

Chichester District Council

THE CABINET

5 September 2017

Review of Character Appraisal and Management Proposals for Selsey Conservation Area and Implementation of Associated Recommendations including Designation of a New Conservation Area in East Selsey to be Named Old Selsey

1. Contacts

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2. Executive Summary

This report seeks approval of the revised conservation area character appraisal and management proposals for the existing Selsey Conservation Area, changes to the conservation area boundary, designation of a new conservation area "Old Selsey" in east Selsey, approval of the conservation area character appraisal for "Old Selsey" and implementation of Article 4 Directions to control small scale changes to the fronts of unlisted residential buildings to preserve the character of Selsey and the proposed Old Selsey conservation areas.

3. Recommendations

- 3.1. That the revised Character Appraisal and Management Proposals for Selsey Conservation Area, attached at Appendix 1 to this report, be approved as a material consideration in planning decisions;**
- 3.2. That the recommended changes to the Selsey conservation area, as shown on the maps at Appendix 2 to this report, be approved;**
- 3.3. That a new conservation area "Old Selsey" be designated to cover parts of East Street and Albion Road, as shown on the map at Appendix 3 to this report;**
- 3.4. That the Character Appraisal and Management Proposals for Old Selsey Conservation Area, attached at Appendix 4 to this report, be approved as a material consideration in planning decisions;**
- 3.5. That the proposed responses to representations, attached at Appendix 5 to this report, be approved;**
- 3.6. That the implementation of an "Immediate" Article 4 Direction to cover minor alterations, as set out in Appendix 6 to this report, to the principal elevations of dwellings within the Selsey conservation area, as amended, and the new Old Selsey conservation area be approved;**

- 3.7. That the implementation of a “non-immediate” Article 4 Direction to cover installation of solar panels on the principal elevations of buildings within the Selsey conservation area, as amended, and the new Old Selsey conservation area be approved, as recommended in Section 7 below be approved; and
- 3.8. That decisions to confirm and/or implement, or otherwise the Directions referred to in paragraphs 3.6 and 3.7 above be taken by the Head of Planning Services in consultation with the Cabinet Member for Planning Services and the ward members for each of the conservation areas concerned 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 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. The work on the appraisal review for Selsey was completed in 2016, including an appraisal of a potential new conservation area covering part of East Street and Albion Road.
- 4.3. The recommendation to approve the new appraisal and management plans for Selsey and designation of a new conservation area in East Selsey was considered by Cabinet on 4 October 2016.
- 4.4. Cabinet resolved to defer the item following comments from Selsey Town Council which sought de-designation of the conservation area and requested that further dialogue between officers and the Town Council was undertaken to establish whether the Town Council’s concerns could be addressed. The Town Council raised no objection to the new conservation area to be known as ‘Old Selsey’.
- 4.5. A meeting was held between officers and members of Selsey Town Council on Monday 6 March 2017 and a further site visit and walkabout took place on Tuesday 2 May to discuss the specific issues raised.
- 4.6. Following these meetings a formal written response to Selsey Town Council was provided which recommended retention of the conservation area status and included evidence of planning applications that had benefitted from its status as well as further comments on potential beneficial action that could be taken due to the status of the conservation area. The letter is attached at Appendix 7.
- 4.7. The Conservation Area map for Selsey was reconsidered in light of comments from the Town Council and two areas removed which had been proposed for designation previously. These are the southern extension and the addition around the school. The area around the library was retained as this was not contentious. The original appraisal map is attached at Appendix 8.
- 4.8. The Town Council has responded to the formal response from officers with further clarification also being provided. This maintained a concern for some of the issues raised, though there was general agreement with the boundary

changes and it also sought greater cooperation with CDC to make sure policies were adhered to. The letter is attached at Appendix 9.

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 appraisal 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 Selsey was published in January 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.
- 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 revised appraisal document is attached at Appendix 1 and the appraisal of the proposed new conservation area at East Selsey is attached at Appendix 4. 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 boundaries of both conservation areas 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 both 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, with some amendments, to the Cabinet for approval.
- 6.6. These amendments include further adjustments and removal of two proposed extensions following dialogue between officers and Selsey Town Council. The amended map is attached at Appendix 2.
- 6.7. 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 Appendices 2 and 3 to this report. Details of the Article 4 Directions are attached at Appendix 6 to this report.

- 6.8. 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, and 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.
- 6.9. This report now seeks approval of the revised appraisal document for Selsey Conservation Area and a new appraisal for the proposed Old Selsey conservation area and for the implementation of the recommendations in respect of changes to the conservation area boundary, designation of the new conservation area and implementation of Article 4 Directions.

