

## **NORTH SOMERSET COUNCIL DECISION**

**DECISION OF:** COUNCILLOR MARK CANNIFORD. THE EXECUTIVE MEMBER FOR PLACEMAKING AND ECONOMY



**WITH ADVICE FROM:** ASSISTANT DIRECTOR PLACEMAKING AND GROWTH

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**DECISION NO:** 22/23 DP 190

**SUBJECT:** DECISION TO CONFIRM AND SIGN ARTICLE 4 DIRECTIONS TO REMOVE PERMITTED DEVELOPMENT RIGHTS TO DEMOLISH STONE WALLS 1 METRE AND UNDER IN THE GREAT WESTON CONSERVATION AREA.

**KEY DECISION:** NO

**REASON:** Likely income will be less than £500,000. While the decision covers more than one ward in Weston the effect will not be significant.

### **BACKGROUND:**

An article 4 direction is a direction under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, (see Appendix 1) which enables the Secretary of State or the local planning authority to withdraw specified permitted development rights across a defined area. There are two types of directions under the General Permitted Development Order: non-immediate directions and directions with immediate effect. This direction is a non-immediate direction.

Provided that there is justification for both its purpose and extent, an article 4 direction can:

- remove specified permitted development rights related to operational development or change of use
- remove permitted development rights with temporary or permanent effect.

The potential harm that the direction is intended to address needs to be clearly identified. Government Guidance provides there will also need to be a strong justification for the withdrawal of permitted development rights relating to [most relevant listed]:

- a wide area (eg those covering a large proportion of or the entire area of a local planning authority, National Park or Area of Outstanding National Beauty)
- an area extending beyond the essential core of a primary shopping area
- cases where prior approval powers are available to control permitted development

Article 4 directions are used to control works that could threaten the character of an area of acknowledged importance, such as a conservation area. An article 4 direction only means that a particular development cannot be carried out under permitted development rights and therefore needs a planning application. This gives a local planning authority the opportunity to consider a proposal in more detail.

## **Article 4 Directions and the National Planning policy Framework (NPPF) updated July 2021.**

Paragraph 53 of the NPPF states:

“The use of Article 4 directions to remove national permitted development rights should:

- where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)
- in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)
  - in all cases, be based on robust evidence, and apply to the smallest geographical area possible.”

### **DECISION:**

To Confirm and Sign Article 4 Directions removing permitted development rights to demolish stone walls 1 metre (39.37 inches) in height or less in the Great Weston Conservation Area. The Article 4 Directions will come into force on or after 9am on 31 August 2022

### **REASONS:**

In 2018 after a year of work and extensive public Consultation, the Great Weston Conservation Area was adopted by the Council. The Management plan for the Conservation Area included the establishment of Article 4 directions to remove permitted development rights to demolish stone Walls less than 1 metre high.

Stone walls over 1 metre (39.37 inches) currently require planning permission prior to demolition.

Stone walls in Weston were traditionally built to 3 feet height (36 inches), this means that many walls can currently be demolished without gaining planning permission.

In July 2021 we commissioned an updated report on the value of stone walls to the Conservation Area. The report is provided as a supporting document.

The report notes:

“Weston-super-Mare's stone walls are a major feature of the Victorian stone town and make a significant and positive contribution to the character of Weston. The incremental loss of boundary walls within the Great Weston Conservation Area is harming the overall cohesiveness, integrity and character of individual buildings, streets and neighbourhoods.

Historic value: many of Weston's walls were built at the same time as their houses at a defining time for Weston-super-Mare when the town experienced rapid growth. The town's identity and distinctiveness today is greatly influenced by this period of development. The boundary walls often reflect the architectural style of the building and can indicate the status of the original occupier.”

### **OPTIONS CONSIDERED:**

1. Do nothing: This option could lead to a serious decline in the number of stone walls in Weston. Causing detrimental effect to the character of the Conservation Area.

2. Article 4 directions for a smaller area than the Conservation Area: The work that has been carried out to analyse stone walls in the Conservation Area shows that there is a significant risk of detriment across the whole of the Conservation Area if stone walls are destroyed.

3. Consider an area wider than the Conservation Area to take in a larger part of Weston: This option was favoured by The Weston Civic Society. However given the updated NPPF (revised July 2021) setting out article 4 directions should apply to the smallest area possible, and provide a robust case, the option to concentrate on the Conservation Area is deemed appropriate.

### **FINANCIAL IMPLICATIONS:**

Increase in planning applications is likely to be minimal as clear, concise controls, backed up by appropriate guidance, tend to encourage like-for-like repair or replacement in matching materials, which do not require planning permission (RPS Planning Research into the use of Article 4 directions on behalf of the English Historic Towns Forum, October 2008, paragraphs 3.18-3.19).

