

EAST AYRSHIRE COUNCIL

CABINET – 5 MAY 2010

CUMNOCK CONSERVATION AREA – PROPOSED ARTICLE 4 DIRECTION AND REMOVAL OF DEEMED ADVERTISEMENT CONSENT

Report by Depute Chief Executive/ Executive Director of Neighbourhood Services

1. PURPOSE OF REPORT

- 1.1** To seek cabinet approval to implement an Article 4 Direction and the removal of deemed advertisement consent for Cumnock Conservation Area, and to approve the classes of development and advertisement to be brought under the control of the Council as Planning Authority.

2 BACKGROUND

- 2.1** On 8 July 2008 Cabinet agreed to submit a bid to Historic Scotland for grant assistance to establish a Conservation Area Regeneration Scheme (CARS) for Cumnock Conservation Area, to conserve and enhance the historic fabric of the town and to compliment the wider Cumnock regeneration project. The CARS bid was approved by Historic Scotland on 6 February 2009 and formally launched in September 2009.
- 2.2** In support of the CARS application and to gain a full understanding of the characteristics of the Conservation Area, including current weaknesses and opportunities for improvement, a Conservation Area Appraisal was undertaken. The Conservation Area Appraisal recognised that over recent years, the character and appearance of the Conservation Area has been affected by the inappropriate replacement of traditional features, particularly in reference to the introduction of modern signage and shopfronts and the introduction of inappropriate materials such as UPVC windows/doors and plastic rainwater goods. The Conservation Area Appraisal was approved by Cabinet as Supplementary Planning Guidance on 17 June 2009.
- 2.3** In light of the findings of the Conservation Area Appraisal and in order to demonstrate the Council's commitment to protecting and enhancing the Conservation Area, the CARS application proposed that the Council would prepare an Article 4 Direction and the removal of deemed consent for certain classes of advertisements within the Conservation Area. Cabinet approval is therefore being sought to take forward this proposal.

3. AN ARTICLE 4 DIRECTION

- 3.1** Planning authorities may seek to extend planning controls in a Conservation Area by applying to Scottish Ministers for an Article 4 Direction, which

removes permitted development in the area concerned. This means the Planning Authority gains greater control over development within Conservation Areas, in order that a better quality of development can be sought. If planning permission is required by virtue of the Article 4 Direction, a planning application fee is not required.

3.2 An Article 4 Direction is considered important for Cumnock as it will support the substantial investment being made in the built environment through the CARS. Article 4 Directions have already been established for the John Finnie Street and Bank Street Outstanding Conservation Area in Kilmarnock and the Newmilns Outstanding Conservation Area, to support the Kilmarnock CARS and the Kilmarnock and Newmilns Townscape Heritage Initiatives.

3.3 It is considered appropriate to only remove those classes of permitted development, which will result in the greatest benefit to Cumnock Conservation Area. It is therefore proposed to remove the following classes from Permitted Development:

- Classes 1, 3, 6, 6A – 6F, which relate to development within the curtilage of a dwellinghouse;
- Classes 7 and 8, which relate to sundry minor operations;
- Classes 31 and 33, which relate to development by local authorities

A detailed description of the classes outlined above is contained within Appendix A of the report.

4. REMOVAL OF DEEMED CONSENT FOR ADVERTISING

4.1 The Conservation Area Appraisal highlighted that the Conservation Area has been negatively affected by the introduction of modern signage and that such standardised advertisements can have an adverse impact on people's perceptions of the fabric and quality of the Conservation Area.

4.2 The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 identify a number of classes of advertisements which can be displayed without the need to apply for advertisement consent. However Regulation 11 of the legislation, allows for Scottish Ministers to make a Direction to remove those classes from deemed consent, the consequence being that advertisement consent would require to be granted by the Planning Authority, before such adverts could be displayed.

4.3 In order protect the character and amenity of the Conservation Area, it is proposed that the Council should apply to Scottish Ministers for the removal of deemed consent for certain classes of advertisement. If advertisement consent is required by virtue of the removal of deemed consent, an advertisement fee is not required.

- 4.4** Similar to the Article 4 Direction, it is considered appropriate to remove only those classes of advertisement which bring the greatest benefit to Cumnock Conservation Area. It is therefore proposed to remove the following classes of advertisement:
- Class 1, which relates to functional advertisements of local authorities, community councils, statutory undertakers and public transport undertakers.
 - Class 2, which relates to miscellaneous advertisements relating to land on which they are displayed.
 - Class 3, which relates to certain advertisements of a temporary nature
 - Class 4, which relates to advertisements on business premises
 - Class 5, which relates to certain advertisements within business premises

A detailed description of the classes outlined above is contained within Appendix B of this report.

5 NEXT STEPS

- 5.1** Should cabinet agree to proceed with the Article 4 Direction and removal of deemed consent for advertisements, appropriate adverts will be placed in the local press and consultation will be carried out with tenants and property owners within the Conservation Area. Thereafter, and taking account of any comments received, justification will be prepared and submitted to Scottish Ministers to seek approval for the Article 4 and removal of deemed consent.

6 FINANCIAL IMPLICATIONS

- 6.1** As stated in sections 3 and 4 above, the Council will not receive a planning application fee or advertisement fee for any application that is submitted as a result of the Article 4 Direction or the removal of deemed consent for advertisements. The additional advertisements fees can be accommodated within existing budgets.

7 PERSONNEL IMPLICATIONS

- 7.1** Any additional work required in relation to the above proposals can be incorporated into the work programme of existing staff within the Planning and Economic Development division.

8. LEGAL IMPLICATIONS

- 8.1** The duty to formulate proposals for the preservation and enhancement of Conservation Areas is contained within Section 63 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997.

