

BABERGH DISTRICT COUNCIL

TO: Cabinet	REPORT NUMBER: BCa/23/24
FROM: Deputy Political Leader and Cabinet Member for People and Place	DATE OF MEETING: 7 November 2023
OFFICER: Director for Planning and Building Control	KEY DECISION REF NO. CAB453

POTENTIAL LOCAL LISTED BUILDING CONSENT ORDER FOR INSTALLING ENERGY EFFICIENCY MEASURES

1. PURPOSE OF REPORT

The purpose of this report is to seek Cabinet approval for initiating a seven-week consultation period on a potential Local Listed Building Consent Order ('LLBCO'). The objective of the LLBCO would be to streamline the process for installing energy-efficient measures in listed buildings, or related improvement works, within the District or specified area, subject to specific conditions outlined in the Order. This initiative aligns with the Council's commitment to achieving carbon neutrality by 2030 (having declared a "Climate Emergency" in 2019), while also safeguarding the district's valuable heritage.

It should be noted that the adoption of an LLBCO is not a widespread practice among local authorities and, as far as officers are aware, would be unique in East Anglia. As such, a meticulous approach is essential to mitigate risks and prevent unjustifiable harm to the heritage interest and thus significance, of listed buildings that may be affected. To this end, the report proposes an initial consultation exercise involving local amenity societies and other key stakeholders including the public. The consultation aims to scrutinise the conditions proposed in this report, thereby ensuring a balanced approach that may both accelerate our environmental objectives and conserve the heritage assets in question. The consultation therefore recognises both the fundamental principle of heritage conservation and the important positives to be gained through the inclusion of energy efficient measures or streamlining the consent for other works.

2. OPTIONS CONSIDERED

Two options have been identified, the implications of which are identified below:

- 2.1 The first option is to continue relying on the traditional Listed Building Consent application process. Whilst this approach has been and remains the standard, feedback from councillors and the public suggests that it is perceived as inefficient and burdensome in terms of time and cost. Many works may of themselves be unobjectionable and therefore a streamlined approach would be advantageous in those circumstances.

- 2.2 The second option involves preparing for a seven-week consultation period to explore the feasibility and appropriateness of implementing a LLBCO. It is crucial to clarify that initiating this consultation does not automatically imply that such an Order will be enacted. Rather, the consultation aims to gather opinions on the LLBCO as a potential tool for achieving our carbon neutrality goals and assisting homeowners in making energy-efficient upgrades and other improvements to their properties. In that regard the benefits are various and would include energy efficiency and cost savings, as well as protecting these important historic buildings from the worst effects of climate change.
- 2.3 Given the district's rich heritage landscape, characterised by a diverse range of assets varying in age and significance, a prudent approach may involve piloting the LLBCO in a specific parish, village, or Conservation Area initially. This would allow for a more controlled evaluation of the Order's impact recognising that there may not be a 'one size fits all' solution.
- 2.4 The adoption of a LLBCO would signal the Council's ambition to meet its net zero carbon targets, particularly given the high proportion of listed buildings within the district. The Order would delineate explicit conditions aimed at minimising harm to affected heritage assets such that the works in question would be clearly and convincingly justified. Legal requirements mandate the annual review and monitoring of the LLBCO, providing an opportunity to assess effectiveness and make necessary adjustments. Should the Order result in unintended negative consequences for our historic buildings, options to amend or rescind it are available. Furthermore, this approach offers the advantage of co-designing the LLBCO details with external organisations and the community, thereby ensuring that the policy is shaped in a manner that addresses concerns related to the protection of listed buildings.

3. RECOMMENDATIONS

Cabinet approval is sought to commence a seven-week period of consultation, commencing 10th November 2023 and ending 29th December 2023, on the proposed scope and conditions of a Local Listed Building Consent Order.

REASON FOR DECISION

A Local Listed Building Consent Order would make it easier for the owners of designated heritage assets to implement energy efficiency or other improvements to their buildings, in line with the Council's commitment to reach its net zero carbon commitments by 2030. Such improvements would also be beneficial to the buildings, in improving resilience to climate change.

4. KEY INFORMATION

What is a LLBCO?

Local Listed Building Consent Orders were introduced by section 60 of the *Enterprise and_Regulatory Reform Act 2013*.

