

# CHESHIRE EAST COUNCIL

## Cabinet Member for Children and Family Services

---

**Date of Meeting:** 4<sup>th</sup> February 2013  
**Report of:** David Hallam, Principal Conservation and Design Officer  
**Subject/Title:** Proposed addition of 3 properties to the Local List of Historic Buildings (the Local List) and service of associated Article 4(1) directions restricting their demolition without planning permission  
**Portfolio Holder:** Councillor Rachel Bailey

---

### 1.0 Report Summary

- 1.1 This report seeks member authority for officers to add 3 buildings to the Local List of Historic Buildings and to serve an Article 4(1) direction restricting demolition in relation to each property. The buildings in question are:

Benger House, Former Fison's site, London Road, Holmes Chapel  
Pumphouse 5, part of the former Murgatroyd Salt works, Brooks Lane, Middlewich  
Former Wheelock County Primary School, Crewe Road, Wheelock

- 1.2 These buildings are presently unprotected by statutory designation. They are all buildings/sites that are unused and are considered to be under threat from either partial or complete demolition. They are of local historic significance, as explained later in this report and supported by the information contained within Appendices 1 and 2.

### 2.0 Recommendations

- 2.1 The Cabinet Member for Children and Family Services approves that
- (1) a Direction be issued pursuant to Article 4(1) Town & Country Planning (General Permitted Development) Order 1995 (as amended) ("the Order") that the permission granted by Article 3 of the Order for development falling within Part 31 class A of the Order shall not apply to the demolition of Benger House, London Road, Holmes Chapel;
  - (2) as demolition of Benger House without express planning permission would be prejudicial to the proper planning of the area and would constitute a threat to the amenities of the area, the Direction shall have immediate effect upon service pursuant to Article 6 of the Order and shall remain in force until it is either confirmed, modified or withdrawn within or expires after six months of the date it is made;

- (3) Bengier House be added to the Council's Local List of Historic Buildings;
- (4) a Direction be issued pursuant to Article 4(1) Town & Country Planning (General Permitted Development) Order 1995 (as amended) ("the Order") that the permission granted by Article 3 of the Order for development falling within Part 31 class A of the Order shall not apply to the demolition of Pumphouse 5, Brooks Lane, Middlewich;
- (5) as demolition of Pumphouse 5 without express planning permission would be prejudicial to the proper planning of the area and would constitute a threat to the amenities of the area, the Direction shall have immediate effect upon service pursuant to Article 6 of the Order and shall remain in force until it is either confirmed, modified or withdrawn within or expires after six months of the date it is made;
- (6) Pumphouse 5 be added to the Council's Local List of Historic Buildings;
- (7) a Direction be issued pursuant to Article 4(1) Town & Country Planning (General Permitted Development) Order 1995 (as amended) ("the Order") that the permission granted by Article 3 of the Order for development falling within Part 31 class A of the Order shall not apply to the demolition of Former Wheelock County Primary School, Crewe Road, Wheelock;
- (8) as demolition of Former Wheelock County Primary School without express planning permission would be prejudicial to the proper planning of the area and would constitute a threat to the amenities of the area, the Direction shall have immediate effect upon service pursuant to Article 6 of the Order and shall remain in force until it is either confirmed, modified or withdrawn within or expires after six months of the date it is made; and
- (9) Former Wheelock County Primary School be added to the Council's Local List of Historic Buildings.

### **3.0 Reasons for Recommendations**

- 3.1 To ensure that the local heritage significance of the buildings is acknowledged by their inclusion on the Local List, as set out in the National Planning Policy Framework.
- 3.2 Ensuring that the demolition of the buildings requires planning permission will allow the Local Planning Authority to fully consider the wider implications of the works, and ensure that the views of others, with an interest are able to be fully taken into account before a decision is taken by the Local Planning Authority.

#### **4.0 Wards Affected**

- 4.1 Dane Valley, Middlewich and Sandbach Ettiley Heath and Wheelock

#### **5.0 Local Ward Members**

- 5.1 Cllr Les Gilbert, Cllr Andrew Kolker, Dane Valley Ward; Cllr Paul Edwards, Cllr Simon McGrory, Cllr Michael Parsons, Middlewich Ward; Cllr Gail Wait, Sandbach, Ettiley Heath and Wheelock

#### **6.0 Policy Implications (including carbon reduction and health)**

- 6.1 None

#### **7.0 Financial Implications (authorised by Director of Finance and Business Services)**

- 7.1 The administrative costs associated with the Article 4 Direction will be met within the 2012/13 budget for Development Management.

