

Chichester District Council

THE CABINET

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Review of Character Appraisal and Management Proposals for Fishbourne Conservation Area

1. Contacts

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2. Executive Summary

This report seeks approval of the revised conservation area character appraisal and management proposals for Fishbourne Conservation Area, changes to the conservation area boundary and implementation of Article 4 directions to control small scale changes to the fronts of unlisted residential buildings to preserve the character of Fishbourne Conservation Area.

3. Recommendations

- 3.1. That the revised Character Appraisal and Management Proposals for Fishbourne Conservation Area, attached at Appendix 1 to this report, be approved as a material consideration in relevant planning decisions.
- 3.2. That the recommended changes to the Fishbourne conservation area boundary on the west side, as shown in the maps on pages 32 to 36 of the revised Character Appraisal and Management Proposals, attached at Appendix 1 to this report, be approved.
- 3.3. That the proposed responses to representations, attached at Appendix 2, to this report, be approved.
- 3.4. That the implementation of an 'Immediate' Article 4 direction to cover minor alterations to the principal elevations of dwellings within Fishbourne conservation area, as set out in Appendix 3 to this report, be approved.
- 3.5. That the implementation of a 'non-immediate' Article 4 direction to cover the installation of solar panels on the principal elevations and roof slopes of buildings within the Fishbourne Conservation Area, as set out in Appendix 4 to this report, be approved.
- 3.6. That decisions to confirm and/or implement, or otherwise the Directions referred to in 3.4 and 3.5 above be taken by the Director of Planning and Environment following consultation with the Cabinet Member for Planning

Services and ward member for Fishbourne conservation area within six months of the Directions being made.

4. Background

- 4.1. The Council has a duty under present legislation to designate those areas of Chichester District, outside of the South Downs National Park, considered to have outstanding historic or architectural interest as conservation areas and keep those designations under review. This is in accordance with the Council's *Historic Environment Strategy and Action Plan*.
- 4.2. This programme of reviews has recently included Tangmere, Chichester and Selsey.

5. Outcomes to be achieved

- 5.1. Up-to-date Conservation Area Character Appraisal documents will provide a sound basis for protecting the character of conservation areas and give greater confidence in decision making. They also provide a useful evidence base that will be available to local communities who wish to take forward their own proposals such as Village Design Statements, Community Led Plans and Neighbourhood Plans.
- 5.2. The implementation of Article 4 Directions will ensure that the special character of the existing and proposed conservation areas will be protected from incremental harm arising from small scale changes and loss of special features, arising from the exercise of permitted development rights, by bringing these changes within the scope of normal planning control.

6. Proposal

- 6.1. The original Conservation Area Character Appraisal for Fishbourne was published in March 2007. Historic England's guidance recommends that conservation area appraisals should be subject to review to ensure that they are up to date and relevant as planning policy documents. The more up-to-date an appraisal is the greater the weight that can be attached to it, for example at planning appeals.
- 6.2. The appraisal has been reviewed in compliance with the National Planning Policy Framework (NPPF) and in accordance with guidance contained in Historic England advice note 1: Conservation Area Designation, Appraisal and Management (February 2016). The consultation draft of the revised appraisal document is attached at Appendix 5. Further changes have been made following public consultation and the post-consultation version of the document being recommended for approval is attached at Appendix 1.
- 6.3. As part of the appraisal process, the existing conservation area boundary was reviewed and a number of suggestions for changes to the boundary to include additional areas and in some cases to remove areas, were made.
- 6.4. The need for additional planning controls was also reviewed and recommendations for additional controls through the implementation of Article 4 Directions were made.

- 6.5. The suggested boundary changes and recommendations for use of Article 4 Directions were included in the public consultation document and they are now recommended, as amended, to the Cabinet for approval.
- 6.6. Details of the proposed boundary changes including justification for the proposed changes are included within the appraisal documents, at Appendix 1 to this report. Details of the Article 4 Directions are attached at Appendices 3 and 4 to this report.
- 6.7. Once approved by the Council, the revised conservation area appraisal will replace the existing appraisal document and be used as a material consideration in planning decisions. If approved, the boundary changes and Article 4 Directions will be implemented in accordance with statutory procedures including advertisement in the local press and London Gazette.
- 6.8. This report seeks approval of the revised appraisal document for Fishbourne conservation area and for the implementation of the recommendations in respect of changes to the conservation area boundary and implementation of Article 4 Directions.

