

URGENT ACTION PROCEDURE RULE 30

DECISION NOTICE

Subject:	Article 4 Direction for North Lodge and South Lodge
Decision Taken By:	Matthew Essex (Executive Director for Place)
Date of Decision:	29th August 2023
Members Consulted:	Councillor Emily Davey Councillor Roger Hayes Councillor Alison Holt Councillor Ian Manders Councillor Afy Afilaka
Members and Officers who have declared an interest in the matter:	None
Contact Officer:	Hannah Harris - Lead Officer for Planning Policy (email: hannah.harris@kingston.gov.uk)

1. Decision Taken

- A. That the Council serves an immediate Article 4(1) Direction at North Lodge and South Lodge, Kingsnympton Park, Kingston upon Thames, KT2 7TF, to remove nationally permitted development rights for the demolition of a building on these sites.
- B. That the Council consults on the immediate Article 4(1) Direction for six weeks and decides whether to permanently confirm it within six months.

2. Reasons for Urgency

North Lodge and South Lodge are identified as Locally Listed Buildings by the Council, and hence non-designated heritage assets. As these are not statutorily Listed Buildings nor fall within a Conservation Area, they do not benefit from the protections against demolition without requiring planning permission, under Class B of Schedule 2, Part 11 of the GDPO 2015.

North Lodge has been part of the Council's Housing Revenue Account (HRA) and used as a site office, but was declared surplus to requirements and approved for disposal from the

Council's Estate at a [Housing Sub Committee \(24 January 2017\)](#) and [Corporate and Resources Committee \(22 November 2022\)](#).

In the course of the asset's disposal, the Council received an Application to Determine if Prior Approval is Required for the demolition of North Lodge, under Class B of Schedule 2, Part 11 of the General Permitted Development Order (GDPO) 2015, submitted by the prospective purchaser. This was received and validated on 23rd March 2023. The application was refused on 14th April 2023, due to the lack of information in relation to the method of demolition and any proposed restoration of the site.

The sale is due to complete on 29th August 2023. The threat to the building therefore remains imminent, as the future owner may submit a new application to demolish the building under permitted development rights. The prospective purchaser has been made aware of the Council's intention to introduce an immediate Article 4 Direction to remove these permitted development rights.

South Lodge is currently still occupied as part of the Council's HRA, but is considered as part of a group with North Lodge on the Kingsnympton Park Estate. Jointly applying an Article 4(1) Direction to both North and South Lodge recognises the threat to the local amenity of the area, if either of the buildings were to be demolished without the benefit of a full planning application, to assess the proposed development under the Council's Development Plan.

The prominence of the buildings in the street scene makes a significant positive contribution to the character and appearance of the area, and are local amenities in terms of townscape, heritage and cultural significance.

The Council considers that there is likely potential for future landowners to demolish the buildings, which would have the potential to cause harm to the character and appearance of the area and would therefore be prejudicial to the proper planning of the area and constitute a threat to the amenities of that area.

Therefore, the Council considers it appropriate to serve an immediate Article 4(1) Direction on this land to remove these nationally permitted development rights.

3. Justification for Decision

The following paragraphs of the [National Planning Policy Framework \(NPPF\)](#) are relevant to the proposed Article 4 Direction:

Paragraph 53:

The use of Article 4 directions to remove national permitted development rights should:

- *where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)*
- *in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)*

- *in all cases, be based on robust evidence, and apply to the smallest geographical area possible.*

Paragraph 189:

Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value [66]. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations [67].

The following paragraphs of the [Planning Practice Guidance \(PPG\) section on 'When is permission required?'](#) are of particular relevance to the proposed Article 4 Direction:

Paragraph 037:

What can an article 4 direction do?

Provided that there is justification for both its purpose and extent, an article 4 direction can:

- *remove specified permitted development rights related to operational development or change of use*
- *remove permitted development rights with temporary or permanent effect*

Paragraph 038:

When is it appropriate to use article 4 directions?

