

	<p style="text-align: center;"><b>ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER 26<sup>th</sup> August 2015</b></p>
<p style="text-align: right;"><b>Title</b></p>	<p><b>Moss Hall Crescent Conservation Area Character Appraisal and Management Proposals</b></p>
<p style="text-align: right;"><b>Report of</b></p>	<p>Commissioning Director for Growth and Environment</p>
<p style="text-align: right;"><b>Wards</b></p>	<p>West Finchley</p>
<p style="text-align: right;"><b>Status</b></p>	<p>Public</p>
<p style="text-align: right;"><b>Enclosures</b></p>	<p>Conservation Area Character Appraisal and Management Proposals for Moss Hall Crescent. Appendix 1: Table of Responses.</p>
<p style="text-align: right;"><b>Officer Contact Details</b></p>	<p>Jonathan Hardy, Urban Design and Heritage Team Leader, <a href="mailto:jonathan.hardy@barnet.gov.uk">jonathan.hardy@barnet.gov.uk</a>, 0208 359 4655</p>

### Summary

The Moss Hall Crescent Conservation Area Character Appraisal, Management Proposals and Appraisal Map are proposed for adoption following a public consultation exercise with local residents and other interested parties. A report will be presented to the Finchley and Golders Green Area Committee for their information and to approve the Article 4 Direction.

### Decisions

1. To adopt the Moss Hall Conservation Area Character Appraisal and Management Proposals.
2. To note that there will be a subsequent report to the Finchley and Golders Green Area Committee recommending the approval of the Article 4 Direction.

## **1. WHY THIS REPORT IS NEEDED**

- 1.1. Moss Hall Crescent was designated as a conservation area in July 1974 and until now there has been an absence of a Conservation Area Character Appraisal.
- 1.2. The Character Appraisal for Moss Hall Crescent defines the special character of the conservation area and identifies those buildings, spaces and other features considered to be important. The Character Appraisal also sets out the historical development of the area as well as an analysis of the topography, important views, spaces and trees. Historic buildings and characteristic building styles, materials and architectural features are also outlined.
- 1.3. The Moss Hall Crescent Conservation Area lies within the West Finchley ward, close to the centre of the borough. It is located south of Tally Ho Corner in North Finchley, on the western side of Ballards Lane and approximately 1.5 km to the north of Finchley Central. The Crescent is situated behind a small green open space with mature trees which fronts Ballards Lane, between Alexandra Grove to the north and Moss Hall Grove to the south.
- 1.4. Moss Hall Crescent consists of 12 Victorian villas, set back from Ballards Lane by the strip of green space, with a strong tree line that helps soften the impact of the heavy traffic running along Ballards Lane. The surrounding area is primarily residential, although it is located nearby the shopping area of North Finchley, which lies approximately 0.5 km north-east of the conservation area.
- 1.5. All the properties were placed on the council's Schedule of Buildings of Local Architectural or Historic Interest in 1986 and in exercising planning control, Policies DM01 and DM06 in Barnet's Local Plan will apply to development proposals.
- 1.6. The original 1860's designs and layout survive in much the original form, mainly due to precisely drawn leasehold agreements which laid down, for the next hundred years, strict conditions prohibiting any additional building or alterations to the "tenements, fences, walls and premises" as well as the maintenance of the public garden fronting the villas "unbuilt upon fenced in and planted.....and used only as a shrubbery or pleasure grounds in common by the occupiers of the villas..."
- 1.7. Moss Hall Crescent was designated a Conservation Area when this attractive group of 19th Century villas came under direct threat of large-scale redevelopment. Conservation Area designation was therefore



clearly justified and the redevelopment threat in 1974 only speeded up such action in the case of Moss Hall Crescent. The Moss Hall Crescent properties are much larger than average present day family dwellings, but within the remit to preserve and enhance the character of the Conservation Area, it has been possible to convert and refurbish them to provide satisfactory self-contained flats.

## **1.8. MANAGEMENT PROPOSALS**

1.9. Issues and threats affecting the conservation area are also highlighted and the Management Proposals identify a series of initiatives which seek to address some of the issues raised. The Issues and Management Proposals also provide a valuable tool to inform the council's planning practices and policies to promote the preservation and enhancement of the conservation area.

