

CONSULTATION PAPER

Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended: PROPOSED REPLACEMENT ARTICLE 4 DIRECTION FOR EAST LoTHIAN

Introduction

1. Permitted development rights are specified in The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended (GPDO). They effectively provide rights to carry out some forms of development without the need for planning permission. Under section 4 of the GPDO a planning authority (in this case East Lothian Council) can introduce an Article 4 Direction which removes some classes of permitted development within any defined geographical area where there is a justifiable reason to do so. Most commonly these are used in designated conservation areas to remove permitted development rights for specific classes of development thus requiring the submission of a planning application for those types of development to ensure that the character and appearance of the conservation area is not harmed. They can also be made for other defined areas within the overall planning authority area.
2. At present there are two extant Town and Country Planning (Restriction of Permitted Development in Conservation Areas) (East Lothian) Directions (Article 4 Directions) that apply to most of East Lothian's Conservation Areas, made under the Town and Country Planning (General Development) (Scotland) Order 1981, and which date from 1979 and 1981. Following a series of amendments over time to the GPDO, the classes of development that East Lothian Council as planning authority wishes to include within a replacement Article 4 Direction require to be revised and updated.
3. The proposed new replacement Article 4 Direction and the classes of permitted development which are proposed to be removed are explained below.

Background

4. East Lothian has a total of 30 different designated conservation areas. A conservation area is an area of special architectural or historic interest and can form a part of a settlement commonly the historic core, or the whole of a settlement as can be the case in some smaller villages. The 30 designated conservation areas in East Lothian are listed in Table 1.

TABLE 1 – All Designated Conservation Areas in East Lothian

Musselburgh	Haddington	Dunbar
Inveresk	Athelstaneford	Belhaven
Tranent	Gifford	West Barns
Preston, Prestonpans	Garvald	Innerwick
Harlawhill, Prestonpans		Oldhamstocks
Cockenzie and Port Seton	North Berwick	Stenton
Pencaitland	Aberlady	Spott
Ormiston	Gullane	Oldhamstocks
East Saltoun	Dirleton	Tynninghame
New Winton	Drem	East Linton
Glenkinchie	Whitekirk	

5. Most, but not all designated conservation areas are also covered by the 1979 and 1981 Article 4 Directions. The conservation areas listed in Table 2 are not covered by an Article 4 Direction.

TABLE 2 – East Lothian Conservation Areas not currently covered by an Article 4 Direction

Harlawhill, Prestonpans	Tynninghame
Glenkinchie	West Barns
East Saltoun	Spott
New Winton	Whitekirk
Drem	

6. From time to time a planning authority is required to review its conservation areas and this is usually done during the preparation of a new local development plan. Some boundaries of existing conservation areas have been extended over time, but the Article 4 Direction has not been updated to include the extended area. The replacement Article 4 Direction will cover the whole of each conservation area to which it applies.

The Proposed replacement Article 4 Direction

7. The proposed new East Lothian Article 4 Direction will remove the following classes of permitted development from the GPDO that are proposed to be restricted in East Lothian's designated conservation areas. The proposed removal of each Class and its inclusion in the proposed Article 4 Direction is justified and the designated conservation areas affected are noted.

Class 6C – This Class permits the installation, alteration or replacement of a chimney flue, forming part of a biomass heating system, on a dwellinghouse or building containing a flat.

Justification: While Class 6C does not permit a flue on the principal elevation of a building in a conservation area, many of East Lothian's conservation areas contain buildings where other elevations of a building are also prominent. Without planning control on materials and design the provision of a flue on any part of a building in a Conservation Area could have a significant visual impact on the area without control over materials or design. A flue can

often be manufactured in a shiny metal and therefore could be a visually prominent fixture and if prominent, is considered could have a significant visual impact to the detriment of the conservation area.

Application: The removal of Class 6C will apply to all 30 designated conservation areas in East Lothian as listed in Table 1.

Class 6F – This Class controls the installation, alteration or replacement of a flue, forming part of a combined heat and power system, on a dwellinghouse or building containing a flat.

Justification: While this Class does not permit a flue that would protrude more than 1m above the highest part of a roof or if it would be fixed to the principal elevation of a building in a conservation area, many of East Lothian’s conservation areas contain buildings where other elevations of a building are also prominent such as on a corner plot. Without planning control on materials and design the provision of a flue on any part of a building in a Conservation Area could have a significant visual impact on the area as there would be no control over its materials or design. A flue is often made of a shiny metal and therefore could be a visually prominent fixture and if prominent, is considered could have a significant visual impact to the detriment of the conservation area.

Application: The removal of Class 6F will apply to all 30 designated conservation areas in East Lothian as listed in Table 1.

Class 7 – in summary, this class relates to the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure in a non residential situation that is not permitted if over 1m in height and within 20 metres of a road or 2m elsewhere.

Justification: Not all buildings in a conservation area are residential and the appearance of walls fences and gates could harm the character and appearance of the conservation area and should be subject to control.

