

| | | | |
|------------------------------------|--------------------------------|---|--|
| Item No. 6. | Classification: Open | Date: 6 January 2021 | Meeting Name: Planning Committee |
| Report title: | | Proposed new Conservation Areas: The Old Kent Road High Street; Yates Estate and Victory; The Mission; Livesey; and Commercial Way | |
| Ward(s) or groups affected: | | Old Kent Road; Faraday; North Walworth; and South Bermondsey | |
| From: | | Director of Planning | |

RECOMMENDATIONS

1. That the planning committee agrees to consult publically on the potential new conservation areas and draft conservation area appraisals, management plans, extensions to conservation areas and article 4(1) directions at appendices 2 to 6 for the following conservation areas:
 - The Old Kent Road High Street;
 - Yeats Estate and Victory;
 - The Mission;
 - Livesey; and
 - Commercial Way
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 proposed Old Kent Road High Street Conservation Area is situated at the northern end of the Old Kent Road and extends from the former Thomas A’Beckett pub to the Peabody Estate at the junction with Mandela Way. A sub-area of the proposed conservation area extends to the west along East Street and includes a historic residential quarter around Surrey Square. (See Appendix 2 – Map of proposed Old Kent Road High Street Conservation Area)
7. The proposed Yates Estate and Victory Conservation Area is situated mainly in the north-west quadrant of the Opportunity Area and centred on the Henshaw Street/Searles Road and Chatham Street / Darwin Street groups of historic properties but also takes in a number of the open spaces in the area including Victory Park and Salisbury Row Park. (See Appendix 3 – Map of proposed Yates Estate and Victory Conservation Area)
8. The proposed The Mission Conservation Area is centred on the Grade Listed Pembroke House (The Mission) and takes in the nearby historic properties on Elstead Street and Tisdale Place as well as the listed school and other historic buildings on Flint Street. (See Appendix 4 – Map of proposed The Mission Conservation Area)
9. The proposed Livesey Conservation Area is a surviving fragment of the Old Kent Road civic townscape around the core of the Opportunity Area. It is centred on the Grade II listed Livesey Library and takes in the historic townscape to the north of of Ethnard Road. (See Appendix 5 – Map of proposed Livesey Conservation Area)
10. The proposed Commercial Way Conservation Area is situated mainly on Commercial Way and Bird in Bush Road and extends from the Grade II listed former Kentish Drivers on the Old Kent Road, taking in the listed properties on Commercial Way and including the historic townscape around Bird in Bush Park. (See Appendix 6 – Map of proposed Commercial Way Conservation Area)

KEY ISSUES FOR CONSIDERATION

Summary of main issues

11. The main issues of this are:
 - a) the ability of the LPA to designate a new conservation area as an area of special architectural or historic interest

Planning Policy

12. Core Strategy 2011 (April)
Strategic Policy 12 Design and Conservation.
13. Southwark Plan 2007 (July)
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)
Policy 7.9 Heritage-led regeneration
Policy 7.8 Heritage assets and archaeology

Planning Policy Statements
PPS5 Planning for the Historic Environment.

The draft National Planning Policy Framework (NPPF)

Principles of designation and current guidance

13. The proposed Old Kent Road High Street Conservation Area a good example of a traditional high street, with 18th- and 19th-century townhouses, extended at ground floor to the back of footpath with retail shop units. It retains architectural remnants of a busy town centre on a major thoroughfare with a number of public houses, cinemas, fire station and department stores remaining in architectural form, albeit with new uses. It includes traditional 19th-century terraces and mansion blocks built by local developers and philanthropists.
14. The proposed Yates Estate and Victory Conservation Area encompasses development that typifies that of the Old Kent Road area with a mix of residential properties, schools, churches and former churches, evidence of former industry, all in one compact neighbourhood. Its late 18th- and early 19th-century urban form includes traces of Searles's Paragon, street layouts and plot widths, and names relating to the Battle of Trafalgar. It also takes in the wholesale 19th-century residential development by local developer Edward Yates who provided purpose built 19th-century terraced housing for lower-middle and working class residents. The area includes fine and typical 'Board' schools, one former and two still in use

today, former pubs on the periphery of Yates estate terraces, historic places of worship and set within contemporary green open spaces

15. The proposed The Mission Conservation Area includes a mix of residential properties, interspersed with municipal, educational, religious and missionary buildings, all in one compact neighbourhood constructed over a short period towards the end of the 19th century. It includes elegant streets of purpose built terraced housing for lower-middle and working class residents, fine and typical 'Board' schools, still in use today, a surviving public house and landmark buildings including the former Flint Street Police Station.
16. The proposed Livesey Conservation Area is characterised by its high quality working class tenement housing above shops in fine terraces with largely intact original detailing, materials and architecture. It also includes landmark buildings and architectural set pieces of the Camberwell Library (now Livesey Museum) and Christ Church on Old Kent Road as well as the Royal London Friendly Society building.
17. The proposed Commercial Way Conservation Area is typical of early residential development off the Old Kent Road with a mix of urban buildings fronting onto the main road with smaller scale cottages, industry and school buildings located on side streets. It includes intact early 19th-century terraced, semi-detached and detached properties with fine detailing and largely unaltered exteriors. The area encompasses a fine and typical 'Board' school still in use today and open space with trees, landscaping and sports facilities the form of which preserves historic streetscapes.
18. 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.
19. In March 2010 the Government issued PPS 5 'Planning for the Historic Environment' replacing the guidance formerly contained within PPGs 15 and 16. PPS 5 requires, in Policy HE2.1, that Local Authorities have evidence about the historic environment and heritage assets within their area, and that this evidence is publically documented. Designation records, such as Conservation Area assessments, should also be taken into account when determining planning applications.
20. In 2011 English Heritage 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.