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 and also for the proposed new conservation area. 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 Guide (PPG) 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 separate non-immediate Article 4 Directions 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, just 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 existing and proposed conservation areas, there was general support for the proposals and no objections were received. Therefore, it is recommended that the Council proceeds to implement immediate and non-immediate Article 4 Directions as set out in Appendix 6 to this report and those decisions on whether to confirm the immediate Directions and implement the non-immediate Directions 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 negotiating improved design or 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 appraisals has been undertaken in-house with existing staff resources. 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 (General Permitted Development) Order 2015 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 the Town and Council.
- 10.2. The draft appraisal and management proposals and recommendations for modification of the existing conservation area boundary, designation of the new conservation area and Article 4 Directions were the subject of public consultation between 1 April and 13 May 2016. A public exhibition was held on 1 and 2 April within the Selsey Town Hall, and copies of all the appraisal documents, including maps and exhibition displays were also made available on

the Council's website. Questionnaires were provided on which comments could be recorded.

- 10.3. In response to the consultation, Selsey Town Council wrote to advise that at the meeting of their Planning Committee on 17 August 2016, Selsey Town Council resolved to respectfully request the de-designation of the conservation area at High Street, Selsey. Their reasons were that they consider the important buildings are listed and have protection in any event and that there are a number of other buildings of little architectural merit. They also raised concerns about some inconsistent planning decisions; that conservation area designation restricts the appearance of other buildings in view of the High Street and that because of the contrasting quality of buildings in the High Street, developers have no clear understanding of what is acceptable.
- 10.4. In response, officers considered that the special character of the conservation area, which was designated in 1975 because of its special architectural or historic interest, has not deteriorated to a point where it has fallen below the standard for conservation area designation. The Character Appraisal document explains in detail the historic interest and architectural qualities of the area. While there are a large number of listed buildings in the conservation area, there are also several other historic buildings which make a positive contribution to the character and appearance of the conservation area. These have been identified on the townscape appraisal map and are described in the appraisal document. De-designating the conservation area would remove protection from these buildings. The appraisal acknowledges that there are a number of negative buildings and sites and actively encourages redevelopment. This should present an opportunity to introduce some high quality new development. The view of officers is that conservation area designation is not a bar to good contemporary design, indeed it would be actively encouraged and there are many examples of exemplar modern buildings in sensitive historic contexts.
- 10.5. Following the decision of Cabinet on 4 October 2016, further consultation with Selsey Town Council has been undertaken in the form of a meeting and site visit to discuss specific issues. A formal response to the Town Council was made following the visit and each of the concerns explained. This is attached at Appendix 7. Officers have concluded that the Conservation Area status is not the cause of the issues raised and that it should be retained. The Conservation Area boundary has however been amended following further consultation. This is attached at Appendix 2 and supersedes the previous proposal which is attached at Appendix 8.
- 10.6. The Town Council responded to CDCs formal response on 29 June 2017 with further clarification being provided in a letter of 19 July 2017. This maintained the Town Council's concern for what it believed was inconsistencies in decisions and cited two cases, but was generally positive about the changes to the Conservation Area boundary. Further clarification of the addition around the library was asked for. The Town Council also requested that CDC adopt further procedures to ensure officers enforce policy with 'diligence and consistency' and that they would welcome the opportunity for further cooperation with CDC to facilitate this.
- 10.7. Officers replied to the Town Council on 24 July 2017 to explain that the perceived inconsistencies were due to the application of different legislation to

individual cases. Officers welcomed agreement with the boundary changes and provided further qualification for the extension around the library. Officers also welcomed the opportunity to work closely with the Town Council to preserve and enhance the character of the Conservation Area.

- 10.8. A number of changes to the documents have been made in response to the representations received, including from Historic England. Approval is now being sought for the amended version of the documents attached as Appendices 1 and 4 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.

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 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 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 there have been no significant problems.

12. Other Implications

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

13. Appendices

- 13.1. Appendix 1: Suggested text of the reviewed Selsey conservation area appraisal and management proposals (Appendix 1 is 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 2: Townscape Analysis Map showing extent of proposed new conservation area at the High Street.
- 13.3. Appendix 3: Townscape Analysis Map showing extent of proposed new conservation area at "Old Selsey".
- 13.4. Appendix 4: Draft text of the conservation area and management proposals for the proposed Old Selsey Conservation Area. (Appendix 4 is available in electronic form in the Committee Papers section of the Council's website and a hard copy is in the Members' Room)
- 13.5. Appendix 5: Details of representations received in response to the public consultation exercises and responses to them.
- 13.6. Appendix 6: Details of proposed Article 4 Directions.
- 13.7. Appendix 7: Letter to Selsey Town Council, 15 May 2017.
- 13.8. Appendix 8: Townscape Analysis Maps showing extent of previously proposed boundary changes to Selsey conservation area.
- 13.9. Appendix 9: Response from Selsey Town Council, 19 July 2017.

14. Background Papers

- 14.1. Nil