



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

FORWARD PLAN NO. NH 26

CABINET MEETING DATE 19 July 2021	CLASSIFICATION: Open
WARD(S) AFFECTED Homerton, Hackney Wick	
CABINET MEMBER Cllr Guy Nicholson Deputy Mayor for housing supply, planning, culture and inclusive economy	
KEY DECISION Yes	
GROUP DIRECTOR Ajman Ali, Group Director, Neighbourhoods & Housing	

1. CABINET MEMBER'S INTRODUCTION

- 1.1 Hackney Council has a statutory duty to regularly review its existing conservation areas in addition to assessing neighbourhoods for their suitability for designation as new conservation areas. In addition to the statutory duty, the Mayor's 2019 - 2022 manifesto sets a clear commitment for the Council to deliver an ambitious programme of Conservation Area reviews and designations.
- 1.2 The Council undertook a borough wide review of its existing and potential conservation areas in the 2017 Conservation Area Review Study (CARS), which identified several workstreams for ongoing review and designation. The CARS proposes ongoing review of existing conservation areas and the designation of a further 18 potential conservation areas.
- 1.3 The designation of potential conservation areas is generally given higher priority in the programme as these areas have more limited heritage protection than areas already designated.
- 1.4 The designation of Well Street Conservation Area will therefore ensure that the area's important heritage and cherished local character is given the appropriate protection.
- 1.5 I commend this report to Cabinet.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 This report proposes the designation of Well Street Conservation Area, which is an area of architectural and historic interest that is currently unprotected by any statutory designation. Designation of the conservation area will ensure that its heritage significance is properly recognised.
- 2.2 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. Accordingly, the proposed designation will serve to preserve and enhance the character of the conservation area and give it a coherent boundary.

3. RECOMMENDATION(S)

3.1 Cabinet is recommended to approve:

- the proposed designation of Well Street Conservation Area;

- the Well Street Conservation Area Appraisal and Management Plan (Appendix A);
- the Well Street Conservation Area Boundary (Appendix B); and
- Post designation consultation with property owners of the proposed Article 4 Direction.

4. BACKGROUND

4.1 The proposed Well Street Conservation Area is one of 18 potential conservation areas identified in the 2017 CARS document.

4.2 The proposed designation of Well Street Conservation 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 conservation area is centred on an historic route connecting Mare Street and Homerton, which began as a small hamlet and grew in the 19th century. Since Victorian times, the area has been a centre for commercial and light industries and has a village-like character. Terraces of 19th century housing and shops remain to both the east and west sides of Well Street and a market continues to thrive, having first started operating in the 1850s.

4.4 The research undertaken for this review has demonstrated that it would be desirable to preserve and enhance the historic qualities of the area through designation. 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.
- 4.5 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 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.
- 4.7 The designation of the conservation area will have various consequences. Buildings affected will be protected from uncontrolled demolition, and their setting will be safeguarded by the requirement for a higher standard of design for new development. Certain permitted development rights will be withdrawn, for example, for minor roof alterations, dormer windows and satellite dishes. Control over the erection of advertisements and signs will be greater, and the Council must be notified in advance of any works to trees.
- 4.8 The Council proposes to withdraw further permitted development rights with the use of an Article 4 direction.

5. CONSULTATIONS

- 5.1 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 has therefore carried out a public consultation with stakeholders as appraisals that have been adopted following public consultation carry greater weight on appeal.

- 5.2 A 28 day community consultation with local residents and stakeholders on the Draft Appraisal (Appendix A) and boundary map (Appendix B) was undertaken between the 2nd and 30th June, 2021.
- 5.3 The proposal and consultation details were made available on the Council's conservation webpages. The consultation material was also made available at Hackney Central library and a drop-in session was held online. Historic England, the Hackney Society and Central & South Hackney Conservation Area Advisory Committee (CAAC) were also notified of the proposals.
- 5.4 A total of 12 responses were received. 8 responded in support of the proposals. 5 responded with comments and corrections for the appraisal. 2 responded raising concerns with the heritage value of the area and potential costs to owner/occupiers. The Council's response to these matters can be found in Appendix C.

6. POLICY CONTEXT

- 6.1 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.
- 6.2 The proposal aligns with regional heritage policies in the London Plan and local policies, which seek to preserve and enhance Hackney's heritage assets. The proposal supports the policies in the Local Plan (2020), including policy LP3 (Designated Heritage Assets), which is underpinned by the 2017 Conservation Areas Review Study.

