

8 February 2021

<b>Report of</b>	Assistant Director of Place and Client Services	Author	Eirini Dimerouki
<b>Title</b>	Confirmation of Mill Field Estate Conservation Area Article 4 Direction		
<b>Wards affected</b>	New Town		

## 1. Executive Summary

- 1.1 This report is seeking to confirm the Article 4 Direction that was made for Mill Field Estate Conservation Area. The statutory designation of the Conservation Area, together with the inclusion of the Article 4 Direction, was approved by the Committee on 4 February 2019. According to Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 which sets out the procedures for making an Article 4 Direction, the Direction came into effect when it was publicised on 18 September 2020 but needs to be confirmed by the Council within six (6) months of that date or it will lapse. This report provides an account of the publicity procedure for the making of the Direction and a summary of the public consultation which is required before a direction can be confirmed. As the results of the consultation exercise did not suggest that there are any public concerns for the use of the Article 4 Direction, it is recommended that the Direction is confirmed to remain effective.

## 2. Decision(s) Required

- 2.1 The Local Plan Committee is asked to confirm the Article 4 Direction that was made for the Conservation Area known as Colchester Conservation Area 5: Mill Field Estate Conservation Area.

## 3. Reason for Recommended Decision

- 3.1 Confirming the Article 4 Direction will complete the procedure for making the Direction in accordance with Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The confirmation of the Direction within six (6) months from the date it was made ensures that the Direction remains in effect indefinitely or until modified or cancelled by a subsequent direction. If the Local Planning Authority does not confirm the Direction within six months of making it, the Direction will lapse. The making of the Article 4 Direction was approved together with the designation of Colchester Conservation Area 5: Mill Field Estate Local Plan Committee on 4 February 2019 (the relevant Committee report can be found at [Mill Field Conservation Area](#)

[Designation](#).) The use of the Article 4 Direction was included in the Character Appraisal and Management Proposals for the new Conservation Area with the aim to give the Council more effective control over alterations that could erode the character and cohesive quality of the new Conservation Area.

#### **4. Alternative Options**

- 4.1 The Committee could decide not to proceed with the confirmation of the Article 4 Direction. However, this option would remove control over alterations whose cumulative effect can have a detrimental impact on the character and quality of the new Conservation Area.

#### **5. Background Information**

- 5.1 An Article 4 Direction is a direction under Article 4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 which enables the Secretary of State or the Local Planning Authority to withdraw specified permitted development rights across a defined area.
- 5.2 The effect of an Article 4 Direction is not that development within the particular category of permitted development cannot be carried out, but that it is no longer automatically permitted by Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 ("GDPO") and must instead be subject to a planning application. This requirement does not necessarily mean that the Local Planning Authority will refuse permission for the works but does enable the Authority to retain some control over the design and detailing of the proposed development and grant permission subject to appropriate planning conditions.
- 5.3 There are 2 types of Directions under the General Permitted Development Order: non-immediate directions and directions with immediate effect. An immediate direction which comes into force and can withdraw permitted development rights straight away once the advertisement procedure, as set out by the GDPO, is carried out. However, the Direction must be confirmed by the Local Planning Authority within six (6) months of coming into effect to remain in force. Confirmation occurs after the Local Planning Authority has carried out a local consultation. If the Direction is not confirmed within this period, it lapses.
- 5.4 According to Schedule 3 of the General Permitted Development Order, the Local Planning Authority must give notice of the Direction:
- (a) by local advertisement;
  - (b) by site display at no fewer than two (2) locations within the area to which the Direction relates;
  - (c) by serving the notice on the owner and occupier of every part of the land within the area or site to which the direction relates.

