

**DESIGNATION OF BROWNSWOOD CONSERVATION AREA AND APPROVAL OF  
NON-IMMEDIATE ARTICLE 4 DIRECTION**

<b>CABINET MEETING DATE</b> 24th February 2020	<b>CLASSIFICATION:</b> Open
<b>WARD(S) AFFECTED</b> Brownswood	
<b>CABINET MEMBER</b> Cllr Guy Nicholson Planning, Culture & Inclusive Economy	
<b>KEY DECISION</b> No <b>REASON</b> N/A	
<b>CORPORATE DIRECTOR</b> Ajman Ali, Acting 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 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 2006 and 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 A six week public consultation has taken place and minor amendments have been made to the conservation area appraisal and management plan in response to the comments of local stakeholders.
- 1.4 I commend this report to Cabinet.

## **2. GROUP DIRECTOR'S INTRODUCTION**

- 2.1 This report seeks approval of a new conservation area in Brownswood, following a six week consultation.
- 2.2 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 2017 Conservation Areas Review, which identified a number of workstreams for review and designation of conservation areas within the borough.
- 2.3 This report brings forward the proposed Brownswood Conservation Area, appraisal and boundary map for cabinet approval. It also seeks approval from Cabinet for the drafting of an Article 4 Direction, to remove permitted development rights, over part of the conservation area in order to preserve its special character.

## **3. RECOMMENDATION(S)**

- 3.1 **Cabinet is recommended to:**
  - i. **Approve the designation of the Brownswood Conservation Area including the Brownswood Conservation Area Appraisal and boundary map.**
  - ii. **Approve the making of a non-immediate Article 4 Direction over part of the conservation area (see Appendix B) to withdraw the permitted development rights granted by Schedule 2, Part 1, Class A, B, C, D, E, F, G, H. Part 2, Class A,**

## **B and C and Part 14, Class A and J of the GPDO.**

### **4.0 BACKGROUND**

- 4.1** The Council's conservation strategy includes a continuing programme of designating and reviewing existing conservation areas. 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** Conservation area designation allows the Council to ensure, through the planning system, that the special quality and value that has been identified in a conservation area may be protected. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended ("the Act") requires planning authorities to pay special attention in the exercise of their planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 4.3** The decision to create a new Brownswood Conservation Area was recommended in both the 2006 and 2017 Conservation Area Review. 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.
- 4.4** 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 the 2017 review has indicated that it would be desirable to preserve and enhance the historic qualities of the area through designation.
- 4.5** The Conservation Area 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.
- 4.6** The preparation and adopting of Conservation Area Appraisals and Management Plans is an important tool in informing and controlling development in those areas. Moreover, documents that have been adopted following public consultation have greater weight in decision making in the planning process.
- 4.7** In order to preserve the uniform character and appearance of the conservation area and protect original features, it is proposed to place a non-immediate Article 4 Direction over part of the conservation area (see Appendix B).
- 4.8** Cabinet gave approval to carry out a six week community consultation on the Draft Brownswood Conservation Area Appraisal and Management Plan and the proposed Article 4 Direction with local residents and stakeholders in November 2019.

**4.9** In order to preserve the uniform character and appearance of the conservation area and protect original features, it is proposed to place an 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. Full details of the Article 4 Direction will be sent to residents under a separate Legal Notice.

**4.10** The proposed Article 4 Direction will withdraw the following permitted development rights one year from the date of the notice being served on residents:

**4.11 Schedule 2, Part 1 Development within the curtilage of a dwellinghouse**

Class A, enlargement, improvement or other alteration of 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

**4.12 Schedule 2, Part 2 Minor Operations**

Class A – gates, fences, walls etc

Class B – means of access to a highway

Class C – exterior painting

**4.12.1 Schedule 2, Part 14 Renewable Energy**

Class A – Installation or alteration etc of solar equipment on domestic premises

Class J – Installation or alteration etc of solar equipment on non-domestic premises

Changes have recently been brought in on the 17<sup>th</sup> January 2018, which now require Local Planning Authorities to charge a standard fee for planning applications in Article 4 areas. Previously there were no fees.

