

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: **LEADER JOINTLY WITH THE DIRECTOR, INCLUSIVE GROWTH**

Report of: **Assistant Director - Development**

Date of Decision: **08 February 2019**

SUBJECT: **CONSERVATION AREA REVIEW: IMPLEMENTATION OF FINDINGS**

Key Decision: **No**

If not in the Forward Plan: **Relevant Forward Plan Ref:**

(please "X" box) **Chief Executive approved** ☐

Relevant Cabinet Member **O&S Chairman approved** ☐

Relevant O&S Chairman: **Cllr Ian Ward, Leader of the Council**

Wards affected: **Cllr Tahir Ali, Economy and Skills**

Acocks Green, Balsall Heath West, Bordesley & Highgate, Bournbrook & Selly Park, Bournville & Cotteridge, Edgbaston, Hall Green North, Handsworth, Harborne, Heartlands, Kings Norton North, Ladywood, Longbridge & West Heath, Lozells, Moseley, Nechells, Newtown, North Edgbaston, Northfield, Soho & Jewellery Quarter, Sutton Four Oaks, Sutton Trinity, Weoley & Selly Oak, Yardley East.

1. Purpose of report:

- 1.1 To seek approval to implement the recommendations of the Conservation Area Review for the continued management of all conservation areas within the city of Birmingham following a consultation process approved in the report dated 27th June 2017.

2. Decision(s) recommended:

That the Leader jointly with the Director, Inclusive Growth:-

- 2.1 Approves the implementation of the Conservation Area Review Recommendations report (attached at Appendix 1) and supporting documents and its findings for the continued management of all conservation areas within the city of Birmingham.
- 2.2 Approves the cancellation of Austin Village and Ideal Village Conservation Areas in accordance with the Conservation Area Review recommendations and subsequent public consultation events.
- 2.3 Approves the removal of the Article 4 direction affecting Austin Village Conservation Area in accordance with the Conservation Area Review recommendations and subsequent public consultation events.

Lead Contact Officer(s):
Telephone No:
E-mail address:

Andrew Fuller – City Design Manager
0121 464 7794
andrew.fuller@birmingham.gov.uk

3. Consultation

3.1 Internal

Planning and Development have consulted the Chairman of the Planning Committee and Conservation and Heritage Panel who are both supportive of these recommendations. Ideal Village: All the Ward Members have been fully supportive of cancelling the conservation area. None of them attended the consultation event. Austin Village: The Ward Members do not want the conservation area to be cancelled, they only want the Article 4 direction to be deleted. All three attended the consultation event.

3.2 External

Statutory consultation (as required under the Planning (Listed Buildings and Conservation Areas) Act 1990) has been undertaken in both Austin Village and Ideal Village and has fed into the recommendations. The purpose of this report is to summarise the conclusions of the consultation exercise for Austin Village and Ideal Village Conservation Areas. The findings of the consultation are set out in section 5 (below).

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and vision and forward plan?

The Conservation Areas Review has been prepared in the context of the policies of the adopted Birmingham Development Plan (BDP) (2017) such as policy TP12 'Historic Environment' which states under para 6.75 that:

'The City Council will review or prepare character assessments and management plans for conservation areas'.

4.2 Financial Implications

(Will decisions be carried out within existing finance and Resources?)

The consultation process has been undertaken using existing Planning and Development staff resources and within existing approved revenue budgets.

There are no ongoing financial implications to the City Council as a consequence of these changes.

4.3 Legal Implications

The designation of (or amendments to) a conservation area seeks to 'preserve and enhance' the 'special architectural or historic interest' of that area (Section 69 of the Planning (Listed Buildings & Conservation Areas) Act 1990).

The designation of conservation areas is undertaken by the local authority itself, and is a statutory function governed by the Planning (Listed Buildings & Conservation Areas) Act 1990.

4.4 Public Sector Equality Duty (see separate guidance note)

An Equality Analysis screening has been undertaken and is attached at Appendix 3. The consultation process undertaken did not highlight any equality issues and it is considered that the proposals have no adverse impact.

5. Relevant background/chronology of key events:

- 5.1 Paragraph (2) of Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is clear that the local planning authority must review on a regular basis, existing conservation areas as well as consider if further areas need to be designated. Standard practice within the discipline is that this should be around every 5 years.
- 5.2 A review of all 30 conservation areas in Birmingham has now been undertaken in order to meet these statutory requirements. The findings of the review identified potential cancellation (de-designation), variation (merging, reducing and enlarging) and consideration of new areas. The findings of the review are provided under Appendix 1.
- 5.3 The recommendations of the review were endorsed by the City's Conservation and Heritage Panel for wider public consultation and were also reported to Planning Committee
- 5.4 The findings and recommendations of the review were approved by the Deputy Leader jointly with the Corporate Director, Economy on 27th June 2017. At that time approval was also given for consultation on two of the surveyed conservation areas recommended for cancellation (1) Austin Village, and (2) Ideal Village, as well as further designations.
- 5.5 Whilst concerns have been raised that cancellation of these two designations could lead to deterioration and cancellation of other areas, lessons have been learnt from Austin Village and Ideal Village on the management of conservation areas and the issues they face. Moreover, resources in both building conservation staff and enforcement staff within the Planning Department have increased, allowing for better day-to-day input into the management of these areas to take place.
- 5.6 The summary of the consultation work in these two areas is now provided and is set out in full in Appendix 2.

