

MINUTES
OF THE MEETING OF THE
GROWTH AND DEVELOPMENT SCRUTINY GROUP
WEDNESDAY, 27 JULY 2022

Held at 7.00 pm in the Council Chamber, Rushcliffe Arena,
Rugby Road, West Bridgford

PRESENT:

Councillors N Clarke (Chairman), J Cottee (Vice-Chairman), M Barney,
R Butler, A Phillips, V Price, J Stockwood and L Way

OFFICERS IN ATTENDANCE:

J Bate	Principal Planning Officer
C Evans	Service Manager - Economic Growth and Property
A Langley	Project Officer – Conservation Area Review
E Richardson	Democratic Services Officer

APOLOGIES:

Councillor M Gaunt

1 Declarations of Interest

There were no declarations of interest.

2 Minutes of the Meeting held on 20 April 2022

The Minutes of the meeting held on 20 April 2022 were approved as a true record and signed by the Chairman.

3 Conservation Areas - Part 2

The Principal Planning Officer and the Project Officer - Conservation Area Review presented an update to the Group regarding conservation areas.

The Principal Planning Officer explained that there were three outstanding matters from the previous update to the Group, being:

1. How to undertake the review of Conservation Area Appraisals and encourage enhancements to conservation areas.
2. Consider developing a list of non-designated heritage assets.
3. Training for Planning Committee members regarding the potential for cumulative impact of development in a Conservation Area.

The Project Officer - Conservation Area Review explained that Conservation Area Appraisals would be carried out for all of the Borough's conservation

areas. The Group was advised that two approaches would be taken, a participatory approach involving the communities and a Council led approach where there was not enough capacity within a community for the review to be community led. In relation to enhancements of conservation areas, although this was difficult without funding, Article 4 directions could be considered to remove permitted development rights from properties and require planning applications for works which would not usually require them. The Project Officer - Conservation Area Review explained that there was a fee for planning permission for previously considered permitted developments.

The Project Officer - Conservation Area Review said that an order for conducting the appraisals had been proposed, commencing with larger settlements, moving to smaller settlements and then to very small villages. The order could be shared with Members of the Group after the meeting.

In relation to the local list of non-designated heritage assets, the Principal Planning Officer said that the Council had a policy within Part 2 of the Adopted Local Plan which set out criteria from which a list could be developed. Some of the Borough's communities which had developed neighbourhood plans had used those criteria to develop localised lists.

The Principal Planning Officer said that the process of identifying non-designated assets engaged the test for non-designated assets within the National Planning Policy Framework (NPPF). The test required a balanced judgement to be made on the level of harm to or loss of a non-designated heritage asset and its relative significance. The Principal Planning Officer referred to comment that positive buildings identified within the appraisals that lay within a conservation area should be identified as non-designated heritage assets. Whilst this may be the case in many instances, loss of a positive building in a conservation area would be harm to a conservation area which was a designated heritage asset.

The Principal Planning Officer clarified that a positive building was a building that made a strong, positive, contribution to the character of a conservation area but was not a listed building. It was noted that this could include modern buildings that may make a positive contribution, perhaps architecturally, but which would not necessarily be classified as non-designated heritage assets because they were not of historic interest. Identifying non-designated assets within conservation areas added a layer of extra of protection, but lesser protection than they would already have by being part of the conservation area. Having non-designated status was of greater value to assets which lay outside of a conservation area, and which would otherwise have relatively little consideration within the planning system.

The Principal Planning Officer thought that the scale of task could be considerable noting that whilst only four of the parks and gardens identified by the Parks and Gardens Society in the Borough were determined by Historic England to be worthy of registering, a further twenty five were considered to be of some value. The Group was also informed that the County Council's historic environment record did not include all of the buildings identified as positive buildings in conservation areas.

