

PLANNING COMMITTEE

27 April 2017

REPORT OF HEAD OF REGULATORY SERVICES

**CASUAL WARD, MATRON'S RESIDENCE & FORMER WORKHOUSE:
PROPOSED SALE OF LAND AND BUILDINGS AT MELTON MOWBRAY HOSPITAL,
THORPE ROAD, MELTON MOWBRAY, LE13 1SJ**

1. PURPOSE OF THE REPORT

- 1.1** Due to an administration error the Article 4 Direction placed on the Casual Ward and Former Workhouse in Melton Mowbray was not formally confirmed and has not come into effect. Therefore, this report is to once again identify three non-designated local heritage assets and seek the approval of the Committee to issue a direction under the provisions of Article 4 of the Town and Country Planning (General Permitted Development Order) 1995, as amended, to remove the right to demolish the identified buildings (**APPENDIX 5**), located at Melton Mowbray Hospital, Thorpe Road, Melton Mowbray LE13 1SJ

2. RECOMMENDATION

- 2.1** That members agree to 're-apply' the use of an Article 4 Direction as described, removing the 'permitted development rights' for specified buildings at the Melton Mowbray Hospital site for any building operation consisting of the demolition of a building (**APPENDIX 1**)

3. BACKGROUND

- 3.1** On 28th January 2016 members of the Melton Borough Council Planning Committee voted unanimously to open a consultation period for the appointment of an Article 4 Direction of the Town and Country Planning (General Permitted Development Order). Following a 28 day consultation period the Article.4 Direction was confirmed, which became a valid order for a period of 6 months.
- 3.2** During this period it was necessary for Melton Borough Council to confirm this in perpetuity with the Secretary of State. However, due to an administrative error this did not happen. Therefore the process must be undertaken once again in order to confirm the Article.4 Direction. Since the original decision by the Planning Committee, there has been no further material changes on the site, which remains vacant. Preliminary discussions have been held with agents of the NHS, the landowner, however this has not been formalised into pre-application advice. The site has been identified in the new draft Local Plan, Chapter 4 policy EN3, recognising the Local Authority's intent on retaining the building's for their communal and historic value. Finally, the application submitted by the Conservation Planning Officer at Melton Borough Council for the listing of the Casual Ward was rejected by Historic England in July 2016, placing the non-designated heritage asset further at risk of loss through demolition.

- 3.3 Various members of the public have separately informed Melton Borough Council of the historical significance of a number of buildings located at the Melton Mowbray hospital site and a site visit was carried out in December 2015 to determine the relevant buildings. Two buildings have been identified:
1. The 1836 former workhouse, recognised as the primary building on the site.
 2. The 1840s former casual ward (vagrants cells), an ancillary building to the workhouse.
- 3.4 Under the Town and Country Planning (General Permitted Development) (England) Order 2015, Part 11, Class B ‘*demolition of buildings*’ (Appendix B) an owner is permitted to demolish a building subject to certain conditions. An Article 4 Direction would remove the ability of the site purchaser to demolish these buildings that are considered to be of historical significance, without first acquiring full planning consent.
- 3.5 An Article 4 direction does not prevent the carrying out of demolition to which it applies, but instead requires that a specific grant of planning permission is first obtained for that demolition to be carried out. As such the local planning authority would have control over the upcoming site redevelopment and be in a position to ensure that redevelopment of the land is acceptable and satisfies local non-designated heritage policies.
- 3.6 Guidance advises that a Local planning authority should consider making Article 4 directions only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area. In deciding whether an article 4 direction would be appropriate, local planning authorities should identify clearly the potential harm that the direction is intended to address.
- 3.7 For all article 4 directions the legal requirement is that the local planning authority is satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless permission is granted for it on an application. Additionally, for directions with immediate effect, the legal requirement is that the local planning authority considers that the development to which the direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenity of their area.

4. APPRAISAL

- 4.1 The 1836 workhouse, designed by Charles Dyer 1794-1848, was designated Grade II listed status in 1976. Due to a significant amount of C19 and C20 extensions and internal remodelling, the building was de-listed in 2000 (**APPENDIX 3**) by English Heritage, stating: ‘*Its historical importance, architectural quality and integrity are all below the standard required listing in this type of building*’. The de-listing took place at a time when NHS was attempted to sell the site, although the property has since remained within their ownership. It is considered that the building is still easily identifiable in its original function and form; any forthcoming planning application for the redevelopment of the site could include the demolition of the later extensions, with the potential to retain the original building for modern use.