#### **8.0 Legal Implications (authorised by Borough Solicitor)**

- 8.1 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. Circular 9/95 D2.3 advises that it will be relevant to consider whether the exercise of permitted development rights (in this case, the right to demolish) would undermine the visual amenity of the area or damage the historic environment. An article 4(1) direction can relate to specific or general development.
- 8.2 The law states that permitted development rights should only be withdrawn in exceptional circumstances. However, an Article 4(1) Direction must also be agreed by national government, and they can alter or quash the direction.
- 8.3 It should also be stressed that the direction does not constitute an absolute prohibition of development; it requires that an application for planning permission is made and then considered on its merits.

#### **9.0 Risk Management Implications**

- 9.1 Statutory and local requirements in respect to additions to the Local List and serving an article 4(1) direction have and will be met.

#### **10.0 Background and Options**

- 10.1 Local authorities have a statutory responsibility to positively manage the built heritage of their areas, including identifying and protecting locally

important heritage assets. The buildings identified in this report are considered to be locally significant heritage assets.

- 10.2 Article 4(1) Directions may be made either (1) with immediate effect, then confirmed in continuing effect [or modified or withdrawn] after consideration of representations or (2) after publication of intent and consideration of representations. The risk with the latter course is that the buildings at risk may be demolished before the Direction is made. In each of the three cases here, demolition without prior consideration of planning merits and mitigating conditions would be prejudicial to the proper planning of the area and constitute 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.
- 10.3 The heritage significance and circumstances relating to each of the buildings can be summarised as follows:

***Benger House, London Road, Holmes Chapel***

- 10.4 Benger House was constructed in 1939. Benger Foods, relocated to Holmes Chapel from Manchester, where the company had originated as Mottershead and Co in 1790, being acquired by the Benger family in 1870. The company manufactured ethical pharmaceuticals including Benger's Food, a milk supplement, widely used by infants and people of poor health during much of the 20<sup>th</sup> century.
- 10.5 The building is an example of a "Daylight Factory" completed in 1939. It reflects a change in the design of industrial buildings, to make them more efficient and better for worker conditions. It was designed by the Practice of Andrews and Butterworth in a restrained Art Deco style, expressed in the simple form and linearity of the building and in individual elements of the façade. The primary element of architectural interest is the frontage onto London Road and the returns of that frontage block. Internally its interest is focused upon the entrance lobby and staircase, the landing area with fanlight above and the Board Room. The ensemble is a clear expression of its time, with clean lines and faience tiled finish. Some other significant features such as door and light fittings also remain, although some are missing or are damaged. At its peak the site employed several hundred people and was the major employer in Holmes Chapel for many years. It therefore played an important part within the day to day life of the village.
- 10.6 It is a rare local example of this type of commercial building and is an important landmark within Holmes Chapel, situated on its elevated site above the A50, making it highly visible and memorable.

***Pumphouse 5, Brooks Lane, Middlewich***

- 10.7 The new Brine works at Elworth necessitated the construction of a pipeline between Elworth and Middlewich, through which brine was transported. In

order to serve this pipeline, a single storey rectangular brick structure, topped with a steel header tank, was added to the existing pump house site (the scheduled monument). In addition, in order to meet the increased demand for brine, a new borehole was sunk and a Thomas Matthew deep well pump was installed in a new pump house (Pump House No.5) which was erected a short distance to the south-west of the original pump house.

- 10.8 The Number 5 pump house, transformer pole and transfer pipes are individual heritage assets which are integral parts in the history of brine extraction at this site. Together with the current scheduled pump house number 1 and the below ground remains of the power house these assets represent the last remnants of salt making in Middlewich. The Local listing of Pump House 5 will provide a more comprehensive representation of the industrial history of the brine extraction process and also reinforce the significance of the currently scheduled site.

***Former Wheelock County Primary School, Crewe Road, Wheelock***

- 10.9 The school was built as a national school by the Church of England and was opened in 1872. In historic records it is listed as the Christ Church National School. It was mixed school, educating both boys and girls, with capacity for 250 children. Kelly directory entries indicate the pupil numbers in the late 18<sup>th</sup> and early 19<sup>th</sup> centuries were in the region of 150.
- 10.10 The building is of Victorian Gothic design constructed in local red brick with contrasting Staffordshire blue striation and buttress detailing on the front elevation facade. Windows have stone mullions, with stone heads and sills with a feature arched window on the front elevation located within a modest projecting gable. The steeply pitched roof is covered in patterned, ornate clay tiles. A small, tiled bell tower with iron finial is located midway along the building. The master's house to the side of the school continues this design but includes substantial chimneys on the ridge and rear wing of the building.
- 10.11 In the early 1970s, the school was deemed inappropriate for modern education and a new school built (the current Wheelock Primary School). The school was closed by 1976, although the former master's house has continued to be occupied.
- 10.12 The school is a landmark building within Wheelock and, in social history terms, is a key element of the fabric of the village, alongside the churches and chapels and public houses. The investment in the school by the Church of England in the latter part of the 19<sup>th</sup> century reflects the growth in the settlement, as well as a desire on the part of the church to provide mixed education to the children of working families associated with canal, salt, chemical and other industries within the area.