If a local planning authority makes an article 4 direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently:

- refuses planning permission for development which would otherwise have been permitted development; or
- grants planning permission subject to more limiting conditions than the General Permitted Development Order

The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

Compensation claims have been extremely rare. The RPS 2008 study found no evidence for any compensation payments actually being made (op. cit., paragraphs 3.20-3.21).

The case for compensation depends on two main things as to whether or not compensation is payable. Firstly the nature of the PD rights being withdrawn and secondly whether using an immediate or non-immediate direction. If the direction covers the rights prescribed in Regulation 2 of the 2015 Regs and the notice is given in the manner set out in regs 3 and 4 then no compensation will be payable.

There will be a cost to applicants who wish to submit a planning application to demolish a stone wall under 1 metre.

### **Funding**

A grant of £2,930 has been provided by Historic England to develop the Stone Walls report

## **LEGAL POWERS AND IMPLICATIONS**

The Local Planning Authority has the power to make this decision in accordance with Article 4 (1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

If the Secretary of State or the local planning authority is satisfied that it is expedient that development described in any Part, Class or paragraph in Schedule 2 of the General Permitted Development Order, other than [Class DA of Part 4 or] Class K[, KA] or M of Part 17, should not be carried out unless permission is granted for it on an application, the Secretary of State or (as the case may be) the local planning authority, may make a direction under paragraph 4 that the permission granted by article 3 does not apply.

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

The Decision supports the Council's response to the Climate Emergency and has positive environmental impact. The rationale for removing walls is often to create parking areas in front gardens, this is likely to add hard surfaces and reduced permeability, reducing biodiversity and increasing flood risk.

Retaining stone walls has a zero carbon impact.

## **CONSULTATION**

Round one consultation:

Consultation has been with Weston Civic Society and across services including Planning and Regeneration teams, Legal Team and Climate Change Officer.

Scrutiny panel on Monday 27<sup>th</sup> September 12 noon.

Executive member decision 21/22 DP232 21 October 2021 to consult with the intention to implement Article 4 directions on 01 February 2022 pending results of consultation.

Public Representations regarding the proposed Article 4 Directions were invited for a period of 6 weeks on North Somerset Council Consultation portal.

The consultation period ran from 9am on 26 October until 5pm on 07 December 2021

- The consultation phase was promoted via local media and social media on North Somerset Council's facebook page and through North Somerset Life magazine November edition. The magazine goes to every household in North Somerset.
- A hard copy of the supporting documentation and Map was available to view, in The Central Library Weston-super-Mare.
- Eight Weston Town council public notice boards within the Great Weston Conservation Area.

The results of the consultation are provided as a report 'consultation responses summary and detail of responses'

Round two consultation:

Following the results of the first public consultation a second Executive Member Decision (DP358) was made on 27 January 2022 to Establish Article 4 directions.

On 09 June 2022 North Somerset Council Made and Sealed the Article 4 direction and entered into a 28 day public representation phase from 24 June to 22 July 2022.

- All relevant documents were available from 9am Friday 24 June to 5pm 22 July on NSC website site
- The consultation phase was promoted via local media and social media on North Somerset Council's facebook page and through North Somerset Life magazine July 2022 edition. The magazine goes to households in North Somerset.
- A hard copy of the supporting documentation and Map was available to view, in The Central Library Weston-super-Mare.
- Notices and maps were posted on eight Weston Town Council public notice boards within the Great Weston Conservation Area.
- A public notice was placed in The Mercury Newspaper 23 June 2022
- The Secretary of State for Levelling Up, Homes and Communities was informed.

The result of the 28 day public representation phase is that no objections were received.

### **RISK MANAGEMENT**

To minimise risk we consulted with the public from 26 October to 07 December 2021 and again between 24 June and 22 July 2022.

### **EQUALITY IMPLICATIONS**

Have you undertaken an Equality Impact Assessment? No

### **CORPORATE IMPLICATIONS**

Not applicable.

### **APPENDICES**

Copies of all associated documents used for Public Representation phase can be found at:

<https://www.n-somerset.gov.uk/business/regeneration-development/weston-super-mare-town-centre-regeneration/heritage-action-zones>

### **BACKGROUND PAPERS**

- Great Weston Conservation Area Appraisal and Management Plan Adopted December 2018  
<https://www.n-somerset.gov.uk/sites/default/files/2020-02/Great%20Weston%20conservation%20area%20introduction.pdf>

SIGNATORIES:

DECISION MAKER:


Signed:  
and Economy



.Cllr Mark Canniford. Executive Member for Placemaking

Date: 1 September 2022

WITH ADVICE FROM

Signed  Assistant Director Placemaking and Growth

Date: 1 September 2022