



PROPOSED BROWNSWOOD CONSERVATION AREA

CABINET MEETING DATE 18 November 2019	CLASSIFICATION: Open
WARD(S) AFFECTED Brownswood	
CABINET MEMBER Cllr Guy Nicholson Planning, Culture & Inclusive Economy	
KEY DECISION No	
GROUP DIRECTOR Ali Ajman, Interim Group Director, Neighbourhoods & Housing	

1. CABINET MEMBER'S INTRODUCTION

- 1.1** The proposed Brownswood Conservation Area is located to the North of the Borough. The area is a high quality late Victorian suburb with a clear hierarchy of housing types set out from the 1860s onwards enclosed by the established routes of Blackstock Road, Finsbury Park and Green Lanes. An Article 4 Direction is also proposed over the Conservation Area in order to preserve original features.
- 1.2** The boundary was drawn around the area of Brownswood following identification in the 2017 Conservation Area Review. The draft Brownswood Conservation Area Appraisal was prepared in 2019 and the research and assessment of the area's special interest undertaken for this appraisal has enabled careful consideration of the boundaries.
- 1.3** I commend this report to Cabinet.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1** The Council has an ongoing statutory duty to review its conservation areas and to determine whether any parts or further parts of their area should be designated as conservation areas. The proposal is coming forward now following work undertaken for the Council's 2017 Conservation Areas Review, which identified a number of workstreams for review and designation of conservation areas within the borough.
- 2.3** The proposed designation of the conservation area will ensure that the area's special character is given appropriate statutory protection and has an up to date appraisal. This report puts forward the proposed Brownswood Conservation Area Appraisal and Management Plan, Article 4 Direction and boundary map for a six week public consultation.

3. RECOMMENDATION

- 3.1** **Cabinet is recommended to approve:**
- i. The Draft Brownswood Conservation Area Appraisal & Management Plan (Appendix A), Draft Brownswood Conservation Area boundary (Appendix B) and proposed Article 4 Direction for a six week consultation with residents and other stakeholders.**

4. BACKGROUND

- 4.1** The Council undertook a borough wide review of its existing and potential conservation areas in 2017, which identified several workstreams for ongoing review and designation.
- 4.2** The proposed designation of Brownswood Conservation Area will protect the area's special character and is considered to meet the statutory test regarding special architectural and historic interest.
- 4.3** The proposed Brownswood Conservation Area is a high quality late Victorian suburb. The character and form of the area from its original design and layout is largely unchanged. Buildings in the area are adorned with detailed historic decorative architectural features. The research undertaken for 2017 review has indicated that it would be desirable to preserve and enhance the historic qualities of the area through designation of the conservation area.
- 4.4** In order to preserve the uniform character and appearance of the conservation area and protect original features, it is proposed to make a non-immediate Article 4 Direction over the conservation area. The proposed Article 4 Direction covers many buildings that are relatively unaltered and sensitive to further incremental changes.
- 4.5** The proposed Article 4 Direction will remove the following permitted development rights:

Schedule 2, Part 1, Development within the curtilage of a dwelling house

Class A	Enlargement, improvement or other alteration to a dwelling house
Class B	Additions etc to the roof of a dwelling house
Class C	Other alterations to the roof of a dwelling house
Class D	Porches
Class E	Buildings etc incidental to the enjoyment of a dwelling house
Class F	Hard surfaces incidental to the enjoyment of a dwelling house
Class G	Chimneys, flues etc on a dwelling house
Class H	Microwave antenna on a dwelling house

Schedule 2, Part 2, Minor Operations

Class A	Gates, fences, walls etc
Class B	Means of access to a highway

Class C Exterior painting

- 4.6** The proposed Article 4 Direction will preserve the features that give these streets their special character, such as original windows, doors, brick detailing. Full details of the Article 4 Direction will be sent to residents under a separate Legal Notice.
- 4.7** Subject to Cabinet's approval to proceed, it is proposed to carry out a six-week community consultation on the Draft Brownswood Conservation Area Appraisal and Management Plan ('the Draft Appraisal') and the proposed Article 4 Direction with local residents and stakeholders.
- 4.8** The Draft Appraisal follows best practice, as set out by Historic England and describes in detail what gives the conservation area its special character and interest along with identifying any weaknesses. The Management Plan makes recommendations on how to address the weaknesses in order to add to the special interest of the conservation area.
- 4.9** The preparation and adoption of Conservation Area Appraisals and Management Plans is an important tool in informing and controlling development in those areas and appraisals and management plans that have been adopted following public consultation have greater weight in the planning process.

