

REPORT TO: CABINET

DATE: 13 OCTOBER 2022

TITLE: MARK HALL CONSERVATION AREA ADOPTION
AND ARTICLE 4 DIRECTION

PORTFOLIO HOLDER: COUNCILLOR DAN SWORDS, PORTFOLIO
HOLDER FOR REGENERATION

LEAD OFFICER: TANUSHA WATERS, ASSISTANT DIRECTOR –
PLANNING AND BUILDING CONTROL (01279)
446595

CONTRIBUTING OFFICER: DAVID WATTS, SENIOR FORWARD PLANNING
OFFICER (01279) 446577

This is a Key Decision.
It is on the Forward Plan as Decision Number I013964.
Call-in Procedures may apply.
This decision will affect the Mark Hall ward.

RECOMMENDED that:

- A** Cabinet notes the finalised Mark Hall North Conservation Area Character Appraisal and Management Proposals document.
- B** Cabinet notes the responses received during the consultation on the document and the proposals (including the proposed Article 4 Direction).
- C** Cabinet adopts the revised Mark Hall North Conservation Area boundary.
- D** Cabinet approves the making of the Mark Hall North Article 4 Direction.
- E** Cabinet approves the related Management Plan and Guidance document for consultation.

REASON FOR DECISION

- A** To formally recognise the document which supports the proposed management of Mark Hall North.
- B** To formally note how responses received during the consultation were considered.
- C** To formally recognise the new Conservation Area boundary, which was revised following a review as part of the management proposals.
- D** To allow the Article 4 Direction to be made and consulted on.

E To allow the draft Management Plan and Guidance document to be consulted on.

BACKGROUND

1. In March 1987, the Council designated the area of Mark Hall North as a Conservation Area. Council documentation states the main reason for the designation was because Mark Hall North was the first neighbourhood to be completed in Harlow, and was also one of the first New Town neighbourhoods in the country. The design of the housing groups were new and innovative at the time and have remained mostly unchanged since.
2. In Spring 2022, a Character Appraisal of the area was prepared, which details the history and development of the Mark Hall North neighbourhood. For each housing estate, the styles and notable features of each housing estate are recorded, along with details of where changes to houses have taken place which deviate from the original style. The Appraisal concluded that if left unchecked in future, such changes could result in the overall character of the housing being eroded over time.
3. The Council has a legal duty to monitor and review a Conservation Area and publish proposals for its preservation and enhancement, while considering the views of local people on the subject. As such, the Appraisal was accompanied by three Management Proposals:
 - a) To introduce an Article 4 Direction in the Conservation Area;
 - b) To amend the Conservation Area boundary;
 - c) To create a Management Plan for the area.

Article 4 Direction

4. A number of Permitted Development Rights, set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO), are available to homeowners and occupiers. In Conservation Areas, these are restricted such that alterations including side extensions and adding storeys to a house are not permitted development.
5. However, a number remain available to homeowners in a Conservation Area. These include being able to paint the exterior of a house, erect a porch, gate, fence or wall, and convert part or all of a garden to hardstanding (subject to conditions).
6. The Character Appraisal identified a significant number of changes to houses which have resulted in the uniformity of the original housing designs and streetscenes being disrupted, along with the loss of original features. This has happened, to varying extents, through:
 - a) gardens being converted to hardstanding and/or fences being erected;
 - b) house facades being painted in contrasting colours;
 - c) porches being constructed of various sizes and styles;
 - d) canopies over doors being extended;
 - e) window frames and doors being replaced in a non-uniform colour;

- f) chimney removal;
 - g) other minor changes which can have a greater effect in combination.
7. When planning Mark Hall North, Sir Frederick Gibberd – the masterplanner for Harlow New Town – intended that each estate had distinctive styles designed by different architects. While changes to original housing may be relatively minor in some areas, not taking further action now could result in more changes being made which cause a greater impact over time, meaning original designs, styles and features will be lost.
 8. The Character Appraisal proposed to ‘make’ (draft) an Article 4 Direction affecting houses in the Conservation Area. The Direction would remove certain Permitted Development Rights. Assuming the Direction was ‘confirmed’ (brought into force), homeowners wishing to carry out any development covered by the rights which have been removed by the Direction would first need to receive planning permission.
 9. It was intended that the following Permitted Development Rights were to be included in the Direction, under Schedule 2 of the Order: Part 1, Classes A and C to H; Part 2, Classes A & C; and Part 14, Class A. In simple terms these are the sort of developments that would then require planning permission:
 - a) changes to a house, including an extension or changing doors and windows;
 - b) changes to any part of a roof, including chimney alterations or adding solar panels;
 - c) building a porch or outhouse;
 - d) creating or replacing an area of paving in a garden;
 - e) putting up or knocking down a wall, fence or gate in a garden;
 - f) painting an exterior wall of a house.
 10. In July 2022, Portfolio Holder approval was received for consulting on the *Character Appraisals and Management Proposals document*. Prior to this, a Member Briefing on the document was held.