Application: The removal of Class 7 will apply to all properties within all 30 designated conservation areas in East Lothian as listed in Table 1.

Class 7A – This Class permits the alteration or replacement of an existing window in a building in a conservation area where the window is part of the principal elevation or a side elevation where that elevation fronts a road and the window as altered or replaced would not be the same, or substantially the same, as the window to be altered or replaced in the following respects (i) the manner in which the window is opened and closed, (ii) the number, orientation and colour of the panes comprised in the window, (iii) the dimensions and colour of the frame of the window or any astragal bars comprised in the window subject to the prior notification of East Lothian Council as planning authority in respect of the design and external appearance of the proposed alteration to or replacement window, and a written description of the proposed development, the materials to be used and a plan indicating the site. The planning authority must respond within 28 days.

Justification: The process of prior notification permitted by this class does not provide sufficient detailed information in the form of detailed drawings to ensure that the proposed window in a principal or prominent elevation of a building in a conservation area would adequately match the qualities of the existing window in particular its dimensions and any detailed architectural mouldings. Without planning control on materials and design the provision of a replacement or altered window could have a significant visual impact on the conservation area. Since their earliest designation in 1969 East Lothian as planning authority has managed its conservation areas carefully including the encouragement of traditional materials in its window replacements to the stage where there are very few non traditional windows in its conservation areas. The heritage benefits and resultant cumulative economic benefits in terms of tourism that this brings to East Lothian is sufficiently important to justify the removal of this Class of permitted development in East Lothian conservation areas. Similar standards of energy efficiency in replacement windows can be made in timber windows. It is also worth noting that without this it would negate the effect of various grant schemes in East Lothian conservation areas that encouraged the installation of traditional window materials.

Application: The removal of Class 7A will apply to all properties in all 30 designated conservation areas in East Lothian as listed in Table 1.

Class 8 – this Class permits the formation, laying out and construction of a means of access to a road 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 classes 3E or 7.

Justification: The construction of a means of access within designated conservation areas could be proposed in a way that could be harmful to the character of a conservation area.

Application: The removal of Class 8 will apply to all 30 designated conservation areas in East Lothian as listed in Table 1.

Class 11B – this Class permits the change of use of a building such as a shop or a professional or other service to a use within class 4 (business).

Justification: Many of East Lothian’s conservation areas include designated town or local centres. A class 4 (business) use in such an area could be detrimental to that area in terms of being a more lightly used space that undermines the vibrancy and viability of the area and should therefore be subject to planning control.

Application: The removal of Class 11B will apply to all 30 designated conservation areas in East Lothian as listed in Table 1.

Class 27 – this class permits the carrying out on land within the boundaries of a private road or private way of works required for the maintenance or improvement of the road or way.

Justification: Many conservation areas contain private roads, tracks and paths that form part of the character of the area. Without planning control on materials and design there could be a significant visual impact on the conservation area.

Application: The removal of Class 27 will apply to all 30 designated conservation areas in East Lothian as listed in Table 1

Class 33 – in summary, this class allows works by a local authority for work not exceeding £250,000.

Justification: Works by the local authority that cost less than the sum mentioned can still have a visual impact on the character and appearance of a conservation area and should be controlled.

Application: The removal of Class 11B will apply to all 30 designated conservation areas in East Lothian as listed in Table 1

Class 35 – in summary, this Class permits dock, pier, harbour, water transport, canal or inland navigation undertaking. Specific to East Lothian only harbours and piers are relevant for those conservation area which have these features.

Justification – Those conservation areas that include harbours and piers may require works to them from time to time. This class is only removed in Conservation Areas which contain harbours and seeks to control the appearance of permitted development works on operational land.

Application: The removal of Class 35 will apply to the designated conservation areas of Cockenzie and Port Seton, North Berwick and Dunbar.

Class 38 – in summary, this Class permits water undertakings including the laying underground of mains, pipes and other apparatus; installation of associated booster station, valve or switch gear housing of up to 29 cubic metres in capacity above ground and extension or alteration to existing water infrastructure building of up to 1,000 square metres.

Justification – where water infrastructure is required in a conservation area control is required to ensure that such infrastructure does not harm the character or appearance of the conservation area and was included in the extant Article 4 Direction for East Lothian.

Application - The removal of Class 38 will apply to all 30 designated conservation areas in East Lothian as listed in Table 1.

How to respond to this consultation

8. You can respond to this consultation by either completing the short questionnaire on Citizen Space (eastlothianconsultations.co.uk) or at all libraries in East Lothian or in writing to Chief

Planning Officer East Lothian Council John Muir House Haddington EH413HA or by email to policyandprojects@eastlothian.gov.uk

Appendix

9. Maps of each designated conservation area in East Lothian are available to download at https://www.eastlothian.gov.uk/downloads/download/12859/historic_environment_and_planning
10. Any queries about this consultation should be addressed to policyandprojects@eastlothian.gov.uk