

Development Control Committee – 29 October 2012

Report of the Director of the Urban Environment

Proposal to apply an Article 4(1) Direction to the site at Asset Storage Ltd., Platts Road, Amblecote, Stourbridge, West Midlands, DY8 4YR to withdraw permitted development rights given under Part 31, Class A (any building operation consisting the demolition of a building) of the Town & Country Planning (General Permitted Development) Order 1995 (as amended)

Purpose of Report

- 1 To request that Development Control Committee recommends to the Council's Cabinet Member for Economic Regeneration the approval of the making of a Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 so that the demolition of the Heritage Assets at Platts Road, Amblecote, comprising buildings of the former Platts Glassworks (HBSMR 4835; identified in **Figure 1** appended to this report) comes under the control of the local planning authority.

Background

- 2 The Council is in receipt of an application which seeks to demolish historic glassworks buildings at the former Platts Glassworks, Platts Road, Amblecote under permitted development rights granted by Government legislation. The developer has yet to give the required notice under the Building Act 1984.
- 3 Demolition of a building is normally granted planning permission by national planning legislation and it is not therefore necessary to apply to the LPA for planning permission.
- 4 This is conditional on an applicant applying to the LPA under Part 31 of the GDPO only as to whether its prior approval is needed "to the method of demolition and any proposed restoration of the site". Where a LPA determines that its prior approval is required, it can only consider these two elements (method of demolition and proposed reinstatement) of the development.
- 5 The Council is in receipt of an application (reference P12/1265) as to whether the prior approval of the Authority is needed in regard to the demolition of buildings at the former Platts Glassworks, now Asset Storage Ltd., Platts Road, Amblecote, Stourbridge, West Midlands, DY8 4YR.

- 6 The buildings are recorded on the Council's Historic Environment Record (HER) and are considered to be Heritage Assets as defined in the National Planning Policy Framework (NPPF) ie: *"A building, monument, site, place area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated assets and assets identified by the local planning authority (including local listing)"*.
- 7 Black Country Core Strategy Policy ENV2 states that all development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country and all proposals should aim to conserve (inter alia) buildings, structures and archaeological remains of the traditional manufacturing and extractive industries of the Black Country including glass making. Particular attention should be paid to the preservation and enhancement of: locally listed buildings and archaeological sites.
- 8 The Glass Quarter Supplementary Planning Document adopted in 2009 has as its key aim to provide a framework to guide development and investment in the Glass Quarter whilst recognising and retaining its unique heritage. A principal objective of the SPD is "To provide a detailed understanding of the historic environment's contribution to local character and distinctiveness within this area that will be protected and enhanced through sensitive management and regeneration".
- 9 Urban Historic Landscape Characterisation of the Glass Quarter was carried out to form a sound evidence base for the SPD and this identified the glassworks buildings subject to the Part 31 application as making a High Contribution to the historic environment and they were additionally felt to meet the criteria for addition to the Council's Local List. The whole of the historic former Platts Glassworks site encompassing the remaining standing buildings and a wider area that has suffered from earlier building demolitions but has high below ground potential was also identified as an Archaeological Priority Area.
- 10 This reflects the fact that the Platts Glassworks had a highly significant role in the history of Stourbridge Glass, being founded by Thomas Henzey after 1704 and run by his son Joshua Henzey III. It was specifically designed to produce bottles on the 22 acre site and Joshua built The Platts House next to the works as his residence. Joshua died in 1738 and the running of the business went to John Pidcock, his nephew. Sometime before 1769 he built a new Platts House. In 1836 the business was sold to Thomas Webb who moved into Platts House and rebuilt the glasshouse next door. The new works was used to manufacture plain and flint cut glass for candelabras and chandeliers. The business won a medal at the Great Exhibition in 1851. In the 1920's acid etching was pioneered here by F. Williams & Company. Platts House was demolished in 1967 and in the 1990's other selective demolitions took place (at that time without the need for either planning permission or a Part 31 application) with one chimney and furnace surviving in use for aluminium smelting until 1992. It is just south of this that the buildings of the glassworks West Range, subject to the current Part 31 application, still survive.

- 11 In considering the implications of the Part 31 application officers visited the site to inspect the threatened buildings and gained access to their interiors. This made it clear that they possess a range of historically significant characteristics relating to their glass making roles that have evolved over time. For instance there are numerous blocked historic openings including a low level archway that may represent the position of a Lehr or annealing furnace, there are chimneys that may have served glass melting furnaces and a cast iron lifting crane survives built into a gable wall.
- 12 Although the buildings are obviously of significance in relation to the historic Platts Glassworks full desk top assessment with archaeological survey and analysis will be required before the true significance of the buildings can be properly determined and the real implications of their demolition assessed. This would normally be achieved within the normal processing of a planning application at the pre-determination stage, as defined at paragraph 128 of the National Planning Policy Framework (NPPF).
- 13 Clearly the Part 31 process precludes the possibility of taking a measured approach that would conform to the normal requirements of the NPPF, BCCS Policy ENV7 and the Glass Quarter SPD. Demolition of the buildings through a Part 31 application could accordingly be viewed as prejudicial to the proper planning of the area and as constituting a threat to the amenities of the area. It is considered that there are exceptional circumstances to apply an Article 4(1) Direction with immediate effect to remove permitted development rights for demolition granted by the Government Order. This Direction would prohibit the demolition of the buildings otherwise permitted under the Order and would require full planning permission on an application to the Local Planning Authority (LPA) for their demolition. This would allow the LPA to properly assess the significance of the buildings and consider their proposed demolition on its full planning merits.