As the proposed Article 4 Direction is non-immediate, the Council is not liable to pay any compensation to parties whose permitted development rights have been removed by the Direction.

**5.0 Policy Context**

- 5.1** The proposal is supported by 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 with the National Planning Policy Framework 2019 and emerging Local Plan 2033.
- 5.2** Under the National Planning Policy Framework (NPPF) 2019, conservation areas are classed as designated heritage assets. The NPPF requires local planning authorities 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.
- 5.3** *The State of Hackney's Historic Environment* report (2005) set out the Council's responsibilities as planning authority as well as its stewardship role in caring for the historic environment. The report endorsed the Council's commitment to the historic environment and set out a broad conservation strategy, which included the preparation of a comprehensive review of conservation area strategy, including character appraisals and management proposals.
- 5.4** The *Conservation Areas Review*, which was approved by Cabinet in September 2006, set out a five year programme for the designation of new conservation areas; the review of existing conservation areas in line with best current practice and in a manner consistent with the emerging planning policy structure and management guidelines for each of the Borough's conservation areas.

## **6.0 Legal Powers**

- 6.1** 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.
- 6.2** 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.
- 6.3** 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.
- 6.4** The 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.

## **7.0 REASONS FOR DECISION**

- 7.1** This decision is required in order to ensure that the area's heritage 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 a management plan is in place that provides ways to enhance the conservation area and its special historic and architectural interest.
- 7.3** This decision is required to ensure that the uniform character, appearance and original features of the area are preserved by Article 4 Direction.

## **8.0 DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 8.1** Consideration was given to including a wider area, including whether Gloucester Drive, Adolphus Road, Alexandra Grove, Portland Rise, Henry Road and Princess Crescent should be included with the proposed area. Conservation Areas require special architectural and historic interest to warrant designation. Whilst these streets date from a similar time period (1870s/80s) and are indeed similar, there has been a higher level of unsympathetic alterations which considerably impact the uniformity and group value of the buildings and spaces. In particular there are dormers of varying sizes and high levels of replacement windows. There has also been a considerable extent of infill development that is not prevalent within the proposed designated area.
- 8.2** Consideration was given to extending the 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.
- 8.3** The option of doing nothing was rejected as the 2006 and current 2017 Conservation Areas Review identifies a need to designate new conservation areas where the special architectural and historic interest justifies it, in line with national legislation.
- 8.3** The option of designating the Brownswood Conservation Area without an Article 4 Direction was considered. However, this was rejected as the Appraisal identifies a number of significant threats to the buildings and the overall conservation area which householders could undertake using permitted development rights. The use of an Article 4 Direction will therefore provide increased protection against the loss of historic architectural features.

## **9.0 Consultations**

- 9.1** There are no legal or statutory requirements to carry out public consultation for new or existing conservation areas. However, in line with best practice and Council's Statement of Community Involvement, the Council carried out a public consultation with stakeholders as appraisals that have been adopted following public consultation carry greater weight in decision making..
- 9.2** Community consultation on the draft Brownswood Conservation Area Appraisal and boundary map was carried out for six weeks from 17 December 2019 to 29 January 2020. A Table of Consultation Responses can be found at Appendix C.
- 9.3** The consultation was advertised on the Council's conservation webpages and consultation material made available at Stoke Newington Library and Hackney Central library. A drop-in session was also held at St John the Evangelist, Brownswood Park on 13 January 2020.
- 9.4** A total of 82 responses were received. 69 responses supported the proposals with the current boundary. 8 responses were received that supported the principle of the conservation area but argued that the area should be extended to encompass the area surrounding Gloucester Drive (discussed above). 2 responses were received arguing that certain buildings should be removed from the proposed conservation area owing to the extent of changes. There were 2 objections to the principle of the designation.
- 9.5** Several respondents highlighted errors or suggested amendments to the appraisal, the majority of which have been accepted and amended accordingly.

