

SEVENOAKS LOCAL LIST

Cabinet - 20 April 2017

Report of	Chief Planning Officer
Status	For Consideration
Also considered by	Planning Advisory Committee - 19 April 2017
Key Decision	Yes

This report supports the Key Aim of ensuring that Sevenoaks District remains a great place to live, work and visit.

Portfolio Holder	Cllr. Robert Piper
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Recommendation to Planning Advisory Committee:

- (a) To support the adoption of the draft SPD (including the first round of locally listed assets proposed)
- (b) To support the second tranche of identified assets going out to public consultation.
- (c) To support the consideration of the focused use of Article 4 Directions to remove limited permitted development rights which would result in planning permission being required for;
 - a. Demolition of Locally Listed Buildings outside a conservation area
 - b. Alteration (including removal) of locally listed boundaries and railings, inside and outside a conservation area.
- (d) To support the communication of the proposed Article 4 Direction if necessary.

Recommendation to Cabinet:

- (a) To adopt the SPD (including the first round of locally listed assets proposed)

consultation.

- (c) To agree to the consideration of the focused use of Article 4 Directions to remove limited permitted development rights which would result in planning permission being required for;
 - a. Demolition of Locally Listed Buildings outside a conservation area
 - b. Alteration (including removal) of locally listed boundaries and railings, inside and outside a conservation area.
- (d) To approve the communication of the proposed Article 4 Direction if necessary.

Reason for recommendation: This report actions policy EN4 of the Allocations and Development Management Plan (ADMP) by creating a Sevenoaks District Local List Supplementary Planning Document (SPD)

This report follows governmental planning policy set out in The National Planning Policy Framework (NPPF) by recommending limited Article 4 Directions for “the wellbeing of the area” (NPPF, para. 200) An Article 4 Direction brings specified works under planning control, thereby supporting para 135 of the NPPF, “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.”

Background

- 1 The Local List is a list of structures and spaces that are valued as being distinctive elements of the local historic environment and are heritage assets. The items on the list have been identified as part of what makes Sevenoaks so special. The List provides clarity on the location of these assets and also describes their significance. This helps to ensure that strategic local planning takes account of the desirability of their conservation and ensures that their significance will be a material consideration when determining planning applications. The information also helps to provide clear and comprehensive information about the historic environment at a local level. It is important to note that the assets on the Local List are already considered heritage assets and therefore do not become a heritage asset through being included on the list.
- 2 Each asset on the list has been researched and assessed against the criteria set out within the SPD. They have been moderated by a panel including a representative from Historic England, Kent County Council’s Heritage Team and SDC’s Conservation Officer to ensure that that only the best examples that help to make Sevenoaks so special have been put forward.
- 3 In March 2015 officers reported an update on the progress of the Local List project to the Planning Advisory Committee (formerly the Local Planning and Environment Advisory Committee) This was followed up in a report to PAC and Cabinet in summer 2016 requesting approval on the draft Local List SPD

and authority to go out to public consultation on the first tranche. This report updates on this process, presenting the response to the public consultation and requesting authority to go out to public consultation on the second tranche. The second tranche was surveyed and assessed in the same way as the first tranche and was also subject to moderation by the Selection Panel.

Existing Policy Context

- 4 The National Planning Policy Framework (NPPF) advises local planning authorities to set out ‘a positive strategy for the conservation and enjoyment of the historic environment’ (para 126) Emphasis is also placed on ‘sustaining and enhancing the significance of heritage assets’ and understanding that heritage assets are an ‘irreplaceable resource’ and should be conserved ‘in a manner appropriate to their significance’.
- 5 The definition of ‘heritage assets’ within the NPPF includes local heritage listing.
- 6 In the SDC Core Strategy 2011, para 5.1.2 it states;
“The Council aims to produce a List of Buildings of Local Architectural or Historic Interest [Local List] during the Core Strategy period, to be adopted as a Supplementary Planning Document”
- 7 The SPD would support Policy SP1;
“The District’s heritage assets and their settings, including listed buildings, conservation areas, archaeological remains, ancient monuments, historic parks and gardens, historic buildings, landscapes and outstanding views will be protected and enhanced”
- 8 Additionally, paragraph 2.24 of the ADMP states;
“The Council aims to produce a List of Buildings of Local Architectural or Historic Interest during the plan period, to be adopted as a Supplementary Planning Document”
- 9 Policy EN4 - Heritage Assets states;
“Proposals that affect a Heritage Asset, or its setting, will be permitted where the development conserves or enhances the character, appearance and setting of the asset. Applications will be assessed with reference to the following:
 - a) the historic and/or architectural significance of the asset;
 - b) the prominence of its location and setting; and
 - c) the historic and/or architectural significance of any elements to be lost or replaced.

