

4 February 2019

<b>Report of</b>	Assistant Director Policy and Corporate	<b>Author</b>	Eirini Dimerouki
<b>Title</b>	Mill Field Conservation Area Designation		☎ 5346
<b>Wards affected</b>	New Town and Christchurch		

## 1. Executive Summary

- 1.1 This report seeks Committee approval to proceed with the designation of the proposed Mill Field Estate Conservation Area and Article 4 Direction. The Committee approved public consultation on the Consultation Draft Conservation Area Character Appraisal and Management Proposals on 19 March 2018. The present document provides an account of the consultation process and a summary of the public responses received. Additionally, the report addresses the main concerns raised in responses, to establish that these issues have been covered by the Character Appraisal. As the results of the public consultation exercise do not generate the need for any amendments to the Character Appraisal and Management Proposals, the designation of the proposed Conservation Area can proceed on the basis of this document.

## 2. Decision(s) Required

- 2.1 The Local Plan Committee is asked to proceed to the statutory designation of the proposed new Conservation Area to be known as Mill Field Estate Conservation Area, together with the inclusion of an Article 4 Direction.

## 3. Reason for Recommended Decision

- 3.1 Proceeding to the designation of the proposed Conservation Area Mill Field Estate will enable the effective protection of its character and appearance, since its statutory designation will become a material consideration for the determination of planning applications and allied development management decisions. The use of an Article 4 Direction will give more effective control over alterations that could otherwise erode the character and cohesive quality of the area.

## 4. Alternative Options

- 4.1 The Committee could decide not to proceed with the designation of the Conservation Area. However, such a decision would not allow the preservation and enhancement of the area to become a material planning consideration in future decisions. The Council's duty is

discretionary under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that

“ Every local planning authority—

(a) shall from time to time 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

(b) shall designate those areas as conservation areas.”

4.2 Alternatively, the Committee could agree to adopt different boundaries for the designation. Although this issue has been raised during the public consultation, the Conservation Area Appraisal provides the rationale behind the recommended boundary to address the public concerns, as discussed in Section 5.0.

4.3 The committee may decide not to proceed with an Article 4 Direction to withdraw permitted development rights for certain categories of works. The recommended scope of the direction is set out at paragraph 5.14 in response to issues identified as part of the conservation area character statement and management proposals.

## **5. Background Information**

5.1 The six-week formal public consultation on the Consultation Draft Conservation Area Character Appraisal and Management proposals was approved by the Local Plan Committee on 19 March 2018. The consultation period commenced on 30 April 2018 and was completed on 10 June 2018.

5.2 The public were notified and given the opportunity to participate in the consultation exercise in two ways:

A.) via the Council's Planning Consultation webpage, which provided information on the consultation process, a link to view and download the Consultation Draft of the Conservation Area Appraisal and Management Proposals document and a link to download a Response Form. The Form, which is attached in Appendix I, included four groups of questions, inviting the participants to express their support or opposition to the designation, state their views on the principle of restricting permitted development rights, suggest alterations to the proposed boundary and add any comments on the Consultation Draft of the Conservation Area Appraisal and Management Proposals.

B.) the owners or occupiers of the properties within the limits of the proposed Conservation Area were notified with letters sent by post between 30 April and 01 May 2018. Eight hundred fifty eight (858) letters were sent to individual addresses. The letter, which is included in Appendix II informed the recipients of the implications on new planning restrictions and responsibilities for home owners due to the proposed designation and invited them to participate in the consultation process. Additionally, the Consultation Draft of the Conservation Area Appraisal and Management Proposals document was available to view in the Colchester Town Library and on request from the Council offices.

- 5.3 Consultation responses could be sent to the Council by email or by post. Additionally, the Planning Policy Team was available by phone in case of any enquiries regarding the consultation process.
- 5.4 The Council received fifteen (15) responses in total. Twelve (12) of them were sent by email and three (3) were sent by post. Three (3) of the participants who emailed the Council used the response form, one (1) attached a letter and eight (8) provided comments in the body of the email. The three (3) participants who sent their consultation by post drafted a letter.
- 5.5 The responses can be summarised in five categories:
- full support : four (4) participants
  - support in principle , with concerns on specific issues: four (4) participants
  - full objection: three (3) participants
  - comments and enquiries, without expressing views on designation : four (4) participants
- 5.6 The main concerns from participants who nevertheless supported the designation in principle, included:
- disagreement with the boundary on Maldon Road, which includes the corner properties on Errington, Hamilton and Constantine Road but not the intervening properties;
  - disagreement with the exclusion of Alexandra Road from the boundaries
  - disagreement with the inclusion of the word 'Estate' in the name, as historically inaccurate and/or unsuitable for the area's character
  - concerns about the financial implications for the Council and suggestion of alternative uses for the Council's financial resources.
- 5.7 The reasons from the participants who fully objected to the designation included:
- objection to the boundary on Maldon Road, which includes the corner properties on Errington, Hamilton and Constantine Road but not those in between
  - objection to the name "Mill Field Estate" as historically inaccurate and/or unsuitable for the area's character
  - disagreement with the appraisal of the area's quality and state of preservation
  - concerns about the financial implications for the Council and suggestion of alternative uses for the Council's financial resources
  - concerns about the implications for property owners due to the designation, including the added need for planning permissions which would impede the proper maintenance of the properties.
- 5.8 The comments and enquiries involved:

- provision of evidence that wooden fences were used historically in the area, as these are referred to in the Character Appraisal
- enquiry concerning the reasons for the exclusion of Alexandra Road from the boundaries
- enquiry concerning the legal implications regarding existing development which is considered unsympathetic to the character of the proposed Conservation Area.