Article 4(1) Process

- 14 Article 4 of the Permitted Development Order (as amended in 2010) allows a LPA to apply a Direction to withdraw the permitted rights granted by the Order where it is satisfied it is expedient that development should not be carried out, unless permission is granted for it on an application.
- 15 Ensuring that the demolition of the building requires planning permission will allow the LPA to fully consider the wider implications of the works, and ensure that the views of others, with an interest in this matter, are able to be fully taken into account before a decision is taken.
- 16 Government advice on the matter (Circular 9/95) states: "generally, permitted development rights should only be withdrawn in exceptional circumstances. Such action will rarely be justified unless there is a real and specific threat i.e. there is reliable evidence to suggest that permitted development is likely to take place which could damage an interest of acknowledged importance and which should therefore be brought within full planning control in the public interest."

- 17 It is considered the submission of application P12/1265 under Part 31 constitutes reliable evidence that demolition of the buildings is intended. It is considered this would result in the loss of buildings considered to be heritage assets of local significance and so it is in the public interest for it to be brought within full planning control.
- 18 An Article 4(1) Direction can be applied with immediate effect where it relates to demolition. The legislation requires this should be when the Authority considers the permitted development would be prejudicial to the proper planning of the area or constitute a threat to the amenities of the area.
- 19 An Article 4(1) Direction made with immediate effect, shall come into force on the date notice is served on the occupier of the land or, where there is no occupier, on the owner of the land.
- 20 The effect of the Article 4 (1) direction would be that the building's demolition would require planning permission. If such an application was received it would still be open to the LPA to approve it, having regard to all material planning considerations – which would include the contribution which the building makes to the wider area and its architectural and historic value. Alternatively, the LPA could refuse the application and the applicant would have a right of appeal against this decision
- 21 In conclusion, it is considered the submission of application P12/1265 under Part 31 of the GDPO constitutes reliable evidence that demolition of the buildings is intended. The application states the intention of demolishing the buildings in November 2012. It is considered this would result in the loss of buildings considered to be of local historic significance in the context of the Stourbridge Glass Industry and so it is in the public interest for permitted development rights to be removed for the demolition of the buildings so that it can be brought within full planning control. The submission of a planning application for the demolition of the buildings would enable full consideration of the contribution which the buildings make to the wider area and their architectural and historic value.
- 22 This proposal will allow the Council to effectively manage change to locally important heritage assets in an efficient way, having a positive impact on the social, economic and environmental well-being of the Borough - the borough-wide implications could be the ongoing precedent of legitimately using existing legislation to safeguard buildings that are considered to be of value to the community.

Finance

23. The preparation of the Article 4(1) direction is allowed for within existing work programmes and budgets.
- 24 It should be noted that, refusal of planning permission following the making of an Article 4 Direction, or conditions of planning permission more restrictive than

would have been permitted, may give rise to a claim for compensation. This would only be for abortive expenditure or other loss or damage directly attributable to the withdrawal of the permitted development rights.

25. However, it should also be noted that in Dudley no such claims for compensation have been pursued and national research carried out for the English Historic Towns Forum (RPS Planning 2008) involving 72 planning authorities equally found no evidence of any incidences of such claims having been made.

Law

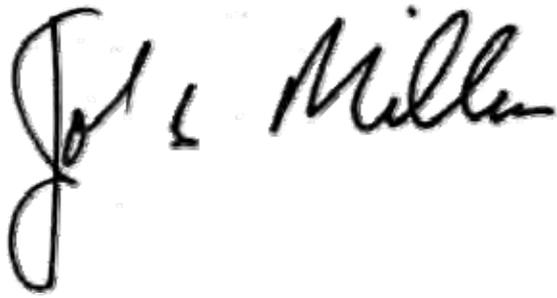
26. Before making an Article 4(1) direction, the Council as local planning authority must consider it expedient that development should not be carried out without a planning application first being made and approved. (An article 4(1) direction can relate to specific or general development.)
27. The law is clear that permitted development rights should only be withdrawn in exceptional circumstances. However, an Article 4 direction does not constitute an absolute prohibition of development; it simply requires that an express application for planning permission is to be made and then considered on its merits.

Equality Impact

28. The proposals contained in this report are in full accordance with the Council's equal opportunities policies and should in no way have any impact of different racial groups, disabled people, both genders and/or other relevant groups including children and young people.

Recommendation

29. It is recommended that Development Control Committee recommends to the Council's Cabinet Member for Economic Regeneration to approve:
 - (1) The making of an Immediate Direction under Article 4(1) of the Town & Country Planning (General Permitted Development) Order 1995 (as amended), which would remove permitted development rights under Schedule 2, Part 31, Class A (Any building operation consisting the demolition of a building) to the site at Asset Storage Ltd., Platts Road, Amblecote, Stourbridge, West Midlands, DY8 4YR (identified in **Figure 1** appended to this report). The Direction to be served with immediate effect, in accordance with Article 6;
 - (2) To serve notice of the Direction in accordance with Article 5;
 - (3) To submit a copy of the Direction to the Secretary of State in accordance with Article 6(2).



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List of Background Papers

- The Town & Country Planning (General Permitted Development) Order 1995 (SI 418/1995);
- The Town & Country Planning (General Permitted Development) (Amendment) (England) Order 2010 (SI 654/2010)
- Government Circular 9/95: General Development Order Consolidation 1995; - Government Circular 10/95: Planning Controls Over Demolition;
- National Planning Policy Framework;
- Black Country Core Strategy 2011;
- Dudley Unitary Development Plan 2005;
- Good Practice Guide for Local Listing: Identifying and Managing Significant Local Heritage Assets produced by English Heritage 2012.
- Research into the use of Article 4 Directions on behalf of the English Historic Towns Forum (RPS Planning 2008).