## **Article 4 (1) - The Process**

- 10.13 Article 4 of the General Permitted Development Order (as amended in 2010) includes provisions for a Local Planning Authority to apply a Direction to withdraw the permitted rights granted by the Order where it is expedient to do so. In this case the removal of rights under Part 31 relating to demolition.
- 10.14 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."*
- 10.15 An Article 4(1) Direction can be applied with immediate effect. 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.
- 10.16 It is considered, for the reasons stated above, that demolition of the subject buildings would meet the criteria and there is sufficient justification to apply an Article 4(1) Direction with immediate effect.
- 10.17 The LPA is required to advertise the Direction in a local newspaper; by site display in at least two locations close to the site; and by serving notice on the owner and occupier of any part of the land where feasible. It shall come into force on the date notice is served on the occupier or, where there is no occupier, on the owner of the land.
- 10.18 A copy of the Direction should be sent to the Secretary of State (SoS) on the same date on which Notice is served by the Local Planning Authority. The SoS can cancel or modify any Direction made under Article 4(1). This shall expire at the end of a period of 6 months, unless the LPA has formally confirmed the Direction.
- 10.19 The LPA can confirm the Direction 28 days after service, unless a longer period has been specified by the SoS. The LPA is required to take into account any representations received when deciding whether to confirm the Direction.
- 10.20 The effect of the proposed Article 4(1) direction would be that the demolition (whole or partial) would require planning permission. It would still be open to the LPA to approve an application, having regard to all material planning considerations including the heritage significance of the building. If the LPA refused the application, the applicant would retain the right of appeal against the decision.

## **Compensation**

- 10.21 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 be for abortive expenditure or other loss or

damage directly attributable to the withdrawal of the permitted development rights.

### **Potential constraints upon development**

10.22 It should be noted that retention of the buildings as part of re-development proposals could make re-development technically more challenging or problematic for certain forms of development. It may also influence commercial viability. However, all of these matters can be weighed in the balance against the heritage considerations arising from Local Listing by both officers and members as part of the consideration of the planning application.

### **Other Options**

#### ***Benger House***

10.23 Benger House was nominated for statutory listing, but English Heritage deemed it not to be worthy of Listing. However, in the report, English Heritage concluded the following:

*“Benger House is a typical “daylight factory” of the 1930s designed in a restrained form of the Art Deco style. However it does not exhibit either sufficient special interest associated with the style, or retain sufficient interest as an example of this building type to recommend statutory listing though it is **clearly of strong local interest**” (emphasis added)*

10.24 In essence, English Heritage indicated that the building has strong local significance. This supports the local view that the building is worthy of inclusion on the Local List. See report at Appendix 1

#### ***Pump House No 5***

10.24 As part of an application to modify the scheduled area, Pump House 5 was included in the suggested revised boundary. However, the decision was taken by English Heritage not to include Pump House 5 as part of the Scheduled Monument for the following reasons:-

*“As such the late date of this pump house, the loss of its internal features, the changes to the building since its closure, and its location away from the main core area of the brine works means that it does not meet the criteria for national importance and should not be included in the amended scheduling”*

10.25 Again, whilst not worthy of national designation, the building's role in explaining the continuation of the brine industry at the site and in Middlewich more generally is important in respect to local historical interest, which merits its inclusion on the Local List. See report at Appendix 2

### ***Former Wheelock County Primary***

- 10.26 This has not been assessed by English Heritage for inclusion on the statutory list. A nomination could be put forward to English Heritage but success is unlikely, based on current information and the national listing criteria.
- 10.27 For the reasons stated earlier, the building is considered to be of local significance worthy of inclusion on the Local List.

### **11.0 Access to Information**

Appendix 1 Bengier House background information

Appendix 2 Pump House 5 Background information

The background papers relating to this report can be inspected by contacting the report writer:

1 Heritage report prepared in relation to Bengier House by Peter DeFigueredo, Heritage consultant

2 Local List of Historic Buildings Supplementary Planning Document (adopted 14<sup>th</sup> October 2010)

Name: David Hallam

Designation: Principal Conservation and Design Officer

Tel No: 01625 (3)83733

Email: [david.hallam@cheshireeast.gov.uk](mailto:david.hallam@cheshireeast.gov.uk)