- 4.2 In the same year 2000, members of the public submitted an application to English Heritage for the listing of the casual ward, an ancillary building that was first built as a separate, purpose-built block near the workhouse entrance for the provision of overnight shelter to vagrants. The building was later used as storage when the workhouse was converted to a hospital, although many of its original features remain intact, including the original cell doors, cabled alarm system and cell-bar fenestration. However English Heritage declined the application for listing (**APPENDIX 4**), stating: *‘The building falls below the standard required, and has insufficient group value’*. At present the building is boarded up and inaccessible.
- 4.3 Chapter 12 Paragraph 126 of the National Planning Policy Framework (NPPF) states that: ‘local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance’.
- 4.4 Planning Practice Guidance notes on ‘conserving and enhancing the historic environment’ state that: ‘When considering development proposals, local planning authorities should establish if any potential non-designated heritage asset meets the definition in the National Planning Policy Framework at an early stage in the process. Ideally, in the case of buildings, their significance should be judged against published criteria, which may be generated as part of the process of producing a local list.’
- 4.5 Historic England state that: ‘Heritage assets not designated under statutory regimes, but recognised by the LPA as having heritage significance, do merit consideration in planning matters; with the LPA taking a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset’ .
- 4.6 In the absence of adopted local plan heritage policies and the lack of a local list of non-designated heritage assets, it is considered necessary to secure an Article 4 direction (**APPENDIX 2**) to ensure the preservation of three non-designated local heritage assets, that have been identified as historically significant by the Melton Conservation Officer and members of the local community.

Contact Officer:

Mr T Ebbs – Conservation Officer

Mr J Worley - Head of Regulatory Services

Background Documents:

Appendix 1 – Permitted Development

2015 No. 596

TOWN AND COUNTRY PLANNING, ENGLAND The Town and Country Planning (General Permitted Development) (England) Order 2015

Schedule 2, Part 11

Permitted development

B. Any building operation consisting of the demolition of a building.

Development not permitted

B.1 Development is not permitted by Class B if—

- (a) the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;**
- (b) the demolition is “relevant demolition” for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area)(a); or**
- (c) the building is a specified building and the development is undertaken during the specified period, regardless of whether, in relation to the development, a prior approval event has occurred.**

Conditions

B.2 Development is permitted by Class B subject to the following conditions—

- (a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition;**
- (b) where the demolition does not fall within paragraph (a) and is not excluded demolition—**
 - (i) the developer must, before beginning the development—**
 - (aa) in all cases, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site; and**
 - (bb) in cases where the building is not a community asset and is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, send a written request to the local planning authority as to whether the building has been nominated;**
 - (ii) an application described in paragraph (b)(i)(aa) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b)(iv) and any fee required to be paid;**
 - (iii) a request described in paragraph (b)(i)(bb) must include the address of the building, the developer’s contact address and, if the developer is content to receive communications electronically, the developer’s email address;**

(iv) subject to paragraph (b)(v), the applicant must display a site notice by site display on or near the land on which the building to be demolished is sited and must leave the notice in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority;

(v) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (b)(iv) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;

(a) Section 196D was inserted by paragraph 6 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24). 91

(vi) where the building is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order and the building is nominated, whether at the date of request under paragraph (b)(i)(bb) or on a later date, the local planning authority must notify the developer as soon as is reasonably practicable after it is aware of the nomination, and on notification development is not permitted for the specified period;

(vii) subject to paragraph (b)(x), the development must not begin before the occurrence of one of the following—

(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or

(cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;

(viii) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—

(aa) where prior approval is required, in accordance with the details approved;

(bb) where prior approval is not required, in accordance with the details submitted with the application;

(ix) subject to paragraph (b)(x), the development must be carried out—

(aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;

(bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (b)(ii);

and

(x) where the building is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, in addition to the requirements of paragraph (b)(vii) and (ix), the development must not begin before the expiry of a period of 56 days following the date of request under paragraph (b)(i)(bb) and must be completed within a period of 1 year of the date of that request.

Interpretation of Class B

B.3 For the purposes of Class B—

“community asset” means a building which has been entered onto a list of assets of community value including any building which has been subsequently excluded from that list under regulation 2(b) of the Assets of Community Value (England) Regulations 2012(a);

“excluded demolition” means demolition—

(a) on land which is the subject of a planning permission, for the redevelopment of the land, granted on an application or deemed to be granted under Part 3 of the Act (control over development),

(b) permitted to be carried out by a consent under Part 1 of the Ancient Monuments and Archaeological Areas Act 1979 (scheduled monument consent)(b),

(a) S.I. 2012/2421.