A LLBCO is a legal instrument that empowers the Council to grant consent for specified works to listed buildings within a designated area or for buildings of a

specific type. This proactive approach eliminates the need for individual property owners to submit separate applications, allowing them to undertake works in accordance with conditions specified in the Order.

Legal and Policy Framework

The formulation of a LLBCO is to be consistent with sections 16 and 66 of the *Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990*. This legal duty mandates that local planning authorities must pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. i.e., to seek to preserve and do no harm. That duty is a matter of considerable importance and weight and whilst it is not expressly prohibitive of works that may cause harm, any such harm must be clearly and convincingly justified. Additionally, the LLBCO is consistent with Chapter 16 of the National Planning Policy Framework ('NPPF'), which emphasises the importance of sustaining and enhancing heritage assets while ensuring their viable use.

Climate Goals and Heritage Assets

The Council has declared a Climate Emergency and aims for the district to achieve carbon neutrality by 2030. To reach this ambitious target, the Council is actively collaborating with businesses, residents, and local organisations through its Action Plan. Given that the district is home to a significant number of listed buildings – integral to its rich historic environment – consideration should be given to including these buildings in a comprehensive strategy to reduce emissions.

Energy Performance and Historic Buildings

Historic buildings often exhibit poor energy performance due to factors such as limited insulation, single glazing, and inadequate air tightness. However, the 2020 Heritage Counts report by Historic England¹ indicates that retrofitting energy-efficient measures into historic homes can yield substantial long-term carbon savings. For instance, carbon emissions can be reduced by up to 84% in a detached Victorian home, 62% in a Georgian terrace, 58% in a 1900s terrace, 56% in a Victorian semi-detached, and 54% in a Victorian terrace. These reductions not only contribute to environmental sustainability but also result in cost savings for homeowners. Certain measures may also protect the fabric of heritage assets as our climate changes.

5. CONDITIONS

General Requirements for Consent

Any subsequent LLBCO would specify conditions that would need to be met before consent is granted/actionable. These conditions would undergo rigorous evaluation during a consultation phase to ensure they align with the Council's objectives and legal obligations. It is therefore intended that, subject to the initial consultation process being sought for approval in this Report, any subsequent draft LLBCO would

¹ Historic England, *Know your home know your carbon: reducing carbon emissions in traditional homes* (2021): <<https://historicengland.org.uk/content/heritage-counts/pub/2020/hc2020-know-your-home-know-your-carbon/>>

itself be subject to consultation in order to receive feedback and undergo revisions and refinement as may be necessary.

Potential for Photovoltaic (PV) Installations

While the installation of solar PV systems may be considered as an option for enhancing energy efficiency – and the principle of which could be tested through the consultation exercise – it should be noted that a separate Local Development Order ('LDO') may be more appropriate for granting planning permission for PV installations within the grounds of a property, rather than direct attachment to the building itself. This too can be established through the consultation exercise, where officers consider that the installation of solar PV directly to listed buildings may be difficult to justify on any broad and meaningful basis. Stakeholder views will nevertheless be sought of approval is given for the initial consultation exercise.

Technical Specifications and Historic Fabric

The LLBCO would outline technical requirements for any approved alterations or extensions. These conditions aim to protect the historic fabric of a building, and the Council will exercise oversight to ensure that installation methods do not compromise their special heritage interest and significance.

Additional Safeguards

In light of the unique challenges posed by historic buildings, the LLBCO would also consider conditions related to other retrofitting measures. These may include approaches to wall insulation and secondary double glazing, among others, to ensure they do not negatively impact the building's heritage value.

6. PROPERTIES EXCLUDED FROM THE ORDER

There is clearly a balance to be struck between improving the energy performance of a listed building and the impact sustainability measures can have on the significance of a heritage asset. The intention is to include at least all Grade 2 buildings within the Order and any specified area for it to be in force, but to exclude those with a higher status as they are of particularly important and/or exceptional interest. This is because, as the courts have directed, the weight to be given to the desirability of preserving the significance of listed buildings is not uniform: it will depend upon the extent of any impact or harm, and the extent of the significance of the heritage asset in question. This can be further clarified through consultation.

7. THE OPERATION OF THE ORDER

An Order will typically run for five years; however, its operation should be reviewed annually to check how many applications have been received and for officers to assess its impact on the listed buildings affected.

If at any time during the life of an Order it is considered that it is either ineffective or is giving rise to unexpected and unacceptable harm to listed buildings to which it applies, it can be varied or revoked. This would mean any works previously covered by the Order which have not been started, would no longer benefit from the consent granted through the Order.

