

EXECUTIVE REPORT

The Crown Article 4 Direction to Control Demolition

The Elected Mayor

Director for Economic Development and Communities: Kevin Parkes

7 May 2015

PURPOSE OF THE REPORT

1. The purpose of this report is to seek the approval of the Executive to make an Article 4 Direction to provide control to the Council over demolition of The Crown, Linthorpe Road.

SUMMARY OF RECOMMENDATIONS

2. It is recommended that the Council makes an Article 4 Direction to control the demolition of The Crown.

IF THIS IS A KEY DECISION WHICH KEY DECISION TEST APPLIES?

3. It is over the financial threshold (£150,000)
It has a significant impact on 2 or more wards
Non Key

DECISION IMPLEMENTATION DEADLINE

4. For the purposes of the scrutiny call in procedure this report is

Non-urgent
Urgent report

If urgent please give full reasons

The Council has evidence to suggest the owners of The Crown are seeking to demolish the building, which would result in the loss of a valuable local heritage asset. The introduction of the Article 4 Direction as a matter of urgency could be critical.

BACKGROUND AND EXTERNAL CONSULTATION

4. The Crown is situated on the corner of Linthorpe Road and Borough Road, in a very prominent location in Middlesbrough town centre and was included on the Council's Local List in 2011 because of its architectural interest and social value. Research suggests that The Crown was designed by Architect J Forbes in 1919, and built for Elite Cinemas in 1923. The building is of high importance locally, having been a cinema until 1987, then a Bingo Hall and lately a public house. The Crown is a landmark building of high townscape value.
5. A number of local residents have contacted Council officers since the closure of the public house, raising concerns about the future of The Crown since its sale. The Council does not currently have control over the demolition of this Locally Listed building because it is not in a Conservation Area. To bring demolition under the Council's control it would be necessary to make an Article 4 Direction.
6. Up until 28th April 2015 the Council was not aware of imminent plans for demolition, however following a meeting on this date the Council was made aware of a consultation leaflet which clearly states that Option 1 is to demolish the existing building and therefore the building is considered at threat.

Article 4 Directions

7. Article 4 Directions remove specific permitted Development (PD) Rights to specific locations as set out in the Department for Communities and Local Government (DCLG) circular:

'Article 4 directions are one of the tools available to local planning authorities in responding to the particular needs of their areas. They do this by allowing authorities to withdraw the 'permitted development' rights that would otherwise apply by virtue of the Town and Country Planning (General Permitted Development) Order 1995 as amended (the 'GPDO'). An article 4 direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development.'
8. The Council should only make an Article 4 Direction where there is evidence that there would be harm to *'local amenity or the proper planning of the area'* (DCLG:1).
9. The Article 4 Direction would seek to address the potential harm that would be caused by the demolition of The Crown, which is highly valued locally. Harm would result from the loss of one of Middlesbrough's most prominent Locally Listed buildings.
10. The DCLG guidance on Article 4 Directions specifically states that local planning authorities could consider an Article 4 Direction if the exercise of PD rights would *'[u]ndermine the visual amenity of the area or damage the historic environment.'*

Next steps

11. The Council should make a non-immediate Article 4 Direction to control the demolition of The Crown as a matter of urgency. This means that public consultation would commence at the same time. The process would be as follows:
 - a. Prepare a non-immediate Article 4 Direction initially; this would include a Statutory Notice in the Evening Gazette and press release, and notifying the owners of The Crown.
 - b. The temporary Direction will be included in the Land Charges register;
 - c. The Council have a 6 month period within which to confirm the Article 4 Direction;
 - d. Within the period of consultation on the Article 4 Direction, the owners must notify the Council of an intention to demolish the building the Council will have a time within the four week notice period to introduce an Immediate Direction which would provide immediate control.
 - e. Immediate directions are only possible where there is an immediate threat to local amenity or prejudice the proper planning of the area. The Council must have already begun the consultation process towards making the non-immediate Article 4 Direction before making an immediate Article 4 Direction.
 - f. Following consultation, the Council must confirm the Direction within 6 months then publish a notice in the Evening Gazette and inform Land Charges.

IMPACT ASSESSMENT (IA)

12. The Impact Assessment has not identified any negative impacts.

OPTION APPRAISAL/RISK ASSESSMENT

13. Option A – make an Article 4 Direction for the Crown to remove PD rights to demolish the building. If the Article 4 Direction is introduced it will give the Council control over the demolition of the building and planning permission would be required for demolition. The risks associated with this are:
 - a. Compensation claims: Local planning authorities may be liable to pay compensation to those whose permitted development rights have been withdrawn if they refuse planning permission for development which would have been permitted development if it were not for an article 4 direction; or
 - b. The developers leave the building empty and allow it to decay, in which case the Council would have to use other powers, such as Urgent Works Notice, to ensure repair of the building. Council Officers are working with developers to agree a way forward for a viable future use of the building.
14. Option B – If the Article 4 Direction is not introduced there is a possibility that the building could be demolished if the developers choose to do so.
15. It is felt that the risk of losing another significant building in Middlesbrough Town Centre outweigh the risk of compensation or potential decay therefore Option A is the preferred option.

FINANCIAL, LEGAL AND WARD IMPLICATIONS

16. **Financial** – The cost of introducing the Article 4 Direction will be approximately £500 to cover the cost of placing the statutory notice in the Evening Gazette. There is potential for compensation for costs incurred towards abortive work by the developer if demonstrated that this is abortive as a result of the Article 4 Direction.
17. Any planning application required as a consequence of an article 4 direction is exempt from the usual planning application fee.
18. **Ward Implications** – Members have not yet been consulted on proposals.
19. **Legal Implications** – Legal Services will be required to prepare and sign off the Article 4 Direction. Notice of the Direction should be served on the owners of the property affected and advertised in the local press.
20. The Direction must be confirmed within six months of the notice being served, or it will lapse.
21. The Council will review the relevance of the Article 4 Direction if and when a suitable development is approved and completed.

RECOMMENDATIONS

22. It is recommended that the Council makes an Article 4 Direction to control the demolition of The Crown.
23. Without the Article 4 Direction the building is at risk of demolition, which the Council cannot control without an Article 4 Direction. This would result in the loss of a significant locally listed building in Middlesbrough town centre.

BACKGROUND PAPERS

The following background papers were used in the preparation of this report:

- Middlesbrough Council's Local List (2011)
- Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995

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