

Report of Cabinet Member for Enterprise, Development & Regeneration

Cabinet – 10 December 2015

ADOPTION OF FFYNONE & UPLANDS CONSERVATION AREA REVIEW AS SUPPLEMENTARY PLANNING GUIDANCE & PROPOSAL TO SERVE AN ARTICLE 4(2) DIRECTION

Purpose:	To report the representations received during the consultation on the Ffynone & Uplands Conservation Area Review; to agree the proposed amendments to the draft guide and adopt it as Supplementary Planning Guidance (SPG).
Policy Framework:	City and County of Swansea Unitary Development Plan (Adopted November 2008).
Reason for Decision:	To approve the final version of the Ffynone & Uplands Conservation Area Review documents and to adopt this as Supplementary Planning Guidance.
Consultation:	Legal, Finance, Access to Services.
Recommendation(s):	It is recommended that Cabinet: - 1) Note the amendments to the Ffynone & Uplands Conservation Area Character Appraisal and Management Plan as set out at Appendix A; 2) Refer the Ffynone & Uplands Conservation Area Character Appraisal and Management Plan to Planning Committee for: i) Adoption as Supplementary Planning Guidance; ii) Approval of enlarged Conservation Area Boundary as set out in Appendix D; iii) Agree to serve draft Article 4 Direction to remove Permitted Development (PD). Rights for selected properties as shown in appendix E and to protect all boundary walls.
Report Author:	Steve Smith
Finance Officer:	Aimee Dyer
Legal Officer:	Christopher Allingham
Access to Services:	Phil Couch

1.0 Background

- 1.1 Conservation Areas are designated by the Local Planning Authority under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The principal considerations are the architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance.
- 1.2 Designation as a Conservation Area does not mean that no change can occur or that only traditional designs are allowed, rather that there is a greater level of design and development control linked to policy EV9 of the City and County of Swansea Unitary Development Plan and the main consideration is whether any change 'preserves or enhances' the character of the conservation area.
- 1.3 Whilst the legislation sets out a duty to review the Conservation Areas from 'time to time', the only published information available in Swansea are informal notes which comprise boundary plans and a very limited description of the area (often less than a single side of text). As a result there is a lack of up to date information on the character and appearance of the Conservation Areas to guide those preparing and assessing development proposals in these sensitive and historic areas.
- 1.4 The Ffynone & Uplands Conservation Area Review has been prepared to provide an up to date assessment of the character and issues affecting the designated Ffynone & Uplands Conservation Area. It will be used to help assess and determine planning applications in this area as well as to allow for the commencement of the process of introducing Article 4 Directions to provide greater control of various permitted development rights for selected properties.
- 1.5 In order to be effective a Conservation Area Review needs to comprise:
 1. A 'Character Appraisal' which is an up to date record of the character of buildings and spaces including positive and negative features.
 2. A 'Management Plan' which indicates how the character of the area will be preserved and enhanced by a variety of means including Development Control, management of the public realm and spaces, plus possible environmental enhancements.

2.0 Ffynone & Uplands Conservation Area Review Supplementary Planning Guidance (SPG)

- 2.1 The final Ffynone & Uplands Conservation Area Review (Appendix A at [Link to final document](#)) seeks to:
 - Define the special interest of the area and identify the issues which threaten its special qualities.
 - Provide guidelines to prevent harm and achieve the enhancement of the area.

2.2 The Ffynone & Uplands Conservation Area Character Appraisal briefly sets out the historical development of the area. The review explains the townscape and built form of the conservation area including listed buildings, buildings of local character, key materials and colours.

2.3 The key characteristics of the Ffynone & Uplands Conservation Area, which should be preserved or enhanced by actions as recommended within the Management Plan document are considered to be:

- The attractive location on a south-facing slope with long views to Swansea Bay;
- The well preserved 19th and early 20th century properties with an interesting collection of detached, paired and terraced house;
- The large amounts of green open space – St James Gardens, the green area to the immediate south of Cwmdonkin Terrace, Cwmdonkin Park, and the Rosehill Quarry Community Park area – all of which enhance the views up the hillside and between buildings, and some of which specifically contribute to the green backdrop to the Conservation Area;
- The mainly well preserved villas and more substantial terraced houses in Ffynone Road and the St James Gardens area, mainly dating to the 1850s and 1860s, and mainly listed;
- St James’s Church, its adjoining church hall, and the listed railings which surround the site;
- Well detailed terraced houses dating to the 1870s onwards, the best preserved in. Cwmdonkin Terrace, Richmond Road, and Richmond Terrace;
- The Inter-War development in Hillside Crescent, mostly positive in its impact;
- The links with Dylan Thomas, Wales’ most famous poet, who was born and brought up in Cwmdonkin Drive from 1914 onwards.