5. POLICY CONTEXT

- 5.1** The proposal supports the Core Strategy (2010) policies 24 *Design* and 25 *Historic Environment* and Hackney's Sustainable Community Strategy (2009), Priorities 5 (promoting well-designed neighbourhoods) and 6 (protecting Hackney's environment). It also conforms to the National Planning Policy Framework 2019.
- 5.2** Under the National Planning Policy Framework (NPPF) 2019, conservation areas are classed as designated heritage assets. The NPPF requires local planning authorities (LPAs) to set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, LPAs should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

6. LEGAL POWERS

- 6.3** The Council has the legal powers for this course of action. Section 69 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local planning authorities from time to time to determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and to designate those areas as conservation areas.
- 6.4** Section 69 (2) places a duty on local planning authorities from time to time to review the past exercise of functions under this section and to determine whether any parts or further parts of their area should be designated as conservation areas, and if they so determine, to designate those parts accordingly. The present proposal arises out of this duty.
- 6.5** Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local planning authorities, in the exercise of their planning functions, to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 6.6** A conservation area character appraisal is taken into account when exercising decision making functions within the planning process, and in appeals against refusals of conservation area consent for demolition and refusals of planning permission in a conservation area.

7. REASONS FOR DECISION

- 7.1** This decision is required in order to ensure that the area's special architectural and historic interest is recognised and a full and up to date conservation area appraisal clearly sets out the area's qualities and identifies threats and weaknesses.
- 7.2** This decision is required in order to ensure that guidance is in place in the form of a management plan that provides ways to address weaknesses in the conservation area and add to its special interest and character.
- 7.3** This decision is required in order to ensure that the conservation area boundary accurately reflects the special character and historic context of this area and ensures that appropriate protection is in place.

8. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

8.1 Consideration was given to extending the proposed Brownswood Conservation Area to include Blackstock Road. However, this was rejected as the buildings on Blackstock Road have undergone considerable alterations, particularly at ground level where there are no surviving historic shopfronts. Moreover, the boundary of the London Borough of Hackney and London Borough of Islington runs through the centre of the road, with no proposals for Islington to designate.

8.2 The option of doing nothing was rejected as the 2017 Conservation Areas Review identifies a need to review existing conservation areas where the special architectural and historic interest justifies it, in line with national legislation.

9. EQUALITY IMPACT ASSESSMENT

9.1 There will be no detrimental impact to groups with protected characteristics under the Equality Act 2010.

10. SUSTAINABILITY

10.1 There will be a beneficial effect through improved protection of the historic built environment, which forms part of the physical environment. There will be no detrimental effect on the physical and social environment.

11. CONSULTATIONS

11.1 There is no statutory duty to undertake public consultation prior to the designation or extension of conservation areas, although it is Hackney's normal practice. The Council will therefore carry out a public consultation with stakeholders as appraisals that have been adopted following public consultation carry greater weight on appeal.

11.2 Community Consultation on the Draft Appraisal (Appendix A) and boundary map (Appendix B) will be undertaken for six weeks following the Cabinet decision. A copy of the proposed consultation letter can be found at Appendix C. The proposal and consultation details will be publicised in the Hackney Gazette and made available on the Council's conservation webpages. The consultation material will also be available at Stoke Newington and Hackney Central libraries and a drop-in session will be held in the local area. Historic England, the Hackney Society and

Stoke Newington Conservation Area Advisory Committee (CAAC) will also be notified of the proposals.

- 11.3** There is no statutory duty to consult on Article 4 Directions. In this instance it is proposed to give a 12 month notice period before the Article 4 Direction takes effect, the Council will not be liable to pay any compensation for the withdrawal of permitted development rights caused by the making of the Direction.

12. RISK ASSESSMENT

- 12.1** None required.

13. COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

- 13.1** This report requests Cabinet to approve public consultation to be undertaken with respect to the proposed Draft Appraisal and conservation area boundary map.

- 13.2** The recommendation in this report has no immediate financial impact and the cost of the consultation process outlined in section 10 will be managed within the Planning service revenue budgets.

- 13.3** The conservation area, if it is adopted, will incur minimal costs for staff time and production of documents. These will be contained within the current Planning budgets.

- 13.4** Future planning applications in the areas covered by the proposed Article 4 direction will attract planning application fees. The administrative cost of processing applications will be met from associated planning fees. The 12 month notification period contemplated for the proposed Article 4 direction would remove compensation liability for the Council.

14. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES

- 14.1** Cabinet is authorised to approve the commencement of public consultation of the proposed review and extension of the Brownswood Conservation Area by virtue of:

a) Section 9D(2) of the Local Government Act 2000 and Regulation 3(1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

b) Article 5 of the Council's Constitution, which states that the Mayor and Cabinet shall carry out all of the local authority's functions which are not the responsibility of any other part of the local authority whether by law or under the Constitution but only to the extent of the delegation from the Mayor; and

c) the Mayor's Scheme of Delegation, which expressly grants responsibility to the Mayor and Cabinet for making recommendations to the council on the declaration of Conservation Areas

14.2 There is no statutory requirement for the council to consult the public before designating a conservation area. The stated six week consultation period in this case is a legacy of now repealed planning regulations that are now established customary practice among planning officers. It is considered that this is an appropriate period in which to engage with landowners, occupiers and other stakeholders and consider their views before making a recommendation on whether to designate the conservation area boundary. If ultimately approved, the weight as a material consideration of the final Appraisal document is also enhanced if it has been through a public consultation process.

14.3 Section 69(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) ('the Act') effectively defines conservation areas as "areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance". Section 69(2) of the Act places a local planning authority under an ongoing statutory duty to review its conservation areas from time to time and "to determine whether any parts or further parts of their area should be designated as conservation areas". The Draft Appraisal that was carried out to ascertain the architectural and historic merits of the Brownswood area has addressed these statutory criteria and has concluded that the conservation area should be designated.

14.4 Statutory implications of designating the conservation area boundary chiefly relate to management of future development. Under section 72 of the Act, the LPA must pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area when determining planning applications. Furthermore, some permitted development rights (pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO")) are applied more restrictively or will not apply at all within conservation areas (e.g. additions to the roof of a dwelling house under class B of Part 1 of Schedule 2 of the GPDO etc.

14.5 A conservation area character appraisal and management plan is taken into account in the planning process, and in appeals against refusals of planning permission (including demolition) in a conservation area.

The Proposed Article 4 Direction

14.6 Cabinet is authorised to approve the commencement of public consultation of the proposed Article 4 Direction in Brownswood Conservation Area by virtue of:

a) Section 9D(2) of the Local Government Act 2000 and Regulation 3(1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

b) Article 5 of the Council's Constitution, which states that the Mayor and Cabinet shall carry out all of the local authority's functions which are not the responsibility of any other part of the local authority whether by law or under the Constitution but only to the extent of the delegation from the Mayor.

14.7 The Secretary of State may by way of a development order, grant deemed planning permission for specified development or classes of development. The GPDO is effectively a national grant of planning permission. The GPDO, grants planning permission for certain development described as "permitted development" including development within the curtilage of a dwelling house. However, the character and appearance of buildings and neighbourhoods can be significantly damaged by alterations carried out as permitted development. For example, the introduction of unsympathetic modern windows and porches can result in a uniform row of houses losing its character. In order to address this issue, an LPA can make an Article 4 direction that will restrict permitted development rights within a limited area. The direction can cover a single building, street or a neighbourhood. The withdrawal of permitted development rights under an Article 4 direction means that deemed planning permission is no longer granted automatically by the GPDO and that a planning application needs to be made to the LPA for development otherwise permitted by the GPDO. An Article 4 direction does not prohibit development but enables the LPA to have some control over the proposed development. In line with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017, the standard planning application fee will be sought for applications for changes of use in the area subject to this Article 4 Direction. The planning application 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 planning application 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.

14.8 There is no statutory requirement for public consultation before the Article 4 Direction is made. However, in this case, it is proposed to make an Article 4 Direction with non-immediate effect, coming into force 12 months after the date stipulated in the statutory notice to be issued by the Council. By giving a 12 month notice period before the Article 4 Direction takes effect, the Council will not be liable to pay any compensation for the withdrawal of permitted development rights caused by the making of the Direction. There is no immediate threat of change and it is therefore unlikely that the character and appearance of the buildings within the area will be adversely affected by development activity during the 12 months before the Article 4 Direction takes effect.

15. NEXT STEPS

15.1 Following the six week public consultation, all responses will be carefully considered and any necessary amendments to the appraisal or boundary map will be made before the item is brought back to Cabinet for approval to designate. Once approved a letter will be sent to each property informing them of the 12 month notification period for the Article 4 Direction.

APPENDICES

APPENDIX A – Draft Brownswood Conservation Area Appraisal & Management Plan

APPENDIX B – Draft Brownswood Conservation Area Map

APPENDIX C – Draft Community Consultation Letter

BACKGROUND PAPERS

None

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