7. Article 4 Directions

- 7.1. The Cabinet previously agreed an approach to the implementation of Article 4 Directions in which the need for additional planning controls is assessed when reviewing conservation areas and their appraisals and management proposals.
- 7.2. In accordance with this approach the need for additional planning controls over minor alterations to buildings within the conservation area was identified. Directions can be immediate or non-immediate; the former comes into immediate effect when made and is specific to conservation areas and only applies to a limited range of permitted development rights in respect to the fronts of residential buildings within conservation areas. A non-immediate Direction is one which does not come into force at the point at which it is made – rather it comes into force on a date to be determined by the Council.
- 7.3. Prior to April 2010, non-immediate directions required confirmation by the Secretary of State. However, the Council can now confirm such directions after taking certain procedural steps, which include undertaking publicity, public consultation and consideration of any representations received as a result, subject to the Secretary of State coming to the view that he does not wish to decide whether the direction should be confirmed.
- 7.4. Advice on the use of Article 4 Directions is included in the National Planning Practice Guidance (NPPG) and this indicates the use of Article 4 should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified.

- 7.5. Following an amendment to Part 40 of the General Permitted Development Order (GPDO) in December 2011 the provision of solar panels on any roof slope of a dwelling house became permitted development within a conservation area. However, Part 40 is not included within the limited range of permitted development rights that can be controlled through an immediate Article 4 Direction. It is therefore necessary to make a separate non-immediate Article 4 Direction to withdraw permitted development rights under Part 40, Class A of the GPDO in order to protect the character of the roof slopes from inappropriate development of solar panels. This does not mean that solar panels will not be permitted within the conservation area, but that a planning application would be required in order to assess their position and their impact upon the special character and amenity of the area, seeking where possible the best alternative.
- 7.6. In response to consultation on the use of Article 4 Directions within the Fishbourne conservation area, the following responses were received:-

Fishbourne Conservation Area and use of Article 4 Directions			
Number of Representations	Numbers for use of Article 4	Neutral	Numbers against
Additions			
12	8	1	3
Roof alterations			
12	8	1	3
Solar panels on fronts of buildings			
12	7	1	4
Satellite dishes on front of buildings			
12	7	1	4
Replacement windows and doors			
12	7	0	5
Removal of front boundaries and paving over front gardens			
12	8	1	3

- 7.7. It is therefore recommended that the Council proceeds to implement immediate and non-immediate Article 4 Directions as set out in Appendices 3 and 4 to this report on the Fishbourne conservation area and that decisions on whether to confirm the immediate Direction and implement the non-immediate Direction be taken in light of any further representations received during the formal consultation period.

8. Alternatives Considered

- 8.1. The alternative would have been to do nothing and rely on the existing appraisal document and issue errata sheets to cover any inaccuracies in the document. As a result the existing appraisal document would gradually become increasingly out-of-date which could weaken the Council's case in defending against inappropriate proposals that could potentially harm the character of the conservation area. Not implementing Article 4 Directions could lead to gradual erosion of character of the conservation area through small scale alterations to unlisted buildings within these areas.

9. Resource and Legal Implications

- 9.1. The review of the appraisal has been undertaken in-house with existing staff. There will be costs in relation to advertising the conservation area changes and issuing notices in relation to the Article 4 Directions which will be met from existing budget resources.
- 9.2. The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes duties on local planning authorities to designate Conservation Areas and from time to time to formulate and publish proposals for their preservation and enhancement.
- 9.3. Article 4 of the Town and Country Planning (Permitted Development) Order 2015 provides the Council (or the Secretary of State for Housing, Communities and Local Government) with the power to make a direction in a specified area which can remove some or all of permitted development rights which would otherwise be available.

