

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 14 May 2019	<b>Meeting Name:</b> Planning Committee
<b>Report title:</b>		Conservation Area Appraisals: Cobourg Road, Trafalgar Avenue and Glengall Avenue	
<b>Ward(s) or groups affected:</b>		Old Kent Road	
<b>From:</b>		Director of Planning	

## RECOMMENDATION(S)

1. That the planning committee agrees to consult publically on the draft conservation area appraisals, management plans, extensions to conservation areas and article 4(1) directions at appendices 2, 3 and 4 for the following conservation areas:
  - Cobourg Road
  - Trafalgar Avenue
  - Glengall Avenue.
2. That the planning committee note the EQIA at appendix 1.

## BACKGROUND INFORMATION

3. The Planning (Conservation Areas and Listed Buildings Act) 1990 allows Local Planning Authorities (LPA) to designate conservation areas. Section 71 (1)(2) and (3) of the Act require the LPA to formulate and publish proposals for the preservation and enhancement of conservation areas.

*“(1) It shall be the duty of a local planning authority from time to time to formulate and publish proposals for the preservation and enhancement of any parts of their area which are conservation areas.*

*(2) Proposals under this section shall be submitted for consideration to a public meeting in the area to which they relate.*

*(3) The local planning authority shall have regard to any views concerning the proposals expressed by persons attending the meeting.”*
4. The National Planning Policy Framework (NPPF) 2019 highlights that the LPA should set out a positive strategy for the conservation and enjoyment of the historic environment. Under the Planning Policy Guidance (PPG), it notes that conservation area appraisals can be used to help local planning authorities develop a management plan and that good appraisals will consider what features make a positive or negative contribution to the significance of the conservation area. The Historic England guidance note “Conservation Area Appraisals, Designation and Management – Historic England Advice Note 1 (Second Edition)” (February 2019) sets out best practice for appraisals.
5. An “article 4 (1) direction” removes permitted development rights, and thus anyone wishing to carry out such a development would require planning

permission. The order is made under the section (4) 1 of the Town and Country Planning (General Permitted Development Order) (England) 2015.

6. The Cobourg Road Conservation Area is situated to the south of the Old Kent Road, immediately opposite Burgess Park. It is a small area that consists of two main streets, Cobourg Road and Oakley Place, both branching off the Old Kent Road. Cobourg Road Conservation Area was one of the first parcels of formerly open land around the Old Kent Road to be developed for suburban housing in the early nineteenth century. This housing still exists along with later nineteenth century terraced housing and landmark buildings of St. Mark's Church (now New Peckham Mosque) and St. George's Methodist Church at either end of Cobourg Road. Cobourg Road School, jutting out into Burgess Park, is another landmark
7. Cobourg Road was designated as a conservation area by the Council on 25 November 1980 under the Civic Amenities Act of 1967, and extended on 23 November 1987.
8. Trafalgar Avenue conservation area was designated on 25 November 1980 and extended on 30 September 1991
9. The Glengall Road Conservation Area is situated to the south of the Old Kent Road, approximately 350 metres south east of the entrance to Burgess Park.
10. It was designated as a conservation area by the Council on 21 November 1971 under the Civic Amenities Act of 1967, and extended on the 30 September 1991 and again 3 April 1978. It is an area comprised principally of properties on Glengall Road and Glengall Terrace that were built in the 1840s. These properties remain remarkably intact, helping to give the conservation area a distinctive nineteenth century character that remains despite the demolition and comprehensive redevelopment of the surrounding streets in the 1960s and 70s. To the west and south are the irregular edges of Burgess Park and to the east and north are warehouses, light industry, builder's yards and garages.
11. Glengall Road was designated as a conservation area by the Council on 21 November 1971 under the Civic Amenities Act of 1967, extended on 3 April 1978 and again on 30 September 1991.

## **KEY ISSUES FOR CONSIDERATION**

12. At present, these conservation areas do not have appraisals, and as such officers have research and written these guidance documents, with conformity to the best practice Historic England guidance note "Conservation Area Appraisals, Designation and Management – (Second Edition) (February 2019)". The appraisals follow a broad format and include sections:
  - What is a conservation area?
  - Purpose of this appraisal
  - Location, description and summary of special interest
  - History and archaeology
  - Appraisal of special character and appearance of the area
  - The conservation area today
  - Management and development guidelines
  - Proposed boundary alteration and extensions.

