



**Growth and Development Scrutiny Group**

**Wednesday, 21 April 2021**

**Conservation Areas**

**Report of the Executive Manager – Transformation**

**1. Purpose of report**

- 1.1. With increased development taking place in the Borough, concern has been expressed about the impact on conservation areas and how policy is applied in relation to development in these areas. Clarification is also sought on what effect being in a conservation area can have on other planning matters.
- 1.2. This report and the associated presentation to the Growth and Development Scrutiny Group will provide information and clarity over the purpose of conservation areas, the Borough Council's responsibility and duties in relation to these areas, the application of policy when considering planning applications and the impact on other planning considerations/functions.

**2. Recommendation**

It is RECOMMENDED that members of the Scrutiny Group note the content of the report and presentation to the Group.

**3. Reasons for Recommendation**

- 3.1. The Council's Corporate Strategy 2019-2023 was adopted in September 2019. The Strategy includes a new corporate priority of 'The Environment'. The preservation or enhancement of our conservation areas is an important aspect of the planning process and protecting our historic environment. This report, along with the presentation that the Group will receive, provides important information and clarity on the importance of conservation areas and how planning policy is applied in these areas.

**4. Supporting Information**

- 4.1. The National Planning Policy Framework and the Development Plan for Rushcliffe include policies for the conservation and enhancement of the historic environment. The various components that form part of the historic environment are referred to as heritage assets and range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and

future generations. This report and the presentation to the Growth and Development Scrutiny Group will focus on conservation areas.

### **What is a Conservation Area and why are they designated?**

- 4.2 A conservation area is an area which has been designated because of its special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. The special interest of a conservation area may come from the quality of its buildings, its landscape setting, the quality of open spaces, boundary materials, the layout of streets and buildings, evidence of past functions and other distinctive characteristics.
- 4.2. The area which is the subject of the designation will normally be identified by a boundary line on a plan. Each conservation area should have an appraisal and a management plan. The appraisals highlight key characteristics that give the conservation area its special interest. The appraisals are intended to guide anyone considering development within the conservation area so that proposed changes are sensitive to the character and appearance of the conservation area.
- 4.3. The Townscape Appraisal is presented in the form of a map and will normally include the boundary of the conservation area, listed buildings, key unlisted buildings or positive buildings (buildings which are not listed but are of special architectural or historic interest), positive open spaces and important views into or out of the conservation area. In addition, the appraisal may also include details of boundary treatment if these are considered to be an important part of the character of the area, such as walls and hedgerows, and significant trees.
- 4.4. It is not the purpose of the designation to prevent development, however, more stringent planning controls apply to the area, for example, there are greater limitations to permitted development and other controls apply, such as requiring permission for demolition of structures and offering a degree of protection to trees within the area.

### **Legislative and Policy Framework**

- 4.5. The principal legislation which applies to conservation areas is the Planning (Listed Buildings and Conservation Areas) Act 1990 which provides specific protection for buildings and areas of special architectural or historic interest. In addition, the Planning (Listed Buildings and Conservation Areas) Regulations contain procedural provisions relating to applications affecting listed buildings and conservation areas.
- 4.6. Section 69 of the Act relates to the designation of conservation areas and provides that every local planning authority; (a) shall from time to time determine which parts of their Borough are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and (b) shall designate those areas as conservation areas. In addition, section 69 provides that it shall be the duty of a local

planning authority from time to time to review those areas designated as a conservation areas. Of particular relevance to the consideration of planning applications, is Section 72 of the Act. This is discussed further below.

4.7. Relevant National and Local Planning Policies include:

- National Planning Policy Framework – Section 16. Conserving and enhancing the historic environment.
- Rushcliffe Local Plan Part 1: Core Strategy – Policy 11, Historic Environment.
- Rushcliffe Local Plan Part 2: Land and Planning Policies – Policy 28, Preserving and Enhancing Heritage Assets; Policy 29, Development Affecting Archaeological Sites.