2.3 The Character Appraisal proposes to split the area into 10 identifiable character areas. The proposed division into character areas makes it easier to differentiate between distinct sub areas of the overall conservation area and will make it easier to manage change in the area.

2.4 The review document also comprises a Management Plan which sets out key issues and opportunities to preserve or enhance the special character as well as a management plan for the area.

3.0 Public consultation

3.1 On the 26th September 2013 the draft Ffynone & Uplands Conservation Area Review was presented to Development Management and Control Committee. Members resolved to endorse the draft document to be issued for public and stakeholder consultation.

3.2 The draft Ffynone & Uplands Conservation Area Review was subject to a 9 week consultation exercise which ran from the 4th August 2014 until the 13th October 2014.

3.3 The following consultation methods were used:

- The consultation was featured in the 'Have your Say' section of the Council home page on the web site.
- Notification emails highlighting the consultation on the draft document were sent to local ward councillors as well as specific consultation bodies such as the Swansea Civic Society, The Victorian Society etc as well as local action groups.
- A summary pack was sent to all households and businesses (1400+ properties) in the area. This pack contained a summary leaflet which also directed recipients to the website to view the documents as well as a questionnaire form.
- A dedicated webpage was also established to explain the consultation and allow the electronic documents to be downloaded in pdf format.
- Bilingual posters were erected in the local area.
- A Press Release was issued and featured within the South Wales Evening Post on the 6th August 2014.
- A series of public meetings were held on the 28th August 2014 between 11am and 9pm in the Life Point Centre on Ffynone Road. Presentations on the documents were held at 2pm and 7pm which were followed by group discussions regarding the proposals. At all other times there were more informal-drop-in sessions. The outcome of this event can be seen at Appendix C.

3.4 In total, comments from 46 individual respondents were received. These respondents covered a wide range of organisations and interests and made over 350 separate comments on the draft Ffynone draft Conservation Area Review. The breakdown of the representations received along with the Authority's response is attached in Appendix B.

3.6 The final amended version of the Ffynone & Uplands Conservation Area Review includes all the proposed changes to the guidance following the public and stakeholder consultation exercise. Part of the amendment of this includes the merging of the previous two separate documents (Character Appraisal and Management Plan) into one combined document for ease of reference.

4.0 Boundary Amendment

4.1 A key action set out in the Management Plan is the proposal to review the conservation area boundary and as part of the public and stakeholder consultation. Following analysis of the areas around the conservation area, it is considered that following areas have a character and quality equal to the existing conservation area and are therefore proposed for addition:

- Eden Avenue and Westfa Road;
- Eastern end of Glanmore Road;
- Glanmor Crescent;
- Eastern end of Sketty road (from Hawthorne Avenue eastward);
- Uplands Crescent (district shopping area);
- Southern side of Walter Road (up to Westbury Street);
- Northern end of Brynymor Road;
- Easton Crescent; and
- Green backdrop running west from Rosehill Quarry.

4.2 The fully extent of areas proposed to be added to the Conservation Area are shown in Appendix D.

5.0 Representations Received

5.1 The majority of comments were supportive of the content and recommendations set out in the conservation area review documents. Appendix B to this report contains the detailed comments and the recommended responses; however the main comments and responses are summarised below.

5.2 In terms of the proposals to increase the size of the conservation area boundary (as shown in Appendix D) the majority of comments were supportive of this approach and it was suggested that the enlarged conservation area be renamed the Ffynone & Uplands Conservation Area which has been taken on board.

5.3 A number of the respondents requested that more be done to protect the special character of the area from inappropriate alterations to dwellings. In response it is considered that the introduction of Article 4(2) Directions to remove some permitted development rights of the most architecturally positive dwellings in the locality would be beneficial in order to minimise inappropriate changes to these properties that may otherwise be permitted. However it is not possible to bring these Directions into force as part of the adoption of a SPG document. Instead these Directions must be introduced under a separate process.