1.10. One of the key objectives of the Management Proposals is the sustainability of the physical and social environment of the Conservation Area. Barnet Council has produced a supplementary planning document on Sustainable Design and Construction (2007) which discusses energy efficiency in existing buildings. Carefully designed solutions will be required to ensure that the impact of such development, including solar panels and photo-voltaic cells, does not have a detrimental impact on the appearance of a building or on the character of the wider area.

## **1.11. ARTICLE 4 DIRECTION**

1.12. An Article 4(1) Direction, approved in July 1987, currently applies across the entire Moss Hall Crescent Conservation Area. It restricts a variety of minor development which would otherwise be permitted, for example, the replacement of windows and doors, extensions, porches and hardstandings. The classes covered do not accord with the current General Permitted Development Order (GPDO) 2015, and it is therefore intended to update the Article 4 Direction in line with existing legislation and to include several classes which did not exist in September 1979. This updated Article 4 Direction will help to ensure that minor development and alterations are adequately controlled, which will help to secure the future preservation and enhancement of the area's character and appearance.

1.13. It is important to note that the majority of the former houses have been converted into self-contained flats which do not benefit from the full range of permitted development rights, and consequently planning permission is already required for a variety of minor works. An Article 4 Direction is therefore only necessary for specific works.

Therefore, the two existing Article 4 directions will be updated, one of which will relate to dwellinghouses (i.e. nos. 7 and 12) and the other will apply to the remaining properties with a narrower range of classes.

The classes of development proposed to be controlled by the removal of specific development rights, include the following:

Classes covered in areas defined by properties 7 and 12 Moss Hall Crescent under Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015.

- The enlargement, improvement or other alteration of a dwellinghouse
- Any other alteration to the roof
- The erection or construction of a porch
- The provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool or domestic heating storage containers
- Development consisting of any hard surface or the replacement of such a surface
- The installation, alteration or replacement of a chimney, flue or soil and vent pipe
- The installation, alteration or replacement of microwave antenna

Classes covered in areas defined by all properties in Moss Hall Crescent under Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015.

- The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure
- The formation, layout and construction of a means of access to a highway
- The painting of the exterior of any building
- The installation, alteration or replacement on a building of a closed circuit television camera.
- The installation, alteration or replacement of solar PV or solar thermal equipment
- The installation, alteration or replacement of stand alone solar
- The installation, alteration or replacement of a ground source heat pump
- The installation, alteration or replacement of a water source heat pump
- The installation, alteration or replacement of a flue
- The installation, alteration or replacement of an air source heat pump
- The installation, alteration or replacement of a wind turbine
- The installation, alteration or replacement of a stand alone wind turbine



In addition the following classes are also to be considered in regard to the character and appearance of the conservation area:

- the installation, alteration or replacement of any electronic communications apparatus
- The installation, alteration or replacement of system apparatus by or on behalf of a driver information system operator
- the installation of posting boxes or self-service machines,

The classes proposed to be controlled are set out fully in the Management Proposals. For clarification, alterations would include a wide variety of works, including replacing windows and doors. Without introducing controls over these categories of minor development, the character and appearance of the individual properties could be harmed by unsympathetic changes.

#### **1.14. Area of Special Advertisement Control**

- 1.15. The display of insensitively designed or sited adverts can harm the character and appearance of the conservation area. In order to mitigate any possible harm, it is therefore proposed to designate the entire conservation area as an area of special control for the purpose of display of advertisements, specifically estate agents boards.

## **2. REASONS FOR DECISIONS**

- 2.1. The council adopted Barnet's Local Plan Core Strategy and Development Management Policies on 11th September 2012. These documents set out the development plan and conservation policies of the borough over the forthcoming years.

- 2.2. A Summary Delegated Powers Report dated the 22<sup>nd</sup> June 2015 authorised a public consultation exercise with local residents and interested parties in Moss Hall Crescent Conservation Area, the responses to which are recorded in Appendix 1: Table of Responses.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 3.1. Not applicable.

