

## ADOPTION OF CONSERVATION AREA APPRAISAL UPDATES AND EXTENSIONS TO CONSERVATION AREAS

Council – 18 July 2023

**Report of:** Chief Officer Planning and Regulatory Services

**Status:** For Consideration

**Also considered by:**

- Cabinet 13 July 2023
- Council 18 July 2023

**Key Decision:** No

**Executive Summary:** This report presents the updated conservation area appraisals for Eynsford, Farningham and Kemsing Conservation Areas, and provides a summary of the public consultation undertaken for this project. It recommends the adoption of the updated conservation area appraisals, including changes to the conservation areas' boundaries and the making of a focussed Article 4 direction to remove permitted development rights in Kemsing Conservation Area.

**This report supports the Key Aim of:** Ensuring that Sevenoaks District remains a great place to live, work and visit.

**Portfolio Holder:** Cllr. Simon Reay

**Contact Officers:** Susannah Homer, Ext. 7138 and Rebecca Lamb, Ext. 7334

**Recommendation to Development and Conservation Advisory Committee:**

Take note of the report and agrees to recommend to Cabinet the recommendations below

**Recommendations to Cabinet that it be recommended to Council that it**

- a) Adopts the three updated conservation area appraisals for Eynsford, Farningham and Kemsing;
- b) Designates the proposed boundary amendments to each of the above conservation areas; and,
- c) Agrees to the making of a focused Article 4 direction to remove limited permitted development rights that protects boundary treatments and front gardens in the Kemsing Conservation Area.

## Recommendations to Council

- a) That Council adopts the three updated conservation area appraisals for Eynsford, Farningham and Kemsing;
- b) Designates the proposed boundary amendments to each of the above conservation areas; and,
- c) That Council agrees to the making of a focused Article 4 direction to remove limited permitted development rights that protects boundary treatments and front gardens in the Kemsing Conservation Area.

**Reason for recommendation:** To fulfil our statutory duty to review the district's conservation areas. To help preserve and enhance the character and appearance of Kemsing Conservation Area by making a focused Article 4 direction that brings specified works under planning control.

## Introduction and Background

- 1 Legislation (Planning (Listed Building and Conservation Areas) Act 1990) requires the local planning authority to review its conservation areas. The Conservation Team is undertaking a rolling programme of review of the district's conservation areas. Eynsford, Farningham and Kemsing Conservation Areas have been reviewed, and updated appraisals been produced.
- 2 All 41 of the district's conservation areas have an appraisal, but most need updating. The above conservation areas were chosen based on the date of their last review/appraisal and the number of applications received in recent years.
- 3 Conservation area appraisals are adopted as supplementary planning documents (SPDs) and are a material consideration in assessing applications for development in the conservation areas. Therefore, it is important that the special interest of the conservation area is clearly and accurately articulated. The appraisals also serve as evidence base for the Local Plan.
- 4 Sevenoaks District Council (SDC) appointed the consultants Alan Baxter Ltd to re-survey the areas and draft new appraisal documents. This work follows on from the re-surveying and updating of six conservation areas and their appraisals in 2019 (Brasted High Street, Leigh, Seal, Shoreham High Street and Church Street, Shoreham Mill Lane and Swanley Village) and is part of a rolling programme. The revised appraisals are based on the new concise and more accessible format that was introduced in 2019. They incorporate management recommendations to help support the Council's functions, as well as those of other bodies and stakeholders involved in the areas. An Open Space Assessment has been included to highlight the contribution of open spaces within and in the setting to the character and appearance of the conservation

areas. As part of the review process, the draft appraisals were put out to public consultation from January to March 2023.

- 5 The review established that all of the three conservation areas fully merit their status and are of special interest, and that they are generally in a good condition.
- 6 Key findings include recommendations for limited changes to all of the three conservation area boundaries (Appendix F) and for the making of a focused Article 4 direction to remove permitted development rights in the Kemsing Conservation Area to protect boundary treatments and front gardens.