Conservation Area Boundary Revision

11. The northern boundary of the Conservation Area includes part of the Templefields Enterprise Centre industrial land, and a development of flats on land which was occupied by a now-demolished building.
12. In accordance with the legal duty for the Council to review Conservation Areas, the Character Appraisal proposed to amend the Conservation Area boundary to exclude these areas, as they do not contribute to the Conservation Area.
13. Assuming Cabinet agrees to adopt the revised boundaries, the new boundary maps will be published on the Council website. In accordance with the relevant legislation, the Secretary of State for Levelling Up, Housing and Communities will be notified of the adoption, and an adoption notice will be published in the local press and the London Gazette.

Management Plan

14. The Council proposed to produce a Management Plan for Mark Hall North which would be consulted on and, assuming the Article 4 Direction is confirmed, would be adopted by Cabinet and become a material consideration when determining planning applications within the Conservation Area.
15. The Management Plan would, in conjunction with the existing Harlow Design Guide (and Addendum) and the Essex Design Guide, provide information on how the Council will consider proposals that would require planning permission as a result of the Article 4 Direction.
16. A draft *Management Plan and Guidance* document has been produced which will be consulted on, subject to approval by Cabinet for consultation. As part of this consultation, two exhibitions will be held in Mark Hall North (see later section of this report for details).

Character Appraisal Consultation

17. In July 2022, Portfolio Holder approval was received for consulting on the *Character Appraisals and Management Proposals document*. Prior to this, a Member Briefing on the document was held.
18. The consultation period ran from Monday 25 July to Friday 26 August 2022. This consultation was technically not required by legislation. However, to ensure consistency and to follow best practice we carried out the consultation as though it were covered by relevant planning legislation and in accordance with our Statement of Community Involvement.
19. The consultation ran from Monday 25 July to Friday 26 August 2022. Notification letters were sent to all addresses in Mark Hall North, and emails and letters were also sent to relevant and statutory consultees on the Council's Forward Planning database. In total, 1,143 letters/emails were sent.
20. A press notice and press release were also published. A total of 17 people responded and 97 comments were extracted from the responses. A schedule of comments made and the Council's responses can be found at Appendix A to this report.
21. As a result of the consultation and further consideration of the Management Proposals by Council Officers, a number of changes have been made, in particular to the proposed Article 4 Direction. The table overleaf shows how the proposed Direction has been amended.

Development	Part of GDPO Schedule	New wording of Article 4 Direction	Benefit of change from proposed wording	Aspects already requiring permission due to Conservation Area status
Rear Extensions, Canopies and Other Exterior Changes <i>(inc. windows, window frames & doors; exc. painting – see below)</i>	Part 1, Class A	Now only apply to Class A changes <u>which are visible from a highway*</u> .	People retain ability to have, for example, a rear extension without needing permission, so long as it would not be visible from a highway* and subject to other conditions imposed in the GDPO.	Front & side extensions and rear extensions of more than one storey already require permission due to CA status.
Roof Alterations	Part 1, Class C	Now only applies to Class C roof alterations <u>which are on a roof slope at the front of a house (principal elevation).</u>	People retain ability to have roof alterations on the sides/rears of houses without needing permission, subject to other conditions imposed in the GDPO.	Classes AA and B (covering dormers and additional storeys, for example) already require permission due to CA status.
Porches	Part 1, Class D	Now only applies to Class D porches <u>which are visible from a highway*</u> .	Provides consistency with the changes relating to Part 1, Class A.	
Rear Outbuildings	Part 1, Class E	Now only applies to Class E outbuildings <u>which are visible from a highway*</u> .	People retain ability to construct, for example, sheds in their back gardens without needing permission, so long as they're not visible from a highway* and subject to other conditions imposed in the GDPO.	Front & side outbuildings already require permission due to CA status.

Development	Part of GDPO Schedule	New wording of Article 4 Direction	Benefit of change from proposed wording	Aspects already requiring permission due to Conservation Area status
Hardstandings <i>(inc. partial or whole replacement_</i>	Part 1, Class F	Now only applies to Class F hardstandings <u>which are in a front garden (forward of the principal elevation), or are to the side of a house (forward of a side elevation) where that side elevation fronts a highway.</u>	People retain ability to have a hardstanding, such as a patio in the back garden, without needing permission, so long as it is at the back or side of a house and subject to other conditions imposed in the GDPO.	
Chimneys, Flues and Soil & Vent Pipes <i>(installation, replacement or alteration)</i>	Part 1, Class G	Now only applies to <u>chimneys</u> (i.e. not flues and soil & vent pipes).	People retain ability to carry out works on, or install, flues and soil & vent pipes without needing permission, subject to other conditions imposed in the GDPO.	Installation/alteration of these already requires permission if on a wall/roof at the front/side of a house if the front/side fronts a highway*, due to CA status.
Aerials and Satellite Dishes	Part 1, Class H	<u>Removed – not included in Direction.</u>	People retain ability to install aerials etc. without needing permission, subject to other conditions imposed in the GDPO.	Installation/replacement of these cannot be done on a chimney, wall or roof facing onto and visible from a highway, due to CA status.
Gates, Fences, Walls and Other Enclosures <i>(erection, maintenance, improvement or alteration)</i>	Part 2, Class A	Now only applies to Class A gates, etc. <u>which front a highway*.</u>	People retain ability to, for example, replace fences between rear gardens without needing permission, subject to other conditions imposed in the GDPO. To allow this, amendment specifically says “fronts” a highway*, rather than “visible from” a highway*.	

