

Article 4 Direction for the Dorchester Conservation Area

Article 4 Directions can only be used for development that is granted permitted development rights through the Town and Country Planning (General Permitted Development) Order 2015 as amended. A Direction cannot be applied after development has taken place or where development has started at the time the Direction came into force. There is no right of appeal against a Direction but it can be subject to judicial review proceedings.

1. Type of Article 4 Direction

For consideration are two main types of Article 4 Direction:

- a) Non-Immediate Article 4 Directions whereby permitted development rights are withdrawn upon confirmation of a Direction. Before confirmation, the Direction is consulted on and those affected are provided with a date that the Direction will come into force, which must be no longer than two years after the start date of the consultation period.

Such a Direction can be applied when the potential harm to local amenity or the proper planning of the area, in this case the Dorchester Conservation Area, is not considered to be an immediate threat. There is substantially reduced compensation liability (see below) because a minimum 12 months advance notice of the Direction can be given.

The Secretary of State is notified of the Direction and because it is not of immediate effect, he or she can modify or cancel it at any time before or after its confirmation.

- b) Immediate Article 4 Directions whereby permitted development rights are withdrawn with immediate effect that is from the time the date the Direction comes into force or made. Following consultation, the Direction must be confirmed within six months if it is not to lapse.

This Direction can be applied if the identified threat to the Dorchester Conservation Area is considered to be immediate but only for certain types of development, as set out in the General Permitted Development Order, including the types of development being considered for the Dorchester Conservation Area Direction.

When a Direction is made removing permitted development rights, there is compensation liability (see below), in some cases this can be avoided by giving a minimum of 12 months notice of the making of the order. However, this only applies when certain rights are removed and it does not apply to the ones we are proposing to remove with this Direction.

2. Compensation

As set out in the Town & Country Planning Act 1990, where an Article 4 Direction is in force, compensation may be payable if:

The local planning authority refuses planning permission for development which would have been permitted development or grant planning permission subject to more limiting conditions than would have been possible if permitted rights not been withdrawn.

Compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. This can include the difference in the value of the land if the development had been carried out compared with its value in its current state, as well as the cost of the preparation of plans for the works.

Where affected by a Direction, statutory undertakers have separate compensation arrangements.

Any application for compensation must be made in writing within 12 months from the date of the decision to either refuse the planning permission or approve with more onerous conditions.

3. Monitoring, Modifying or Cancelling

A local planning authority should monitor an Article 4 Direction to check that the reason for the Direction remains valid. A planning authority can cancel a Direction or modify a Direction by cancelling the existing and replacing it with a new one. In each case, the procedures under the General Permitted Development Order apply.