8.2 The procedure for the designation of an Article 4 Direction is contained within the Town and Country Planning (General Permitted Development) (Scotland) Order 1992

8.3 The procedure for removing deemed consent for advertisements is contained within the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984

9. POLICY IMPLICATIONS

9.1 The procedures proposed within this report are in accordance with the Environmental Policies within the East Ayrshire Local Plan and the Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications). The project also contributes towards meeting the aims of the Conservation Area Appraisal that forms Supplementary Planning Guidance.

10. COMMUNITY PLANNING IMPLICATIONS

10.1 The proposed Article 4 and removal of deemed advertisement will contribute to the Community Planning theme 'delivering community regeneration' which aims to regenerate our town centres and villages, and deal with run down areas

11. RISK MANAGEMENT IMPLICATIONS

11.1 There are no risk management implications arising from the proposals contained within this report.

12. RECOMMENDATION

12.1 It is recommended that Cabinet: -

- (i) Authorise the Head of Planning and Economic Development to prepare and implement the proposed Article 4 Direction and agree the classes of development to be included within direction;**
- (ii) Authorise the Head of Planning and Economic Development to prepare and implement the removal of deemed consent for advertisements and agree the classes of advertisement for which deemed consent should be removed.**

Elizabeth Morton
Depute Chief Executive / Executive Director of Corporate Support

24 March 2010

LIST OF APPENDICES

Appendix 1 – Proposed classes of permitted development to be included within the Article 4 Direction

Appendix 2 – Proposed classes of advertisement for which deemed consent should be removed

LIST OF BACKGROUND PAPERS

1. Report to cabinet on 2 July 2008 – Conservation Area Regeneration Scheme (CARS) for Cumnock Conservation Area
2. Report to cabinet on 17 June 2009 – Cumnock Conservation Area Appraisal
3. Cumnock Conservation Area Appraisal Report – Austin Smith: Lord (May 2009)

Members wishing further information should contact Alison Donald, Planning Officer on 01563 576758 or Karl Doroszenko, Development Planning and Regeneration Manager on 01563 576751

Implementation Officer: Alan Neish, Head of Planning & Economic Development

Appendix 1 – Proposed Classes of permitted development to be included within the Article 4 Direction for Cumnock Conservation Area

- **Class 1** – The enlargement, improvement or other alteration of a dwellinghouse

- **Class 3** – The provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse, or the maintenance, improvement or other alteration of such a building or enclosure.

- **Class 6** – Installation, alteration or replacement of a satellite antenna on a dwellinghouse

- **Class 6A - 6F** – Installation, alteration or replacement of a:
 - solar PV or solar thermal equipment (6A)
 - free-standing solar within the curtilage of a dwellinghouse (6B)
 - a flue, forming part of a biomass heating system, on a dwellinghouse or building containing a flat (6C)
 - ground source heat pump within the curtilage of a dwellinghouse or building containing a flat (6D)
 - water source heat pump within the curtilage of a dwellinghouse or building containing a flat
 - flue forming part of a combined heat and power system on a dwellinghouse or building containing a flat

- **Class 7** - The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

- **Class 8** - 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 a development permitted by any class in this Schedule other than Class 7.

- **Class 31** – The carrying out by a roads authority:
 - a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road where said works involve development by virtue of Section 26(2)(b) of the Town and Country Planning (Scotland) Act 1997;
 - b) on land outside but adjoining the boundary of an existing road of works required for, or incidental to the maintenance or improvement of the road.

- **Class 33** – The carrying out, within their own district by a planning authority of:
 - a) works for the erection of dwellinghouses so long as those works conform to a local plan adopted under Section 17 of the 1997 Act;
 - b) any development under the Housing (Scotland) Act 1987 not being development to which the last foregoing sub paragraph applies so long as the development conforms to a local plan adopted as aforesaid;
 - c) any development under any enactment the estimated cost of which does not exceed £100,000.

Appendix 2 – Proposed classes of advertisement for which deemed consent should be removed

- **Class 1** – Functional advertisements of local authorities, community councils, statutory undertakers and public transport undertakers.
 - (i) Advertisements relating to any function or operation of a local authority, community council, statutory undertaker or public transport undertaker, which are reasonably required in order to secure the safe or efficient performance of those function or operations and which cannot be displayed in such a manner under the provisions of these regulations relating to advertisements of any other specified class.

- **Class 2** – Miscellaneous advertisements relating to land on which they are displayed:
 - (i) Advertisements for the purpose of identification, direction or warning with respect to the land or building on which they are displayed.
 - (ii) Advertisements relating to any person, partnership or company separately carrying on a profession, business, or trade at the premises where any such advertisement is displayed
 - (iii) Advertisements relating to any institution of a religious, educational, cultural, recreational or medical or similar character to any hotel, inn or public house, block of flats, club, boarding-house or hostel, situated on the land on which any such advertisement is displayed.

- **Class 3** – Certain advertisements of a temporary nature
 - (vi) Advertisements on hoardings enclosing, either wholly or in part, land on which building operations are taking or about to take place and which is designated in any development plan for the time being in force primarily for commercial, industrial or business purposes.

- **Class 4** – Advertisements on business premises
 - (i) Advertisements displayed on business premises wholly with reference to all or any of the following matters: the business or other activity carried on, the goods sold or services provided, and the name and qualification of the person carrying on such business or activity or manufacturing or supplying such goods or services on those premises.
 - (ii) Advertisements displayed on any forecourt of business premises wholly with reference to all or any of the matters specified in paragraph (i) above.

- **Class 5** – Advertisements displayed within any building and not exempted from these regulations by virtue of regulation 3(2).