

CABINET MEETING: 16 DECEMBER 2021

LLANDAFF CONSERVATION AREA EXTENSION:
CONFIRMATION OF ARTICLE 4(2) DIRECTION

STRATEGIC PLANNING & TRANSPORT (COUNCILLOR CARO
WILD)

AGENDA ITEM: 12

Reason for this Report

1. To seek Cabinet approval to confirm the Article 4(2) Direction relating to the area recently added to the Llandaff Conservation Area; removing permitted development rights afforded to single dwelling houses relating to various minor alterations.

Background

2. Cabinet approved the extension to the Llandaff Conservation Area and the making of an Article 4(2) Direction in December 2020.
3. The Direction was made on 7th August 2021 to remove permitted development rights for the following works:
 - **Windows & doors** - the alteration, removal & renewal of all doors & windows in a house where they front a highway.
 - **Porches** - the construction of a porch outside any external door which faces a highway.
 - **Hardstandings** - the construction of a hard surface where it is nearer a highway than the dwelling.
 - **Painting** - the covering of original walling material by painting & the changing of the colour of existing painted exterior walls, masonry or windows where they front a highway.
 - **Roofs** - planning permission is required for 'any other alteration to a roof' e.g. from re-covering using different materials. Re-roofing in visually similar materials will usually be considered maintenance as opposed to alteration.
 - **Boundaries** - the erection, improvement or alteration of a means of enclosure (walls, gates, fences) fronting a highway.
 - **Boundary demolition** - of the whole or any part of any gate, fence, wall or other means of enclosure within the curtilage of a dwellinghouse and fronting a highway.

4. As a result of the Direction, these works now require planning permission. No fee is payable by householders for such applications.
5. In accordance with the relevant legislation, the Article 4(2) Direction must be confirmed by the Council within six months of making it.

Issues

6. Notice of making the Article 4(2) Direction was served on the owners and occupiers of the affected properties and a press notice was published in the local press on 7th August 2021. A statutory time period of 21 days from this date was allowed for representations to be made. An advice note (see Appendix 2) was provided to residents to explain the implications of the Direction.
7. From the approx. 35 affected dwellings, just one representation was received within the 21 day consultation period. The resident sent an informal objection to the restrictions that the Direction would impose. Whilst agreeing that it was important to maintain standards of originality and continuity, the resident suggested that the measures were excessive for minor works of repair and replacement. A reply was issued noting that that most works of maintenance (as opposed to alteration) can be undertaken without the need to apply and that advice would be offered where residents are uncertain. Further formal comments were invited but none were received.

Reason for Recommendations

8. Approval of the recommendation to confirm the Article 4(2) Direction to remove these permitted development rights will assist in the management of change in order to preserve the character and appearance of this recently extended conservation area.

Legal Implications

9. In addition to designating an area as a Conservation Area under Section 69 of the Planning (Listed Building and Conservation Areas) Act 1990, the Council has the additional power to serve an Article 4(2) Direction under the Town and Country Planning (General Permitted Development) Order 1995 ("the Order").
10. Welsh Government Circulars provides guidance on the use of Article 4(2) Directions and the procedure for making and confirming them. The legal requirement for notification of confirmation of the Directions is the same as required for notification of making of the Directions; by further public notice in the local press as well as individual notices to affected owners/occupiers.
11. A Direction under the Article 4(2) restricts the scope of the permitted development rights in relation to a Conservation Area. By withdrawing the deemed permission under the Order, its effect is that an application for

express planning permission has to be made for those development proposals excluded under the Direction. If the permission is refused or granted subject to those other than in the Order, the landowner is entitled under the Order to claim compensation for abortive expenditure and any loss or damage caused by the loss of rights.

12. It should be further noted that the Council has six months from the date of making of the Directions to confirm them otherwise they will expire. In this instance the Directions must be confirmed by 7th February 2022. The Order confers no power upon the Council to confirm the Directions with variations. They must, therefore, be confirmed in the same terms on which they were initially drawn and consulted upon.
13. The decision about these recommendations has to be made in the context of the Council's public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties) – the Public Sector Equality Duties (PSED). These duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of 'protected characteristics'. The 'Protected characteristics' are: • Age • Gender reassignment • Sex • Race – including ethnic or national origin, colour or nationality • Disability • Pregnancy and maternity • Marriage and civil partnership • Sexual orientation • Religion or belief – including lack of belief.
14. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers (WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 (gov.wales) and must be able to demonstrate how it has discharged its duty.
15. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
16. In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in Cardiff's Corporate Plan 2019-22 <http://cmsprd.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Documents/Corporate%20Plan%202018-21.pdf> When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.

17. The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them.

The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link:<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

18. The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh Language. The Council has to consider the Well Being of Future Generations (Wales) Act 2015 and how this strategy may improve the social, economic, environmental and cultural well-being of Wales.

Financial Implications

19. No direct financial implications are expected to arise from this report. The management of any resulting future applications will be met from within existing resources.

HR Implications

20. There are no HR implications arising from this report.

Property Implications

21. There are no property implications arising from this report.

RECOMMENDATIONS

Cabinet is recommended to confirm the additional Llandaff Conservation Area Article 4(2) Direction to remove permitted development rights afforded to single dwelling houses as detailed within the attached Direction.

SENIOR RESPONSIBLE OFFICER	ANDREW GREGORY Director Planning, Transport & Environment
	10 December 2021

The following appendices are attached:

- Appendix 1 – Article 4 Direction – Llandaff
- Appendix 2 – Advice note sent to residents

The following background papers have been taken into account:

- Background Paper 1 – [Llandaff Conservation Area Appraisal \(2020\)](#)
- Background Paper 2 [Cabinet Decision, December 2020, Llandaff Conservation Area Review](#)