(b) 1979 c. 46; see in particular sections 2 to 4, relevant amendments to which are made by section 33 of, and Schedule 4 to, the National Heritage Act 1983 (c. 47) and Schedule 2 to the Planning Act 2008 (c. 29).

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(c) permitted to be carried out by a consent under Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (listed building consent)(a),

(d) required or permitted to be carried out by or under any other enactment, or

(e) required to be carried out by virtue of a relevant obligation;

“list of assets of community value” means a list of land of community value maintained by a local authority under section 87(1) of the Localism Act 2011(b);

“nomination” means a nomination made under section 89(2) of the Localism Act 2011 for a building to be included in a list of assets of community value and “nominated” is to be interpreted accordingly;

“prior approval event” means, in relation to a particular development—

(a) the giving of prior approval by the local planning authority in relation to the matters in paragraph B.2(b)(i)(aa);

(b) a determination that such approval is not required to be given, or

(c) the expiry of the period for giving such a determination without the applicant being notified whether prior approval is required, given or refused;

“relevant obligation” means—

(a) an obligation arising under an agreement made under section 106 of the Act, as originally

enacted (agreements regulating development or use of land);

(b) a planning obligation entered into under section 106 of the Act, as substituted by section 12 of the Planning and Compensation Act 1991 (planning obligations)(c), or under section 299A of the Act (Crown planning obligations)(d);

(c) an obligation arising under, or under an agreement made under, any provision corresponding to section 106 of the Act, as originally enacted or as substituted by the Planning and Compensation Act 1991, or to section 299A of the Act;

“site notice” means a notice containing—

(a) the name of the applicant,

(b) a description, including the address, of the building or buildings which it is proposed to be demolished,

(c) a statement that the applicant has applied to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site,

(d) the date on which the applicant proposes to carry out the demolition, and

(e) the name and address of the local planning authority,

and which is signed and dated by or on behalf of the applicant;

“specified building” means a building used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order—

(a) which is a community asset; or

(b) in relation to which the local planning authority has notified the developer of a nomination under paragraph B.2(b)(vi); and

“specified period” means—

(a) 1990 c. 9; see in particular sections 7, 8 and 18, relevant amendments to which are made by section 51 of the Planning and Compulsory Purchase Act 2004 (c. 5) and Schedule 2 to the Planning Act 2008, S.I. 2001/24. Those sections are modified in relation to buildings in conservation areas by S.I. 1990/1519.

(b) 2011 c.20.

(c) 1991 c. 34. Section 106 of the Act was amended by section 33 of the Greater London Authority Act 2007 (c. 24), section 174 of the Planning Act 2008 and Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27).

(d) Section 299A was repealed by Schedule 9 to the Planning and Compulsory Purchase Act 2004 (c.5).

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(a) in relation to a building which is subject to a nomination of which the local planning authority have notified the developer under paragraph B.2(b)(vi), the period from the date of that notification to the date on which the building is entered onto—

(i) a list of assets of community value; or

(ii) a list of land nominated by unsuccessful community nominations under section 93 of the Localism Act 2011;

(b) in relation to a building which is a community asset—

(i) 5 years beginning with the date on which the building was entered onto the list of assets of community value; or

(ii) where the building was removed from that list—

(aa) under regulation 2(c) of the Assets of Community Value (England)

Regulations 2012 following a successful appeal against listing or because the local authority no longer consider the land to be land of community value; or

(bb) under section 92(4)(a) of the Localism Act 2011 following the local authority's decision on a review that the land concerned should not have been included in the local authority's list of assets of community value,

the period from the date on which the building was entered onto the list of assets of community value to the date on which it was removed from that list.

