

## ***Report to the Cabinet***

**Report reference:** C-003-2014/15

**Date of meeting:** 23 June 2014



**Epping Forest  
District Council**

**Portfolio:** Safer, Greener and Transport

**Subject:** Baldwins Hill Conservation Area Character Appraisal and Article 4 Direction.

**Responsible Officer:** Maria Kitts (01992 564358)

**Democratic Services Officer:** Gary Woodhall (01992 564470)

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### **Recommendations/Decisions Required:**

- (1) To approve the adoption and publication of the Character Appraisal and Management Plan for the Baldwins Hill Conservation Area in Loughton;**
- (2) To approve the extension to the Baldwins Hill Conservation Area boundary; and**
- (3) To authorise the making of an Article 4 Direction pursuant to Article 4(1) and Article 6 of the GPDO covering the Baldwins Hill Conservation Area restricting the permitted development rights as set out in Appendix 2.**

### **Executive Summary:**

By law local planning authorities are required to determine areas of special architectural or historic interest and designate them as conservation areas. The LPA should also publish proposals for the preservation and enhancement of these areas. The proposals take the form of conservation area management plans, and it is considered best practice to accompany these management plans with character appraisals which chart the history of an area, the reasons for its designation, and the key elements of its special interest. Character appraisals often precede management plans as they provide the knowledge and understanding required to inform the creation of a successful and meaningful management plan.

The Baldwins Hill Conservation Area Character Appraisal and Management Plan has been prepared following due process and is now ready to be adopted and published for use by the general public (particularly residents), the Council's Development Management Section, and any other interested parties. Once adopted, the documents will become a material consideration in the planning process and will inform the decisions made relating to proposed developments within the conservation area.

This report also seeks approval to extend the conservation area boundary and for the implementation of an Article 4 Direction covering the conservation area. An Article 4 Direction restricts specified classes of permitted development rights (the rights homeowners have to carry out some development works without needing planning permission) and is an extremely useful tool in managing change in conservation areas.

## **Reasons for Proposed Decision:**

Under the provisions of section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Planning Authorities are required to designate areas of 'special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance'. Section 71 of the same Act states that the Local Planning Authority has a duty to 'publish proposals for the preservation and enhancement' of their conservation areas. This takes the form of a conservation area character appraisal and management plan. It is, therefore, a key statutory duty that the character appraisal is published.

The implementation of an Article 4 Direction will allow change to be more effectively managed within the conservation area as incremental alterations to the buildings and spaces around them, which are presently allowed under owners' permitted development rights, have a detrimental impact on the character and appearance of the area. The implementation of an Article 4 Direction will allow the Council to preserve or, in some cases, enhance the special interest of the area.

## **Other Options for Action:**

If the character appraisal and management plan is not published then the Council will not be fulfilling one of its statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990. In addition, the lack of a character appraisal could make planning decisions within this area more difficult to defend at appeal.

## **Report:**

### Baldwins Hill Conservation Area Character Appraisal and Management Plan, and boundary extension

1. Work commenced on the appraisal in 2008 but, due to staffing changes, the final publication of the document has been substantially delayed. The original draft appraisal was prepared between May 2008 and September 2010, with public consultation taking place in September 2010, including a public meeting on 23rd September 2010.
2. Comments and suggestions arising from the public consultation were incorporated into the document which included the request from a number of bodies to include Loughton Potato Ground (the allotments) and the Almshouses at the end of Stony Path within the conservation area. Given the intrinsic historic merit of this area, as some of the oldest allotments in the country, and the architectural value of the Almshouses, it is considered appropriate to extend the conservation area boundary to include these elements.
3. The Forward Planning Team, along with the Conservation Officer, commissioned a Heritage Asset Review (HAR) in 2012 (completed in May 2012). The aim of the study was to review the suitability of the District's conservation areas and locally listed buildings, forming part of the evidence base for the Heritage Conservation policies of the new Local Plan. The recommendations arising from the HAR, with regards to Baldwins Hill Conservation Area, were to remove two parts from the area. Following further research and consultation, it has been decided not to pursue either recommendation as it is considered that the existing conservation area boundary, with proposed extension, is adequate in protecting the special interest of the area.
4. Residents of the conservation area and other interested parties (including Loughton Town Council, Loughton Residents' Association, and the Hills Amenity Society) were consulted and invited to comment on one of the proposed boundary reductions put forward in the HAR study between November and December 2012. Four objections were received: two

