded and considered.
17. Some of the comments made specifically related to the Article 4 Direction, which has a different legislative procedure for the receipt of comments. However, given the Direction is closely associated with the draft *Management Plan and Guidance* document, it was considered appropriate in this case to give some weight to verbal comments about the Direction which were made at the exhibition.
18. Ten people attended the exhibitions and asked questions of the Council Officers who were present, to clarify the function and scope of the draft *Management Plan and Guidance* document and the Article 4 Direction. Appendix D lists the comments and questions made by visitors and how Council Officers responded to them.
19. No written responses were received during the Autumn 2022 consultation, which was expected given 97 comments had been made during the Summer 2022 consultation, which resulted in the proposed Article 4 Direction being altered before it was made.
20. Following consideration of the verbal comments received at the exhibitions, no amendments to the draft *Management Plan and Guidance* document were required, and the intention remained to confirm the Article 4 Direction in October 2023.
21. The *Management Plan and Guidance* document, for adoption, is available at Appendix D.

## Issues/Proposals

### *Government Request*

22. On 8 December 2022, the Government's Department for Levelling Up, Housing and Communities (DLUHC) sent a letter to the Council to request further information about the Article 4 Direction and its background. This is standard procedure to ensure the Direction is justified and meets their policy tests. The letter can be seen at Appendix E.
23. On 20 December 2022, all relevant documents, including Portfolio Holder and Cabinet reports, background information and consultation documents, were sent to DLUHC. As yet, no response has been received.
24. The DLUHC letter states that "[we] will inform you in writing of the Secretary of State's decision in due course. Please do not assume that the Article 4 direction has met the policy tests until you are notified by the Department".

### *Confirmation of Direction*

25. Despite the letter from DLUHC, the relevant legislation still allows Cabinet to approve the confirmation of the Direction. The recommendations of this report will allow the Portfolio Holder to approve necessary modifications to the Direction, if any are requested by DLUHC, before it is confirmed. The Portfolio Holder will also be able to approve any necessary resulting amendments to the adopted *Management Plan and Guidance* document.
26. An Article 4 Direction is only confirmed if and when the Council publishes and serves a Notice of Confirmation which contains the date that the Direction will come into force. It is intended to be confirmed on 28 October 2023, but this date may be delayed depending on modification requests being received from DLUHC.
27. In the unlikely event that DLUHC requests the entire cancellation of the Direction, then it will never be confirmed and will not come into force.

## Implications

### **Equalities and Diversity**

An Equality Impact Assessment has been completed and is attached as Appendix F to the report.

### **Climate Change**

Positive effect on helping to mitigate against impacts of climate change, for example through the removal of the PDR relating to converting front gardens to hardstanding, meaning such changes could be better managed by the Council (front gardens help to alleviate flooding by

reducing surface run-off after flash storms, which are increasing in frequency and severity due to higher temperatures brought about by climate change).

### **Communities and Environment**

The proposals will provide for greater control and management of the local environment for the benefit of the residents of the area.

Author: Simon Freeman, Deputy Chief Executive and Director of Finance

### **Finance**

There are no specific financial issues that arise from the proposed decision.

Author: Simon Freeman, Deputy Chief Executive and Director of Finance

### **Governance and Corporate Services**

As contained in the report.

Author: Simon Hill, Director of Governance and Corporate Services

### **Appendices**

Appendix A – Changes to proposed Article 4 Direction following Summer 2022 consultation

Appendix B – Notice of the Making of the Mark Hall North Article 4 Direction

Appendix C – Mark Hall North Autumn 2022 Consultation – Exhibition Comments

Appendix D – Mark Hall North Management Plan and Guidance

Appendix E – DLUHC letter, 8 December 2022

Appendix F – Equality Impact Assessment

Appendix G – Made Direction

Appendix H – New Article 4 Directions

### **Background Papers**

- [Mark Hall North character appraisal and management proposals](#)
- [Mark Hall North character appraisal and management proposals consultation responses](#)

### **Glossary of terms/abbreviations used**

DLUHC – Department for Levelling Up, Housing and Communities

GPDO – General Permitted Development Order

PDR – Permitted Development Rights