Appendix 2 – Article 4 Direction Process

<p><i>1. Check whether an article 4 direction is appropriate, and whether the direction should come into force following consultation or immediately</i></p>	
<p><i>2. Draft an article 4 direction</i></p> <p>Annex B provides a model for non-immediate directions, Annex C a model for directions with immediate effect. A local model may be used, but it must contain all the information set out in the appropriate model in this guidance.</p>	
<p><i>3. Serve notice locally and notify the Secretary of State as soon as practicable after the direction has been made, adhering to requirements of details to be contained in the notice.</i></p>	
<p><i>3.1. Local notification procedure</i></p> <p>Notice of an article 4 direction shall be given by the local planning authority:</p> <ul style="list-style-type: none"> - by local advertisement (as defined in article 1(2) of the GPDO) - by site display at no fewer than two locations within the area to which the direction relates (or if the direction relates to a particular development, on that site) for a period of not less than six weeks); - individually on every owner and occupier of every part of the land within the area or site to which the direction relates (unless it is impracticable because it is difficult to identify or locate them, or the number of owners or occupiers within the area to which the direction relates would make individual service impracticable- this exemption from individual service of notice does not apply, however, when the owner/occupier is a statutory undertaker or the Crown); - between County planning authorities and district/ local authorities within whose county or district the area/ site to which the direction relates is situated (where both tiers exist). 	<p><i>3.2. Notifying the Secretary of State</i></p> <p>On the same day that notice of an article 4 direction is first published or displayed locally, the local planning authority shall notify the Secretary of State. A copy of the direction (and a map defining the area/ site to which it relates) as well as a copy of the local consultation notices should be sent to:</p> <p>Government Office West Midlands (email: wmplanning@gowm.gsi.gov.uk)</p> <p>or post to:</p> <p>Government Office for East Midlands, Planning, Sustainable Futures Directorate,</p> <p>It may not be possible to send a copy of the local publicity notices themselves on the same day as those affected by the direction are notified- it is therefore acceptable to send a copy of the notices as will be published.</p>

<p><i>4. Determine whether to confirm the direction</i></p> <p>Any representations received during consultation must be taken into account by the local planning authority in determining whether to confirm a direction (see paragraphs (9) and (10) of article 5 of the GPDO). Material changes to the direction resulting from consultation will require re-consultation. Immediate directions will expire six months after they come into force, unless confirmed. The local planning authority shall not confirm a direction until after the expiration of either a period of at least 28 days following the latest date on which any notice relating to the direction was served or published, or such longer period as may be specified by the Secretary of State (after having been notified by the local planning authority of making a direction).</p>	
<p><i>5. Direction comes into force</i></p> <p>If confirmed by the local planning authority, a non-immediate direction will come into force on the date specified in the notice that the local planning authority served originally on those that would be affected (see article 5(7) of the GPDO). Taking into account representations received during consultation may require that the direction comes into force later than specified in the initial notice of the direction. Once confirmed both non-immediate and immediate directions permanent (unless cancelled by the local planning authority or Secretary of State).</p>	
<p><i>6. Serve notice locally and notify the Secretary of State</i> as soon as practicable after the direction has been confirmed, adhering to requirements of details to be contained in the notice. This requirement neither applies to immediate directions related exclusively to Conservation Areas where the development is specified in 6(3) (a) to (j) of the GPDO, nor to directions related exclusively to listed buildings where permitted development rights withdrawn are in Parts 1-4 and 31 of Schedule 2 to the GPDO.</p>	
<p><i>6.1. Local notification procedure</i></p> <p>See stage 3.1 in advice</p>	<p><i>6.2. Notifying the Secretary of State</i></p> <p>As soon as practicable after the direction has been confirmed the local planning authority shall send a copy of the confirmed direction to the Secretary of State (see stage 3.2. in advice).</p>

In all cases notice of an article 4 direction must:

- Include a description of the development and the area/site to which the direction relates (as the case may be);
- Include a statement of the effect of the direction;
- Specify that the direction is made under article 4(1) of the GPDO;
- Name a place where a copy of the direction and a copy of a map defining the area/ site to which it relates (as the case may be) can be seen at all reasonable hours;

Where notice is of the making of any article 4 direction the notice must additionally:

- Specify a period of at least 21 days, stating the date on which that period begins, within which any representations concerning the direction may be made to the local planning authority

Where notice is of the making of a non-immediate article 4 direction, the notice must additionally;

Appendix 3 – Former Workhouse Delisting Advice

Referral Outcome

Case ID: 145680 (Centre Block Only of St Mary's Hospital)

Date of Advice: 23/12/1999

Advice Author: Mr M Eaton

Rec. Outcome: Yes, amend

Rec. Grade: NL

Standard Reason: an amendment should be issued

Background:

This item was listed in 1976, well before thematic studies of hospitals and workhouses became available. The listing specifically includes nothing but the central block, and excludes the side ranges and wings, which are part of the same building. This decision does not conform to current conventions, and may have been made because the side ranges and wings were already too altered for listing to be justified. This is certainly the case today, as the left side range has been substantially refenestrated, and a single-storey addition made to the rear as part of its conversion to kitchens. The left wing has also been eroded by the insertion of a doorway and construction of an addition at the front, the addition of a C19 stair tower at the rear and C20 additions at the left end, and extensive internal remodelling in the mid and late C20. The right range has also been eroded by the addition of a lift tower and porch to the rear, and C19 and C20 additions to the front. The right wing has been extended by a single bay stair tower in the mid C19 and a sanitary tower in the later C19. Single storey C19 additions to its rear have broken through the ground floor walls. Some original staircases with stone treads and iron balustrades remain, and the original queen post trusses are visible. There has been some internal remodelling, particularly on the ground floor. The architect, Charles Dyer, 1794-1848, practised mainly in Bristol, where he designed the Orphan Asylum in 1827. This, and a commission in nearby Waltham on the Wolds c1833, may explain why he was selected to design the Melton Mowbray workhouse. It appears to be his sole workhouse design. While this is an early example of a workhouse built following the new Poor Law, the design is in no way outstanding in terms of architecture or plan. At least 2 windows have been reglazed since 1976, and it is unclear whether the glazing of the first floor windows is original. Internally, the centre block has no visible original features other than minor joinery items, and it seems the ground floor has been remodelled to allow access to the 1863 building at the rear. Workhouses are complexes of buildings, which should be considered as a whole. This evidently was not the case in 1976, and the current survey reveals no buildings of listable quality surviving on the site (see elsewhere). The central block is only a small fraction of the whole, and neither its age, quality and integrity, nor the status of the architect, is sufficient to justify its remaining on the list. REFERENCES: Colvin, p277; RCHM survey report, 1993.

Assessment: This case was discussed with Kathryn Morrison, and she should be invited to comment in the light of information found during the site visit. The case, and particularly certain comments in the application, have been discussed with Alastair Ward.

Reason for Designation Decision:

This building has been reassessed in the light of extensive research on workhouses published since it was listed, and taking into account the principle that complexes of buildings, and indeed individual buildings, should be considered as a whole. Its historical importance, architectural quality and integrity are all below the standard required for

Appendix 4 – Former Ancillary Buildings Delisting Advice

Case ID: 145827 (Ancillary Buildings at St Mary's Hospital)

Date of Advice: 04/01/2000

Advice Author: Mr M Eaton

Rec. Outcome: No, do not list

Rec. Grade: NL

Grade Qualifier: N

Group Value: N/A

Standard Reason: the criteria for listing are not fulfilled

Background:

The application was for the listed central block of the former workhouse to be reconsidered, along with its flanking ranges and wings. This is covered under ID 145680. The application also drew attention to other buildings on the site, and so all existing buildings were seen and assessed. These were:

2 Former Casual Ward. C19, though detailing suggests a later date than 1836, and the projection at the west end is an addition. The original use was abandoned in the inter-war period, and the east end of the building was converted to a mortuary in the mid C20, while the remainder was adapted as stores. This resulted in the removal of internal partitions, and the alteration of many openings. Distinctive fittings such as stonebreaking gauges have been removed. Kathryn Morrison's advice is that casual wards are not uncommon, and that unless they are exceptionally complete, as eg at Ripon, they are not normally listable in their own right. This building falls below the standard required, and has insufficient group value, even if the centre block remains on the list.

7 1863 building at rear of main block. This resembles a detached house, and was formerly used as the matron's residence. It has an unusually pretentious staircase, but otherwise contains small, plain rooms. This may indicate that it was originally an administrative building. Its position in relation to the main block, and the fact they were linked by a corridor later in the C19, may support this. Some windows have been reglazed, and 2 windows converted to doors, late C20. The building is not of sufficient interest to justify listing in its own right. Whether it has group value depends on the status of the central block.

Assessment: N/A

Reason for Designation Decision:

The former Casual Ward, former Infirmary, and the 1863 building alone have any historical interest. The Casual Ward is not particularly unusual, and alterations have removed most of its distinctive features. Without these, it is not listable. The infirmary is also a common type of ancillary building, and has been very extensively altered, rendering it unlistable. The 1863 building is not sufficiently outstanding in terms of design or function to be considered listable.

Appendix 5 – Proposed Article.4 Direction Designation