### Policy Context

- 7 The Planning (Listed Building and Conservation Areas) Act 1990 imposes a duty on local authorities to review from time to time their areas and to determine whether any further parts should be designated as conservation areas. Section 71 of the Planning (Listed Building and Conservation Areas) Act 1990 also places a duty on local planning authorities to draw up and publish proposals for the preservation and enhancement of the conservation areas in their district.
- 8 The National Planning Policy Framework (NPPF) advises that 'when considering the designation of conservation areas, local planning authorities should ensure that an areas justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest' (para 191).
- 9 NPPF para 195 states that:

*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.*
- 10 SDC Core Strategy 2011 addresses the protection of the District's key historic assets. Para 5.1.1 states:

*At a local level Conservation Area Appraisals and Management Plans will be used to provide guidance on distinguishing features of the historic environment that should be protected, together with identifying opportunities for enhancement.*
- 11 Policy SP1 Design of New Development and Conservation stipulates:

*All new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated. Account should be taken of guidance adopted by the Council in the form of ... Conservation Area Appraisals...*

- 12 SDC Core Strategy (delivery mechanism for SP1) highlights that conservation area appraisals are in place for all conservation areas and that some of them have been updated to include management plans. It states that these will be kept under regular review and that remaining appraisals will be updated with management plans, and adopted as SPDs.
- 13 Policy HEN2 of Chapter 7 in the Regulation 18 Consultation emerging Local Plan 2040 seeks to protect and enhance the historic environment. This policy advises that development proposals are required to take into account conservation area appraisals, amongst other guidance.
- 14 In terms of Article 4 directions, para 53 of the NPPF states that:

*The use of Article 4 directions to remove national permitted development rights should [...]*

- *In other case, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area ...*
- *In all case, be based on robust evidence, and apply to the smallest geographical area possible.*

- 15 The Article 4 direction would bring certain proposals under planning control and thus the application of para 199 of the NPPF:

*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

## **Public Consultation**

- 16 There is no statutory duty to carry out public consultation when preparing conservation area appraisals and management plans, but it is good practice to do so and it is a pre-requisite for the adoption of the appraisals as SPDs.
- 17 The public consultation period was undertaken 16 January to 3 March 2023. Public engagement consisted of:
- An SDC digital engagement platform which hosted the draft appraisals and a questionnaire;
  - An SDC webpage which provided advice and information about the project;
  - An information leaflet to all addresses within the conservation areas (this also advertised the public engagement events);
  - Three public engagement drop-in events in local venues; and
  - Three walkabouts for local stakeholders including parish and district councillors and other local amenity groups.

- 18 The Council issued a press release and the consultation was advertised on the website and social media channels.
- 19 Hard copies of the appraisals were available in the SDC Office, Sevenoaks Library and locally within each conservation area.
- 20 The public engagement drop-in events were attended by a total of 76 people and the Council received 37 written responses. The great majority of respondents felt that the appraisals accurately captured what is special about each of the reviewed conservation areas and that the appraisals were easy to use and understand.

### **Eynsford Conservation Area**

- 21 The revised appraisal (Appendix B) provides a survey of townscape, contextual and scenic views within and of the conservation from outside its boundaries. It also provides an open space assessment which evaluate the contribution of open space within and around the conservation area.
- 22 Limited boundary changes are proposed to the conservation area:
  - Extension to include more of the meadows and pasture upstream from the bridge;
  - Removal of the front lawn of two houses on the east side of Station Road: 4 Saddlers Park and Bluebell Bank; and
  - Corrections and clarifications. In a number of locations the boundary of the conservation area has been drawn cutting across plots of land and through structures so to create a more logical boundary that removes confusion and irregularity whilst maintaining the intent of designation, boundaries have been amended to follow physical land boundaries where possible.
- 23 The walkabout with key local stakeholders was held on 9 November 2022 and the public engagement drop-in event was held at Eynsford Village Hall on 4 February 2023. At both events, they found the appraisal easy to use and understand and that it accurately captures what makes the area special.
- 24 A summary of the issues raised as well as a schedule of public consultation responses received is appended to this report (Appendix G and Appendix H).
- 25 Following the public consultation the proposed changes to the conservation area boundary now includes the back gardens of the houses along Riverside.

### **Farningham Conservation Area**

- 26 The revised appraisal (Appendix C) provides a survey of townscape, contextual and scenic views within and of the conservation from outside its boundaries. It also provides an open space assessment which evaluate the contribution of open space within and around the conservation area.
- 27 Limited boundary changes are proposed to the conservation area:
  - Southern extension to include Cottage on the Hill, on Sparepenny Lane;

- Southern extension to include the whole of Mill Island;
  - The removal of small plot of land to the south of South Hall;
  - The removal of two houses on Oliver Crescent; and
  - Corrections and clarifications. In a number of locations the boundary of the conservation area has been drawn cutting across plots of land and through structures so to create a more logical boundary that removes confusion and irregularity whilst maintaining the intent of designation, boundaries have been amended to follow physical land boundaries where possible.
- 28 The walkabout with key local stakeholders was held on 10 November 2022 and the public engagement drop-in event was held at Farningham Village Hall on 28 January 2023. At both events, they found the appraisal easy to use and understand and that it accurately captures what makes the area special.
- 29 A summary of the issues raised as well as a schedule of public consultation responses received is appended to this report (Appendix G and Appendix I).
- 30 Following the public consultation the following changes were made to the appraisal:
- Boundary change to incorporate the whole of the historic Mill complex in the conservation area; and
  - The two plots of land to the south of London Road are no longer proposed to be removed from the conservation area.