21. The NPPF (2019) continues this policy imperative and stresses in paragraph 186 that: "*When considering the designation of conservation areas, local planning authorities should ensure that an area 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.*"
22. 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.

Outstanding Schemes

23. A number of proposals have gained planning permission in each of the 5 proposed conservation areas. The council has prepared draft conservation area appraisals for each of the proposed conservation areas which include details of the consented schemes within each historic area. At the moment the historic fabric remains largely intact and warrants consideration. Proposed development has been piecemeal and, in the main, complemented the historic townscape.

Community impact statement

24. The designation will be 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

designating a conservation area, but in this instance the Council proposes to follow a similar procedure.

24. It is proposed to hold a public meeting within 12 weeks of this committee and to report any consultation responses received back to Members for consideration.
25. The consultation will seek the views of local residents, businesses and other local interests over the definition of the boundaries and the conservation area appraisal. Notification of the consultation on the proposed designation and the supporting documents will be put in the local press, on the council's website and will be made available at the Walworth One Stop Shop. This will show how the consultation has complied with the Statement of Community Involvement.

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. Notifying the public of these five proposed new conservation areas will not result in resource implications for the staffing of the Department of the Chief Executive.
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 conservation area could generate additional casework for planning staff. However, given the location and scale of many of the proposals in this area there is already an attention to the design and appearance of the proposals and the designation 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 Governance

31. 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, nor does the Councils Statement of Community Involvement require consultation in respect of designating Conservation Areas. However, English Heritage 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 English Heritage 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 Appendix 1 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.

39. Gender equality duties were introduced by the Equality Act 2006, which amended the Sex Discrimination Act 1975. The general duties in summary require local authorities to have due regard to the need to:

- “eliminate unlawful discrimination and harassment and;
- promote the equality of opportunity between men and women.”

Race equality duties were introduced by the Race Relations Amendment Act 2000 which amended the Race Relations Act 1976. The general duties in summary require local authorities to give due regard to the need to:

- “eliminate unlawful discrimination and harassment;
- promote the equality of opportunity; and
- promote good race relations between people of different racial groups”

Disability equality duties were introduced by the Disability Discrimination Act 2005 which amended the Disability Act 1995. The general duties in summary require local authorities to carry out their functions with due regard to the need to:

- “promote equal opportunities between disabled persons and other persons;
- eliminate discrimination that is unlawful under the Act;

- (c) eliminate harassment of disabled persons that is related to their disabilities;
- (d) promote a positive attitude towards disabled persons;
- (e) encourage participation by disabled persons in public life; and
- (f) take steps to take account of disabled person's disabilities even where that involves treating disabled persons more favourably than other persons."

Section 71 of the Race Relations Act 1976, section 49A(i) of the Disability Discrimination Act 1995 and section 76A of the Sex Discrimination Act 1975, require local authorities to act in accordance with the equalities duties and have due regard to these duties when we are carrying out our functions.

40. Equalities and Human Rights have been considered as part of the development conservation area appraisal and an Equalities Impact Assessment (EqIA) is in the process of being completed. EqIAs are an essential tool to assist councils to comply with equalities duties and ensure they make decisions fairly.

BACKGROUND DOCUMENTS

| Background Papers | Held At | Contact |
|-------------------|---------|---------|
| None | | |

APPENDICES

| No. | Title |
|------------|---|
| Appendix 1 | Equality Impact Assessment |
| Appendix 2 | Map of proposed Old Kent Road High Street Conservation Area |
| Appendix 3 | Map of proposed Yates Estate and Victory Conservation Area |
| Appendix 4 | Map of proposed The Mission Conservation Area |
| Appendix 5 | Map of proposed Livesey Conservation Area |
| Appendix 6 | Map of proposed Commercial Way Conservation Area |

AUDIT TRAIL

| | | |
|---|--|--------------------------|
| Lead Officer | Simon Bevan , Director of Planning | |
| Report Author | Michael Tsoukaris, Group Manager Design and Conservation Officer | |
| Version | Final | |
| Dated | 23 November 2020 | |
| Key Decision? | Yes | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments Sought | Comments included |
| Strategic Director of Finance and Governance | Yes | Yes |
| Finance Director | No | No |
| Cabinet Member | No | No |
| Date final report sent to Constitutional Team | 14 December 2020 | |