

THURSDAY, 3 NOVEMBER 2016

**REPORT OF THE PORTFOLIO HOLDER FOR REGENERATION****TAMWORTH CONSERVATION AREAS****EXEMPT INFORMATION**

None

**PURPOSE**

To seek approval of the draft Conservation Area Management Plans for each of the seven Conservation Areas and to also undertake a 6 week public consultation on each of the documents.

To consider the process and costs associated with local listing and Article 4 Directions.

**RECOMMENDATIONS**

1. That Cabinet resolves to approve each of the draft Conservation Area Management Plan's.
2. That Cabinet resolves to take each Conservation Area Management Plan forward into a 6 week consultation period.
3. That Cabinet authorises the Head of Managed Growth, Regeneration and Development to finalise the consultation methodology, questionnaire and arrangements for each Conservation Area Management Plan.
4. That Cabinet endorse the implications identified in the report in relation to the recommendations from Aspire and Prosper Scrutiny Committee.
5. That Cabinet authorises the Head of Managed Growth, Regeneration and Development to commence the process of reviewing the Tamworth Local List in terms of the resolution passed at Cabinet on 20 October 2016, to commence the local listing process for the former Wilnecote Board Schools and that a further report is received by Cabinet within 12 months.

**EXECUTIVE SUMMARY**Conservation Area Management Plans (CAMP)

Section 69(2) of the Planning (listed Buildings and Conservation Areas) Act 1990 states that Local Authorities should review their Conservation Areas from time to time to ensure that the Conservation Area is still fulfilling its purpose and has a set of actions in place for managing the changes within the Conservation Area.

Tamworth Borough has a total of 7 Conservation Areas which were last reviewed in 2008 through a series of Conservation Area Appraisals. Following these appraisals a draft management plan for each area has been produced setting a number of actions for their future management (appendix 3).

In summary there are actions that apply to each Conservation Area and more specific actions for individual areas. These are as follows:

Generic recommended actions:

Management action 1: Guide new development

- Produce Design SPD to guide new development, including heritage contexts

Management action 2: Enhance the condition of historic buildings

- Engage with owners and tenants to encourage regular building maintenance, with a particular focus on priority buildings
- Promote the retention and reinstatement of original features including timber windows and front boundary walls and hedges
- Review the buildings at risk survey on a regular basis (every 5 years)
- Where appropriate, the Council will utilise its legal powers to ensure necessary works are carried out to ensure the safeguarding of heritage assets.

Management action 3: Maintain and review Local List

- Review the Local List in consultation with the public

Management action 4: Safeguard archaeology

- Engage with the Staffordshire County Council Environmental Advice Team and Historic Environment Record at an early stage to enable the production of up to date desk based assessments
- Record any archaeological structures revealed through assessments and development on the Historic Environment Record and consider opportunities to interpret discoveries

Management action 5: Enhance the public realm

- Work with Staffordshire County Council to identify opportunities for public realm improvements which could be included in the CIL 123 project list
- Undertake street clutter audit in line with Historic England guidance
- Work with statutory undertakers to agree an approach to highway reinstatement
- The Council will work with all the stakeholders to work towards achieving high quality and coherent style of public realm which will enhance the character and appearance of the conservation area.

Management action 6; Resourcing Improvements

- Review operation of grant scheme to target priority schemes in the conservation areas arising from management plans
- Develop a list of streetscape improvement projects which can be added to the CIL Regulation 123 list.

Management action 7: Monitor and review changes

- Produce a dated photographic record to monitor changes to the conservation area
- Continue to participate in the annual conservation area survey produced by Historic England
- Monitor changes in the conservation area and modify the management actions where necessary to secure positive change

Specific Actions:

Dosthill, Amington Hall, Amington Green, Hospital Street Conservation Area Management Plans

Management action 2: Enhance the condition of historic buildings

- Engage with owners to ensure occupancy and appropriate and viable use of vacant buildings
- Undertake a number of guidance notes that promote the preventative maintenance and proper care of historic assets.