### **Conservation Areas in Rushcliffe**

4.8. There are 30 conservation areas within Rushcliffe. For each conservation area there is a map showing the extent of the conservation area at each location, an Appraisal and Management Plan and a Townscape Appraisal. The following settlements include areas designated as a conservation area:

- |                   |                          |
|-------------------|--------------------------|
| • Aslockton       | • Keyworth               |
| • Bingham         | • Kneeton                |
| • Bradmore        | • Langar                 |
| • Bunny           | • Normanton on the Wolds |
| • Car Colston     | • Orston                 |
| • Colston Bassett | • Ruddington             |
| • Costock         | • Scarrington            |
| • Cropwell Butler | • Sutton Bonington       |
| • East Bridgford  | • Thoroton               |
| • East Leake      | • Thrumpton              |
| • Edwalton        | • Upper Broughton        |
| • Flintham        | • Upper Saxondale        |
| • Granby          | • West Leake             |
| • Hawksworth      | • Whatton in the Vale    |
| • Hickling        | • Wysall                 |

4.9. Preparatory work has been undertaken for the creation of a new conservation area in Cropwell Bishop, this will be subjected to a consultation exercise, which has been delayed due to the coronavirus pandemic, before it can be formally designated.

4.10. Full details of the existing conservation areas can be found on the Council's website at:

<https://www.rushcliffe.gov.uk/conservation/conservationareasinrushcliffe/>

## **How are Conservation Areas Designated**

- 4.11. When considering the designation of a conservation area it will first be necessary to determine if the area includes the features and requirements that make the area special, i.e. of special architectural and historic interest. This can be determined by physical survey of the area and referring to other information such as the Historic Environment Record and information which may be held by, for example, a local history society. If the area is found to possess the necessary qualities, the extent of the area to be designated will be defined on a map by a conservation area boundary. A management plan and townscape appraisal should also be prepared.
- 4.12. Before the area is designated, a consultation exercise will normally be carried out, this will normally be undertaken with the agreement of Cabinet, following consideration of a report on the matter. The consultation exercise would normally include written consultation with all residents and businesses within the area to be designated and may also include an exhibition.
- 4.13. When designating a conservation area, the Local Planning Authority must give notice of the designation to the Secretary of State and the making of the designation must be published in the London Gazette and in at least one newspaper circulating in the area of the local planning authority.

## **Effect on Planning Matters**

- 4.14. Permitted development – the location of a property within the conservation area imposes further limitations on permitted development rights, i.e. certain work that can be carried out without planning permission
- 4.15. Planning applications – when considering planning applications for development within a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 4.16. Within conservation areas, careful consideration will be given to the impact of proposals on the appearance and character of the area, in accordance with the statutory duty referred to above. In particular, it will be necessary to determine if any harm arises from development to the significance of the heritage asset. Harm falls into three categories, substantial harm, less than substantial harm and no harm. Clearly, where no harm is identified the proposal would preserve the character and appearance of the area. Policies in the NPPF require that where a proposal would lead to substantial harm to the significance of the heritage asset, permission should be refused, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a proposal would cause less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 4.17. In cases where a development is not within but is adjacent to the conservation area, the statutory duty under Section 72 does not apply but it will be necessary to consider the impact on the setting of the conservation area.
- 4.18. Demolition of buildings/structures – subject to certain criteria, the demolition of a building/structure within a conservation area will require planning permission for relevant demolition. In general, this requirement relates to:
- Demolish a building with a volume of 115 cubic metres or more
  - To demolish any gate, fence, wall or other means of enclosure with:
    - a height of one metre or more if next to a highway (including a public footpath or bridleway), waterway or open space; or
    - a height of two metres or more elsewhere.
- 4.19. Publicity of planning applications in conservation areas – The requirements for the publicity of planning applications are set out in article 15 of the Town and Country Planning (Development Management Procedure) Order 2015. For the majority of applications, the legislation requires that applications are publicised by giving requisite notice:
- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; **or** (emphasis added)
  - (b) by serving the notice on any adjoining owner or occupier.
- (For the purposes of determining who is an adjoining owner/occupier, this is taken to be any property which shares a boundary with the application site, as defined by the area edged red on the site and location plan. In rural areas this can be more difficult to determine as we do not hold details of land ownership).
- 4.20. In addition to the requirements of the DMPO, the provisions within the Planning (Listed Buildings and Conservation Areas) Act 1990 require that development within or affecting the setting of a conservation area is publicised by the display of a site notice and by a notice in a local newspaper circulating in the locality in which the land is situated.
- 4.21. Trees – Trees within a conservation area are afforded protection by virtue of Section 211 of the Town and Country Planning Act 1990. Subject to the provisions of this section, it shall be an offence to cut down, top, lop, uproot or cause wilful damage or wilful destruction to trees. However, work may be carried out to trees in a conservation area where the requisite notice has been served on the Local Planning Authority. The work may then be carried out with the consent of the local planning authority in whose area the tree is or was situated, or after the expiry of the period of six weeks from the date of the notice but before the expiry of the period of two years from that date. During the notification period, the Local Planning Authority may give consideration as to whether the tree(s) should be afforded protection from a Tree Preservation Order.

