

**DERBYSHIRE COUNTY COUNCIL**

**REGULATORY – PLANNING COMMITTEE**

**10 March 2014**

Joint Report of the Strategic Director – Economy Transport and Environment  
and the Director of Legal Services

**DIRECTION UNDER ARTICLE 4 OF THE TOWN AND  
COUNTRY PLANNING (GENERAL PERMITTED  
DEVELOPMENT) ORDER 1995 (AS AMENDED), MATLOCK  
SEWAGE TREATMENT WORKS, LEA ROAD, CROMFORD**

(1) **Purpose of the Report** To enable the Committee to approve confirmation of a direction under Article 4 of the Town and Country (General Permitted Development) Order 1995 (as amended) (“the 1995 Order”).

(2) **Information and Analysis** On 2 December 2013, the Committee authorised the Director of Legal Services to make a direction under Article 4 of the 1995 Order to remove permitted development rights from Matlock Sewage Treatment Works at Cromford. The direction was made on 5 December 2013 and notice of it was published in the Derbyshire Times newspaper on 12 December 2013. Copies of the direction and notice were sent to Severn Trent Water plc, Derbyshire Dales District Council and the Secretary of State, and copies of the notice were placed on site as required by the 1995 Order. This report seeks approval to confirm the direction and bring it into effect.

**Responses to publication of the direction**

Severn Trent Water has responded by letter to the making and publication of the direction. It expresses formal objection to the direction on the grounds that:

- Derbyshire County Council has not clearly identified the potential harm that the direction is intended to address that would justify the removal of all permitted development rights conferred on the company as sewerage undertaker.
- The removal of rights to maintain the pedestrian and vehicular bridge to the site is equally excessive and unnecessary, particularly in relation to the potential impact arising from the activities these rights would allow.
- The removal of all the above rights will impact on the operational efficiency of the sewage treatment works which, in itself, could have a significant impact on the River Derwent and its environs.

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Severn Trent argues that the direction as made is excessive and unnecessary to protect the local amenity and wellbeing of the area, with reference to background information about the site, including a “package” of small scale projects which it has implemented at the site under permitted development rights since 2001, and that it is unaware of any change in circumstances as to why the Council has recently considered it expedient to introduce this direction. The direction is regarded by Severn Trent as placing an unreasonable constraint upon it as a statutory undertaker delivering essential services

No other representations have been received

### **Analysis**

The Council considers that the direction provides a proportionate restriction on the GPDO in line with the site’s position in the World Heritage Site.

The Council has to balance an additional burden and inconvenience to Severn Trent which it recognises, against the potential impact on the environment and on amenity which the carrying on of further incremental unconditional development (which would otherwise have with deemed planning permission) could have. Individually, many of the changes which can be carried out under permitted development rights are minor but together they can have a marked effect on the appearance and character of the World Heritage Site. Ultimately, they can compromise its appearance and threaten the character of an area of acknowledged importance. The Council recognises that the direction could on occasion result in slight delay to the implementation of particular operational development relating to the sewage treatment works but does not consider that such delay would be unreasonable.

Confirmation of the direction will require the operator to apply for express planning consent for all development at the site, including the type of development which otherwise benefitted from (permitted development) deemed planning consent provided by the GPDO as set out under Part 16 of Schedule 2. One of Severn Trent’s particular concerns is the coverage of bridge maintenance in the direction. However the direction does not control anything outside the definition of “development”. Therefore minor maintenance tasks such as repainting will not require planning permission.

It is recognised that from time to time situations may arise which require Severn Trent to carry out operations as a matter of urgency (within a few weeks, or even within days or hours) which may amount to development. It is also recognised that some such operations might not be authorised development during the currency of the Article 4 direction if it is confirmed.

In such situations, it is unlikely that the Council taking a reasonable position would find it expedient to seek to exercise any of its discretionary enforcement powers. It is difficult to imagine any circumstances which it would wish to take

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enforcement action to constrain development which was to be undertaken as necessary to avoid immediate damage to the World Heritage Site.

### Conclusion

An article 4 direction is permanent once it has been confirmed. However, it is recommended that it should be reviewed at regular intervals and it would be appropriate to adopt a review timetable in this instance that coincides with Severn Trent's asset management period. It is therefore proposed that the first review should take place in 2020 and that the direction should be reviewed at five year intervals thereafter. In addition, it may become appropriate to reconsider the provisions of the direction at other times according to circumstances.

(3) **Financial Considerations** Any application required as a result of the direction is exempt from the usual planning application fee. Compensation may be payable by the Local Planning Authority if planning permission for development, which would have been permitted development but for the direction, is refused or is granted subject to more limiting conditions than those that could have been imposed under the 1995 Order.

(4) **Legal Considerations** As contained in the body of the report.

(5) **Environment and Health Considerations** As indicated in this report.

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property and transport considerations.

(6) **Background Papers** File No 3.231.21

(7) **OFFICER'S RECOMMENDATIONS** That:

7.1 The Director of Legal Services be authorised to confirm the direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) dated 5 December 2013.

7.2 The direction be reviewed in 2020 and at five yearly intervals thereafter.

Signed..... Dated.....

**Mike Ashworth**  
**Strategic Director – Economy**  
**Transport and Environment**

**John McElvaney**  
**Director of Legal Services**