



**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
(ENGLAND) ORDER 2015 (AS AMENDED)**

**DIRECTION MADE UNDER ARTICLE 4 (1) TO WHICH ARTICLE 6 APPLIES
MADE WITH IMMEDIATE EFFECT**

In accordance with Paragraph 1(13) of Schedule 3 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), this Direction cancels and replaces the Direction relating to land at Kingshill Road, Four Ashes, High Wycombe, Buckinghamshire, HP15 6LH made by Buckinghamshire Council on 17th November 2022 and confirmed by Buckinghamshire Council on 11th May 2023 and which ceases to have effect on the date of this Direction.

WHEREAS Buckinghamshire Council being the appropriate local planning authority within the meaning of article 4(4) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the "Order"), is satisfied that it is expedient that development of the description(s) set out in the Schedule below should not be carried out on the **land at Kingshill Road, Four Ashes, High Wycombe, Buckinghamshire, HP15 6LH** and shown edged in the thick black line on the attached plan ("the Land"), unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 as amended, as the local planning authority considers that such development would constitute a threat to the amenities of its area.

NOW THEREFORE the said Council in pursuance of the power conferred on it by article 4(1) of the Order hereby directs that the permission granted by Article 3 of the said Order shall not apply to development of the description(s) set out in the Schedule below on the Land.

SCHEDULE

The permitted development rights to be withdrawn from the Land are as follows:

The erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 to the said Order and not being development comprised within any other Class.

The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part) being development comprised within Class B of Part 2 of Schedule 2 to the said Order and not being development comprised within any other Class.

THIS DIRECTION is made under article 4(1) of the said Order and, in accordance with Schedule 3 paragraph 2(6), shall remain in force until 29th (twenty ninth) day of August 2024 and shall then expire unless it has been confirmed by the appropriate Local Planning Authority in accordance with Schedule 3 paragraph 1(9) and (10) of the Order before that date.

THIS DIRECTION is made under the Common Seal of Buckinghamshire Council and is executed as a

Deed on this 28th day of February 2024.

**The Common Seal of
BUCKINGHAMSHIRE COUNCIL
was hereunto affixed
to this Direction
in the presence of:**



Chris Smith
Signature of Authorised Signatory

Print name of Authorised Signatory

Job role/professional title of Authorised Signatory

THIS DIRECTION is confirmed under the Common Seal of Buckinghamshire Council and is executed as a Deed on this.....day of2024.

**The Common Seal of
BUCKINGHAMSHIRE COUNCIL
was hereunto affixed
to this Direction
in the presence of:**

Signature of Authorised Signatory

Print name of Authorised Signatory

Job role/professional title of Authorised Signatory

Plan showing the Land





PUBLIC NOTICE

Notice of making a Direction with immediate effect under Article 4(1) to which Article 6 applies, made with immediate effect relating to land at Kingshill Road, Four Ashes, High Wycombe, Buckinghamshire, HP15 6LH shown edged in a thick black line on the plan attached to the Direction (“Land”)

Buckinghamshire Council made an Article 4(1) Direction on the 28th February 2024 under Article 4(1), to which article 6 applies, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the “Order”)

The Direction relates to withdrawing the following permitted development rights on the Land:

The erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 to the said Order and not being development comprised within any other Class.

The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part) being development comprised within Class B of Part 2 of Schedule 2 to the said Order and not being development comprised within any other Class.

The Article 4 Direction applies to Kingshill Road, Four Ashes, High Wycombe, Buckinghamshire, HP15 6LH shown edged in a thick black line on the plan attached to the Direction (the “Land”). The effect of the Direction on the Land is that such development shall not be carried out on the Land unless planning permission is granted by Buckinghamshire Council on an application made to Buckinghamshire Council.

A copy of the Direction, including a map defining the area covered, can be viewed on Buckinghamshire Council’s Web site or by phoning 01494 461000

Representations may be made concerning the Article 4 Direction between the 28th February 2024 and the end of the 5th May 2024 via email to planningenforcement@buckinghamshire.gov.uk or by post to Buckinghamshire Council, Planning Growth and Sustainability, Wycombe Area Office, Queen Victoria Road, High Wycombe, Buckinghamshire, HP11 1BB.

The Council will take into account any representations that are received by the end of 5th May 2024 in deciding whether to confirm the Article 4 Direction.

