

Agenda Item No:	8	
Committee:	Cabinet	
Date:	5th September 2022	
Report Title:	Article 4 Direction Confirmation – Land to the rear of B1098, Horseway, Nr Chatteris	

1 Purpose / Summary

- 1.1 To seek authority from Cabinet (under the Part 3, Table 1 of the Council's constitution: Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000) to confirm the Article 4 Direction to remove permitted development rights for means of enclosure, formation of accesses, temporary uses and caravans, formation of tracks on land located in the open countryside to the rear of established and unrelated residential properties on the B1098, Horseway, Nr Chatteris, in the interests of the protection and appearance of the countryside.

2 Key Issues

- 2.1 Land to the rear of the B1098, Horseway has been divided up in to approximately 100 parcels many of which have been sold off to the general public. Owners have begun to erect fences and gates and place buildings and general paraphernalia on their parcels of land. This development is beginning to alter the appearance of the locality to its detriment. Some of the development may require planning permission and be unauthorised. Given the remote location, the large number of plots and individual owners involved, the monitoring and identification of unauthorised development is very challenging.
- 2.2 A report was presented to Cabinet on 22 March 2022 regarding the serving of an immediate Article 4 Direction. Cabinet agreed to the serving of the Direction and the Direction was then published, publicised and consulted on in accordance with the legislation. The purpose of this report is to present the representations received and request that Cabinet consider confirming the Direction having considered the representations received

3 Recommendations

- 3.1 That Committee confirm the Article 4 Direction to remove permitted development rights as set out in Section 1.2 of this report a) to d).

Wards Affected	Manea
Forward Plan Reference	N/A
Portfolio Holder(s)	Councillor Dee Laws - Planning
Report Originator(s)	Nick Harding – Head of Planning
Contact Officer(s)	Nick Harding – Head of Planning nharding@fenland.gov.uk Dan Horn – Acting Assistant Director dhorn@fenland.gov.uk
Background Papers	General Permitted Development Order Development National Planning Policy Framework (NPPF) Planning Policy Guidance (NPPG).

1 BACKGROUND AND INTENDED OUTCOMES

- 1.1 This report is seeking the confirmation of the Article 4 Direction (Town and Country Planning (General Permitted Development) Order 2015 (as amended) following the public consultation. 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 (c100) and some of the new owners have undertaken works/ changed ten use of the land. Given the rural location, away from any settlement, the introduction of fences etc , tracks, caravans, temporary uses/ buildings and caravans on the plots over a wide area, would be detrimental to the appearance of the countryside. There is the need to control these development in the interest of the protection of the countryside.
- 1.2 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.
 - c) Temporary use of land comprised within Class B of Part 4 of Schedule 2 to the Order and not being development within any other Class.
 - d) Use of land as a caravan site within Class A Of Part 5 of Schedule 2 to the order and not being development within any other class.
- 1.3 The effect of the Article 4(1) Direction has been such that development comprising the erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure; the formation, laying out and construction of a means of access to a highway; temporary use of the land: or use of the land as a caravan site, will

now require the formal determination through the submission of a planning application.

- 1.4 The Direction was publicised through a formal notice in the local newspaper, and the erection of several site notices and a period of six weeks was given for the submission of representations.
- 1.5 If the Direction is not confirmed it will automatically lapse (after 6 months from when it was made) unless it is confirmed beforehand.
- 1.6 Representations were received from 4 households and are summaries below (personal information has been removed as appropriate)

Comment 1: If said Article 4 affects us in any way we wish raise an objection to removal of our fences and or our right of access as we hold livestock here and will require to preserve and maintain our fences and access for the safety and security of our livestock and ourselves.

Response: The Direction does not have the effect of requiring the removal of fences and tracks which have been lawfully established prior to the Direction coming into effect.

Comment 2: We have lived here for some time since and have enjoyed access to the land known as Meadow Farm which allows horses to be safely ridden to other safe areas from the B1098.

Response: The Direction would not stop this.

Comment 3: We own 9 of the plots and the access track adjacent to them and they are fenced for use of grazing and we maintain this grass land to a good standard.

Response: The Direction would not stop this.

Comment 4: We have 10 plots of land and the council have put an article 4 on this area and we would like this to be removed so we can keep our animals safe.

Response: The Direction would not stop this.