The Principal Planning Officer said that the best way to create a list at some speed would be to take a community, crowd sourcing, approach, asking the public to inform the Council of buildings which may be of architectural interest, but not listed. Whilst there may be differences in awareness of positive buildings across different parts of the Borough, the Council would be able to identify areas of low reporting for further review. The Chairman added that some people also may not wish for certain buildings to be designated.

The Principal Planning Officer explained that the list would never be complete and would continue to be added to, and as such required a rapid and light touch system for adopting assets onto it. One option could be for the Planning Portfolio Holder and the Ward Member for the ward in which the item was situated to sign off on whether an asset was to be adopted, or not. Local Councillors would enable local input and the Portfolio Holder would enable a consistent approach across the Borough.

In relation to training for Planning Committee Members on the assessment of cumulative impact scheduled for 28 September 2022, the Principal Planning Officer said that that training would also include the assessment of impact.

In relation to Permitted Development Rights, the Principal Planning Officer referred to questions as to why a permitted development right may be revoked or withheld for a building within a conservation area, and then planning permission subsequently granted for something which would have been permitted under the right which had been withheld. It was explained that permitted development rights often allowed for things which would not be considered appropriate but could be used to deliver things which would be acceptable. These rights were described as “all or nothing” in that that they could either be allowed to stand in full or be withheld in full, that it was not possible to modify them and the only way to control inappropriate permitted development was to also bring appropriate works under control via the application process.

In relation to suggestions to form either a Conservation Area Planning Sub-Committee or a Conservation Area Advisory Committee, the Principal Planning Officer highlighted potential administrative difficulties with both. A sub-committee would require at least four members from the Council’s Planning Committee to sit on it and may necessitate early publication of Planning Committee agendas to enable sub-committee review, with the added potential implication of pre-determination. It would also be outside of the usual, short-term, focussed, remit of sub-committee usage. A Conservation Area Advisory Committee would usually be constituted of residents with specialist skills and Council representation, including at least one Councillor and one officer. If all conservation areas of the Borough wanted to have an advisory committee there could potentially be up to thirty, and if asked to consider planning applications each could need to meet as regularly as every six weeks, which would be outside the capacity of the Council to support.

The Chairman referred to the recommendations of the report and presented his suggested alterations to the Group, noting suggestion that the option to create a sub-committee be kept under review should the need arise and that conservation areas be incorporated as a standing item into all planning

training.

Councillor Price asked why the Council would wish to create a list of non-designated heritage assets and what would potential consequences be to owners if their building were added to that list.

The Principal Planning Officer said that there was no special planning mechanism created for non-designated heritage assets, whereas listed buildings required listed building consent and conservation areas required what had previously been called conservation area consent [Now 'planning permission for the relevant demolition of an unlisted building within a conservation area'] controls. Whenever a planning application was made its impact on non-designated heritage assets had to be assessed through a balancing exercise where the harm caused to, or complete loss of, the non-designated heritage asset was assessed against the benefit of the proposal. Internal alterations did not require planning approval and so sat outside of such scrutiny.

The Principal Planning Officer explained that the planning system already allowed for non-designated heritage assets to be identified at the point of application and so creating this list would be helpful to provide advance knowledge of assets to be considered.

Councillor Price queried what criteria constituted non-designated heritage asset status. The Principal Planning Officer referred to national guidance issued by Historic England which local authorities were free to tailor for their localities. Rushcliffe Borough Council had adopted criteria as set out in supporting text under Policy 28 of Local Plan Part 2, with two main criteria being that an asset needed to have some degree of public visibility and that it had to be in some way recognisable in its original form. There were also additional criteria such as being designed by a known architect, of which it was suggested that three criteria be met.

The Principal Planning Officer clarified that non-designated heritage assets did not have to be buildings, that they could include assets such as parks and gardens, non-designated conservation areas and architectural assets.

Councillor Barney asked whether there was any statutory element to non-designated status and the Principal Planning Officer advised that there was no legislation that local authorities must have a list of their non-designated assets. The Council was currently carrying out identification of such assets at point of application and also referenced assets, if not explicitly designated, within the Local Plan Part 2, such as Grantham Canal. The Government had also made funding available to support creation of non-designated heritage assets a few years ago to encourage creation.

