

Committee: Overview & Scrutiny	Date: 6 th January 2015	Classification: Unrestricted	Agenda Item: 7.5
Report of: Service Head Corporate Strategy & Equality, Louise Russell Originating officer(s) Vicky Allen, Strategy, Policy & Performance Officer, Corporate Strategy & Equality		Title: Planning in conservation areas: The implications of conservation areas on the extension of family homes – scrutiny challenge session Wards Affected: ALL	

1. **SUMMARY**

- 1.1 This report submits the report and recommendations of the Planning in conservation areas scrutiny challenge session for consideration by the Overview and Scrutiny Committee.

2. **RECOMMENDATIONS**

The Overview and Scrutiny Committee is recommended to:-

- 2.1 Agree the draft report and the recommendations contained in it.
- 2.2 Authorise the Service Head for Strategy & Equality to amend the draft report before submission to Cabinet, after consultation with the scrutiny review group.

3. **BACKGROUND**

- 3.1 The challenge session took place on 17th November 2014. Overview and Scrutiny identified a concern amongst some residents that the planning constraints in conservation areas are adversely affecting the ability of homeowners to remain in the borough as their families grow. This is due to planning controls over extending properties within conservation area. The issue predominately affects Victorian and Edwardian terraced properties, with the majority of these properties being in a conservation area. Tower Hamlets has 58 designated conservation areas, covering around 26 percent of the borough's land mass.
- 3.2 The focus of the challenge session was therefore to see if a middle-ground could be found between preserving the special character of conservation areas and finding solutions for modern family living. The Challenge Session looked to explore what changes to planning policy, practice or procedures could be made to address these concerns, whilst still protecting the character of Conservation

Areas. The session was chaired by Cllr Joshua Peck, Chair of Overview and Scrutiny.

3.3 The objectives of the challenge session were to answer the following questions:

- What changes to planning policy or practice are possible, which still protect the character of conservation areas;
- What improvements could be made in the planning application process in relation to extensions in conservation areas.

3.4 The report with recommendations is attached at Appendix One. xx recommendations have been made:

RECOMMENDATION 1:

The Council should recognise the detrimental impact that some planning restrictions are having on residents and the social capital of an area and redress the balance in favour of planning applicants, whilst still seeking to protect and enhance the Borough's heritage.

RECOMMENDATION 2:

Amend DM27 to:

- be more permissive towards extensions, particularly mansard roofs within Conservation Areas;
- be more specific about what may and may not be appropriate within individual Conservation Areas (rather than having a blanket policy); and
- rely more strongly on the individual Conservation Area Assessments for decision-making on extensions

RECOMMENDATION 3:

Individually refresh the Conservation Area Character Appraisal and Management Documents for the eight Conservation Areas with family dwellinghouses where householders submit the most planning applications:

- Appraise properties within each Conservation Area and categorise them according to their suitability for extensions;
- Identify criteria where it would be possible to build additional roof storeys and back extensions and possible restrictions;
- Include detailed technical notes for repairs and restoration work and for extensions, back up by photo visuals to avoid ambiguity

RECOMMENDATION 4:

Write a policy for underground extensions and basements as part of the Local Plan refresh.

RECOMMENDATION 5:

Consult with residents in Conservation Areas on the use of Article 4 Directions to further restrict development as part of the Local Plan refresh.

RECOMMENDATION 6:

In line with any new approach to permitting roof extensions, create new Supplementary Planning Guidance for mansard roof extensions in Conservation Areas (and following this other issues) in order to help people plan, and understand the decision making process and the reasons why some changes be acceptable or not. The guidance should:

- Be clearly illustrated with examples of best practice to allow it to be readily and easily understood by non-professionals;
- Be prescriptive and consistent where materials for extensions and renovations are not appropriate.
- Set out permitted standard designs for additional roof storeys and rear extensions where planning is approved.
- Incorporate the principles of this guidance when refreshing the Conservation Area Character Appraisal and Management Guidance.

3.5 Once agreed, the Working Group's report will be submitted to Cabinet for a response to the recommendations.

4. BODY OF REPORT

4.1 Please refer to appendix one for the content of the report.

5. COMMENTS OF THE CHIEF FINANCIAL OFFICER

5.1 Following a Scrutiny challenge session on 17 November 2014, this report provides an update on the implications of conservation areas on the extension of family homes.

5.2 The recommendations resulting from the report are outlined in Section 3 above. The majority of the recommendations are associated with reviewing and updating policies and planning documentation - the main costs associated with these relate to officer time and the undertaking of a formal consultation process. All associated costs must be met from within existing revenue budgets.

