

COUNCIL

25 JANUARY 2022

REFERENCE FROM PLANNING POLICY & LOCAL PLAN COMMITTEE

A.5 MOTION TO COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE 12 - APPLICATION OF ARTICLE 4 DIRECTIONS IN THE DISTRICT OF TENDRING

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Council to consider the Planning Policy & Local Plan Committee's recommendation in relation to a motion submitted at the meeting of the Council held on 30 November 2021 by Councillor Alan Coley in relation to the application of Article 4 Directions.

EXECUTIVE SUMMARY

Further to Minute 31 of the meeting of the Planning Policy & Local Plan Committee ("the Committee") held on 11 January 2022 this report seeks to enable Council to consider the Committee's recommendation in relation to a motion submitted at the meeting of the Council held on 30 November 2021 by Councillor Alan Coley in relation to the application of Article 4 Directions in the District of Tendring.

At the meeting during the consideration of this matter the Chairman of the Committee (Councillor Turner) read out the following statement:-

"The making of an Article 4 Direction is only justified on a local basis to address locally specific problems and must be justified with evidence. It is not a one-size fits all 'blanket' solution to all general concerns about our national planning system. In the meantime this Committee's work continues with the review of our Conservation Areas (CAs) – we have 15 more to go. The review of CAs provides the perfect opportunity to consider the need for Article 4 Directions on an area-by-area basis. The Committee involves the Parishes and the Members effected as we review their CAs, by asking for their comments. At this stage relevant problems and solutions to local needs can be found. Further, where planning issues arise I am sure that with the Local Plan adopted, the NPPF and building regulations, there will be solutions."

Having considered Councillor Coley's motion and in order to enable this matter to be brought to a conclusion at this meeting of the Full Council, the Committee had decided to recommend to Full Council:-

"RESOLVED that -

- (a) Council be informed that this Committee does not support Councillor Coley's motion; and
- (b) this Committee further recommends instead to Cabinet and Council that a further report on this matter be prepared and brought back to the Planning Policy & Local Plan Committee and that such report focus firstly on the ward of Lawford, Manningtree

and Mistley.”

RECOMMENDATIONS

- (a) That Council does not support Councillor Alan Coley’s Motion; and**
- (b) That Council requests that a further report on this matter be prepared and brought back to the Planning Policy & Local Plan Committee and that such report focus firstly on the ward of Lawford, Manningtree and Mistley.**

PART 2 – SUPPORTING INFORMATION

BACKGROUND

At its meeting held on 30 November 2021 (Minute 90 refers) Council had before it a motion submitted by Councillor Coley pursuant to the provisions of Council Procedure Rule 12 in which he proposed that the Council requests the Cabinet to extend the application of Article 4 Directions in the District. That Motion was worded as follows:-

“In order to preserve Tendring’s uniqueness, heritage, amenity areas and the established areas of industrial and commercial activity:-

This Council requests its Cabinet to explore the option of applying for an Article 4 Direction in respect of appropriate Conservation Areas, Industrial Estates and Commercial and Retail Centres in the District of Tendring.”

At the meeting of the Council, Councillor Coley had formally moved the motion. Councillor G V Guglielmi had then formally seconded the motion.

Councillors Coley and Guglielmi had then each explained the purpose of the motion.

The Leader of the Council (Councillor Stock OBE) had then spoke to the Motion and explained that he felt that the Motion should appropriately be referred to the Planning Policy & Local Plan Committee for consideration and report as that Committee was best placed to advise Council and Cabinet on the best way forward.

The Chairman of the Council (Councillor Bray) had concurred with that view and had therefore decided that the motion would be referred to the Planning Policy & Local Plan Committee as the appropriate body on the grounds that it was best placed to advise Council and Cabinet on the best way forward.

The motion had thereupon stood referred to the Planning Policy & Local Plan Committee for its consideration in accordance with the provisions of Council Procedure Rules 12.5 and 12.6.

Councillor Coley’s motion had then been duly submitted to the meeting of that Committee held on 11 January 2022 (Minute 31 refers).

In accordance with Council Procedure Rule 12.6 (Referred Motions – Right of Mover to Attend Meeting), Councillor Coley had attended that meeting to answer any questions and/or points of clarification, if requested.

The Planning Policy & Local Plan Committee was also aware at that meeting that Council Procedure Rule 12.5 (Referral of Motions) stated that:-

“Where a motion has been referred in accordance with Rule 12.4 the Cabinet or any relevant Committee shall (subject to the provisions of Rule 12.6) be required to consider such motion and to advise the Council (by no later than the second Ordinary Meeting of the Council held following the date of Council’s referral) of their opinion and reason as to whether such motion should be supported in its original format.*

Prior to making its decision Cabinet or the relevant Committee may following consultation with Officers, require further information to be presented to them for consideration on the implications of the proposed motion. Such a report must be considered in a timely manner.

If the Cabinet or relevant Committee decides to advise the Council of its opinion that such motion in its original format should not be supported, the Cabinet or relevant Committee may, in addition, suggest to the Council that an amended motion be proposed.

Once Cabinet or any relevant Committee has considered the motion it will be referred back to Council with the recommendation. If an amended motion is proposed by Cabinet, or relevant Committee, when presented back to Council, the amended motion will be debated first, in accordance with Rule 16.5 and Rule 16.10 (b).”

* In this instance the relevant Full Council meeting is on 29 March 2022.

The Committee was also reminded that the making of Article 4 directions was an executive function and that, consequently, the Committee and full Council were limited in being able to make recommendations to Cabinet for consideration.

All decisions made by Tendring District Council must follow the general principles of decision making, as set out in Article 13 of the Council’s Constitution:

“13.02 Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);*
- (b) Due consideration of all the relevant factors and options, taking into account the results of any consultation undertaken and the professional advice of Officers;*
- (c) Respect for human rights, and equality and diversity;*
- (d) A presumption in favour of openness;*
- (e) Clarity of aims and desired outcomes; and*
- (f) Transparency (i.e. explaining what options were considered and giving the reasons for that decision).*

In addition, decision-makers were required to follow the relevant procedure rules, as set out in Part 5 or Article 7, as appropriate when considering the matter.”

The full implications of the proposals referred to in Coley’s motion are unknown at this stage and would require further research before an informed decision could be made. Alternatively, any recommendation to proceed would be subject to the implications being fully considered by Cabinet prior to approvals, to ensure any action was taken in accordance with the Council’s Budget and Policy Framework.

CURRENT POSITION

Council is now requested to consider the motion as recommended by the Planning Policy & Local Plan Committee.

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Full Council held on 30 November 2021.

Published Minutes of the meeting of the Planning Policy & Local Plan Committee held on 11 January 2022.

APPENDICES

Reference from Council Report submitted to the meeting of the Planning Policy & Local Plan Committee held on 11 January 2022.