## Town Centre Conservation Area Management Plan

### Management action 2: Enhance the condition of historic buildings

- Undertake a number of guidance notes that promote the preventative maintenance and proper care of historic assets.
- Encourage the retention of historic shop fronts and work with applicants to ensure new shop fronts and signage preserve and enhance the conservation area
- Instigate a shop front enhancement project subject to funding
- Work with owners to identify opportunities for productive use of vacant buildings and floorspace

### Management action 5: Enhance the public realm

- Complete the programme of heritage interpretation panels
- Produce management plans for the Castle Grounds, St Editha's Churchyard and Garden of Remembrance

### Management action 6: Resourcing improvements

- Support the development of a BID for the Town Centre/Ventura Retail Park

Section 71 of the aforementioned Act requires Local Authorities from time to time to “formulate and publish proposals for the preservation and enhancement of any parts of their area which are conservation areas”. These proposals take the form of the draft Conservation Area Management Plans. It is proposed that the draft Management Plans are made available for public consultation for a period of 6 weeks. People on the Consultation database will be notified as will local interest groups, Historic England and where relevant individual mail shots. Publicity will also be undertaken to raise awareness of the consultation.. Appendix 1 contains further details on the planned consultation methods and the proposed questionnaire (Appendix 2). Once feedback is received all of the comments will be assessed as to whether there are any amendments needed to the plans. A final version of each of the plans will be developed along with the responses to the consultation and presented to Cabinet later in the year for formal adoption.

## Scrutiny Recommendations

At its meeting on the 23rd August 2016, Aspire and Prosper Scrutiny Committee “recommend Cabinet to consider local listing of the Wilnecote School Building and investigate the associated costs in adding an Article 4 direction which removes permitted development rights for demolition”.

At its meeting on the 20th October 2016 Cabinet were presented with the recommendations from the meeting and asked for further information to be brought back as part of this report.

The Scrutiny Committee have been considering the heritage value of the former Wilnecote school buildings. The buildings are unlisted and fall outside the Wilnecote Conservation Area. The buildings are on a site allocated in the adopted Local Plan for housing. Concern had been raised by the Committee about the potential for the buildings to be demolished. An application was made by persons unknown earlier this year to the Secretary of State to statutorily list them which was refused. Officers have attended Scrutiny Committee and provided advice and professional opinion.

Officers believe there are two key issues which the Scrutiny Committee wish to be addressed. Firstly, the acknowledgment of the heritage value of the former school buildings. Secondly, to stop the demolition of the former school buildings happening without Tamworth Borough Council having first formally considered the action.

In terms of the heritage value of the former school buildings the Council's Conservation specialist advises that the buildings have some local interest, however much of the historic fabric has been eroded by the insertion of UPVC windows, doors and later 20th Century alterations and additions which lack authenticity and are unsympathetic to the architectural detailing of the building. The Tamworth Civic Society have suggested that the school buildings were designed by Basil Champneys, a renowned architect from the late 19th Century and early 20th Century, most notable for designing Manchester's John Rylands Library. However, it is unknown if he was the architect or if his practice was involved for the former Wilnecote school buildings. It has also been suggested that a number of Tamworth's famous sons attended the school. However, whilst noting that these people may be famous, there is no suggestion that their success can be attributed to the school buildings themselves. The Council has received no evidence or information from the Civic Society to substantiate the claims.