## **4. POST DECISION IMPLEMENTATION**

- 4.1. A report setting out the results of the consultation exercise and all documents approved under delegated powers will be presented to the Finchley and Golders Green Area Committee for their information,

consideration and noting. The Committee will also be recommended to approve the update to the Article 4(1) Direction.

- 4.2. Once approved the Character Appraisal, appraisal maps and Management Proposals will be posted on the council website and hard copies made available for viewing. All owners/occupiers of buildings placed under the updated Article 4(1) Direction will be informed in writing.

## **5. IMPLICATIONS OF DECISION**

### **5.1. Corporate Priorities and Performance**

- 5.2. Designating conservation areas and producing Character Appraisals has helped meet the council's (2015-2020) Corporate Plan priority of striving to ensure that Barnet is a place of opportunity where people can further their quality of life, ensuring residents remain satisfied with the borough as a place to live.

- 5.3. Cabinet approved the Three Strands Approach in 2004, which seeks absolute protection of the Green Belt, Metropolitan Open Land and other valued open space from inappropriate development; the enhancement and protection of Barnet's suburbs, town centres and historic areas; and consolidated growth in areas in need of renewal and investment.

- 5.4. The Local Plan, which includes the Core Strategy and Development Management Policies, was adopted in September 2012 and sets out the development plan for the borough and includes conservation area policies which seek to preserve and enhance the character and appearance of conservation areas and a reference to the rolling programme of conservation area appraisals.

### **5.5. Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.6. The adopted documents and maps will be placed on the council website to allow easy access, and consequently, the printing of hard copies will be kept to a minimum. Any printing costs will be borne by the Strategic Planning and Regeneration as part of the approved budgets and recouped where possible through external charging.
- 5.7. Applications for planning permission submitted in accordance with Article 4 Directions are not subject to application fees. However, it is not anticipated there will be a significant increase in the volume of applications as a result of the updated Article 4 Direction.

## **6. LEGAL ISSUES**

- 6.1. In line with Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the council designated the Moss Hall Crescent Conservation Area in 1974.
- 6.2. The preparation of the Moss Hall Crescent Character Appraisal and Management Proposals will involve updating the existing Article 4

Direction. The Article 4 Direction allows control over development which might otherwise be carried out without planning permission (permitted development) but could be harmful to the character and appearance of the conservation area. The Management Proposals outline the classes of development affected and the buildings where controls are proposed to be applied.

6.3. It should be noted that the existing Article 4 Direction, which dates from 1987 and was updated in 1991, does not reflect the wording of the current General Permitted Development Order (GPDO) 2015 and therefore the opportunity arises to update the Direction and add any new classes as appropriate.

6.4. There is the provision under Section 108 of the Town and Country Planning Act 1990, for compensation claims where applications for planning permission are refused or approved subject to conditions as a result of an Article 4 Direction. Claims can be made within 12 months of the decision for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

## **7. CONSTITUTIONAL POWERS**

7.1. Council Constitution, Responsibility for Functions: Annexe B: sets out the Powers Delegated to Officers. Article 9 sets out the powers of Chief Officers including the Commissioning Director, Growth and Development.

7.2. Council Constitution, Responsibility for Functions: Annex A: details the functions of the Area Committees which includes 'Discharge any functions, within the budget and policy framework agreed by Policy and Resources Committee, of the theme committees that they agree are more properly delegated to a local level. A report will therefore be prepared for the Finchley and Golders Green Area Committee for their information and recommendation to approve the Article 4 Direction.

## **8. RISK MANAGEMENT ISSUES**

8.1. The preparation of a Conservation Area Character Appraisal and Management Proposals is an important part of the process of designation and is referred to in the borough's Local Plan. Consultation with local residents, other organisations and amenity groups will ensure the document's ownership by and legitimacy to the wider community.

8.2. Government and Historic England guidance reminds Local Authorities of the importance of consultation on Conservation Area Character Appraisals, without which there might be an increased risk to the Local Planning Authority's ability to defend development control decisions or fully perform its statutory duty to preserve and enhance the character and appearance of conservation areas. Consulting on and adopting the Character Appraisal and Design Guidance in accordance with national guidance reduces the risk of challenge to the due and proper process, whilst underpinning the rationale for the designation of the conservation area



8.3. The existing Article 4 Direction is proposed to be updated to reflect the current classes within the General Permitted Development Order. The withdrawal of permitted development rights by use of an Article 4 Direction can lead to claims for compensation where planning permission is refused or granted subject to conditions. Claims can be made within 12 months of the decision, for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. Such claims are, however, rare and in Barnet there have been no known instances of claims for compensation being made.

