

OFFICER DECISION: REPORT

ADDRESSED TO: Corporate Director, Communities, as Nominated Deputy for the Chief Executive

PREPARED BY: Steve Ball, Operational Manager, Strategic Development Management and Placemaking (Planning, Transport and Environment)

Delegation Reference No: **CE1**, section 4 E of the Scheme of Delegations in the Council's Constitution

TITLE OF REPORT: Article 4 Direction in respect of the Rompney Castle, Wentloog Road, Rumney Cardiff CF3 3EB.

Report reference: 2023 - Article 4 (Rompney Castle)

PROPOSAL:

The recommended decision is:

To seek Chief Executive / Nominated Deputy approval to serve an Immediate Article 4 Direction in respect of the Rompney Castle, Wentloog Road, Rumney (Appendix A), to remove permitted development rights afforded under Parts 2 and 31 of the Schedule to the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) in relation to the property.

The reason for the recommended decision is that the local planning authority is satisfied that such development should not be carried out unless permission is granted for it on application; and would be prejudicial to the proper planning of the area or constitute a threat to the amenities of the area.

PURPOSE

This report is to ensure that a proper and reasonable decision can be taken on the above proposal and

- (a) contains and/or appends all the information necessary to make a proper decision;
- (b) contains or appends all the advice given in relation to the proposal; and
- (c) has been prepared in accordance with the Scheme of Delegations

BACKGROUND

1. On 27th July 2023, an application was received (ref. [23/01746/PRNO](#)) which proposed the demolition of The Rompney Castle, Wentloog Road, Rumney Cardiff CF3 3EB. This followed the refusal of planning application ref. [22/00094/MJR](#) in April 2022 which proposed demolition and redevelopment of the site for 26 no. one-bedroom apartments and 1no. commercial unit, and which was refused on a number of grounds, including that: -

1. *The proposed development requires the demolition of a historic building of some character, that is of considerable significance to the local community and the loss of the building and land will cause unacceptable harm to the wellbeing*

of the local community and to local character and distinctiveness, contrary to guidance in Planning Policy Wales 11, Policy KP5 of the adopted Cardiff Local Development Plan 2006-2026, and the Council's approved Supplementary Planning Guidance 'Planning for Health and Well-being'.

ISSUES

2. In response to the above prior notification application, and given the immediate threat to the future of the building which is considered to meet the criteria for 'local listing', an Article 4 Direction is required under Urgency Action powers to prevent the demolition of the building in question without first obtaining planning permission (i.e. withdrawing permitted development rights under Part 2 and 31 of Schedule 2 of the Town and Country Planning General Permitted Development Order 1995) ('GPDO').
3. Article 4 directions can either be immediate or non-immediate. Immediate Article 4 directions can be made where certain development would be prejudicial to the proper planning of the area or constitute a threat to the amenities of the area. The Immediate Article 4 direction takes effect on the date the notice of the direction is served on the owners or occupiers (or first published or displayed where service is considered impracticable) and is subject to the publicity and confirmation procedures as set out in Schedule 2A of the GPDO 1995. An Immediate Article 4 direction expires at the end of the period of 6 months beginning with the date on which it comes into force unless confirmed by the Council before the end of the 6 month period.
4. Its effect is that an application for express planning permission has to be made for those development proposals excluded under the direction (no planning application fee is payable) which will be considered on its merits, the LPA will assess the proposed development in the light of policies in its development plan documents and consider any other factors that are material. The Council may be liable to pay compensation if the permission is refused or permission is granted subject to conditions other than those conditions imposed by Schedule 2 to the GPDO 1995. The landowner is entitled to claim compensation for abortive expenditure and any loss or damage caused by the loss of rights. This can include the difference in the value of the land if the development had been carried out and its value in its current state, as well as the cost of preparing the plans for the works (*section 107, Town and Country Planning Act 1990 ('TCPA')*).
5. Section 108(2A) of the TCPA 1990 provides that compensation is only payable if a planning application for certain development formerly permitted by the *GPDO 1995* is made within 12 months of the Article 4 direction taking effect. No compensation for the withdrawal of certain PDRs is payable if an LPA gives notice of the withdrawal between 12 months and 24 months in advance.
6. A claim for compensation must be made in writing and must be served within 12 months from the date of the decision in respect of which the claim is made (*regulation 12, Town and Country Planning General Regulations 1992 (SI 1992/1492)*).

7. It is considered appropriate to make an Immediate Article 4 Direction to remove the following permitted development rights from the site as such development would be prejudicial to the proper planning of the area or constitute a threat to the area in which the Site is located:
 - (a) Any building operation consisting of the demolition of a building being development comprised within Class A of Part 31 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 not being development comprised within any other Class.
 - (b) The painting of the exterior of any building or work building being development comprised within Class C of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 not being development comprised within any other Class.

RESOURCE REQUIREMENTS

11. As set out above.

CONSULTATION REQUIREMENT

12. Local Ward Councillors Bob Derbyshire and Jacqueline Parry have been consulted on this proposal and are supportive.
13. The statutory notification and publication requirements are set out under the Legal Implications below.
14. Councillor De'Ath Cabinet Member (Cabinet Member for PTE), has been consulted on this proposal and is supportive.

ADVICE

Financial Implications

15. As set out in the body of this report.

Legal Implications

16. Relevant legal provisions are set out in the body of the report.
17. Following the making of an Article 4 direction, the LPA must, as soon as practicable give notice by local advertisement and comply with the notification and publication provisions prescribed in Schedule 2A of the Order, specifying a minimum period of 21 days, stating the date on which that period begins, for representations to be made to the LPA (*paragraph 1(4)(e), Schedule 2A, GPDO 1995*). Any representation received by the LPA during this period must be taken into account by the LPA in deciding whether to confirm the Article 4 direction (*paragraph 1(8), Schedule 2A, GPDO 1995*).
18. In cases of urgency or emergency, the Chief Executive has delegated power to exercise any Executive Function (even where such matters are reserved to the Cabinet) or take any decisions on behalf of the Council, where this is necessary to protect the Council's interests – Delegation reference CE1 in Section 4E of

the Scheme of Delegations. Any such decision must be published in the Officer Executive Decision Register.

19. Under the Scrutiny Procedure Rules (Rule 13), call-in does not apply where the decision is urgent; and a decision is urgent if the Monitoring Officer (or Chief Executive or Section 151 Officer) certifies that any delay likely to be caused by the call-in process could seriously prejudice the Council or the public interest; and the Chair of the relevant scrutiny committee (or in his/her absence, the Chair of the Council, or in both their absences, the Vice-Chair of the Council) agrees that the matter is urgent. The Monitoring Officer has certified that this decision is urgent and that any delay caused by the call in process would prejudice the public interest, as clearly it would allow the building to be demolished before the decision takes effect. The Chair of the Environmental Scrutiny Committee has agreed this matter is urgent.
20. Decisions taken as a matter of urgency must be reported for information to the next available meeting of the Council, together with the reasons for urgency.

Signature:

Steve Ball

Designation: Operational Manager, Strategic Development Management and Placemaking

Report Reference: Report date: 31st August 2023