5.4 A number of comments were also received regarding the loss of boundary walls within the conservation area and in particular front boundary walls to dwellings and their replacement with areas of hardstanding to accommodate off-street parking areas to the front of these houses. In response to this it is considered that the introduction of an Article 4(2) Direction to remove permitted development rights in respect of the partial or total demolition of boundary walls would be beneficial in order to protect the character of the area. In this instance it is considered that a blanket Article 4(2) Direction covering the whole of the conservation area be introduced to protect boundary walls.

5.5 Most respondents were supportive of the removal of certain permitted development rights in order to protect the character and appearance of

individual buildings and the wider conservation as a whole. However many respondents stated that stricter controls would only be worthwhile if prompt and effective enforcement action was undertaken to police the area and halt any unauthorised works which could damage the non-renewable resources of the conservation area.

- 5.6 Concerns were raised by several respondents regarding a proliferation of Houses of Multiple Occupation (HMOs) within the area. HMOs often create additional pressure for parking and contribute to the problem of the loss of front boundary walls. These issues have been highlighted in the review document text, however the conservation area designation cannot control HMOs which are dealt with under separate planning and licensing regulations. On the 5th May 2015 the Welsh Government published a 'Houses in Multiple Occupation (HMOs) review' which recommends potential changes to regulations (including planning) to improve the management and control of HMOs where there is a proliferation of these.
- 5.7 There were also concerns raised as to the current state of deterioration of the former RAFA Club and the Ffynone Nursing Home due to the poor perception these created as well as incidences of antisocial behaviour. A number of concerns were raised as to the lack of action on behalf of the owner of these sites despite there being an approved planning consent on the site. During the period of the public consultation process the owner of these sites submitted an application to extend the period for the commencement of works on the site by a further 2 years. In order for the planning consent to be granted the planning department required that evidence be provided that progress was being made on behalf of the applicant to secure funding for the development of the sites which was provided.
- 5.8 The full detailed list of comments made, the consideration of these comments and the recommended action can be found at Appendix B.

6.0 The Next Steps

- 6.1 Following endorsement by Council the Ffynone & Uplands Conservation Area Review will become adopted as SPG that expands upon relevant policies set out in the UDP.
- 6.2 The initial Character Appraisal and Management Plan documents have been merged into one document for ease of use. Prior to final publication some minor grammatical and formatting changes may be necessary and some photographs may need to be altered. This will not affect the approved guidance elements.
- 6.3 Subject to the approval of the Ffynone & Uplands Conservation Area Review the next proposed step is the serving of an Article 4(2) Direction to restrict certain permitted development rights in order to help better protect the character of the conservation area. This will be subject to a further report to Planning Committee and Council.

7.0 Article 4(2) Direction

- 7.1 An Article 4(2) Direction removes permitted development rights for certain changes which do not currently require Planning Permission such as removal of front boundaries, changing windows, chimneys etc. which may undermine the special historic character of the conservation area. An Article 4(2) Direction can be made to remove one, all or a selection of permitted development rights. This allows specific potentially harmful changes to be considered as planning applications on a case by case basis.
- 7.2 It should be noted that commercial properties such as offices, flats and HMOs do not have permitted development rights to make minor changes. Only 'houses' that are not listed buildings benefit from the permitted development rights that allow multiple minor changes that cumulatively can degrade the character of the conservation area. An assessment of all 1400 unlisted houses in the enlarged Ffynone & Uplands Conservation Area has been carried as part of the review to identify those with strong architectural qualities and original details. As a result it is proposed to apply Article 4(2) Directions to a selected group of 223 dwellings as shown in the plan at Appendix E as these are considered to be the best preserved of the unlisted dwellings within the proposed conservation area. Each of these dwellings has been assessed to highlight those permitted development rights which if changes were not controlled would lead to the most damaging loss of historical and architectural character as outlined in the table in Appendix E.
- 7.3 In addition, it is proposed to serve a 'blanket' Article 4(2) Direction to remove the right to demolish boundary walls within the conservation area, which is considered to be one of the major issues within the locality and has implications for highways pedestrian safety as well as erosion of the character of the street scene.
- 7.4 The serving of the Article 4(2) Direction on selected properties to protect details and the blanket Article 4 Designation to protect boundary walls is a separate process which starts with an endorsement by the Planning committee. Prior to any such application the issue will be discussed with the Cabinet Members, the Ward Councillors and would be subject to further community and stakeholder consultation.