## **9. EQUALITIES AND DIVERSITY ISSUES**

9.1. The Council in the exercise of its functions through its officers, recognises its statutory duty to have regard to the need to eliminate all types of discrimination, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it as required under section 149 of the Equality Act 2010.

9.2. In considering the proposals detailed in this report, Officers have had due regard to the requirements of section 149 of the Act and consider that the decision to proceed with the proposals as recommended below complies with the Council's statutory duty under the Equality Act.

9.3. Section 149 of the Equality Act 2010 requires a decision-maker to have 'due regard' to achieving a number of equality goals: (i) to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act; (ii) to advance equality of opportunity between those with protected characteristics and those without; and (iii) to foster good relations between persons with a relevant protected characteristic and those without. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

9.4. It is envisaged that the preservation and enhancement of this conservation area, as supported by the Character Appraisal and Management Proposals, will be of benefit to Barnet's diverse local community and will contribute to the borough's rich built heritage. The adoption of the Character Appraisal, Management Proposals and Design Guidance will also enhance Barnet's reputation as a desirable and pleasant place to work and live. The implementation of the proposed changes will benefit all members of the community equally and are not envisaged to disadvantage any specific group as identified under the Equality Act 2010.

## **10. PUBLIC CONSULTATION AND COMMUNITY ENGAGEMENT**

- 10.1 Historic England Guidance on Conservation Area Appraisals (paragraphs 3.1 and 3.2) states that 'public participation should be an integral part of the appraisal process, and ... local consultation can help to bring valuable public understanding and 'ownership' to proposals for the area'.
- 10.2 In line with the Council's approved Statement of Community Involvement, residents within the conservation areas were consulted by letter. The public consultation exercise took place over a period of 21 days between Monday 29<sup>th</sup> June 2015 and Monday 20<sup>th</sup> July 2015. The draft documents were available on-line and hard copies were also available at Barnet House Planning Reception.
- 10.3 A range of external bodies were also consulted including Historic England, the Victorian Society, The Barnet Society and the Finchley Society. Local ward councillors and the local MP were also consulted.
- 10.4 In accordance with Article 4 Direction regulations and Area of Advert Control regulations, a public notice was placed in the local press and letters were delivered to the specific dwellings affected by the updated Direction, to inform and seek views from the owners or occupiers.

## **11. RESPONSES RECEIVED FOLLOWING PUBLIC CONSULTATION**

- 11.1. A total of two responses were received, on behalf of the Finchley Society and Historic England. Both organisations welcomed the document with only Historic England suggesting additions to the text. All changes are detailed in Appendix 1.
- 11.2. The results of the public consultation (with officer response and actions) are set out in the attached Appendix 1.
- 11.3. As a result of the comments received, amendments were made to the text of the character appraisal.

## **12. BACKGROUND PAPERS**

- 12.1 Draft Character Appraisal, Management Proposals and Appraisal map for Moss Hall Crescent.
- 12.2 Historic England Guidance on Conservation Area Appraisals, and the Management of Conservation Areas (February 2006).
- 12.3 NPPF (National Planning Policy Framework) - March 2012
- 12.4 DPR dated 22<sup>nd</sup> June 2015 authorising public consultation on the Character Appraisal and Management Proposals.
- 12.5 Any person wishing to inspect the papers listed should telephone 0208-359-4655.

### 13. DECISION TAKER'S STATEMENT

13.1. *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.*

### 14. OFFICER'S DECISION

#### 14.1. I authorise the following action

14.2. To approve the revised text and appraisal map for the Moss Hall Crescent Conservation Area Character Appraisal and Management Proposals.

14.3. To write to all respondents of the consultation exercise to inform them of the outcome.

14.4. To publish all documents on the Council's website and make copies available to the public in the Planning Reception.

Signed



Commissioning Director, Growth & Development

Date

26/8/15

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