

# Chichester District Council

CABINET

7 June 2016

## **Review of Character Appraisal and Management Proposals for Chichester Conservation Area and implementation of associated recommendations.**

### **1. Contacts**

**Report Author:**

Lone Le Vay, Conservation and Design Manager,  
Tel: 01243 534688 E-mail: [llevay@chichester.gov.uk](mailto:llevay@chichester.gov.uk)

**Cabinet Member:**

Susan Taylor, Cabinet Member for Housing and Planning,  
Tel: 01798 342528 E-mail: [staylor@chichester.gov.uk](mailto:staylor@chichester.gov.uk)

### **2. Executive Summary**

This report seeks approval of the revised conservation area character appraisal and management proposals for Chichester 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 Chichester conservation area.

### **3. Recommendation**

- 3.1. That the revised Character Appraisal and Management Proposals for Chichester Conservation Area, attached at Appendix 2 to this report, be approved as a material consideration in planning decisions**
- 3.2. That the recommended changes to the Chichester conservation area boundary, as shown on the maps at Appendix 3 to this report, be approved.**
- 3.3. That the implementation of an “Immediate” Article 4 Direction to cover minor alterations, as set out in Appendix 4 to this report, to the principal elevations of dwellings within Chichester Conservation Area, as amended, be approved.**
- 3.4. That the implementation of a “non-immediate” Article 4 Direction to cover installation of solar panels on the principal elevations of buildings within the Chichester Conservation Area, as amended as recommended in Section 7 below be approved.**
- 3.5. That decisions to confirm and/or implement, or otherwise the Directions referred to in 3.3 and 3.4 above be taken by the Head of Planning Services following consultation with the Portfolio Holder for Housing and Planning and Ward members for the Chichester conservation area within six months of the Directions being made.**

- 3.6. That an assessment of the Summersdale area to assess its potential for conservation area designation, raised by a number of respondents to the Chichester conservation area consultation, be undertaken in connection with the future review and appraisal of the Graylingwell Conservation Area.**

#### **4. Background**

- 4.1. The Council has a duty under present legislation to designate those areas of Chichester District, outside the South Downs National Park, considered to have outstanding historic or architectural interest as conservation areas and keep those designations under review. A programme for preparation and review of conservation area character appraisals within Chichester District outside the National Park was set out in 2012. That programme identified that reviews be undertaken of Tangmere, Selsey and Chichester conservation area appraisals as a priority.
- 4.2. The review of Tangmere was completed in 2014. With respect to Selsey the review is well-underway but we are delaying approval to allow further consultation with the Town Council. With respect to Chichester conservation area, the work on the appraisal review has now been completed, including an appraisal of a proposed new Character Area covering Whyke.
- 4.3. This report seeks approval of the revised appraisal document for Chichester conservation area and for the implementation of the recommendations in respect of changes to the conservation area boundary and implementation of Article 4 Directions.

#### **5. Outcomes to be achieved**

- 5.1. Comprehensive and up-to-date coverage of character appraisals and management proposals for the District's conservation areas in accordance with the approved programme.

#### **6. Proposal**

- 6.1. The original Conservation Area Character Appraisal for Chichester was published in March 2005. 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 1, with the changes to the existing appraisal highlighted. Further changes have been made following the public consultation and the post-consultation version of the document is attached at Appendix 2 with the further revisions made in response to representations received highlighted with new text in red and removed text shown struck through. The

final published documents will be illustrated with photographs and historic maps in a similar way to the original appraisal documents.

- 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 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 in respect of all three areas.
- 6.5. The suggested boundary changes and recommendations for use of Article 4 Directions were included in the public consultation exercise 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 and shown on the Townscape Analysis maps at Appendix 3 to this report. Details of the Article 4 Directions are attached at Appendix 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. The documents also provide a useful evidence base available to local communities who wish to take forward their own proposals such as Village Design Statements, Community Led Plans and Neighbourhood Plans.

## **7. Article 4 Directions**

- 7.1. The former Executive Board 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 of the front 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 and a public consultation exercise 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 (GDPO) in December 2011 the provision of solar panels on any roof slope of a dwellinghouse 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 Chichester conservation area, the following responses were received:-

Chichester Conservation Area			
No of Representations	Numbers supporting use of Article 4	Neutral	Numbers against
Painting the exterior of buildings			
28	25	2	1
Removal of chimneys			
27	24	2	1
Solar panels and satellite dishes on fronts of buildings			
28	26	2	0
Alterations to front roof pitches			
27	26	1	0
Replacement windows and doors			
28	27	1	0
Construction of Porches			
28	27	1	0
Removal of front boundaries and paving over front gardens			
29	26	2	1

- 7.7. It is therefore recommended that the Council proceeds to implement immediate and non-immediate Article 4 Directions as set out in Appendix 4 to this report on the whole of the Chichester conservation area, as amended 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 that have been 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 resources with external assistance from members of the Chichester Conservation Area Advisory Committee. 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 as 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, as amended in April 2010, provides the Council (or the Secretary of State for 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 Chichester City Council and the Chichester Conservation Area Advisory Committee and desktop research undertaken between July 2014 and December 2015.
- 10.2. The draft appraisal and management proposals and recommendations for modification of the existing conservation area boundary and Article 4 Directions were made the subject of public consultation exercises between 22 April and 3 June 2016. A public exhibition was held on 22 and 23 April 2016 at the Council House, North Street and was subsequently relocated to the District Council Offices reception area. 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 2 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 5 to this report.
- 10.4. Any additional representations received between the completion of this report and the Cabinet meeting, and our responses to them, will be reported verbally at the meeting.

## 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. However, the legislation regarding compensation has changed reducing local authorities' liability to pay compensation where they make Article 4 Directions 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. 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.
- 11.5. 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

<b>Crime &amp; Disorder:</b>	None
<b>Climate Change:</b>	None
<b>Human Rights and Equality Impact:</b>	None
<b>Safeguarding and Early Help:</b>	None

### **13. Appendices**

- 13.1. Appendix 2: Suggested text of the Chichester conservation area appraisal and management proposals with post consultation tracked changes - available in electronic form in the Committee Papers section of the Council's website and a hard copy is in the Members' Room.
- 13.2. Appendix 3: Character Area Maps showing extent of proposed boundary changes to Chichester conservation area.
- 13.3. Appendix 4: Details of proposed Article 4 Directions.
- 13.4. Appendix 5: Details of representations received in response to the public consultation exercise and responses to them - available in electronic form in the Committee Papers section of the Council's website and a hard copy is in the Members' Room.

### **14. Background Papers**

- 14.1 Appendix 1: Pre-consultation draft report with tracked changes.