Where the application is located within, or would affect an area or suspected area of archaeological importance an archaeological assessment must be provided to ensure that provision is made for the preservation of important archaeological remains/findings. Preference will be given to preservation in situ unless it can be shown that recording of remains, assessment, analysis report and deposition of archive is more appropriate.”

- 10 When the Core Strategy and ADMP are replaced by a new Local Plan (adoption anticipated 2019) the SPD will need to be updated to align with new policy.
- 11 In terms of Article 4 Directions, the NPPF states 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” (NPPF, para 200)
- 12 The Article 4 Direction would bring the certain proposals under planning control and thus the application of para 135 of the NPPF;

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”

Public consultation

- 13 There are 333 entries on the local list which equates to 464 individual structures. We had a little over 60 responses, most of which focused on the accuracy of the evaluation and the consequential impact of appearing on the list (i.e. - future restrictions), but some of which were also supportive of the project and its ambitions. Comments pertaining to historical inaccuracies were returned to the Selection Panel for further consideration and assessment.
- 14 See attached schedule of comments and responses in Appendix A.
- 15 As a result of the public consultation three entries have been removed from the proposals because they no longer met the criteria for selection. These were 75 Kippington Road, 81 The Rise and Hollym, Clenches Farm Road.
- 16 The Sevenoaks Conservation Council (SCC) has suggested some small scale changes to the wording of the SPD. Where appropriate some of the proposed amendments have been made, see attached Appendix A for full details. The SCC has also made representations regarding Article 4 Directions which are discussed in the following paragraphs.

Article 4 Directions

- 17 An Article 4 Direction can be used to remove specific permitted development rights. It doesn't conclude that something is unacceptable, but instead simply brings actions under the control of the Local Planning Authority by requiring the submission of a planning application ensuring that the impact of the proposal is fully considered.
- 18 Their use has to be carefully justified, both because they limit rights that would otherwise exist to landowners, and because they can generate additional work for the Council through the need to consider applications, which do not command a fee.
- 19 The Sevenoaks Society has submitted a representation suggesting that Article 4 Directions should be introduced to control demolition of Local Listed buildings outside a conservation area. Buildings within a conservation area (CA) already require planning permission for their demolition. Bringing the demolition of locally listed buildings outside of a CA under planning control allows for the proper consideration of the impact of their loss. In reality, applicants are unlikely to look to demolish a building without plans to replace it and this would require planning permission anyway. The Local List would require that the demolition be explicitly identified in the description of the works and also flag up that the building was a heritage asset and this status be considered accordingly as per the NPPF.
- 20 The Sevenoaks Society has also suggested their use to enable consideration to be given to the alteration or loss of locally listed boundary treatments, for example historic railings and walls both inside and outside a CA. Sevenoaks town is in the enviable position of having retained lots of good quality boundary treatment. Inside a CA planning permission is required to remove boundary treatments over 1m fronting a highway so an Article 4 Direction will treat lower boundaries within a CA in a similar way.
- 21 Both these suggestions give rise to the consideration of the use of Article 4s. Again, in most cases when works are required to the front garden to create a hard standing, for example, a planning application is necessary in most cases already. The Article 4, if considered necessary, would require the explicit description of demolition or alteration to the boundary treatment to be included.
- 22 The Sevenoaks Society has also proposed that the current wording of the SPD is amended to, "make clear that where SDC consider that the exercise of permitted development rights in any particular case or class of cases presents a threat to a locally listed building or buildings that [SDC] will give urgent consideration to issuing such a direction." The Sevenoaks Conservation Council have also suggested amended wording for this paragraph, see Appendix A.
- 23 Currently the only Article 4 directions being proposed are for demolition and boundary treatments. It is considered that a more specific change of wording is necessary to reflect the position of SDC;

