

## REPORT TO CABINET

Title: **CONSERVATION AREA APPRAISAL FOR BRAY VILLAGE INCLUDING MANAGEMENT PLAN PROPOSALS**

Date: 22 January 2009

Member Reporting: Councillor Mrs Knight

Contact Officer(s): Elizabeth Long, Conservation Officer Tel 01628 796057

Wards affected: Bray

### 1. SUMMARY

- 1.1.1 The conservation and management of the built heritage is important to the Council and as such this report seeks approval to adopt the Conservation Area Appraisal and related Management Plan for Bray Village Conservation Area which has been prepared in accordance with the overall programme for the production and review of appraisals for all the conservation areas in the Borough, that was agreed at Cabinet in May 2008. Bray is a village of special architectural and historic interest and an Appraisal document will be an important tool in preserving and enhancing this interest.
- 1.1.2 An appraisal document seeks to identify the *Special Architectural and Historic Interest* and the changing needs of the Conservation Area. The related Management Plan seeks to guide the controlled and positive management of change within the Conservation Area, thus avoiding harmful development.
- 1.1.3 The purpose of this report is also to seek approval to impose an Article 4(2) Direction on specific properties within the Conservation Area. This Direction will remove permitted development rights for minor alterations within the Conservation Area. Many small scale alterations do not require permission. Individually, many of these changes are fairly minor but added together they begin to have a marked effect on the appearance of an area.
- 1.1.4 The aim of an Article 4(2) Direction is to preserve and enhance the character and appearance of the Conservation Area and the historic environment for the benefit of the community as a whole, by requiring that certain types of permitted development are subject to additional planning controls.

### 2. RECOMMENDATION: That:

**i) The Bray Village Conservation Area Appraisal as amended, together with the respective Management Plan, be approved for Development Control purposes and to inform the Local Development Framework.**

**ii) Approval be given to impose an Article 4(2) Direction on the specified properties within the Bray Village Conservation Area in order to introduce additional management.**

What will be different for residents as a result of this decision?
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Residents will be clear about the additional controls existing within the Conservation Area and the objectives of the Council in preserving and enhancing the built heritage for that area.
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### **3. SUPPORTING INFORMATION**

#### **3.1 Background**

3.1.1 Cabinet meeting on 22<sup>nd</sup> May 2008 received a report on the background to the production of Conservation Area Appraisals and endorsed the first set of six Appraisals for the Borough carried out under the required rolling programme for preparation and review of such appraisals. A future work programme was also agreed, including the production of an Appraisal for Bray Conservation Area.

3.1.2 Bray Conservation Area was designated in April 1968 and the boundaries were revised and amended in 1990. Despite being one of the first Conservation Areas to be designated in the Borough, no formal Appraisal has been undertaken previously. A draft Appraisal document was produced with early input from the Parish Council and this document has been the subject of a public consultation exercise in September and October 2008. A proposed publication version of the Appraisal Document, amended to reflect the results of the consultation exercise, and a report summarising the consultation exercise are available in Group Rooms, Members' Room and with Democratic Services.

3.1.3 A Management Plan is included as a section within the overall Appraisal Document. This is intended to contain mid to long term strategies for preserving or enhancing the area, based on the issues and recommendations for action arising from the appraisal and relates to many areas of the council's activities within the Conservation Area.

#### **3.2 Proposed Article 4(2) Direction**

3.2.1 Even in Conservation Areas many alterations to houses are 'permitted development' and do not require planning permission. Consequently many small-scale alterations do not require permission. Individually, these alterations may be fairly minor but added together they begin to have a marked effect on the appearance of an area. This can create an issue where the character and appearance of a Conservation Area is threatened. Therefore, the Management Plan includes a proposal to introduce additional planning controls to guard against this, in the form of an Article 4(2) direction.

3.2.2 The effect of such a Direction is to remove permitted development rights for minor

alterations such as replacement windows and doors and removal of garden fences, thereby necessitating a planning application to be made. So far as decision making is concerned, whilst there are no special planning policy considerations applicable when an Article 4 Direction is in force, proposals would be considered against the normal Conservation Area policies with a presumption that proposals should preserve or enhance the character or appearance of an area. The purpose of an Article 4 Direction is therefore not to stop development from happening at all but to control development as may be appropriate.

- 3.2.3 If a planning application, required because of the Article 4(2) direction, is refused, there is provision within the legislation for the applicant to claim compensation. Given that the controls will be extended in the interest of preserving and enhancing the character and appearance of the area, and the scope of works affected by the new controls are relatively minor, it is considered that the extent of claims will be limited. This is supported by recent research by the English Historic Towns Forum, which surveyed 72 local authorities on this specific matter and had no reported cases of compensation claims.
- 3.2.4 **Properties Affected:** The direction is proposed to cover many of the residential properties within the Conservation Area. The direction excludes listed buildings and commercial properties, both of which already have more restrictive planning controls applying. The direction will only include elevations which front a highway or are considered prominent in the Conservation Area. The full detailing of properties is set out within the final section of the Appraisal Report ‘Additional Planning Controls’. The properties identified are considered to be either in themselves or in a locality of a particularly high quality and make a positive contribution to the Conservation Area.
- 3.2.5 It should be noted that Article 4(2) directions of this kind are not currently applied to any other Conservation Area in the Borough. However, the proposals for Bray result from a specific local concern that the special character of the area was being eroded through permitted development. A specific public consultation exercise was carried out and there was generally support for the implementation of these additional controls.