- 5.5 The Direction comes into effect in relation to any property on the date on which the notice is served on the owner and occupier. The notice must specify a period of at least twenty-one (21) days within which representations may be made to the Local Planning Authority in relation to the Direction. The Authority must then consider any representations made in response to the Notice. It may then confirm the Direction no less than twenty-eight (28) days after the Notice was served and not more than six (6) months after it came in effect. If the Authority confirms the Direction, it must give notice of the confirmation in the same way that it notified the making of the order. If the Direction is not confirmed, it will lapse.
- 5.6 In accordance with these requirements, the Council gave notice of the Article 4 Direction for Millfield Estate Conservation Area:
1. by advertising the Article 4 Direction Notice ( included in Appendix 1) in the local Press ( Essex County Standard) on 18 September 2020;
  2. by erecting four (4) site notices in key locations within the Conservation Area.
  3. by notifying the Owners and Occupiers of the dwellinghouses within the Article 4 Direction area by post which reached the recipients on 18 September. Seven hundred fifty-one (751) letters were sent. The post included the Article 4 Direction Notice, the Designation Notice for Mill Field Estate Conservation Area (included in Appendix 2) and a covering letter which provided practical information on the designation of the new Conservation Area and the making of the Article 4 Direction ( Appendix 3). The letter, as well as the Article 4 Direction Notice, informed the recipients of their right to comment on the use of the Direction within 28 days upon receipt of the Notice and set out how they could send their representations to the Council.
- 5.7 A new page was set up in the Council's website [www.colchester.gov.uk/millfield-conservation-area](http://www.colchester.gov.uk/millfield-conservation-area) and became publicly accessible on the morning of 18 September 2020. The webpage provides information on the designation of Millfield Estate Conservation Area and the Article 4 Direction, as well as key information and guidance on Conservation Areas and the practical implications of living within their boundary.
- 5.8 The webpage also informed the public of the public consultation that is required prior to the confirmation of the Article 4 Direction by the Local Planning Authority. The relevant section of the webpage explained that representations could be made in writing within 28 days of the Direction coming into effect (18 September 2020, when the Direction was advertised and served to the owners and occupiers) in two ways:
- via email to the Council's Historic Buildings and Areas Officer with the reference "Article 4 Direction-Mill Field Estate CA" in the header;
  - by post, in the attention of the Council's Historic Buildings and Areas Officer.

- 5.9 The consultation period started on 18 September 2020 and expired on 15 October 2020. Zero (0) consultation responses were received during that period. Following the formal notification of the Conservation Area designation and Article 4 Direction, various homeowners have made contact with the Council via email, to discuss intended works to their properties, clarify the permission requirements and seek conservation advice and guidance. However, none of these communications included comments either in favour or against the Article 4 Direction.
- 5.10 It should also be noted that the public's views on the concept of restricting permitted development rights within the proposed Mill Field Estate Conservation Area were sought with the public consultation for the Conservation Area's designation which was carried out between 30 April 2018 and 10 June 2018. Question Q2 of the consultation form which is appended in the relevant Local Plan Committee Report available at [Mill Field Conservation Area Designation](#) covered this issue. Although some representations included concerns that the designation would result in an added need for planning permissions which could impede the proper maintenance of the properties, these comments did not express any objections to the use of the Article 4 Direction.
- 5.11 The lack of any representations against the use of the Article 4 Direction, suggests that the initiative was well-received by the public. Since there are no public objections to the Direction that could generate the need to re-consider its use, it is recommended that the Direction is confirmed in order to remain in effect.

## **6. Equality, Diversity and Human Rights implications**

- 6.1 6.1 An Equality Impact Assessment has been prepared for the Local Plan and is available to view by clicking on this link: [Equality Impact Assessment June 2017.pdf \(windows.net\)](#)
- 6.2 The confirmation of the Article 4 Direction would not have an adverse impact on equality, diversity and human rights as the property owners were notified and offered the opportunity to participate in the consultation process.

## **7. Strategic Plan References**

- 7.1 The Council's Strategic Plan 2020-2023 includes a priority concerned with *Celebrating our heritage and culture*. The use of the Article 4 Direction for the new Mill Field Estate Conservation Area will contribute to the theme that seeks to "Protect, enhance and celebrate Colchester's unique heritage and visitor".

## **8. Consultation**

- 8.1 The public consultation which is required before the Local Planning Authority confirms the Article 4 Directions was carried out between 18

September 2020 and 15 October 2020. The details on the process and its outcome are discussed in Section 5.0 of the present report.

## **9. Publicity Considerations**

- 9.1 The confirmation of the Article 4 Direction may generate publicity for the Council. However, the outcome of the consultation exercise suggests that the Council's initiative is well-received as a proactive approach to heritage protection and enhancement of the historic environment.

## **10. Financial implications**

- 10.1 The withdrawal of permitted development rights by an Article 4 Direction may give rise to a claim for compensation but only in case of:
- (a) refusal to grant planning permission for development which would otherwise have been permitted development; or
  - (b) granting planning permission subject to more limiting conditions than those allowed by the General Permitted Development Order.
- 10.2 According to Section 108 of the Town and Country Planning Act 1990, the grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. Moreover, compensation can only be claimed if the planning application is made within twelve (12) months from the date when the Article 4 Direction takes effect. Finally, it should be noted that Article 4 Directions already exist in several locations within the Borough and there have been no successful compensation claims.
- 10.3 If the Article 4 Direction is confirmed, the costs involved will be limited to the costs for the notification in writing to the property owners and the advertisement of the confirmation in a local newspaper.