“The Council may consider Article 4 directions to remove specific development rights where a sufficiently strong case for such a measure can be clearly demonstrated. Demolition of locally listed buildings outside a conservation area and the removal or alteration of locally listed boundary treatments does not require planning permission and therefore would be specifically considered for Article 4 Directions. Importantly, an Article 4 Direction does not conclude that something is unacceptable but instead simply brings works under the control of the Local Planning Authority by requiring the submission of a planning application. There is no charge for a planning application that results from an Article 4 Direction”

- 24 Article 4 Directions appear on local land charges searches for new owners and we will liaise with our Land Charges colleagues to see if we are able to provide an informative to all potential owners of buildings on our local list when they do a local land charge search.
- 25 The table below shows the number of assets within and outside a conservation area that would be affected by an Article 4 Direction on demolition and for boundary treatments. As some entries on the local list are for more than one asset, the table below shows the number of buildings and the number of entries.

	Conservation Area	Outside a conservation area
No of proposed locally listed buildings	170 (125 entries)	214 (109 entries)
No of proposed locally listed boundary treatments identified in own right	24 (16 entries)	36 (25 entries)
No of proposed locally listed boundary treatments identified as part of another asset	17 (10 entries)	25 (11 entries)
Restriction on demolition	Planning permission is required to demolish a building which is greater	No restriction Unless Class A4 (Drinking establishment) and a community

Restriction on boundary treatments (gate piers, railings, walls and fencing)	Planning permission required to demolish a wall fronting a public highway, waterway or open space greater than 1m in height, or	No restriction

Reviews and Appeals

- 26 Although there is no right of appeal following inclusion on the local list, should a planning application be refused because it cites the impact on non-designated heritage assets there is the right of appeal to the Planning Inspectorate who will make an independent judgement on the impact of the proposed development on the heritage asset.
- 27 To make sure that the bar for inclusion on the list has been set at an appropriate height, we will carefully review all appeal decisions that include non-designated heritage assets so as to provide satisfaction to ourselves and others that the practice has not become unintentionally burdensome. The aim is to drive up standards and there is always the presumption in favour of sustainable development as set out in the NPPF.
- 28 In addition to monitoring the impact of the local list, the number of planning applications that result from an Article 4 Direction will also be monitored as part of the Annual Monitoring Report (AMR)

Other Options Considered and/or Rejected

- 29 The Core Strategy and the ADMP are specific about the document necessary to support policy EN.4 of the ADMP as are para. 5.1.2 of the Core Strategy and 2.24 of the ADMP. Not pursuing the adoption of the SPD and the public consultation of the second tranche of properties would not accord with SDC policy.
- 30 The application for the Article 4 Directions to remove the specific development rights to demolish buildings outside conservation areas and the removal of locally listed boundary treatments will bring these works under planning control. Without the article 4 directions in place to protect the locally listed buildings from potential loss the heritage assets are vulnerable to total loss which would have a harmful impact on the townscape of Sevenoaks.

Key Implications

Financial

Additional planning applications that result directly from the application of the proposed specific Article 4 Directions will be accommodated within the departmental budgets

Compensation is liable to be paid for the removal of permitted development rights through Article 4 Directions. However the availability of compensation is subject to limitations.

Legal Implications and Risk Assessment Statement.

Legal input will be required to consider the use of Article 4s and also in advising of the procedure for making them.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

- 31 The compilation of the proposals to initiate the Sevenoaks District Council's Local List SPD has been a good example of partnership working between the local community and the District Council to action SDC policy. The draft SPD identifies criteria for local listing and the first tranche of buildings, structures and spaces which meet the criteria within the Sevenoaks town area. In supporting the second tranche of assets for public consultation all the wards in Sevenoaks town will have been considered. The Local List will meet SDC ADMP para. 2.24 and the application of the specific Article 4 Directions will have a positive impact on the management of Sevenoaks' heritage assets.

Appendices have been printed separately

Appendix A - Public Consultation responses matrix

Appendix B - Supplementary Planning Document (including first tranche)

Appendix C - Second Tranche of proposed Locally Listed Buildings for public consultation

Background Papers

[National Planning Policy Framework](#)

[Sevenoaks District Council Core Strategy, 2011](#)

[Sevenoaks District Council Allocations and Development Management Plan, 2015](#)

[Historic England Practice Guidance on Local](#)

[Listing \(2012\) SUPERSEDED](#)

[Local Heritage Listing, Historic England Advice
Note 7](#)

Richard Morris

Chief Planning Officer