The National Planning Policy Framework advises that all article 4 directions should be applied in a measured and targeted way. They should be based on robust evidence, and apply to the smallest geographical area possible.

Where an article 4 direction relates to a change from non-residential use to residential use, it should be limited to situations where an article 4 direction is necessary to avoid wholly unacceptable adverse impacts. In other cases, article 4 directions should be limited to situations where it is necessary to protect local amenity or the well-being of the area.

The potential harm that the article 4 direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to:

- *a wide area (eg those covering a large proportion of or the entire area of a local planning authority, National Park or Area of Outstanding National Beauty)*
- *an area extending beyond the essential core of a primary shopping area*
- *agriculture and forestry development. Article 4 directions related to agriculture and forestry will need to demonstrate that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty*
- *cases where prior approval powers are available to control permitted development*
- *the installation of microgeneration equipment*

Paragraph 045:

When can an immediate direction be used?

The circumstances in which an immediate direction can restrict development are limited. Immediate directions can be made in relation to development permitted by Parts 1 to 4 and 11 of Schedule 2 to the General Permitted Development Order, where the development presents an immediate threat to local amenity or prejudices the proper planning of an area. Immediate directions can also be made in relation to certain types of development in conservation areas. In all cases the local planning authorities must have already begun the consultation processes towards the making a non-immediate article 4 direction.

The road of Kingston Hill has an important role in the development of the wider Coombe Hill area, but much of the historic fabric has been lost due to WW2 bombing and the demolition, redevelopment and division of former estates. **North and South Lodge remain, and despite later alterations, play an important role in the townscape character of the area. They are therefore considered a local amenity in terms of culture, heritage and 'sense of place'.**

North Lodge (dating from mid-C19) and South Lodge (dating from late C19) act as local landmarks, marking the original gateways to the former Knoll and Kingsnympton Hall estates, and the existing Kingsnympton Park estate. They are evidence of the history of the urban morphology of the wider site. North Lodge in particular pre-dates most other existing buildings in the vicinity.

North Lodge and South Lodge and their respective entrance gateways were retained in the development of Kingsnympton Park Estate in 1950. Their value as non-designated heritage assets is recognised by the fact that they have been identified as Locally listed Buildings, and formerly Buildings of Townscape Merit, for over 30 years.

They form a group, together with the Grade 2 listed [Gateway to Kingsnympton Park beside South Lodge](#), and the interwar gateway on Crescent Road. The Gateway beside North Lodge was vandalised and removed by the Council in 1982, one year before the Gateway beside South Lodge was added to the Statutory List.

The potential harm that the direction is intended to address has been clearly identified and is necessary to protect local amenity or the wellbeing of the area.

Summary of the Historic and Architectural interest for each site:

North Lodge:

- Lodge to the former Knoll estate, and Kingsnympton Hall estate, now Kingsnympton Park. Mid C19. Tudoresque styling, but fairly plain. Red brick, flemish bond with flamed headers in geometric design; splayed brick returns and gauged camber arches; plinth; tiled roof; overhanging eaves; cast iron rainwater goods.
- One and a half storey block with cross wing north; single storey porches, each with lean-to roof supported by arched brace to east and west; brick chimney stacks with (replacement) tall moulded pots.
- SW main elevation: gabled front with scalloped bargeboards; porch supported by non-original timber posts to left; plank entrance door with wrought iron decorative

hinges; 2-light casement window in gable centre above and below; replacement concrete cills.

- NW elevation: central gabled wing with plain bargeboards; single chimney stack and rear entrance porch to left; 2 light casement window in gable centre above; single leaded casement windows below; decorative stone tablet to centre (illegible).
- SE elevation, facing Kingston Hill: left, double brick chimney stack with decorative stone tablet; central dormer with 2-light casement.
- Circa 1950 extension to NE gable end in mixed red stock brick; brick lintels and cills.
- Interior: not inspected, but understood to be largely altered.