13. It is also proposed to extend Trafalgar Avenue to include old Canal Mews in Nile Terrace, Nos. 388, 388b and 388c Old Kent Road and 1a Trafalgar Avenue and nos. 49 and 51 Trafalgar Avenue.
14. It is also proposed to extend Glengall Road conservation area to include parts of the former front gardens of the area to the south, within Burgess Park, and the former mineral water factory/ bottling works at 12 Ossory Road, adjacent to the conservation area.
15. It is proposed to consult on a article 4 direction to remove permitted development rights on the following elements of the residential properties in the conservation areas:
  - Removal or alteration or replacement of windows and doors
  - Boundary treatments and hardstanding
  - Construction of an extension, including porches
16. Agreement is sought to carry out a public consultation on the documents and proposed boundary changes and return to committee with the findings of the consultation and adoption. The consultation will include:
  - An exhibition in a local public place
  - Mail shot to all properties affected
  - Publication on the councils website
  - Press release
  - Consultation of national and local amenity societies and organisations, such as Historic England.

## **Planning Policy**

### Core Strategy 2011 (April)

17. Strategic Policy 12 Design and Conservation.

### Southwark Plan 2007 (July)

18. Saved Policy 3.15 Conservation of the Historic Environment  
 Saved Policy 3.16 Conservation Areas  
 Saved Policy 3.18 Setting of Listed Buildings, Conservation Areas and World Heritage Sites  
 Saved Policy 3.19 Archaeology

### London Plan 2011 (July)

19. Policy 7.9 Heritage-led regeneration  
 Policy 7.8 Heritage assets and archaeology

### National Planning Policy Framework (NPPF)

20. Paragraph 185  
 Paragraph 190

## **Principles of designation and current guidance**

21. Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on the local Planning Authority to determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance and further allows for those areas to be designated as conservation areas. There is a duty on the local planning authority under Section 69 to review areas from time to time to consider whether designation of conservation areas is called for.
22. In July 2018, the revised National Planning Policy Framework was published by Department of Housing, Communities and Local Government. With relation to the assessment of significance of heritage assets, including conservation areas, the guidance states “Plans should set out a positive strategy for the conservation and enjoyment of the historic environment” (para. 185) and when assessing proposals, “Local planning authorities should identify and assess the particular significance of any heritage asset”. (para. 190) Conservation Area Appraisals and Management Plans enable the Council to affectively undertake these tasks as required by the NPPF.
23. In 2019 Historic England published guidance on conservation area appraisals, ‘Understanding Place: Conservation Area Designation, Appraisal and Management’. This sets out the importance of definition and assessment of a conservation area’s character and the need to record the area in some detail. The purpose is to provide a sound basis for rational and consistent judgements when considering planning applications within conservation areas. Conservation area appraisals, once they have been adopted by the Council, can help to defend decisions on individual planning applications at appeal. They may also guide the formulation of proposals for the preservation and enhancement of the area.
24. Designation of a conservation area imposes certain duties on planning authorities. These duties are twofold, firstly, to formulate and publish from time to time, proposals for the preservation and enhancement of the conservation areas in their district and submit them for public consultation. Then secondly, in exercising their planning powers to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas. In exercising conservation area controls, local planning authorities are required to pay special attention to the desirability of preserving or enhancing the character or appearance of the area in question and therefore there is a presumption against the demolition of buildings within the area. In the case of conservation area controls, however, account should clearly be taken of the part played in the architectural or historic interest of the area by the building for which demolition is proposed, and in particular of the wider effects of demolition on the building’s surroundings and on the conservation area as a whole.

## **Community impact statement**

25. The appraisals have been consulted in accordance with the Statement of Community Involvement. The Statement of Community Involvement sets out how and when the Council will involve the community in the alteration and development of town planning documents and applications for planning permission and was adopted in January 2008. The Statement of Community Involvement does not require the Council to consult when there are boundary

changes to a conservation area or new appraisal, but in this instance the Council proposes to follow a similar procedure.