### **Kemsing Conservation Area**

- 31 The revised appraisal (Appendix D) provides a survey of townscape, contextual and scenic views within and of the conservation from outside its boundaries. It also provides an open space assessment which evaluate the contribution of open space within and around the conservation area.
- 32 Limited boundary changes are proposed to the conservation area:
- Extension to include 1920s social housing on the north side of West End;
  - Extension to include the Common Field Recreation Ground;
  - Removal of the field of agricultural land south of the High Street and east of Chart View; and
  - Corrections and clarifications. In a number of locations the boundary of the conservation area has been drawn cutting across plots of land and through structures so to create a more logical boundary that removes confusion and irregularity whilst maintaining the intent of designation, boundaries have been amended to follow physical land boundaries where possible.
- 33 It is proposed to make focused use of an Article 4 direction to remove limited permitted development rights for protecting boundary treatments and front gardens in the Kemsing Conservation Area. As set out in the appraisal, an important part of the character of the Kemsing Conservation Area is the way

that many building are set back behind small front gardens, enclosed by low boundary fences, walls or hedges. Piecemeal loss or erosion of either front boundary treatment and/or front gardens would weaken the enclosure of the street and have an urbanising effect. This would be harmful to the character and appearance of the conservation area.

- 34 The walkabout with key local stakeholders was held on 8 November 2022 and the public engagement drop-in event was held at the Small Hall at St Edith's Hall on 21 January 2023. At both events, they found the appraisal easy to use and understand and that it accurately captures what makes the area special.
- 35 A summary of the issues raised as well as a schedule of public consultation responses received is appended to this report (Appendix G and Appendix J).
- 36 Following the public consultation the following changes were made to the appraisal:
- In the Open Space Assessment, the fields south-east of the village are no marked as strong contributors;
  - A view of the village from south of the land east of Chart View is included; and
  - Proposed removal of a field east of Chart View from the conservation area.

### **Consequences of extending conservation areas**

- 37 The local planning authority is under a statutory duty to ensure the preservation and enhancement of these areas, and a duty to prepare proposals to manage this area. Inclusion of properties into a conservation area has the following principal effects:
- Planning permission is required for the demolition of an unlisted building with volume under 115 cubic metres and ay gate, fence, wall or other means of enclosure less than 1m high where abutting a highway, waterway or open space, or less than 2m high in any other case;
  - Restriction of a limited number of permitted development rights for owners in conservation area. These include, for example, the need for planning permission for roof extension or for the cladding of external elevations;
  - Advertisement consent is required for illuminated signage within a conservation area;
  - Notice must be given to the local planning authority before any works are carried out to any tree within the conservation area; and
  - Extra publicity is given to planning applications affecting conservation areas.
- 38 The local planning authority is under a duty to take account of the desirability of preserving and enhancing the character and appearance of the area when determining such planning applications

## Article 4 directions

- 39 An Article 4 direction is a provision that can be introduced to better protect and manage an area's character by withdrawing permitted development rights for certain types of development and requiring that an application for planning permission is made. Making an Article 4 direction does not conclude that something is unacceptable in principle or that no changes can be made, but instead simply brings proposals for such development under the control of the local planning authority so that their impact can be fully considered
- 40 The use of Article 4 directions has to be carefully justified, because they limit rights that would otherwise exist to property owners. A fee will be payable in respect of any planning application made as a result of the Article 4 direction. The fee is the same as those for other planning applications.
- 41 To protect the character of Kemsing Conservation area, it is recommended that permitted development rights are removed for only two classes within Schedule 2 the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GDPO'):
- The construction or replacement of a hard surface (Schedule 2 Part 2 - Class F, Part 1);
  - The erection or alteration of boundary treatments of a gate, fence, wall or other means of enclosure (Schedule 2 Part 2 - Class A, Part 2);
- 42 When an Article 4 direction is made a public consultation exercise is carried out. Following statutory notification, residents are invited to make representations concerning the direction during a period of at least 21 days. The Council then has to consider the representations received before deciding whether to confirm the direction.
- 43 The direction comes into force when statutory notification of it is given. It cannot be applied retrospectively to development which has already been carried out prior to the making of the direction. The Council is required to confirm the direction within six months, or it lapses.