Comment 5: We have over 50 animals here, which some are breeding and need constant care. Our sheep keep escaping through the electric fence and we were just about to erect a proper fence for them. If the sheep were to get out on to the road this could possibly cause a fatality, we also have goats and they require hard fencing as they do like to escape, and it is a legal requirement from the government to keep your animals in a safe and secure enclosure. Also because of the avian flu we had to cover our bird pens, again a legal requirement from the government but due to the force winds we had recently, the tops have come off, and now the article 4 has been put in place we can't do anything to fix it, now we are breaking the law with the government as they require you to cover your birds during the avian flu but then we are breaking the law with the council as you require us not to repair anything. Our plots are being used purely for farming and agriculture, and the other plots seem to be used for leisure and we have nothing to do with that. This land has always been used as farmland and we have not changed the purpose.

Response: The Direction does not require the removal of development that was lawful and undertaken prior to the Immediate Article 4 Direction coming into force. The Direction does not mean that planning permission will automatically be refused for development, it just means that planning permission is required for matters that would in other circumstances be permitted development.

Comment 6: I purchased 2 plots during the covid pandemic so that my extended family could spend time together in a safe environment as my parents and myself work in high risk jobs and in the interest of the wellbeing of some family members.

Working the land together has allowed us to contribute to our well-being and to sustaining the environment and have a lower impact on the planet. Since purchasing the land we have planted over 100 trees, bushes, fruit trees and sewn wild meadow flower seeds. We have put up bird boxes and made nesting sites and are pleased to report that the wildlife is thriving. We had a need to put a caravan on site (for cooking, changing, cleaning and wc purposes) and build a shelter attached to it for the benefit of a family member with particular health needs. The caravan cannot be seen from the road or any houses as it is completely hidden by the shelter which is painted so that it blends into the surroundings; there is also a row of trees between the site and the road. A hide has been built surrounding a small caravan, which is also completely hidden, to enable us to stay and get up at dawn to monitor the wildlife of which there is abundance. Fencing is post and rail so wildlife can freely wander and be monitored. Welfare facilities which are hidden within the setting include toilet, washing facilities, changing and rest area, eating and drinking facilities. To protect the environment human waste, rubbish and food is all taken away to be disposed of at our main residencies as we do not stay on site for any length of time. Welfare provision is a fundamental part of safeguarding the health and well-being of my family and is an essential part of good working conditions. We hope to continue to enjoy using our land while supporting the environment and local economy.

Response: The Direction will not result in the need to remove a development that was lawful at the time of the Direction coming into force.

Comment 7 (Cllr Marks as Ward Councillor): Supports Fenland Districts Councils stance.

Response: The support is noted.

Comment 8 (Manea Parish Council): Supports the Article 4 Direction.

Response: The support is noted.

- 1.7 The comments received do not raise any matters that make a case against the need for the removal of specified permitted development rights. Instead the comments express (in the main) concern that development undertaken lawfully may have to be removed. This is not the case as no removal of lawful development is required. There is also the mistaken assumption that the Direction prevents planning permission being granted for the type of development that is no longer permitted development. It is not the case that planning permission will automatically be refused. Each proposal for development will be considered against the relevant national and local plan policies and other material considerations pertinent to the proposal. Whilst there will be the inconvenience and cost associated with making a planning application, this does not outweigh the value and importance of protecting this area of countryside from inappropriate forms of development. It is therefore recommended that the Direction is confirmed.

2 REASONS FOR RECOMMENDATIONS

- 2.1 The land in question has / is being sold off in a series of plots (c100) and some of the new owners have undertaken works/ changed the use of the land. Given the rural location, away from any settlement, the introduction of fences etc, tracks, caravans, temporary uses/ buildings and caravans on the plots over a wide area, would be detrimental to the appearance of the countryside. There is the need to control this development in the interest of the protection of the countryside.

3 CONSULTATION

- 3.1 Consultation took place following the Cabinet decision to serve the Immediate Article 4 Direction in accordance with the requirements of the legislation. The results of the consultation is reported in this report.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The alternative that has been considered is to do nothing and let the Immediate Article 4 Direction lapse. In such circumstances we would simply respond to any reports of unauthorised development through the usual planning enforcement process. This is not considered to be a viable / appropriate option given the remoteness of the location and the number of plots that there are on the land.