### **Human rights implications**

26. This conservation area may engage certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
27. This proposal has the legitimate aim of providing for the conservation of the historic environment within the conservation area. The rights potentially engaged by this proposal, include the right to a fair trial and the right to respect for private and family life however both of these are not considered to be unlawfully interfered with by this proposal.

### **Resource implications**

28. The resources exist currently in the Planning Department to carry out this consultation.
29. Other resource implications will be the cost of publishing the conservation area appraisal, which can met within the Department of the Chief Executive's revenue budget. The cover price of the document will be fixed to cover production costs.
30. The extension of the Trafalgar Avenue conservation area and adoption of appraisals could generate additional casework for planning staff. However, given the location and scale of many of the proposals in this area, including adjacent in the Old Kent Road, there is already an attention to the design and appearance of proposals which affect the setting of the conservation areas, This should not result in significant resource implications for the staffing of the Department of the Deputy Chief Executive.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Corporate Services**

#### **Director of Law and Democracy**

31. Planning Committee is being asked to note the Equalities Impact Assessment and also to authorise the consultation of the conservation area appraisals and other documents referred to in paragraph 1 of this report. A conservation area is an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance (*section 69(1), Planning (Listed Buildings and Conservation Areas) Act (LBA) 1990*). A Local Planning Authority (LPA) is under a duty to designate conservation areas within its locality and to review them from time to time (*section 69(2)*).
32. There is no statutory requirement for LPAs to consult with anyone before a conservation area is designated or an appraisal adopted, nor does the Councils Statement of Community Involvement require consultation in respect of designating Conservation Areas. However, Historic England advises LPAs to consult as widely as possible, not only with local residents and amenity societies, but also with Chambers of Commerce, Public utilities and Highway authorities.

33. There is no formal designation procedure. The statutory procedure simply involves a council resolution to designate being made. The date of the resolution is the date the conservation area takes effect. The designation of conservation areas is reserved to Planning Committee under Part 3F, paragraph 3 of the Constitution, and consultation of Community Council members will take place before the designation is confirmed.
34. There is no statutory requirement on the level of detail that must be considered by an LPA before designation. However, guidance from Historic England states that it is vital an area's special architectural or historic interest is defined and recorded in some detail. A published character appraisal is highly recommended and can be found at Appendices 2, 3 and 4 of this report. The overall impetus for designating a conservation area must be the desire to preserve and enhance the area.
35. Notice of the designation must be published in at least one local newspaper circulating in the LPA's area and in the London Gazette (*section 70(8), LBA 1990*). The Secretary of State and English Heritage must also be notified (*section 70(5)*). There is no requirement to notify the owners and occupiers of premises in the area. The conservation area must be registered as a local land charge (*section 69(4)*).
36. The designation of a conservation area gives the LPA additional powers over the development and the use of land within it and has the following consequences;
- control of demolition of buildings - all demolition will require conservation area consent
  - any new development will need to enhance or preserve the conservation area –
  - protection of trees – certain criminal offences arise if trees in the conservation area are cut down or wilfully damaged without the consent of the LPA
  - duty of LPA to formulate and publish from time to time proposals for the conservation and enhancement of conservation areas (e.g, by updating conservation area appraisals)
  - certain permitted development rights are more restricted
  - specific statutory duties on telecommunications operators
  - exclusion of certain illuminated advertisements [although not very relevant in this context]
  - publicity for planning applications affecting the conservation area must be given under Section 73(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
37. There is no statutory right of appeal against a building being included in a conservation area. However, it is possible to seek a judicial review of an LPA's decision to designate a conservation area.

### **Equalities and Human Rights**

38. Positive equalities obligations are placed on local authorities, sometimes described as equalities duties with regard to race, disability and gender. An equalities impact assessment has been undertaken and is attached at appendix 1 of this report.

39. Human Rights are considered at paragraph 27 of the report and it is not considered that this proposal unlawfully interferes with any such rights.

## APPENDICES

No.	Title
Appendix 1	Equality Impact Assessment
Appendix 2	Cobourg Road Conservation Area Appraisal (draft)
Appendix 3	Trafalgar Road Conservation Area Appraisal (draft)
Appendix 4	Glengall Road Conservation Area Appraisal (draft)

## AUDIT TRAIL

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<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Corporate Services	Yes	Yes
Finance Director	No	No
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