7. LEGAL POWERS

- 7.1 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.
- 7.2 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.

7.3 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.

7.4 The conservation area character appraisal is taken into account in the planning process, and in appeals against refusals of conservation area consent for demolition and against refusals of planning permission in a conservation area.

8. REASONS FOR DECISION

8.1 This decision is required in order to ensure that the area's heritage is recognised and a full conservation area appraisal clearly sets out the area's qualities and identifies threats and weaknesses.

8.2 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.

8.3 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.

9. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

9.1 Consideration was given to designating other potential conservation areas before Well Street Conservation Area. However, this was rejected as this area is undergoing a period of change, has development pressures and threats in the form of roof extensions and inappropriate developments and has undervalued heritage, which would benefit from statutory protection. There is therefore a robust case for designating the conservation area at this time.

9.2 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.

10. EQUALITY IMPACT ASSESSMENT

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

11. SUSTAINABILITY

- 11.1 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.

12. DECISION MAKING PRINCIPLES

- 12.1 The proposal conforms to Council's principles of decision-making and the property owners and other key stakeholders will be notified post designation in line with best practice. As noted, public consultation is not a statutory requirement for conservation area designation, but is normal practice for Hackney and a 28 day community consultation has taken place with residents and other stakeholders. The designation of the conservation area will be published in the London Gazette and one local newspaper.
- 12.2 The proposal takes account of Historic England guidance on conservation areas, *Conservation Area Appraisal, Designation and Management, 2019*
- 12.3 The proposal is consistent with human rights. Although it introduces additional controls, planning applications are individually assessed and personal circumstances can be taken into account in their exercise.
- 12.4 The designation will further the Council's aim to conserve its historic environment, and produce a more rationally-defined conservation area.

13. RISK ASSESSMENT

- 13.1 If the conservation area is not designated as proposed, a significant element of the historic environment will be unprotected and consequently liable to uncontrolled demolition and to erosion of its historic fabric by inappropriate alterations and other development.

14. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND RESOURCES

- 14.1 This report requests Cabinet to designate the proposed Well Street Conservation Area and associated appraisal and conservation area boundary map. It also requests Cabinet to approve consultation on a proposed Article 4 Direction.

- 14.2 The recommendation in this report has no immediate financial impact and the cost of the consultation process outlined in section 5 has been managed within the Planning service revenue budgets.
- 14.3 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.
- 14.4 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.

15. COMMENTS OF THE GROUP DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

- 15.1 Cabinet is authorised to approve the designation of the proposed Well Street Conservation Area by virtue of:
- a) 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
 - b) Cabinet is authorised to approve the recommendations in this report pursuant to the Mayor's Scheme of Delegation, the determining what areas in the Borough should be Conservation Areas are delegated to the Executive (ie Cabinet).
- 15.2 There is no statutory requirement for the council to consult the public before designating a conservation area. The stated 28 day consultation was adopted by Cabinet in June 2020 as part of a series of procedural changes to the Council's Conservation Area Review Programme. 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.
- 15.3 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 Appraisal that was carried out to ascertain the architectural and historic merits of the Well Street area has

addressed these statutory criteria and has concluded that the conservation area should be designated. The designation of any area as a conservation area shall be a local land charge.

- 15.4 Under section 70(8) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in addition to notifying both the Secretary of State and Historic England, a local planning authority is required to publicise designation of a conservation area by a notice placed in the London Gazette and a local newspaper. The local authority must follow the same publicity procedures to vary or cancel a designation as required to designate.
- 15.5 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.
- 15.6 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

- 15.7 Cabinet is authorised to approve the commencement of public consultation of the proposed Article 4 Direction in Well Street 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.
- 15.8 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. A 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.

15.9 There is no statutory requirement for public consultation before the Article 4 Direction is made. However, following the making of an Article 4 direction, the LPA must:

- Publish a notice of the direction in a local newspaper
- Display at least two site notices for a period of not less than six weeks .
- Notify the owners and occupiers of the affected properties and land, unless this is impractical.

Although not a statutory obligation, it is considered good practice to publish a notice of the Article 4 direction on the LPA's website.

15.10 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.

16. APPENDICES

APPENDIX A – Well Street Conservation Area Appraisal & Management Plan July 2021

APPENDIX B – Well Street Conservation Area Map

APPENDIX C – Table of Consultation Responses

BACKGROUND PAPERS

None

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