The Article 4 Direction comes into force with immediate effect on the 28th February 2024 but will expire unless it has been confirmed by Buckinghamshire Council, within six months of that date.

A handwritten signature in black ink, appearing to read 'EO', with a stylized flourish at the end.

Eric Owens
Service Director of Planning & Environment
On behalf of the Council

Justification Report for the introduction of Article 4 Direction at land at Kingshill Road, Four Ashes, High Wycombe, Buckinghamshire, HP15 6LH

February 2024

Notice of Direction with immediate effect made under Article 4(1) of the Order

Introduction

1. This report explains the reasoning, justification and scope for Buckinghamshire Council's proposal to introduce an Article 4 Direction, with immediate effect, to prevent the erection of
 - the construction, improvement or alteration of a gate, fence, wall or other means of enclosure referred to in paragraph A.1 being development comprised within Class A of Part 2 of Schedule 2 to the Order and not being development within any other Class
 - The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part) being development comprised within Class B of Part 2 of Schedule 2 to the Order and not being development within any other Class.
2. In order to provide context, the report sets out the legislative, policy and guidance relating to permitted development rights allowing enclosures and the formation of accesses.
3. The report highlights the key factors to be considered when introducing an Article 4 Direction – as required by the Regulations.
4. Based on the above, the report goes on to explain why it is critical that an Article 4 Direction is introduced and provides justification for the location, scope and extent.

Legislation, Policy and Guidance

Town and Country Planning (General Permitted Development) Order 2015 (as amended)

5. Permitted development rights apply across England and permit prescribed development, works and changes of use without the need for planning permission to be granted by the relevant local planning authority. The Town and Country Planning (General Permitted Development) (England) (Order) 2016 (as amended), hereafter referred to as the GPDO, outlines the conditions and limitations of these rights.
6. This report sets out the reasoning for the issue of an immediate Article 4 Direction (Town and Country Planning (General Permitted Development) Order 2015 (as amended)). The Direction proposes to remove a number of permitted development rights. The land in question has / is being sold off in a series of plots (c12). Given the location within the Green Belt and Chilterns Area of Outstanding Natural Beauty and rural location, away from any settlement, the introduction of fences etc and tracks, over a wide area, would be detrimental to the openness of the Green Belt and character of the AONB. There is the need to control these developments in the interest of the protection of the countryside and to protect the interest of the acknowledged importance of the land.

7. The Article 4 Direction sought to immediately remove the following permitted development rights;
 - a) The erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure referred to in paragraph A.1 being development comprised within Class A of Part 2 of Schedule 2 to the Order and not being development within any other Class.
 - b) The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part) being development comprised within Class B of Part 2 of Schedule 2 to the Order and not being development within any other Class.

Article 4 Directions

8. Local planning authorities can remove permitted development rights through an Article 4 Direction. This means that development proposals would require planning permission and that the local planning authority could consider the wider impacts of the proposals, including alignment with the Development Plan, when making a decision. The procedures for making an Article 4 Direction are set out in Schedule 3 to the GPDO.
9. There are two types of Article 4 Directions specified under the GPDO: 'non-immediate directions' and 'directions with immediate effect'.
10. An immediate direction can withdraw permitted development rights straight away but must be confirmed by the local planning authority within six months of coming into effect to remain in force. Confirmation occurs after the local planning authority has carried publicity on the proposals locally. The circumstances in which an immediate direction can restrict development are limited to those where the development presents an immediate threat to local amenity or prejudices the proper planning of an area¹.
11. Local planning authorities are likely to be liable to compensation claims under immediate directions (where abortive expenditure or other loss/damage is directly attributable to a refusal of planning permission which would otherwise be permitted development, or the attachment of more limiting conditions than under permitted development).
12. Non-immediate directions, in contrast, are not liable for compensation as a notification period is given.
13. The local planning authority must inform the Secretary of State when making and confirming an Article 4 Direction. The Secretary of State does not have to approve Article 4 Directions but has the power to modify or cancel directions at any time before or after they are made.

Reasons for the Article 4 Direction

¹ Parts 1 to 4 and 11 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 1995.

