


<b>Cabinet</b> 8 April 2015	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Overview and Scrutiny Committee	<b>Classification:</b> Unrestricted
<b>Planning in conservation areas: The implications of conservation areas on the extension of family homes – Scrutiny Challenge Session</b>	

<b>Lead Member</b>	<b>Councillor Rabina Khan, Cabinet Member for Housing and Development</b>
<b>Originating Officer(s)</b>	Vicky Allen, Corporate Strategy and Equality
<b>Wards affected</b>	All Wards
<b>Community Plan Theme</b>	<b>A Great Place to Live</b>
<b>Key Decision?</b>	No

### **Executive Summary**

The report submits the report and action plan in response to the scrutiny challenge session on planning in conservation areas: The implications of conservation areas on the extension of family homes.

### **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Consider this report of the scrutiny working group and agree the action plan in response to the review recommendations.

### **1. REASONS FOR THE DECISIONS**

- 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.
- 1.2 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.
- 1.3 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.

## **2. ALTERNATIVE OPTIONS**

- 2.1 To take no action. This is not recommended as the proposed recommendations are strategic, measurable and attainable. A timetable for delivering the recommendations has also been agreed by Officers at the most senior levels of the organisation. The action plan is outlined in Appendix Two.
- 2.2 To agree some, but not all recommendations. As outlined above all of the recommendations are achievable at little additional cost to the organisation. Although the scrutiny review group is confident all the recommendations will be addressed, there may be reasons for not accepting all of them.

## **3. DETAILS OF THE REPORT**

- 3.1 The challenge session took place on 17th November 2014 and was chaired by Cllr Joshua Peck, Chair of Overview and Scrutiny.
- 3.2 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.
- 3.3 The report with recommendations is attached at Appendix One. Six recommendations have been made:

### **RECOMMENDATION 1:**

The Council should recognize 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 dwelling houses 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.

3.4 This review was timely as the refresh of the Council's Local Plan is due to commence in 2015/16 and is a two year process to completion. Recommendations 2, 4 and 5 relate to areas which form part of the Local Plan, and the actions relating to them will be absorbed into the refresh which is subject to a statutory procedure and timescales. The refresh will be subject to an Examination in

Public in 2016, after which the document will be taken back to Cabinet and Full Council for ratification, which is anticipated in the following year.

- 3.5 Recommendations 1 and 3 are not bound by statute and recommendation 6 requires public consultation but no independent examination. It is the intention that the actions relating to these recommendations will be completed and taken to Cabinet for approval by the end of the next financial year. They will then be implemented to inform residents' planning in Conservation Areas.
- 3.6 The report with recommendations is attached as **Appendix One**. The action plan which accompanies the report is attached as **Appendix Two**.

#### **4. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 4.1 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.
- 4.2 The recommendations resulting from the report are outlined in paragraph 3.4 above. The majority of the recommendations are associated with reviewing and updating policies and planning documentation – the main costs associated with these relating to officer time and the undertaking of a formal consultation process. All associated costs must be met from within existing revenue budgets.

#### **5. LEGAL COMMENTS**

- 5.1 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.
- 5.2 Following the Scrutiny challenge session, the attached 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 attached Scrutiny report sets out the relevant planning policy relating to conservation areas.

- 5.3 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 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 judgment, 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.
- 5.4 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.
- 5.5 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 GPDO. Any proposal to make any Article 4 direction in respect of the Borough's conservation areas should commence with consultation.
- 5.6 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.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 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.
- 6.2 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.
- 6.3 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.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

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

## **8. RISK MANAGEMENT IMPLICATIONS**

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

## **9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 9.1 There are no direct implications of crime and disorder as a result of the recommendations of this review.

## **10. EFFICIENCY STATEMENT**

- 10.1 There are no direct efficiency implications as a result of the recommendations of this review. Three recommendations (2, 4 and 5) will be incorporated into the refresh of the Council's Local Plan which is already programmed to commence in 2015/16.

**Appendix One:** Planning in Conservation Areas: The implications of conservation area on the extension of family homes – Scrutiny Challenge Session Report

**Appendix Two:** Action Plan

**Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

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