4.22. These provisions do not apply to:

- the cutting down, topping or lopping or uprooting of a tree whose diameter does not exceed 75 millimetres; or
- the cutting down or uprooting of a tree, whose diameter does not exceed 100 millimetres, for the sole purpose of improving the growth of other trees (eg thinning as part of forestry operations).

In either case, the diameter of the tree is to be measured over the bark of the tree at 1.5 metres above ground level.

4.23. There is no statutory requirement to undertake any consultation in respect of a notice served pursuant to section 211. However, where the Council responds to the notice, advising that the Council does not intend to make a tree preservation order and that the work may proceed, a copy of the letter is sent to the Ward Councillor(s) and the Town/Parish Council.

4.24. The above matters will be expanded upon in the presentation to the group.

### **Resources**

4.25. The planning team includes a Conservation Officer (1fte), whose main responsibilities include dealing with applications for listed building consent and responding to consultations on planning applications. In addition, the planning officers within the team are responsible for assessing any impacts arising from development within or affecting the setting of conservation areas, where necessary with input from the Conservation Officer.

4.26. The Council's Landscape Officer is responsible for dealing with notifications to fell, top, lop etc trees within the conservation areas.

### **The role of Historic England**

4.27. Historic England (HE) are a "... public body that helps people care for, enjoy and celebrate England's spectacular historic environment" (HE website). They do this by:

- Championing historic places
- Identifying and protecting our heritage
- Supporting change
- Understanding historic places and
- Providing expertise at a local level.

4.28. In terms of the planning function, HE is a statutory consultee in respect of:

- Development of land involving the demolition, in whole or in part, or the material alteration of a listed building which is classified Grade I or Grade II\*
- Development likely to affect the site of a scheduled monument

- Development likely to affect any battlefield, garden or park of special historic interest which is registered in accordance with section 8C of the Historic Buildings and Ancient Monuments Act 1953 (gardens or park which is registered as Grade I or II\*).

4.29. HE is not a statutory consultee in relation to development within or affecting a conservation area. When consulted in relation to work/alterations to listed buildings, they will often respond to consultations suggesting that the advice of the Council's conservation advisor is sought. As may be expected from the government's statutory adviser on the historic environment, the advice and guidance on their website reflects the guidance contained within the NPPF and references the statutory instruments. The Development Plan must be in conformity with the NPPF and the Council's policies therefore reflect the guidance and approach advocated by the HE.

## **5. Risks and Uncertainties**

5.1. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on Local Planning Authorities when exercising any of its functions in a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Failure to apply the duty when considering planning applications can result in an unsound decision and the risk of a successful legal challenge.

## **6. Implications**

### **6.1. Financial Implications**

6.1.1. There are no financial implications associated with the consideration of this report and the recommendation.

### **6.2. Legal Implications**

6.2.1. There are no legal implications associated with the consideration of this report and the recommendation.

### **6.3. Equalities Implications**

6.3.1. The Council is committed to delivering all planning activities in accordance with its Equality and Diversity Policy and will embed the principles of that policy in its approach to regulatory functions. The planning process, including consideration of impacts on heritage assets, relates to land and property and personal circumstances will rarely be a material planning consideration. Therefore, the Council will treat all people equally and fairly, irrespective of their nationality, political views, race, gender, disability, age, religion, or sexual orientation.

#### 6.4. Section 17 of the Crime and Disorder Act 1998 Implications

6.4.1. There are no crime and disorder implications associated with the consideration of this report and the recommendation.

#### 7. Link to Corporate Priorities

Quality of Life	Heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
Efficient Services	The delivery of an efficient and effective planning service is consistent with the Council's corporate priority to transform the Council to enable the delivery of efficient high-quality services.
Sustainable Growth	The purpose of the planning system is to contribute to the achievement of sustainable growth. One of the three overarching objectives to sustainable development is the environmental objective. Development should contribute to protecting and enhancing our natural, built and historic environment. There is a need to consider carefully the impacts of development on the special architectural and historic significance of conservation areas to ensure that development preserves or enhances the significance of these areas and that any harm is justified by wider public benefits.
The Environment	The preservation or enhancement of the conservation areas within the Borough is an important aspect of the planning process and protecting our historic environment.

#### 8. Recommendations

It is RECOMMENDED that members of the Scrutiny Group note the content of the report and presentation to the Group.

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<b>Background papers available for Inspection:</b>	None
<b>List of appendices:</b>	None