## Reviews and Appeals

- 44 There is no formal right of appeal to an Article 4 direction. Similarly, there is no statutory right of appeal against a building being included in a conservation area.
- 45 Should a planning application be refused because it cites the impact on the significance or character and appearance of the conservation area, which is a designated heritage asset, there is the right of appeal to the Planning Inspectorate who will make an independent judgement on the impact of the proposed development on the heritage asset.
- 46 The conservation areas will be kept under review in order to monitor their condition and to establish whether existing planning controls are successful in preserving the areas' character and appearance or whether further proposals



for avoiding harmful change or for measures for enhancement need to be considered.

### **Other Options Considered and/or Rejected**

The Core Strategy is specific about the documents necessary to support Policy SP1. Not pursuing the update of the existing appraisals would not accord with SDC policy, and the Council would fail in its statutory duties in relation to conservation areas, as set out in the Planning (Listed Building and Conservation areas) Act 1990.

### **Key Implications**

#### Financial

The production of the appraisals and management plans has been accommodated within existing budgets.

The processing of additional planning applications that would result from the proposed extensions to the conservation areas and the application of the recommended Article 4 direction to Kemsing Conservation Area will be accommodated within the departmental budgets.

Section 108 of the Town and Country Planning Act 1990 makes provision for compensation to be paid by the local planning authority either if an application for development is refused, which would normally have been permitted development before an Article 4 direction was introduced, or grant planning permission subject to more limiting conditions than the General Permitted Development Order 2015 would normally allow. An application for compensation must be made within 12 months of the planning decision and compensation is only payable if the applicant has an interest in the land.

Section 107 sets out the method for assessing such compensation, which is strictly limited to the abortive costs associated with the planning application and any other loss, which is directly attributable to the Article 4 direction being made. In relation to Class F, Part 1 (construction or replacement of a hard surface), the Council is only liable to pay compensation on planning decisions made within 12 months of the Article 4 direction being introduced. In relation to Class A, Part 2 (erection or alteration of any means of enclosure) and Class C, Part 11 (demolition of boundaries), the Council is liable to pay compensation even if an application is made 12 months or more after the Article 4 direction has taken effect. The making of a direction creates this right. Such payments are made from the departmental budget.

#### Legal Implications and Risk Assessment Statement.

The Council has a statutory duty under the provisions of section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to designate and review conservation areas and is required to produce Appraisals and Management Plans for each area.

The documents are based on best practice and involve local engagement. It is therefore considered that once finalised, they will provide a sound basis for the future conservation and management of the areas.

Legal input will be required for advising on the procedure for making extensions to the three conservation areas and the use of Article 4 directions.

### Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

### Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment.

### **Conclusions**

In adopting the revised appraisals, Cabinet will see the completion of the latest part of the rolling programme to review and update the district's conservation areas. This fulfils the Council's statutory duties in relation to conservation areas, and the making of the Article 4 direction to Kemsing Conservation Area will have a positive impact on its management. The appraisals will help planning officers, the local community and other stakeholders in the conservation and enhancement of the conservation areas and secure the long term preservation of their character and value as important heritage assets.

**Appendices** (in Supplementary Agenda)

Appendix A – Sevenoaks District Conservation Areas: An introduction to conservation area appraisals (revised 2023)

Appendix B - Eynsford Conservation Area Appraisal (2023)

Appendix C – Farningham Conservation Area Appraisal (2023)

Appendix D - Kemsing Conservation Area Appraisal (2023)

Appendix E – Sevenoaks District Conservation Areas: Conservation area design guidance (revised 2023)

Appendix F – Eynsford, Farningham, Kemsing Conservation Area maps – 2023 boundaries

Appendix G – Public Consultation Report

Appendix H – Eynsford Consultation Response Schedule

Appendix I – Farningham Consultation Response Schedule

Appendix J – Kemsing Consultation Response Schedule

**Background Papers**

National Planning Policy Framework (updated 2021)

Sevenoaks District Council Core Strategy (2011)

Historic England, *Conservation Area Appraisal, Designation and Management: Historic England Advice Note 1* (2<sup>nd</sup> edn, 2019)

**Richard Morris**

**Chief Planning Officer**