## 4. OPTIONS AVAILABLE AND RISK ASSESSMENT

### 4.1 Options

	<b>Option</b>	<b>Comments</b>	<b>Financial Implications</b>
1.	To endorse the appraisal document and management plan with related Article 4(2) direction.	Recommended. This would enable the Appraisal to be used to support planning decisions at all levels. The implementation of an Article 4(2) direction will help to preserve and enhance the special character and appearance of the area.	Revenue – Additional costs of processing applications with no fee involved. Possibility of compensation claims may arise from the withdrawal of permitted development rights.  Capital – The proposed enhancement schemes

	Option	Comments	Financial Implications
			within the Management Plan will need to be included in a capital programme.
2.	To endorse the revised appraisal document but not agree the proposed Article 4(2) direction	Not Recommended. To be most effective, the appraisal cannot be a stand alone document and requires legislation to implement connected management proposals.	Revenue – N/A  Capital - The proposed enhancement schemes within the Management Plan will need to be included in a capital programme.
3.	Do nothing	Not Recommended. The Council would not be moving towards the recommended position of having up to date Appraisals, and there would be elements of the LDF work that would lack appropriate support.	Revenue – N/A  Capital – N/A

## 4.2 Risk assessment

- 4.2.1 The main risk resulting from failure to achieve the completion of the Appraisal would be the reduction in the weight that might be given to the importance of the characteristics of the Conservation Area in planning decisions, particularly in appeals. The incorporation of a consultation exercise in the process reduces the risk that the Appraisal does not reflect local views.
- 4.2.2 As regards the Article 4(2) direction, the main risk involved will be the potential compensation issues that may arise. However, this should be balanced by the fact that the risk to the special character and appearance of the Conservation Area will be reduced by the imposition of the additional planning controls.

## 5. CONSULTATIONS CARRIED OUT

- 5.1.1 Residents and any business properties within the Conservation Area were notified of the consultation process and the availability of the draft document. This included detailed information regarding the proposed additional planning controls of the Article 4(2) direction, and a specific questionnaire on this topic. Adjacent major property or landowners were also notified in writing together with the utility companies operating in the area. There was also an internal consultation process within the authority with relevant council officers. Public exhibition/consultation for Bray Village carried out at The Village Hall, on 8<sup>th</sup> October 2008 between 5.30pm and 8.30pm. The draft document was made available on the Council's website from Monday 29<sup>th</sup> September

and copies were deposited at Maidenhead Public Library and Maidenhead Town Hall. Full copies of the Appraisal Document were sent to relevant Cabinet Members, Ward Councillors, the Parish Council, church, local amenity bodies and English Heritage.

5.1.2 The results of the consultation exercise are summarised in a separate report (see 3.1.2). There were approximately 30 responses in various forms and these were generally positive, with very few suggestions for alterations to the main Appraisal. The most frequently raised matters related to problems with through traffic and parking, the solutions to which are beyond the scope of this exercise, but the comments have been passed to the relevant sections of the authority for consideration. In addition there were 17 completed questionnaires specifically in relation to the Additional Planning Controls, the majority supporting the proposals with only 2 in total objection.

## 6. COMMENTS FROM OVERVIEW AND SCRUTINY PANEL

6.1 The Panel endorsed the report.

## 7. IMPLICATIONS

7.1 The following implications have been addressed where indicated below.

Financial	Legal	Human Rights Act	Planning	Sustainable Development	Diversity Equality &
✓	✓	✓	✓	✓	N/A

### 7.2 Financial Implications:

The Council may become involved in future enhancement schemes as a result of the management plan proposals.

The withdrawal of permitted development rights by an Article 4(2) direction may give rise to liability for the Council to pay compensation. Any person with an interest in the land may seek compensation for abortive expenditure or loss or damage directly attributable to the loss of permitted development rights. However, such a claim could only be made where a planning application is refused.

The implementation of an Article 4(2) direction will give rise to additional planning applications for which there will be no fee.

### 7.3 Legal Implications:

The Council has the power to make a Direction under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995, withdrawing permitted development rights for a prescribed range of development materially affecting the external appearance of dwelling houses within a Conservation Area, *when it is satisfied that it is expedient the controls can be applied in situations where the development concerned fronts a highway or significant open space.*

Circular 9/95, 'General Development Order Consolidation 1995', advises that the powers available under Article 4 (2) should be used selectively and only in relation to development that is likely to threaten the character or appearance of a Conservation Area.

#### 7.4 **Human Rights Act**

The Council is permitted to control the use of property in accordance with the general interest and the direction recommended in this case is considered to be a proportionate response to the harm that may be caused if specific planning applications are not required to be made.

Background Papers:

PPG15 - Planning and the Historic Environment (September 1994)

Town and Country Planning (General Permitted Development) Order 1995

Circular No. 9/95 - General Development Order Consolidation 1995

English Heritage – Guidance on Conservation Area Appraisals 2006

English Heritage – Guidance on Management of Conservation Area Appraisals 2006

RBWM Local Plan, July 1999 (incorporating alterations adopted 2003)

EHTF The Use of Article 4 Directions 2008

RBWM Bray Village Conservation Area Appraisal , Consultation Draft (Sept 2008)

RBWM Bray Village Conservation Area Appraisal , Publication Draft for Cabinet (Dec 2008)

RBWM Bray Village Conservation Area Appraisal; Summary of Consultation Exercise, Responses and Proposed Amendments(Dec 2008).