5.7 Austin Village

- 5.7.1 The consultation generated representations that both supported the retention and cancellation of the conservation area and associated Article 4 direction (which removes 'permitted development' rights). There was also a strong contingent that considered the retention of the conservation area in association with a relaxation/loss of the Article 4 direction.
- 5.7.1 It is accepted that the Article 4 direction has not been adhered to and the strong public resistance to comply with it has resulted in it no longer being meaningful to enforce. More properties now have alterations that use modern materials than those that have traditional materials and as a result the character and appearance of the conservation area has been seriously harmed.
- 5.7.2 To retain the conservation area without the Article 4 direction would effectively result in having a designation with few teeth to protect it. In this event, permission for cladding

would still be required, although this is one issue expressly considered by most residents to be something they would not support as the use of PVCu plastic is significant throughout the area.

- 5.7.3 Whilst Historic England regretted the proposed cancellation of the conservation area, the Victorian Society and Civic Society recommend its retention as it was considered that the character of the area had not been completely lost and could be reinstated with guidance and support. It is considered, however, that this position is not practical when the community have made it very clear that they do not agree with this style of restrictive conservation.
- 5.7.4 The concept of the village as a planned estate in connection with the city's motor industry during the First World War is still visible in plan form and all agree that this is of some value. There does appear to be a difference of opinion over how important the fabric of these buildings is, albeit contrary to normal conservation guidance and policy across the country, where modern materials (particularly PVCu) is not supported. Without a real sea change in resources, the opinions of the local community or funding, there is little that can now take place to reverse the current condition of Austin Village, and therefore the recommendation set out in the review remains. The area is no longer considered to meet the requisite standard for designation as a conservation area and retaining the associated Article 4 direction would serve no purpose.

5.8 Ideal Village

- 5.8.1 The consultation generated representations that both supported the retention and cancellation of the conservation area, but largely the community themselves were in favour of the cancellation proposed. All acknowledged the significant loss of historic fabric and unsympathetic changes that have taken place to properties and that in part this was due to unsympathetic alterations.
- 5.8.2 Historic England acknowledges the loss of fabric and the harm this has caused to the conservation area. The Victorian Society considers the loss of fabric not to be so significant that the proposed cancellation should be substituted for a programme of reinstatement. Such a position would be fruitless without significant buy in from the community and substantial resources and funding.
- 5.8.3 The Civic Society have a similar stance to the Victorian Society, however are mindful that varying (reducing) the designation and applying an Article 4 direction should be considered. This could not be undertaken as the condition of the conservation area is consistently deteriorated throughout and therefore a new boundary would be impossible to draft. Moreover, an Article 4 direction did once exist and has been lifted making this neither appropriate nor effective as the fabric it would be protecting is already lost.
- 5.8.4 Without a real sea change in resources, the opinions of the local community or funding, there is little that can now take place to reverse the current condition of Ideal Village, and therefore the recommendation set out in the review remains. The area is no longer considered to meet the requisite standard for designation as a conservation area.

6. Evaluation of alternative option(s):

- 6.1 Option 1 – do nothing. The consultation in Austin and Ideal Villages has been completed and there are varying opinions on the future management of these areas, however conservation area designation is evidence based and it has been evidenced that the area no longer retains the requisite standard for designation as a conservation area.
- 6.2 Option 2- Reduce the designation. Another option would be to revise the boundary of these two areas. This is problematic as the deteriorated condition of both conservation areas is consistent throughout.

7. Reasons for Decision(s):

- 7.1 To approve the recommendations of the Birmingham Conservation Area Review following consultation including the cancellation of Austin Village and Ideal Village Conservation Areas and Article 4 direction for Austin Village.

Signatures

Date

Leader of the Council
Cllr Ian Ward:

.....

Director, Inclusive Growth
Waheed Nazir:

.....

List of Background Documents used to compile this Report:

Relevant officers file(s) on the matter, save for confidential documents.

List of Appendices accompanying this Report (if any):

1. Conservation Area Review Recommendation Report
2. Summary of consultation results for Austin Village Conservation Area and Ideal Village Conservation Area in connection with proposals for cancellation
3. Equalities Analysis
4. Conservation Area Review – Deputy Leader Jointly With The Corporate Director; Economy report 26th June 2017

PROTOCOL

PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report at section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in the standard section (4.4) of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty – see page 9 (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> (a) tackle prejudice, and (b) promote understanding.
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none"> (a) Marriage & civil partnership (b) Age (c) Disability (d) Gender reassignment (e) Pregnancy and maternity (f) Race (g) Religion or belief (h) Sex (i) Sexual orientation