Councillor Barney referred to the historic environment record held by Nottinghamshire County Council and asked whether the Council could make use of that information. The Principal Planning Officer advised that the record would require considerable examination and contained much information not directly relevant to this process.

Councillor Barney referred to the Local Development Order (LDO) currently under consultation, the associated employment and development linked to it and the likely need for more housing in the future, creating pressure on local villages. Councillor Barney asked whether Green Belt plus type frameworks were available that could be applied to the Borough's precious historical villages to create protection zones. Councillor Barney thought that Leicestershire already had such protection frameworks in place, and he had asked a planning consultant to prepare a brief setting out details, which he would share when received.

Councillor Butler said that he supported crowd sourcing and involving parish councils in identifying local assets and the process of conservation area review but thought it important to manage expectations. Councillor Butler wondered whether a Frequently Asked Questions type document would be provided. The Principal Planning Officer said that the Council was in the process of identifying the first local groups and part of this would involve holding briefing sessions with interested people to provide information about conservation areas. The Chairman agreed that a guidance note would be useful.

Councillor Butler confirmed his support of the Planning Committee training and encouraged non Committee members to attend also. The Chairman noted that Councillors may be required to substitute onto a Planning Committee at any time.

The Chairman said that there were occasions where local residents questioned how some planning applications could be approved for development in conservation areas and villages. The Chairman asked how harm and appropriateness of design would be assessed in a conservation area and what weight would be given to those aspects.

The Principal Planning Officer said that there was a process, the first step of which was to identify the heritage asset[s] that would potentially be affected by the proposal, how far away it was and what about its setting contributed to its significance. The conservation of an asset related to the significance of that asset, and the setting only inasmuch as it contributed to the significance. The Principal Planning Officer explained that the impact of the proposal on the asset would then be assessed as to whether it harmed or preserved the significance. Some schemes may remove something that had already harmed significance and replace it with something that was less harmful and in that way development and change could be positive.

The Principal Planning Officer said that the final stage was to ask whether a proposal had sought to avoid harm and maximise enhancement as far as possible. The Group was informed that applications were assessed holistically to determine the overall impact on significance, with a presumption in favour of preservation. Potential outcomes included that a proposal did not cause harm, that it caused harm, but that harm was less than substantial, or that it caused substantial harm. The most common outcome was that a development caused less than substantial harm as substantial harm had a high threshold.

The Principal Planning Officer said that the upcoming training on the cumulative impact of development in a conservation area would review this

topic in more detail.

The Chairman said that Members often received criticism for allowing developments in 'chocolate box' villages and asked about assessment and subjectivity of assessment of applications in those locations, particularly in relation to design. The Principal Planning Officer referred to architecture being described as a mixture of form, function and delight and thought that it was the delight element which was most open to interpretation and subjective view. National policy made it clear that design policy should not exclude the potential for innovative and contemporary designs and that it depended on the specifics of a building and its context as to what would be appropriate.

The Chairman suggested including assessment of harm and the weight given to that harm, particularly in conservation areas, in the upcoming Planning Committee training session.

Councillor Way referred to applications coming before Planning Committee where attention was drawn to negative developments that were nearby as if they were a reason to approve something detrimental and asked if this aspect could be included in the training.

In relation to cumulative impact, Councillor way thought that there were instances where an application having a negative effect was followed by another application having a negative impact, that individually their impact may not be significant but combined could bring considerable destruction to a positive asset within a conservation area.

Councillor Way asked for an explanation about certificates of lawfulness which she thought seemed to override everything else. The Principal Planning Officer said that historically not many were received as they were an application to determine that you did not require planning permission. They were not required by law and a fee was required to obtain one. It was possible, however, that the Council was currently receiving more due to it having temporarily discontinued its pre-application advice service due to pressures from the pandemic. This service provided people with advice as to whether they would likely require planning permission and was now being phased back in.