5 IMPLICATIONS

5.1 Legal Implications

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). 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. 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

5.2 Financial Implications

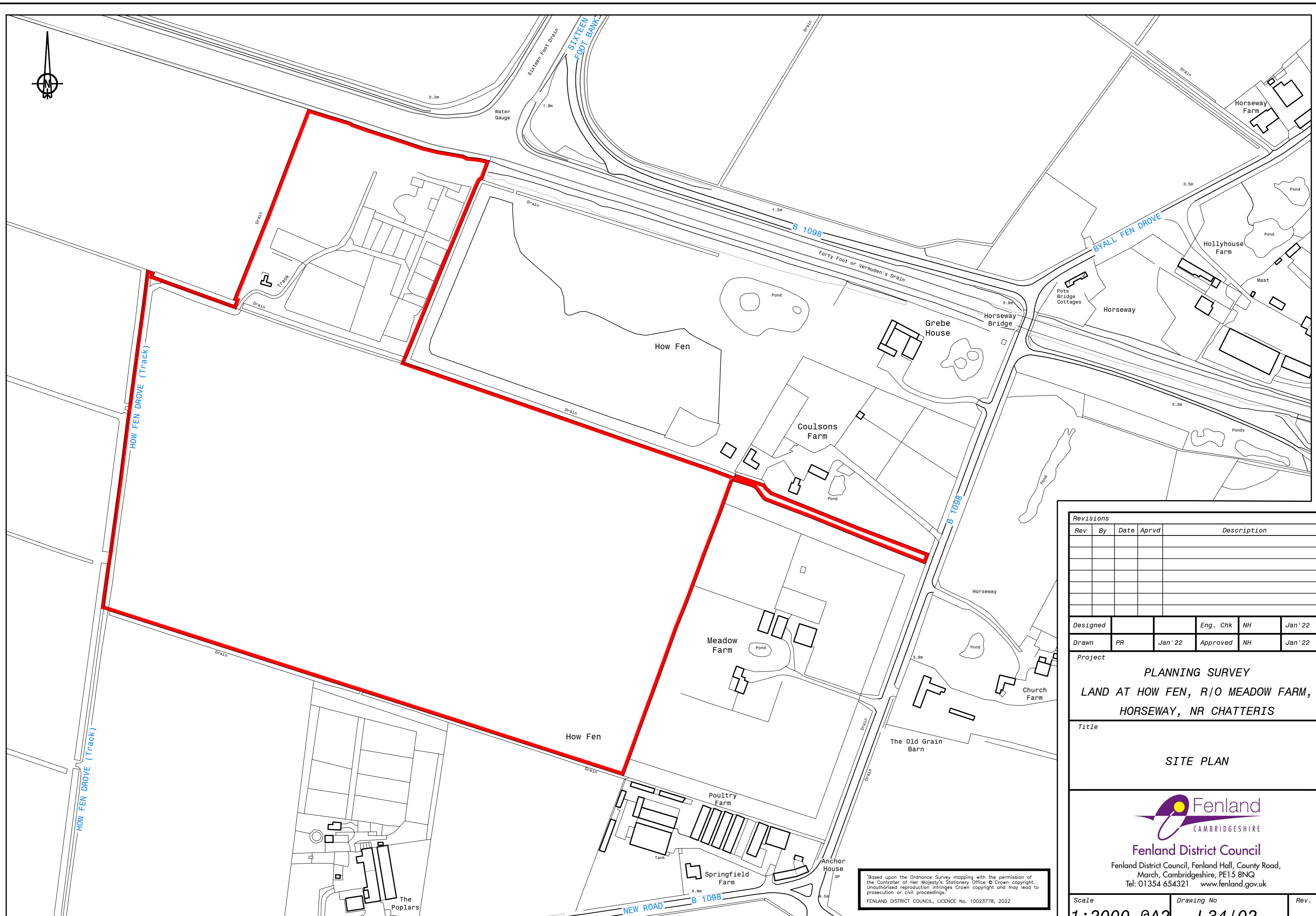
See above legal implications above. There is also the cost of the surveying of the land. Prices for this work have not yet been obtained. The cost of the survey work will be funded from the Planning Reserve.

5.3 Equality Implications

There are no equality issues for consideration.

6 SCHEDULES

Appendix 1 – general site location plan
Appendix 2 – site location plan



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 FENLAND DISTRICT COUNCIL, LICENCE No. 10023778, 2022

Revisions					
Rev	By	Date	Aprvd	Description	

Designed			Eng. Chk	NH	Jan '22
Drawn	PR	Jan '22	Approved	NH	Jan '22

Project
**PLANNING SURVEY
 LAND AT HOW FEN, R/O MEADOW FARM,
 HORSEWAY, NR CHATTERIS**

Title
SITE PLAN



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Scale	Drawing No	Rev.
1:2000 @A2	L34/02	