from residents specifically objecting to the removal of nos. 30-32 Wroths Path from the conservation area; one from a representative of the Loughton Residents Association; and one from Loughton Town Council. Generally, the objectors were concerned about the potential of inappropriate development, but also the historic merit of some of the properties that would have been removed from the conservation area.

5. A final draft of the character appraisal, including the boundary extension to include the allotments and Almshouses, has now been produced (see Appendix 1). The appraisal explores the landscape setting, historical development, and architecture of the area in order to define the elements of special architectural and historic interest, and the general character of the area. These elements include: the two distinct areas of development, reflecting the influence of the 1878 Epping Forest Act; the architectural quality and historic interest of listed buildings and locally listed buildings; the varied architectural styles dating largely from the 19<sup>th</sup> and 20<sup>th</sup> centuries; and the relationship between the buildings and the forest edge (for further information see page 5 of Appendix 1).

6. Following the discussion of the special interest and character of the area, the appraisal sets out the Council's objectives for the preservation and enhancement of the conservation area over the next five years in the form of a Management Plan (for further information see page 22 of Appendix 1).

#### Article 4 Direction

7. An Article 4 Direction is made under the provisions of Article 4(1) of the Town and Country Planning (General Permitted Development Order) 1995 as amended (GPDO). It restricts permitted development rights within a specified area where it is known that permitted development under the GPDO is resulting in the loss of identified special architectural or historic interest. Article 6 of the GPDO provides for a Direction to take immediate effect in a Conservation Area.

8. It should be noted that an Article 4 Direction does not necessarily prevent development; it just introduces the requirement for planning permission which, if the development is deemed appropriate, will be granted.

9. Within the District, only two conservation areas are currently covered by Article 4 Directions; York Hill Conservation Area and Staples Road Conservation Area. Both these areas are located within close proximity to Baldwins Hill Conservation Area in the 'Hills' area of Loughton. Both these areas have benefitted from the restriction in permitted development rights in terms of preserving the character and special interest which is inherent in the quality of the built environment. It is intended that the Article 4 Direction covering Baldwins Hill Conservation Area will contain the same restrictions as the one covering the Staples Road Conservation Area.

10. It has been recognised through the HAR and by officers that alterations carried out to buildings within the Baldwins Hill Conservation Area as permitted development are undermining the character and appearance of the area. The introduction of unsympathetic modern UPVC windows and doors, and the removal of front boundaries to create areas of hardstanding, are particularly damaging to the character and appearance of the area. Other alterations to the front elevations of buildings can be equally as damaging. It is therefore proposed that an Article 4 Direction should restrict the majority of permitted development rights relating to works to the front elevations (or those elevations fronting a highway or open space) of the houses within the conservation area.

11. Support for the creation of an Article 4 Direction as described has been received from Loughton Town Council and the Hills Amenity Society.

12. The permitted development rights intended to be restricted by the Direction and the properties to be covered are included in Appendix 2.

#### Outcomes: Character Appraisal and Management Plan

13. If the publication of the appraisal and the extension to the boundary are approved, then this will allow the conservation area to be better managed through the preservation of its special interest and character. The appraisal will be used to inform residents and developers on acceptable works within the conservation area, and those works which could cause harm to its character. It will also inform decisions made by Development Management to ensure a consistent approach to the preservation and enhancement of the area.

14. Following approval, the appraisal will be published on the Council's website and a limited number of hard copies will be available from Planning Reception at the Civic Offices, as well as other outlets in Loughton (Loughton Town Council Offices, Loughton Library). Letters will be circulated to residents within the conservation area and any other interested parties notifying them that the appraisal has been published and is available to view on the Council's website. The appraisal will be reviewed after five years.