Councillor Way asked whether certificates of lawfulness overrode national planning framework and the Principal Planning Officer advised that permitted development rights did not include tests as to whether harm was caused to a conservation area.

Councillor Way had additional questions which the Chairman said were outside the scope of this meeting and suggested that they would be best put to planning officers separately.

Councillor J Stockwood noted suggestions from the Group about training and said that the Member Development Group would take them on board and questioned whether it was not the role of the Member Development Group to set the training programme for Councillors. The Chairman said that it was important that it be included as part of this scrutiny process as it formed an important part of the future workings of the Planning Committee.

Councillor J Stockwood referred to the Council's previous review of conservation areas when not all of the Borough's thirty conservation areas had been included, or it had taken some years for them to be included. He asked whether it was possible for the Council to commit that it had the resources to complete a thorough review of all conservation areas, with no outstanding issues, within the three year timeframe.

The Principal Planning Officer said that the last holistic review completed by the Council had been around 2008-2011, with many of those appraisals needing to be completed from scratch. It was thought that as the current review would be able to build on previous work it would therefore be possible to complete within the three year timeframe.

Councillor J Stockwood referred to the Council's existing Asset of Community Value process and suggested that it provided an example of process guidance and the collation of lists, both for things being considered and things that had been accepted. The process set out a model for how to ensure that information was published, how to engage, information about what was happening and what had been achieved and was available on the Council's website to learn from.

Councillor J Stockwood hoped that the Council would continue to move forward with its digital agenda and that digital mapping would be made available as it was easier for people to engage with.

Councillor J Stockwood referred to discussion as to the difficulties of the different types of committee setups proposed and asked what positive suggestions could be put forward to address the issues raised, including the potential to involve non-statutory consultees in the process and having greater engagement with the Nottinghamshire Building Preservation Trust.

The Chairman suggested that this action came under recommendation D, in that matters could be reviewed as and when they arose, with Members of the Group having input as to whether there was need to change approach to the sub-committee structure. The Principal Planning Officer said that the Council would also look to identify alternative meeting options potentially by early 2023.

The Chairman made an informal suggestion that update reporting could be through an annual report to Cabinet.

Councillor J Stockwood referred to the non-designated heritage assets list and asked if there was a timescale for when it would be available for people to put forward submissions. The Principal Planning Officer said that the Council would review the mechanisms for Assets of Community Value and how they could be adapted and would explore digital mapping tools, including the potential for the Council's tree preservation information to also be put online. Guidance documents could also be created to enable the Council to move forward when all elements were in place. The list could be published on the Council's website and promoted through media channels and Rushcliffe Reports.

It was **RESOLVED** that the Growth and Development Scrutiny Group:

- a) invites Councillors to support this review process by helping to identify local groups within their communities with conservation area who might be interested in assisting with a community lead in the review process, or confirm that no such group exists, and that review will likely need to be led by the Borough Council in their respective area;
- b) agrees to develop a 'crowd sourced' approach to contribute to the development of a local list of non-designated heritage assets including putting forward suggestions of local groups/organisations with which to engage;
- c) supports the proposed mechanism for addition of assets to a local list as detailed within the report;
- d) keeps under review whether there is a need for either a Conservation Area Advisory Committees or a Heritage Planning Sub-Committee; and
- e) tasks officers to incorporate into all future planning training sessions considerations relating to the impact of proposals within conservation areas

4 **Work Programme**

It was **RESOLVED** that the Group consider its Work Programme and that the following items for scrutiny were agreed.

21 September 2022

- Covid-19 Business Recovery Update
- Sewerage infrastructure and discharge within Rushcliffe
- Work Programme

4 January 2023

- UK Shared Prosperity Fund
- Work Programme

8 March 2023

- Work Programme

The meeting closed at 8.30 pm.

CHAIRMAN