

Subject: Article 4 Direction

At: Land at Crookwood Farm, Crookwood Lane, Potterne, Wiltshire, SN10 5QS

1. Purpose of Report

- 1.1 To consider the confirming of a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (An “Article 4 Direction”) to remove ‘permitted development’ rights under Part 4, Class B (Temporary Use of Land) of Schedule 2 for the above Land as outlined in red on the location plans with the Direction at Appendix 1 to this report.

2. Background

- 2.1 At its meeting held on 22 March 2018 the Eastern Area Planning Committee resolved to make an ‘immediate’ Article 4 Direction to remove permitted development rights under Part 4, Class B of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the Land at Crookwood Farm. This Part of the Order otherwise permits the following:

The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of —

- (a) the holding of a market;*
- (b) motor car and motorcycle racing including trials of speed, and practising for these activities,*

and the provision on the land of any moveable structure for the purposes of the permitted use.

The full report and minutes from the 22 March meeting are attached at appendix 2.

- 2.2 Following the Committee’s decision the Direction was formally ‘made’ on 10 April 2018. The made Direction is attached at Appendix 1. The Direction applies to all land forming Crookwood Farm as outlined in red on the location plans with the Direction at Appendix 1.
- 2.3 As set out in Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015 (“*Procedure for article 4(1) directions with immediate effect*”), an immediate Direction will expire at the end of the period of 6 months beginning with the date on which it comes into force unless confirmed by the local planning authority after notice of it being given.
- 2.4 Accordingly, and also in accordance with Schedule 3, notice of the Direction has been given by local advertisement, by site display, and by serving notice on the owner/occupier of every part of the land within the area to which the Direction relates. The notice period was 28 days; Schedule 3 states that in deciding whether to confirm a

Direction the local planning authority must take into account any representations received following the giving of notice.

- 2.4 Separately Schedule 3 requires the local planning authority to notify the Secretary of State of the Direction. The Secretary of State was notified on 11 April 2018.

3. Representations following the giving of notice

- 3.1 One representation has been received – from Things Solicitors on behalf of the “Giddings Brothers”, who are owners of the Land.

- 3.2 The representation is summarised as follows:

- That the Direction has not been made properly.
- That the potential harm through not removing permitted development is not set out.
- That the making of the Direction is unreasonable and wholly disproportionate given the infrequency of the events and the lack of any tangible evidence of any harm to the area.
- That there have been misrepresentations regarding the scale of the events.

The representation concludes by stating that the Direction is *ultra vires* and should be withdrawn.

- 3.3 In response to the representation the following is stated:

- The Direction has been made in full compliance with the “Procedure for article 4(1) directions with immediate effect” set out at Schedule 3 of the Town and Country Planning (General Permitted Development) Order.
- The harm arising through not removing permitted development is set out in the original officer’s committee report and the related minutes at Appendix 2.
- In view of the harm identified in the original officer’s report and related minutes (at Appendix 2) the making of an Article 4 Direction in this case is both reasonable and proportionate. The infrequency of events does not reduce the harm arising from any single event.
- In reaching its conclusions the report, and ultimately the Committee’s decision on the matter, had regard to the actual scale of past events and the anticipated scale of future events, and their predictable impacts on amenity. The process and decision disregarded any misrepresentations made by other parties.

- 3.4 On behalf of the Secretary of State the National Planning Casework Unit has requested that the Secretary of State be advised of the Council’s final decision.

4. Conclusion

- 4.1 The reasons for making the Article 4 Direction are set out in the earlier report and minutes (at Appendix 2). The purpose of the confirming process is to allow the decision to make an immediate Direction to be reviewed in the light of representations received during the notice period.

- 4.2 In this case it is considered the representation received does not provide new information or evidence which would lead to a different conclusion to that reached by the committee in March.

- 4.3 It remains the case that having regard to the circumstances of this particular Land – namely, its tranquil situation with scattered nearby residential development and its access via relatively narrow country lanes – there is the prospect of harm being caused to residential amenity and highway safety from the exercise of these permitted development rights on an unregulated basis. By all accounts the circumstances of the Land remain unsuited for the exercise of permitted development rights for temporary uses of this nature. It is, therefore, recommended that that the Article 4 Direction is now confirmed by the committee.
- 4.4 The confirmation of the Article 4 Direction does not prevent planning applications from being made on the land for the types of development excluded by the Direction. Such applications would be considered on their merits. The existence of a Direction does not convey any more restrictive policy approach to the determination of such applications, but would, for example, allow conditions to be attached to any planning permission for such uses to potentially mitigate adverse impacts. Such conditions cannot be applied where permitted development rights for the uses remain.

RECOMMENDATION

That the Council CONFIRM the Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) to remove permitted development entitlement in Schedule 2, Part 4, Class B.