14. The land in question has / is being sold off as 12 individual plots each being approximately 0.5 acres in area. According to information, the land is being advertised on two websites <https://www.barneyestates.co.uk/listing/land-at-kingshill-road/> and https://www.rightmove.co.uk/properties/128605091#/?channel=COM_BUY
15. The site is located within the Green Belt and Chilterns AONB and was previously used as informal open space, specifically as football pitches (although not allocated as recreational open space). The land is level and bounded by hedging. The site is not allocated within the Adopted Local Plan.
16. The introduction of fences and enclosures, which could be up to two metres in height, would erode the rural undeveloped character and landscape, resulting in inappropriate development and a built form that would urbanise and be harmful to the open and undeveloped rural character and appearance of the surrounding area between settlements.
17. If accesses were installed, it could result in several lengths of countryside hedgerow being removed to create vehicular accesses to plots in the field behind, leaving only short lengths of hedgerow in between the new accesses. This could result in the degradation of a characteristic landscape feature, which would result in a significant adverse landscape and visual impact on the rural character of the area as well as the loss of wildlife habitat.
18. The formation of accesses could result in visibility through to the plots, resulting in an urbanising feature detracting from the rural character of the lane.
19. It is considered therefore that the removal of the permitted development rights (as detailed above) is necessary, to protect the open character of the Green Belt and preserve the natural beauty of the Chilterns AONB.
20. The Council cannot prevent the subdivision of the land in terms of ownership but can prevent the physical separation and demarcation of the plots, if they are sold separately.

Proposed Article 4 Direction and Process

21. An Article 4 Direction does not prevent development from taking place but instead requires applicants to submit a planning application and enables the Council to determine such proposals against the Development Plan.
22. The Council will publish a notice of the Article 4 direction in the local newspaper, display at least two site notices for a period of not less than six weeks and the current owner will be served on individually. The notice will allow for a minimum period of 21 days for any representations to be made to the Council to which will be considered by the Council when deciding whether to confirm the Article 4 Direction.
23. To reiterate, an Immediate Article 4 Direction is proposed. This means that permitted development rights are removed with immediate effect and then consulted on. The Article 4 (1) Direction will lapse after 6 months from when it was made unless it is confirmed beforehand. Any objections will be considered by the Council before it considered whether to confirm the Direction, or not. An immediate Article 4 (1) Direction is used where there is an urgent, justified requirement for protection. Once confirmed, an immediate Article 4(1) Direction becomes permanent.
24. As an alternative to an immediate Article 4 Direction is a non-immediate Article 4 Direction. Under this procedure, the Direction does not take effect until at least 28 days after the Direction has been published AND it has been confirmed by the Council. With

a non-immediate Direction, the permitted development activity that is being brought under control will be able to continue taking place until such time as the Direction is confirmed by the Council following public consultation.

Legal Implications

25. The Council can be liable under section 108 of the Town and Country Planning Act 1990 (as amended) to pay compensation to those whose permitted development rights have been withdrawn but only if, within 12 months of the effective date of the Article 4 Direction, the Council 1) Refuses planning permission for development which would otherwise have been permitted development, or 2) Grants planning permission subject to more limiting conditions than the General Permitted Development Order (GPDO).

Financial Implications

26. There are circumstances in which local planning authorities may be liable to pay compensation having made an article 4 direction, although the potential liability is limited in many cases by the time limits that apply.
27. The grounds on which compensation may be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. Abortive expenditure includes the preparation of plans for the purposes of work and other similar preparatory matters but no more. 'Other loss or damage directly attributed to the withdrawal of permitted development rights' includes the depreciation of the land.
28. The onus is on the claimant to prove a financial loss resulting from the refusal to grant permission or from the grant subject to conditions formerly granted by the permitted development. There are various factors that are taken into account in a determination of whether or not compensation is payable.
29. There is almost no risk to the LPA being liable to pay compensation on this occasion. The potential liability is limited, and also time limited.

Equality Implications

30. There are no equality issues for consideration.

Conclusion

31. In conclusion, it is clear from the information set out above that the Article 4 Direction is justified to protect the open character of the Green Belt and preserve the natural beauty of the Chilterns AONB.

Recommendation

32. Having regard to the provisions of the relevant legislation, and all other material considerations, a Notice of Direction with immediate effect is made under Article 4(1) of the Order to remove permitted development entitlement defined under Classes A and B of Part 2 of Schedule 2 of the (Town and Country Planning (General Permitted Development) Order 2015 (as amended).



Signed:

Gemma Davies
Enforcement Manager

Date: 20.02.2024

Appendix A

Site location plan