South Lodge:

- Lodge to the former Knoll estate, and Kingsnympton Hall estate, now Kingsnympton Park. Sits behind portland stone entrance gateway (Grade II). Late C19. Tudoresque, but limited decoration. Red brick, english bond with stone dressings; splayed returns; plinth; slate roof; overhanging eaves with bargeboards and latticework gable decoration.
- One and a half storey block with L-shaped plan; single storey entrance wing to front; central brick chimney stack with decorative stone coping.
- SW main elevation: gabled front; single storey entrance wing to right, entrance door with gothic style panelling decoration; 2-light casement window in gable centre above; canted bay below with pyramidal roof in replacement slate.
- NW elevation: 2-light casement window to left and right.
- NE elevation: 2-light casement window in gable centre above; C20 extension below.
- SE elevation, facing Kingston Hill: 2-light casement window in gable centre above; single narrow casement window below to right; to left, single-storey entrance wing with central single narrow casement window.
- Interior: not inspected.

4. Alternative Options Considered

The Article 4 Direction proposes to withdraw permitted development rights granted under [Class B of Part 11 of Schedule 2 of The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(as amended\)](#), therefore it meets the criteria under which immediate Article 4 Directions can be introduced. Therefore no other options could be considered in this circumstance.

5. Financial and Resource Implications

The only identified costs associated with the creation of an Article 4 Direction is officer time.

In some circumstances, the Council can be liable to compensate developers or landowners whose developments are affected by Article 4 directions. Under sections 107 and 108 of the Town and Country Planning Act 1990 Local planning authorities are liable

to pay compensation to landowners who would have been able to develop under the permitted development rights that an Article 4 direction withdraws, if they:

- Refuse planning permission for development which would have been permitted development if it were not for an Article 4 direction; or
- Grant planning permission subject to more limiting conditions than the GPDO would normally allow, as a result of an Article 4 direction being in place.

The compensation may be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. 'Abortive expenditure' includes works carried out under the permitted development rights before they were removed, as well as the preparation of plans for the purposes of any work.

Loss or damage directly attributable to the withdrawal of permitted development rights can include the depreciation in the value of land or a building(s), when its value with the permitted development right is compared to its value without the right.

6. Legal Implications

An Article 4 Direction removes nationally permitted development rights.

The Council is allowed to serve an Article 4 Direction with immediate effect in accordance with Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 where they are satisfied that the type of development set out in the Schedule should not be carried out unless permission is granted for it on application, because it would be prejudicial to the proper planning of the area and constitute a threat to the amenities of that area.

Schedule 3 advises that an immediate Article 4 Direction takes effect upon publication and service of the notice, and remains in force for six months from the date it is given, until it is confirmed by the Council, having taken into account any representations received. The Council must notify the Secretary of State on the same day the notice is served.

Schedule 3 explains that the Council must consult on a non-immediate Article 4 Direction by (a) local advertisement, (b) site display at no fewer than two locations within the area to which the direction relates for a period of no less than six weeks and (c) by serving the notice on the owner and occupier of every part of the land within the area to which the direction relates, unless this is impractical.

The Council has considered the human rights issues relevant to this matter, especially Article 1 of the First Protocol which is the right to enjoy property and possessions. It is considered that the action proposed in this report represents an appropriate balance between the rights of the landowner (to enjoy land subject to reasonable and proportionate control by a public authority) and the interests of those affected by the matter and the wider public interest.

Owners and occupiers of the land should note that the Article 4 Direction does not prevent the development to which it applies but instead requires that planning permission is first obtained from the Council for that development.

7. Equalities Impact

An EqIA was not completed because this report does not propose changes to existing service-related policies or the development of new service-related policies.

8. Member Consultation Undertaken

The Co-chairs of Place Committee and Portfolio Holder for Culture, Heritage and Governance were consulted as part of this request.

9. Annexes

Annex 1 - Supporting photographs and mapping

Author of the Report: Hannah Harris, Lead Officer for Planning Policy