Development	Part of GDPO Schedule	New wording of Article 4 Direction	Benefit of change from proposed wording	Aspects already requiring permission due to Conservation Area status
Other Changes to the Exterior of a House <i>(painting only)</i>	Part 2, Class C	Now only applies to Class A exterior painting <u>which is visible from a highway*</u> .	People retain ability to paint a house exterior which isn't visible from a highway*, subject to other conditions imposed in the GDPO.	
Solar Panels and Solar Thermal Equipment	Part 14, Class A	<u>Removed – not included in Direction.</u>	People retain ability to install/replace solar panels, etc. without needing permission, subject to other conditions imposed in the GDPO. This is important given rising energy costs and the Council's commitments to supporting renewable energy.	Installation of these on a wall (but seemingly not roof) fronting a highway* already requires permission due to CA status.

* The GDPO and government guidance states that a "highway" includes public right of ways such as public roads, public footpaths and bridleways, as well as unadopted streets and private ways.

22. The removal of an original feature, such as an original chimney, is classed as an alteration and would therefore need planning permission as a result of the Direction.
23. Historic England commented that the *Character Appraisal and Management Proposals* document should have a glossary, which has been added. They also commented that the Conservation Area boundary revisions were appropriate and were supportive of the proposed Article 4 Direction and Management Plan.
24. The finalised *Character Appraisal and Management Proposals* document (for noting by Cabinet) and new Conservation Area boundary map (for adoption by Cabinet) can be found at Appendices B and C to this report.

Statutory Consultation for the Article 4 Direction and draft Management Plan and Guidance document

25. Subject to Cabinet approval, the Council will make the Article 4 Direction in mid-October 2022. A formal, statutory consultation (otherwise known as a notification period) will then be held on the Article 4 Direction. During this period, the draft

Management Plan and Guidance document will also be consulted on (also subject to Cabinet approval). These can be found at Appendices D and E to this report.

26. The consultation will run for six weeks from late October 2022. This is two weeks more than the statutory minimum period of four weeks for an Article 4 Direction. The consultation will be run as before, including notifying the same people and organisations about the making of the Direction and the consultation. In accordance with the relevant legislation, site notices will also be displayed and the Secretary of State for Levelling Up, Housing and Communities will be notified.
27. As required by the relevant legislation covering the management of Conservation Areas, public exhibitions will be held with Council Officers in attendance. These will be held at Harlow Museum on Tuesday 22 November 2022 between 10am and 12pm, and Thursday 24 November 2022 between 6pm and 8pm.
28. Views of those attending the exhibition will be considered when finalising the draft *Management Plan and Guidance* document.
29. Subject to consultation responses and any response from the Department for Levelling Up, Housing and Communities, approval from Cabinet will be sought in late October 2023, a year after its making, to confirm the Direction and adopt the *Management Plan and Guidance* document. The Direction would then come into force. It would not be in force until it is confirmed.
30. The 12-month period between making and confirming is a standard procedure for 'non-immediate' Article 4 Directions, to give sufficient notice of the Direction coming into force and avoid any potentially costly compensation claims.

IMPLICATIONS

Strategic Growth and Regeneration

As specified within the report.

Author: Andrew Bramidge, Director of Strategic Growth and Regeneration

Finance

None specific.

Author: Simon Freeman, Deputy to the Chief Executive and Director of Finance

Housing

As outlined in the report.

Author: Andrew Murray, Director of Housing

Communities and Environment

None specific.

Author: Jane Greer, Director of Communities and Environment

Governance and Corporate Services

The Local Planning Authority can use an Article 4 direction under the General Permitted development Order to withdraw specified permitted development rights across a

defined area. Government guidance is that Article 4 directions should only be used in exceptional circumstances where the exercise of permitted development rights would harm local amenity and the proper planning of the area. Provided the Local Planning Authority can justify both its purpose and extent the direction can be made.

The use should be limited to situations where it is necessary to protect the local amenity or wellbeing of the area. Councillors should be aware that the direction does not prevent development but means that an application must be made for planning permission prior to any development taking place.

Author: Simon Hill, Director of Governance and Corporate Services

Appendices

Appendix A – Consultation Responses Schedule

Appendix B – Character Appraisal and Management Proposals

Appendix C – Revised Conservation Area boundary map

Appendix D – Draft Management Plan and Guidance

Appendix E – Proposed Article 4 Direction

Background Papers

None

Glossary of terms/abbreviations used

GPDO – General Permitted Development Order

SoS – Secretary of State