## **11. Community Safety Implications**

- 11.1 The designation of the proposed Conservation Area does not involve any community safety implications for the Council.

## **12. Health and Safety Implications**

- 12.1 No Health and Safety implications are associated with the confirmation of the Article 4 Direction.

## **13. Risk Management Implications**

- 13.1 No Risk Management implications are associated with the confirmation of the Article 4 Direction.

## **Appendices**

Appendix 1: Article 4 Direction Notice;

Appendix 2: Colchester Conservation Area 5: Mill Field Estate Designation Notice

Appendix 3: Covering letter to Owners and Occupiers within the Article 4 Direction area

## **Appendix 1: Article 4 Direction Notice**

### **COLCHESTER BOROUGH COUNCIL THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015**

#### **Notice of making a Direction under Article 4(2) of General Permitted Development Order 2015**

1. Colchester Borough Council GIVES NOTICE to occupiers/owners of part of the land described in the First Schedule to this Notice ("The Land") that the Council has made a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015.
2. The Direction relates to the development of the type specified in the Second Schedule to this Notice within the area described in the First Schedule of this Notice.
3. The effect of the Direction is that permission granted by Article 3 of the Order shall not apply to development of the type specified in the Second Schedule to this Notice and that such development shall not be carried out on the Land unless planning permission is granted by the Council on an application made to them.
4. A copy of the map defining the area of Land covered by the Direction can be found on the Council's website at [www.colchester.gov.uk/millfield-conservation-area](http://www.colchester.gov.uk/millfield-conservation-area). The webpage also includes information on the designation of the Millfield Estate Conservation Area and the Direction of the present notice.
5. The Direction was made by the Council on February 2019 and comes into effect in relation to the Land on the date this Notice is served on you if you are the occupier, or if you are the owner, on the date this Notice is served on the occupier, if there is one. This Direction does not require the approval of the Secretary of State and in accordance with article 6(7) of the Order shall expire at the end of six months from the date upon which is made unless confirmed by the Authority before the end of that six month period. The Authority desires to confirm the Direction before the end of the six months but any representations that you wish to make will be taken into account before the decision whether or not to confirm the Direction is made. Representations should be made to the Historic Buildings and Areas Officer, Rowan House, 33 Sheepen Road, CO3 3WG, Colchester, within 28 days of the Direction coming into effect.

#### **FIRST SCHEDULE**

The residential properties within the boundary of Colchester Conservation Area No.5 - Mill Field Estate, Colchester, County of Essex which includes:

- Nos. 110 to 183 on the west side of Butt Road;
- Beaconfield Avenue, Salisbury Avenue, Wickham Road;
- Errington Road, Hamilton Road, Constantine Road;
- The Cloisters, 94 Maldon Road and The Runwalds, 94A Maldon Road, nos. 140 to 146, nos. 162 to 168 and nos. 182 to 186 on the east side of Maldon Road.

## SECOND SCHEDULE

- (i) Development permitted by Class A of Part 1 of Schedule 2 of the Order, more particularly the enlargement or other alteration of a dwellinghouse.
- (ii) Development permitted by Class C of Part 1 of Schedule 2 of the Order, more particularly alterations to a roof of a dwellinghouse.
- (iii) Development permitted by Class D of Part 1 of Schedule 2 of the Order, more particularly the erection or construction of a porch outside any external door of a dwellinghouse.
- (iv) Development permitted by Class E of Part 1 of Schedule 2 of the Order, more particularly the provision of buildings etc. incidental to the enjoyment of a dwellinghouse
- (v) Development permitted by Class F of Part 1 of Schedule 2 of the Order, more particularly the provision of hard surfaces incidental to the enjoyment of a dwellinghouse.
- (vi) Development permitted by Class A of Part 2 of Schedule 2 of the Order, more particularly the erection, construction, maintenance or alteration of a gate, fence, wall or other means of enclosure.
- (vii) Development permitted by Class C of Part 2 of Schedule 2 of the Order, more particularly the painting of the exterior of any building or work.
- (viii) Development permitted by Class A of Part 14 of Schedule 2 of the Order, more particularly the installation or alteration etc. of solar equipment on domestic premises.