6. LEGAL COMMENTS

6.1 The Council is required by section 9F of the Local Government Act 2000 to have an Overview and Scrutiny Committee and to have executive arrangements that ensure the committee has specified powers. Consistent with this obligation, Article 6 of the Council's Constitution provides that the Overview and Scrutiny Committee may consider any matter affecting the area or its inhabitants and may make reports and recommendations to the Full Council or the Executive in connection with the discharge of any functions. It is consistent with the Constitution and the statutory framework for the Executive to provide a response.

6.2 This report makes a number of recommendations which aim to protect and enhance the Borough's heritage, whilst providing more flexibility and guidance

to those wishing to carry out extensions and other forms of development to properties within the Borough's conservation areas. The report sets out the relevant planning policy relating to conservation areas.

- 6.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that with respect to any buildings or other land in a conservation area, in taking decisions on planning applications the decision maker must pay that special attention to the desirability of preserving or enhancing the character or appearance of that area. Case law suggests that whilst an assessment of the degree of harm is a matter for planning judgement, once a decision maker considering a proposal finds that there is harm to a conservation area they must give considerable weight to the desirability of avoiding that harm, and it is not enough to ask whether the benefits of a development outweigh the harm.
- 6.4 Any amendments to the Council's local plan would need to go through the statutory procedure set out in The Planning and Compulsory Purchase Act 2004 and The Town and Country Planning (Local Planning) (England) Regulations 2012. This includes inter alia extensive consultation and an independent examination. There is also a prescribed procedure which must be followed before a Supplementary Planning Document (SPD) can be adopted, involving two stages of public consultation. No independent examination is required prior to the adoption of a SPD because they are not development plan documents and carry less weight in decision making. Supplementary Planning Documents must not conflict with the adopted development plan.
- 6.5 Permitted development rights can be removed by a local planning authority through a direction made under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 ("the GPDO"). Guidance in the National Planning Policy Framework provides that the use of Article 4 directions to remove national permitted development rights, should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. Article 4 Directions are commonly used to provide a greater level of protection in conservation areas. Where development has been restricted by an Article 4 direction planning permission will be required. The procedure for making an Article 4 direction is set out in Articles 5 and 6 of the GDPO. Any proposal to make any Article 4 direction in respect of the Borough's conservation areas should commence with consultation.
- 6.6 In carrying out its functions, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty). The Council will have to comply with this duty in bringing forward and taking decisions on any proposed changes and appropriate screenings or equalities assessments will need to be undertaken.

7. **ONE TOWER HAMLETS CONSIDERATIONS**

- 7.1 Whilst the Council's focus is rightly social housing, the lack of supply of 4 and 5 bedroom houses has caused a housing predicament amongst some residents with growing families who live in period houses in one of the borough's many conservation areas.
- 7.2 The majority of the borough's period houses are located within a conservation area and therefore the residents who live in them are restricted in when it comes to building extensions.
- 7.3 Some householders have moved out of the borough in order to find larger period houses to suit the needs of their growing families. Families moving out of neighbourhoods can have a detrimental effect on community, social capital and economic prosperity in an area.

8. **SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 There are no direct environmental implications arising from the report or recommendations.

9. **RISK MANAGEMENT IMPLICATIONS**

- 9.1 There are no direct risk management implications arising from the report or recommendations.

10. **CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 There are no direct crime and disorder reduction implications arising from the report or recommendations.

**Local Government Act, 1972 Section 100D (As amended)
List of "Background Papers" used in the preparation of this report**

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
1. Presentation from LBTH Planning and Building Control Service . Tower Hamlets policy & practice in relation to planning and Conservation Areas.	Vicky Allen ext 4320 vicky.allen@towerhamlets.gov.uk

2. Presentation notes from ***The Society for the Protection of Ancient Buildings (SPAB)***.
Vicky Allen ext 4320
vicky.allen@towerhamlets.gov.uk
3. Presentation from ***Westminster City Council***. Westminster City Council's policy and practice in relation to planning in Conservation Areas.
Vicky Allen ext 4320
vicky.allen@towerhamlets.gov.uk
4. Presentation from Tower Hamlets ***Conservation & Design Advisory Panel (CADAP)***. Providing pictorial evidence and suggested good practice for Conservation Area Appraisal documents.
Vicky Allen ext 4320
vicky.allen@towerhamlets.gov.uk
5. Letter from ***English Heritage***. As the Government's statutory adviser on the historic environment, English Heritage were asked to comment on the core questions being asked in the scrutiny challenge session
Vicky Allen ext 4320
vicky.allen@towerhamlets.gov.uk

12. **APPENDICES**

Appendix 1 – Planning in Conservation Areas: The implications of Conservation Areas on the extension of family homes.