The Secretary of State for Culture, Media and Sport asked Historic England to consider the application for statutorily listing the former school buildings. They considered the application and completed an assessment of the building based on the material provided and based on this the Secretary of State decided not to add them to the List. The report from Historic England stated:

*"large numbers of board schools still survive and therefore careful selection is required. Judged against these criteria the former Wilnecote Junior and Infant School is not recommended for listing for the following principal reasons:*

- *Architectural interest: although originally designed by Basil Champneys, and with a characterful west wing featuring cusped gables with oculi and cupola, it is a modest example of his work and does not exhibit the same level of architectural distinction and quality as his better-known commissions;*
- *Degree of survival: both the junior and infant school have been considerably extended with alterations to the plan form and historic fabric. It is not considered to be a well-preserved example of a C19 board school.*

*Conclusion: although too altered to merit statutory designation the former Wilnecote Junior and Infant School is of clear local architectural and historic interest."*

In terms of the potential demolition of the buildings it should be noted from the outset that planning permission is not usually required for a building to be demolished and this remains the case if the building is locally listed. Prior approval is required but this relates to only:

- i) the method of demolition and
- ii) any proposed restoration of the site, not the merits of the retention of a building.

However, if the building is listed on the national list, listed building consent will be needed. If a building is in a conservation area and over 115m<sup>3</sup> planning permission is needed. It should also be noted that the site is owned by Staffordshire County Council and the use of the buildings ceased some time ago. It is understood that the County Council have previously considered seeking to dispose of the site to provide accommodation for the elderly which may involve demolition of some or all of the existing buildings. As the site is owned by the County Council as a former school building and the County Council are a Local Planning Authority, the Town and Country Planning General Regulations 1992 allow the County Council to determine applications for development on their own land if they were to develop it themselves or with another party. Therefore, any application for demolition if needed, or a Prior Approval, may be considered by the County Council, not by the Borough Council.

Aspire and Prosper Scrutiny Committee recommended that Cabinet consider Locally Listing the former school buildings. The Council's Local List offers local recognition to buildings, structures and places that are not of sufficient interest to be statutorily listed. Tamworth Borough Council compiled its original list of around 55 buildings in the late 1990's. This was

updated in 2007/2008 following the conservation area character appraisals when around 30 more buildings were added. Whilst local listing provides no additional planning controls, the fact that a building or site is on a local list means that its conservation as a heritage asset is an objective of the NPPF (2) and a material consideration when determining the outcome of a planning application. Local listing does not affect the requirements for planning permission. Some buildings can be demolished without planning permission and local listing does not affect that. Therefore adding the former school buildings to the local list satisfies the objective of recognising the local heritage value of the buildings but would not stop the buildings being demolished.

In terms of process, national guidance suggests that a Local List should be jointly owned with the community to identify and protect buildings and structures they value. It is important to develop selection criteria with the local community, undertake publicity and consultation, ask for nominations, set up a selection panel to assess nominations and potential deletions, consult public on the shortlist before finalising at Cabinet / Council and it is of course important to get support from asset owners. Historic England guidance also suggests an appeal process for owners not happy with listing. Officers recommend that the Local List is reviewed and a process following the guidance issued by Historic England is adopted. This is likely to take between 12 and 18 months and would involve reviewing the current list and considering any buildings from across the whole Borough that may be suitable for Local Listing.

In terms of the former school buildings at Wilnecote, the community have already highlighted that they value the buildings through local groups such as the Civic Society and local Members. Cabinet have resolved to start the process of locally listing therefore the next step will be to design an appeal process (also suitable for the wider list renewal) and then advise the owners of the building of the intention to add the buildings to the local list subject to due process including consulting with any necessary bodies.

Aspire and Prosper Scrutiny Committee has also recommended that Cabinet consider adding an Article 4 direction for the former school buildings. An Article 4 direction is a direction under Article 4 of the General Permitted Development Order which enables the Secretary of State or the local planning authority to withdraw specified permitted development rights across a defined area. Where an Article 4 direction is in effect, a planning application may be required for development that would otherwise have been permitted development. Government has issued guidance on when and how to make an Article 4 direction. It says that local authorities should consider making Article 4 directions only in those exceptional circumstances where the exercise of permitted development rights would harm local amenity, the historic environment or the proper planning of the area. An Article 4 direction only means that a particular development cannot be carried out under permitted development and therefore needs a planning application. This gives a local planning authority the opportunity to consider a proposal in more detail (which could be either the County or Borough Council). If a local planning authority makes an Article 4 direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently:

- refuses planning permission for development which would otherwise have been permitted development; or
- grants planning permission subject to more limiting conditions than the General Permitted Development Order

The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

There are two types of directions under the General Permitted Development Order: non-immediate directions and directions with immediate effect. An immediate direction can withdraw permitted development rights straight away; however they must be confirmed by the local planning authority within 6 months of coming into effect to remain in force. Confirmation occurs after the local planning authority has carried out a local consultation. The circumstances in which an immediate direction can restrict development are limited.