10. Consultation

- 10.1. The preparation of the documents involved area surveys including a walkabout with representatives of Fishbourne Parish Council.
- 10.2. The draft appraisal and management proposals and recommendations for modification of the existing conservation area boundary and Article 4 Directions (available electronically as Appendix 5 to this report) were the subject of public consultation between 16 June and 28 July 2017. A public exhibition was held on 16 and 17 June 2017 at the Fishbourne Centre Blackboy Lane Fishbourne. Copies of the appraisal document, including maps and exhibition displays were also made available on the Council's website. Questionnaires were provided on which comments could be recorded and representations were also made by e-mail and letter to the Conservation and Design Team.
- 10.3. A number of changes to the documents have been made in response to the representations received. Approval is now being sought for the amended version of the document attached at Appendix 1 to this report. Details of the representations received, the responses to them and changes made to the documents as a result are included at Appendix 2 to this report.
- 10.4. In response to the consultation a number of additional areas were put forward for inclusion in the conservation area. A further review of these areas has been undertaken and further boundary changes are now proposed. These are detailed on the maps on pages 32 to 36 of the revised Character Appraisal and Management Proposals, attached at Appendix 1.

11. Community Impact and Corporate Risks

- 11.1. The main implications arising from this report and potential risks to the Council achieving its objectives are assessed to be as follows:-
 - a) Positive (Opportunities/Benefits): Delivery of corporate objectives; raise the quality of development in the rural areas; meet statutory obligations in relation to conservation area management.

- b) Negative (Threats): Raised expectations, as whilst the appraisal will be a material consideration in the development management process, it will not carry the full weight of a supplementary planning document.

11.2. Withdrawal of permitted development rights by Article 4 may give rise to potential compensation claims against the Council if an application is refused or approved with conditions other than those imposed by the General Permitted Development Order. Under section 108 of the Town and Country Planning Act 1990 any person who has an interest in the land in question may, after planning permission has been refused, which would normally have been permitted development before the Article 4(2) direction was introduced, seek compensation for abortive expenditure, or for loss or damage directly attributable to the withdrawal of permitted development rights.

11.3. Members should be aware that a local authority's liability to pay compensation where they make Article 4 Directions is as follows:

- With respect to non-immediate Directions where 12 months notice is given in advance of a direction taking effect there will be no liability to pay compensation; and
- With respect to immediate Directions, compensation will only be payable in relation to planning applications which are submitted within 12 months of the effective date of the direction and which are subsequently refused or where permission is granted (and is subject to more limiting conditions than the General Permitted Development order allows).

11.4. Compensation claims have been extremely rare. RPS Planning undertook a study for the Historic Towns Forum following amendment to the Town and Country (General Permitted Development Order) 1995 that came into force in October 2008. This study found no evidence for any compensation payments actually being made.

11.5. The Council is in a position to control its exposure to the risk of claims at the time it deals with the planning applications, rather than at the time it makes the Direction, by negotiating or ultimately granting planning permission.

11.6. It should be noted that Article 4 Directions implemented in respect of Tangmere, South Harting, Wisborough Green, Boxgrove, Halnaker, West Itchenor, Bosham, Earnley and Somerley have now been in place for a number of years and we have not experienced any significant problems.

12. Other Implications

Crime and Disorder	None
Climate Change	None
Human Rights and Equality Impact	None
Safeguarding and Early Help	None

13. Appendices

- 13.1. Appendix 1 - Revised Character Appraisal and Management Proposals for the Fishbourne Conservation Area.
- 13.2. Appendix 2 - Proposed Council responses to representations following public consultation.
- 13.3. Appendix 3 - Details of proposed immediate Article 4 directions.
- 13.4. Appendix 4 - Details of proposed non-immediate Article 4 directions.
- 13.5. Appendix 5 - Public consultation draft of the revised Character Appraisal and Management Proposals [only available for online viewing].

14. Background Papers

- 14.1 None