If at the end of the term of the Order it is considered that it is operating effectively and does not give rise to undue harm, it will be renewed, and a longer term considered. As an Order confers listed building consent for specified works, a breach of the Order by carrying out works not authorised by the Order may lead to enforcement action.

8. LINKS TO CORPORATE PLAN

This report closely aligns with our new emerging strategic priorities of responding to climate change, in particular our focus on supporting more energy efficient buildings.

9. FINANCIAL IMPLICATIONS

There are limited financial implications arising from the process of consultation which would be electronic / paperless so far as possible.

The Council does not receive any fees for determining listed building consent applications, so there would be no loss of income (in fact, cost savings could be made through the imposition of an LLBCO because officer time would be reduced).

Depending upon the outcome of consultation, the Council may then determine to proceed with the preparation of a LLBCO. Due to its technical nature, and the resource required in its drafting and preparation, external assistance may be required. Likewise, as a legal instrument, advice and review by counsel may be necessary.

10. LEGAL IMPLICATIONS

11. The *Enterprise and Regulatory Reform Act 2013* inserted sections 26A-K and Schedule 2A into the *Planning (Listed Building and Conservation Areas) Act 1990*. The purpose of this amendment was to reduce the number of listed building consent applications for works which are considered not to be harmful, nor to have a significant impact on a building's special interest, through the introduction of LLBCO among other tools.

12. RISK MANAGEMENT

13. This report is most closely linked with the Development Management Services Operational Risks No. 22, a summary of these risks and mitigation measures are set out below:

Key Risk Description	Likelihood 1-4	Impact 1-4	Key Mitigation Measures	Risk Register and Reference*
The potential for unjustified harm to the significance of affected listed buildings.	1	3	The conditions applied to the Order are intended to guard against this and ensure that any adverse impact is clearly and convincingly justified.	Development Management Operational Risk Register- Risk reference 22

<p>The Order it is too restrictive on owners, and there is a low take up.</p>	<p>3</p>	<p>2</p>	<p>Information on the effectiveness of the Order will be reviewed on an annual basis and changes to the conditions will be actively considered</p>	
<p>The proposed changes are taken forward at pace, the opportunity to consider the impact on the Council's reputation are not adequately considered</p>	<p>2</p>	<p>2</p>	<ul style="list-style-type: none"> • Officers will take into account the learning of other councils to have applied these special arrangements, including the Royal Borough of Kensington and Chelsea, and the Wirral. • We are undertaking a seven-week period of consultation that will help shape the details of the LLBCO before it is implemented. • We will consider piloting the LLBCO in a specific parish, village, or Conservation Area initially, which will allow for a more controlled evaluation of the Order's impact. 	
<p>The LLBCO results in unintended negative consequences for our historic buildings</p>	<p>1</p>	<p>3</p>	<p>We will ensure the LLBCO is kept under careful review, the option to amend or rescind it are available</p>	

14. CONSULTATIONS

- 14.1 A seven week period of consultation will allow interested parties the opportunity to help us to determine the feasibility and viability of LLBCO and the form and shape that it may take, including the conditions that will apply. The consultation will be targeted at national and amenity societies, including Historic England, parish councils, the public, and other local stakeholders including Suffolk Preservation Society. We would seek to publicise the consultation through the Council's website and social media to include as many different voices as possible. It is also possible to publish an advertisement in the local press. Officers are exploring the means to undertake a dedicated mailshot, but the costs may be prohibitive. A copy of the consultation questionnaire (and summary document) is included at Appendix A.
- 14.2 Representations received in response to the consultations would be considered in drawing up any subsequent LLBCO.

15. EQUALITY ANALYSIS

16. The decision to consult with others before proceeding to prepare a LLBCO means we should be mindful of any negative equality impact, but it does not require a more formal assessment at this stage.

17. ENVIRONMENTAL IMPLICATIONS

This approach is intended to signal to owners of listed buildings that the principle of incorporating modern efficiency measures in listed buildings may be an acceptable one, provided careful detailing is applied. An increase in such measures within the district would have a significant impact on the Council's carbon footprint.

18. APPENDICES

Title	Location
(a) The consultation questionnaire and summary	Link
(b)	
(c)	

19. BACKGROUND DOCUMENTS

- 19.1 None

20. REPORT AUTHORS

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