Immediate directions can be made in relation to development permitted by Parts 1 to 4 and 11 of Schedule 2 to the General Permitted Development Order, where the development presents an immediate threat to local amenity or prejudices the proper planning of an area. Immediate directions can also be made in relation to certain types of development in conservation areas. In all cases the local planning authorities must have already begun the consultation processes towards the making a non-immediate Article 4 direction.

In terms of timescales Schedule 3 of the General Permitted Development Order sets out procedures to be followed. For the non-immediate direction, the timescales are approximately a minimum of 2 months to a maximum of 2 years. This allows for representations to be made and considered. The council has to notify the Secretary of State who can intervene and has the power to modify or cancel Article 4 directions at any time before or after they are made.

In terms of cost, the process of preparing the Article 4 Direction can mostly be met through existing resources with some additional legal support estimated at approximately £3,000. There is the potential of compensation payable to the owner if in future a planning application is made and subsequently refused for something which otherwise would have been permitted development. If a planning application for something that otherwise would have been permitted development then there is no planning application payable and therefore the costs of processing the application would not be recovered. If there was a refusal and potential appeal there would be further costs involved in undertaking the appeal and a risk of any claim for costs.

## **OPTIONS CONSIDERED**

An option would be not to undertake a review of the conservation areas, however this would clearly not be in accordance with government guidance and the best interests of the historic assets which the Council aims to preserve and enhance. The last review was undertaken 8 years ago, so there is already a need to review the conservation areas in accordance with the guidance.

There is no provision in the legislation for how long community consultation should take for a Conservation Area Management Plans. A review of other local authority consultations for conservation area management plans have varied between 4 – 12 weeks. It is considered that 6 weeks would be an appropriate timeframe to engage with views of the local community.

## **RESOURCE IMPLICATIONS**

### Conservation Area Management Plans

The main resource implications are in the production of printed materials for the consultation, advertisement fees and limited staff resources in answering any questions from the public regarding the consultation. All expenditure can be accommodated within current department budgets.

### Aspire and Prosper Scrutiny Committee Recommendations

The cost of undertaking the Local List will mostly be staff time. There may be a need to bring in specialist conservation advice from time to time and a small cost in terms of consultation material and venue hire but this can be managed from existing budgets.

The cost of serving an Article 4 Direction in itself would be met through existing staff resources and potentially the cost of legal advice. This is estimated to be £3000 and can be met through existing budgets. The cost of processing any planning application will have to be met through internal resources as there would be no fee payable.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Not undertaking a review of the Conservation Areas weakens the purpose of these Historic Assets, meaning that Conservation Areas can obtain an 'at risk' status and potentially can be disbanded, having negative implications for the Council.

There is a risk that an Article 4 Direction is cancelled by the Secretary of State and therefore resources are wasted. There is also a risk that compensation may be payable to the owner.

If an Article 4 Direction is approved and a planning application submitted and subsequently refused there is a risk of a planning appeal and costs associated with that.

## **SUSTAINABILITY IMPLICATIONS**

None

## **BACKGROUND INFORMATION**

None

## **REPORT AUTHOR**

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## **LIST OF BACKGROUND PAPERS**

None

## **APPENDICES**

Appendix 1 – Methodology for Community Consultation  
Appendix 2 – Draft Questionnaire  
Appendix 3 – Draft Conservation Area Management Plans

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