Dated: 18 September 2020

Signed:



Karen Syrett  
Planning and Housing Manager  
Place and Client Services

## **Appendix 2: Colchester Conservation Area 5: Mill Field Estate Designation Notice**

### **COLCHESTER BOROUGH COUNCIL**

#### **PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990, SECTION 69**

#### **COLCHESTER CONSERVATION AREA No.5 - MILL FIELD ESTATE**

NOTICE IS GIVEN under the provisions of the 1990 Act that Colchester Borough Council has determined that the Area described in Schedule of this Notice is an area of special architectural and historical interest and that it is desirable to preserve and enhance its character and appearance. It has accordingly designated the area as a "Conservation Area"

The principal effects of this area designated as Conservation Area are as follows:

1. In carrying out any functions under the Planning Acts (and in particular in determining applications for planning permission and listed building consent), the Council and the Secretary of the State are required to take into account the desirability of preserving and enhancing the appearance of the area.
2. Certain permitted development rights, including the demolition of buildings, are more restricted than in other areas
3. Special publicity must be given to planning applications for development in the area.
4. Consent or six weeks written notice is required to carrying out of certain works to any tree (above a certain size) in the area
5. Rights to display certain types of advertisements are more restricted than in other areas

#### **SCHEDULE**

The area included in the Colchester Conservation Area No.5 - Mill Filed Estate includes:

- Nos. 110 to 183 on the west side of Butt Road;
- Beaconfield Avenue, Salisbury Avenue, Wickham Road;
- Errington Road, Hamilton Road, Constantine Road;
- The Cloisters, 94 Maldon Road and The Runwalds, 94A Maldon Road, nos 140 to 146, nos 162 to 168 and nos 182 to 186 on the east side of Maldon Road.

The plan showing the precise boundary of the Conservation Area can be found overleaf.

Dated: 18 September 2020

Signed:



Karen Syrett  
Planning and Housing Manager  
Place and Client Services

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**Colchester Conservation Area No.5:**  
**Mill Field Estate**



### **Appendix 3: Covering letter to Owners and Occupiers within the Article 4 Direction area**



#### **Colchester Borough Council**

Rowan House, 33 Sheepen Road

Colchester, CO3 3WG

Essex

Telephone: 01206 282424

Email: [planning.services@colchester.gov.uk](mailto:planning.services@colchester.gov.uk)

Eirini Dimerouki

Historic Buildings and Areas Officer

Place & Client Services

Telephone: 01206 505634

18 September 2020

Dear Sir or Madam

#### **Designation of a New Conservation Area (Colchester Conservation Area No.5 – Mill Field Estate ) and introduction of an Article 4 Direction.**

I am writing to advise that the Council has designated a new conservation area, which your property forms of part. For your information and records I enclose the Notice for the designation for Colchester Conservation Area No.5 – Mill Field Estate.

The designation of the Conservation Area is in recognition of area's special architectural and historic character but with that comes certain restrictions which will affect your property; these are described in the attached Notice of Designation.

I would also like to inform you on a new planning initiative (Article 4 Direction) which has been prepared for the new Colchester Conservation Area No.5 – Mill Field Estate. These changes derive from an "Article 4 Direction", which are explained more fully below. The Article 4 Direction is aimed at giving further protection to the distinctive character of the Mill Field Conservation Area.

Residents generally enjoy what are known as "permitted development" rights, which allow certain types of small-scale work to be undertaken to a property without the need to apply to the Council for planning permission. The effect of an Article 4 Direction is to withdraw certain of the permitted development rights. This means that in future, residents wishing to carry out the work specified in the Direction will need to make and to obtain planning permission from the Council, before they can undertake these works. Planning permission will be required for the following works:

- The alterations of windows and doors [on front and/or side elevations that face a public highway]
- The alteration of roof coverings [and chimneys]
- The addition and/or alteration of porches

- The addition of outbuildings
- The hard surfacing of [front] gardens
- The erection or alteration of a fence, wall and gate that [on front and/or side elevations that face an public highway]
- The painting of previously unpainted brickwork
- The installation of micro generation equipment (such as PV panels)

I have enclosed a copy of the Article 4 Direction Notice for your information and records. The Article 4 Direction will remain in force for a maximum period of six months after which it must be confirmed by the Council. The Council would like to confirm the Direction before the end of the six-month period but before making a final decision, you are invited to comments on this proposal. If you wish to make any comments regarding the Article 4 Direction, these should be made in writing to the Council by emailing [eirini.dimerouki@colchester.gov.uk](mailto:eirini.dimerouki@colchester.gov.uk) with the reference to the “Article 4 Direction, Colchester Conservation Area No.5 – Mill Field Estate” in the title header.

If you are a tenant I would be grateful if you could notify the owner as soon as possible. Thank you for your cooperation.

In the meantime, should you require any further clarifications, please feel free to contact me on the above telephone number or by email at [eirini.dimerouki@colchester.gov.uk](mailto:eirini.dimerouki@colchester.gov.uk).

Yours faithfully,

*Eirini Dimerouki*

Eirini Dimerouki  
Historic Buildings and Areas Officer  
Place & Client Services  
Colchester Borough Council