## **10.0 Equality Impact Assessment**

- 10.1** The EQIA was prepared to assess the potential impact of the designation of the conservation area on different groups within Hackney to ensure there is no undue impact on any particular community groups. The EQIA did not identify any negative impacts on groups that fall within one or more of the categories of 'protected characteristics' in the Equality Act 2010.

## **11.0 Sustainability**

- 11.1** The designation and management of conservation areas can contribute to sustainable neighbourhoods and places by highlighting local distinctiveness and character and ensuring these values are taken into account when changes affecting the historic environment are proposed in planning applications. Conservation areas are part of the local cherished scene and are valued by many residents in the Borough. The management of conservation areas aligns with the Council's *Sustainable Community Strategy* (2009) priorities to ensure Hackney remains a pleasant place with sustainable, attractive, well-designed neighbourhoods where people want to live. Development and refurbishment of buildings within conservation areas will be required, wherever possible, to meet the Council's relevant sustainability targets and requirements.

**12.1 Risk Assessment**

12.1 None required.

**13.0 COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES**

13.1 This report requests Cabinet to approve and adopt the Brownswood Conservation Area, boundary map, appraisal and management plan. It also seeks approval for the making of an Article 4 Direction over part of the conservation area.

13.2 The recommendation in this report has no immediate financial impact and the conservation area, once adopted, will incur minimal costs for staff time and production of documents. These costs will be contained within the current Planning budget.

13.3 A future planning application in the area to be covered by the proposed Article 4 Direction will now attract a planning application fee. The administrative cost of processing these applications will be met from existing revenue budgets and from income received from planning application fees.

**14.0 COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES**

14.1 Cabinet is authorised to make a determination on whether to grant approval for the proposed designation of the new conservation area in Brownswood by virtue of the Mayor's Scheme of Delegation, which expressly grants responsibility to the Mayor and Cabinet for determining what areas in the borough should be declared Conservation Areas.

14.2 There is no statutory requirement for the council to consult the public before designating a conservation area. The six-week consultation period in this case is a legacy of now repealed planning regulations that has now become established customary practice among planning officers. The six week consultation period is also referred to in the Council's adopted Statement of Community Involvement. Accordingly, this is an appropriate period to seek public comment. Public consultation will also afford the appraisal greater weight as a material consideration

14.3 Section 69(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) ('the Act') defines a conservation area as an area of special architectural or historic interest, the character of appearance of which it is desirable to preserve or enhance. Section 69(2) of the Act places a local planning authority under a duty to designate such areas within its locality as conservation areas. The Appraisal that was carried out to ascertain the architectural and historic merits of the area satisfies the requirements in s69 (1) of the Act and supports the proposed designation of this conservation area.



- 14.4** Under s72 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 to 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** The conservation area character appraisal 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 make a determination on whether to grant approval for the proposed non-immediate Article 4 Direction in Brownswood Conservation Area by virtue of:
- a) Regulation 4 (1) (c) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and
  - 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, a local authority 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 Local Planning Authority (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. Any planning application that is made because of the operation of an Article 4 Direction that has withdrawn permitted development rights is exempt from having to pay any relevant planning application fee. 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, once made, a public consultation phase of at least 21 days must be carried out seeking representations on the Article 4 Direction. The Council can then consider these representations in deciding whether to confirm the Article 4 Direction. The proposed Article 4 Direction will only take effect after it has been confirmed by the Council and after a period of 12 months starting from the date stipulated in the statutory notice to be issued by the council. This 12 month notice period before the Article 4 Direction takes effect means that the council will not be liable to pay any compensation to parties whose permitted development rights have been withdrawn by the making of the Direction. As a large percentage of the dwellings in the area covered by the proposed Article 4 Direction are council owned, it is unlikely that the character and appearance of the buildings within the area will be adversely affected during the 12 months before the Article 4 Direction takes effect.

**APPENDICES**

**APPENDIX A** – Brownswood Conservation Area Appraisal and Management Plan

**APPENDIX B** – Brownswood Conservation Area Map

**APPENDIX C** – Table of Consultation Responses

**BACKGROUND PAPERS**

None

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