15. In accordance with section 70 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the extension to the conservation area boundary will be advertised within the Epping Forest Guardian and the London Gazette.

#### Outcomes: Article 4 Direction

16. Should the decision be taken to agree to the making of an Article 4 Direction then the legal document will be drawn up along with an explanatory leaflet in plain English for owners/occupiers within the conservation area. Notice will be served on owners/occupants of the conservation area which will include a copy of the Direction and the explanatory leaflet. In addition notice will be published and site notices put up in accordance with the publicity requirements of the GPDO and copies lodged at the Civic Office for public inspection. The Direction will come into force on the date notice is served. Following this there will be a period (of at least 21 days) during which representations can be made in relation to the Direction. These representations must be considered by the Council and the Direction confirmed within 6 months of it being made or it will expire. The decision to confirm or otherwise will remain with the Cabinet.

17. It should be noted that the implementation of an Article 4 Direction could result in compensation claims being made against the Council. If permission is refused following an application that was only required as a result of the Article 4 Direction, it may be possible to claim compensation from the Council under sections 107 and 108 of the Town and Country Planning Act 1990.

18. Compensation could be payable if the restricted development would have increased the value of the building. The amount of compensation can include the difference in the value of the land if the development had been carried out and its value in its existing state, as well as the cost of preparing the plans for the works.

#### **Resource Implications:**

Some officer time will be required to administer the printing and circulation of the documents and the notification letters, as well as any arising queries from members of the public, for both the character appraisal and the Article 4 Direction. The Technical Officer for Conservation is a fixed term post until the end of 2014-15 and, therefore, has the capacity to deal with this

workload.

### **Legal and Governance Implications:**

The statutory powers relevant to this decision are found within sections 69, 70 and 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Article 4 Directions are made under Article 4(1) and Article 6 of the General Permitted Development Order 1995.

### **Safer, Cleaner and Greener Implications:**

Improved understanding and protection of part of the District's historic environment.

### **Consultation Undertaken:**

Public consultation on the content of the appraisal and management plan was undertaken in September 2010 with all comments and suggestions taken into account and, where appropriate, incorporated into the document. This process adheres to sections 71(2) and (3) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires local planning authorities to allow the contents of an appraisal and management plan to be considered by the public, and their views taken into account.

Further consultation with key stakeholders took place as part of the wider HAR in April 2012, in which, along with all the District's conservation areas and locally listed buildings, comments on the adequacy of the conservation area were invited and considered by the appointed consultants.

An additional period of consultation was carried out between November and December 2012 during which time residents and interested parties were consulted on the reduction to the conservation area boundary, as suggested in the HAR, and asked to comment. The resulting comments, and further research, led to the decision not to amend the boundary.

N.B...The appraisal contains a section on 'Community Involvement' for further information.

### **Background Papers:**

Baldwins Hill Conservation Area Character Appraisal and Management Plan (Appendix 1)

Suggested permitted development rights to be restricted by the Article 4 Direction and plan showing properties to be included (Appendix 2)

### **Impact Assessments:**

#### Risk Management

Potential claims for compensation (see paragraph nos.17-18 above).

#### Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?*

No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?  
N/A

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?  
N/A

### Due Regard Record

<b>Date / Name</b>	<b>Summary of equality analysis</b>
27/05/2014 Maria Kitts	<ul style="list-style-type: none"><li>- The adoption and publication of the conservation area character appraisal and management plan will provide residents, and other interested members of the public, with information on the unique elements which contribute to the character and special interest of the area in which they live. They will also be used to inform planning decisions.</li> <li>- The method of providing access to the document has been identified as a potential issue, although this can be overcome.</li> <li>- In order to ensure this document is widely accessible to all, it will be available electronically on the EFDC website and in hard copy at the Civic Offices in Epping, and at other outlets within Loughton (closer to the conservation area). A letter to each household within the conservation area will notify residents of where and how they can view the document.</li> <li>- Furthering local understanding of the history and special interest of the conservation area should strengthen the residents' sense of place and inclusion with the local community.</li></ul>