8.0 Financial Implications

- 8.1 The final adopted document will be provided in electronic form on the planning webpage of the council's public website. Any request for printed copies will incur a fee to cover the costs of printing. Therefore there are no financial implications arising from the publication of this SPG.
- 8.2 The increase in size of the conservation area will result in greater scrutiny of planning applications that currently lie outside the area to ensure that they preserve or enhance the special character of the conservation area.

Whilst this will result in an increase in the workload of the development control service and the Design and Conservation Team it is essential to properly manage the area. Any additional workload will be met from the existing team structures and budget.

- 8.3 If a Direction is made under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995, no fee is payable for a planning application made in respect of what would have been permitted development had there been no Article 4 Direction. However, should consent be refused or granted subject to conditions, an applicant might seek to use the compensation provisions of Section 108 of the Town and Country Planning Act 1990. There is no specific budget for compensation claims and in any case this is expected to be unlikely.
- 8.4 The Article 4 Directions will create additional workload for both Development Control and Design and Conservation Teams of the Planning Department, in terms of the generation of additional planning applications and associated guidance in design and materials. However the proposed approach which targets specific permitted development rights of a small number of dwellings in comparison to a blanket/‘catch-all’ approach applied indiscriminately across all permitted development categories and to all dwellings will reduce the number of applications received. Any extra costs incurred through additional workload will be met from the existing budget. These additional planning applications will also require funding in terms of advertising these in the local press. This advertising will need to be met through the advertising budget for such purposes.

9.0 Legal Implications

- 9.1 The designation and proposed enlargement of the Ffynone & Uplands Conservation Area will need to comply with national legislation set out in the Planning (Listed Building and Conservation Areas) Act 1990. The final Ffynone & Uplands Conservation Area Review document will amount to SPG to Policy EV9 (Conservation Areas) of the adopted City and County of Swansea Unitary Development Plan (2008) and will need to be taken into account as a material consideration in evaluating future planning applications.
- 9.2 The weight that can be attributed to the draft SPG for the purpose of determining a planning application increases as the adoption process progresses. Significant weight will be attributed to the final adopted version of the SPG.
- 9.3 As a part of the Ffynone & Uplands Conservation Area review process it is recommended that there is scope to protect the special character of important unlisted buildings identified in the Appraisals by means of an Article 4 Direction under the General Permitted Development Order.
- 9.4 The Article 4(2) Direction is effective immediately after the notice is served or published, however it expires after six months unless it is confirmed. The legal requirement for notification of confirmation of the Direction is the

same as for serving it, in this case by letter to the owners/occupiers of the properties covered by the Direction and by publication in the local newspaper. The notice will specify a period of at least 21 days, stating that the date on which that period begins, within which any representations concerning that direction may be made to the Council. In deciding whether to confirm a direction made under Article 4(2), the Council shall take into account any representations received during the period specified in the notice.

- 9.5 If confirmed, the Article 4(2) Direction will remain valid unless and until it is cancelled. The making of the Direction removes the permitted development rights that property owners/occupiers previously enjoyed in respect of various changes to or removal of architectural features of merit as well as the painting of brick or stone dwelling façades. This will require property owners/occupiers to apply for planning permission to undertake such works which would otherwise not be required and if necessary the Council can refuse planning permission for works and alterations that are considered to be harmful to the character of the area. A further guidance note document to assist the Development Control service in this respect will be produced.

10.0 Equality and Engagement Implications:

- 10.1 Section 3.0 of this report outlines the public and stakeholder engagement undertaken. Guidance notes to assist property owners will be made available in a bilingual format.

Background Papers:

- Development Management and Control Committee report, 26th September 2013

Appendices:

- A Final draft of the Ffynone & Uplands Conservation Area Review. – [Link to final document](#)
- B Record of Public Comments - Full table of comments and authority responses.
- C Notes of public consultation event held on 28th August 2014.
- D Plan showing proposed enlargement of the Ffynone & Uplands Conservation Area boundary.
- E Plan showing selected unlisted houses where Article 4(2) Direction is proposed to be served and table documenting.