5.9 The responses also included miscellaneous comments, such as concerns on the difficulty of finding specialised craftsmen who can carry out works in historic buildings and the hope that the designation will benefit the area by improving the waste management.

5.10 Therefore, the main concerns regarding the Consultation Draft of the Conservation Area Appraisal and Management Proposals can be grouped in the following issues:

- a. the proposed boundary on Maldon Road
- b. the exclusion of Alexandra Road from the proposed boundaries
- c. the use of "Mill Field Estate" name

The rationale behind these decisions concerning these issues is provided by the document.

5.10.1 More specifically, Section 1.3, p. 2 explains that the buildings on Maldon Road have considerable architectural merit but belong to the villa type housing that is common within the limits of the adjacent Colchester Conservation Area 2. As the boundaries of the proposed Mill Field Estate Conservation Area were drawn to include an area with strong architectural cohesion, the properties of Maldon Road were excluded despite their qualities. However, the properties on the corners of Errington, Hamilton and Constantine Road were included for their impact on the proposed Conservation Area, mainly due to the long rear gardens whose treatment affects the character of the area. It is also noted that a future review of Conservation Area 2 can include the extension of its boundaries to include all the properties on Maldon Road, to include the corner properties in question, while the boundaries of the proposed Conservation Area will be readjusted as well.

5.10.2 Page 3 also provides the rationale for the exclusion of Alexandra Road from the boundaries: although the street includes some buildings of considerable interest that should be considered for inclusion in Colchester's adopted Local List, the varied architecture of the street results in an overall character which is too different from that of the proposed Conservation Area.

5.10.3 Section 4.1, pp.6-7 describes the historical development of the area: Beaconsfield Area and Salisbury Road were the first to be laid out in 1879 on the Mill Field Estate, by Henry Jones, a local lawyer and businessman. The name of the proposed Conservation Area refers to that early stage of development, while it must be noted that the objection comments appear to result from confusion with the current, modern use

of the term 'estate', to characterise a group of housing built as single development. Whilst the proposed name has been created for the purposes of this designation, it does reflect the history of the area and seeks to create an identity for a series of streets that are otherwise unconnected.

- 5.11 Other issues, such as the concerns regarding the implications on the planning process and the obligations of home owners, were addressed by the Development Management Team by email correspondence with the participants in the consultation.
- 5.12 Correspondence took place with Councillor Lorcan Whitehead regarding the street trees on Errington Road and the cost of replacement. The apparently high cost of replacement, attributable to a commuted maintenance sum, was explained as little enthusiasm had been received from ECC Highways in response to initiatives to replace the important street trees that contribute positively to the character of the area. The support of CBC officers for appropriate street trees was confirmed despite the matter falling within the control of the highway authority.
- 5.13 Inclusion of Article 4 Directions and Schedule of Addresses: The use of an Article 4 Direction requires the submission of a planning application for specified categories of development that would otherwise benefit from permitted development under the provisions of the General Permitted Development Order 2015. These additional controls allow special scrutiny to be given to domestic extensions and alterations to secure the preservation and enhancement of the character and appearance of the area. In this case, the use of an Article 4 Direction would ensure that the special qualities which justify the designation of the area as an area of special architectural or historic character could be protected and sustained. If an Article 4 Direction were not imposed then the character of the area could continue to be eroded through the loss of traditional features and detailing such as timber sash windows, doors and boundary treatments. In this instance, the imposition of the direction on all residential houses in the area is recommended as this will be fairer and easier for the public to appreciate and to manage effectively.
- 5.14 There is a prescribed process set out in the PI (LB & CA) Act 1990 and schedule 3 of the GPDO 2015 that must be followed for both the designation and associated Article 4 Direction to be lawful. This process involves formal notification, advertisement and registration of the designation and Article 4 as a land charge. The works recommended to be excluded are extensions (Schedule 2, Part 1 Class A GPDO 2015) alterations to the roof (Class C), erection of porches (Class D), outbuildings (Class E), hardstandings (Class F), the erection or alteration of a means of enclosure (Class A, Part 2) or the painting of previously unpainted brickwork (Class C, Part 2 GPDO 2015).
- 5.15 If a local planning authority makes an article 4 direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently:

- refuses planning permission for development which would otherwise have been permitted development; or
- grants planning permission subject to more limiting conditions than the General Permitted Development Order.

The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. It should be noted that Article 4 Directions already exist in several locations within the borough and there have been no successful compensation claims.

## **6. Equality, Diversity and Human Rights implications**

- 6.1 An Equality Impact Assessment has been prepared for the Local Plan, and is available to view by clicking on this link:- <http://www.colchester.gov.uk/article/12745/Policy-and-Corporate>
- 6.2 The designation of the proposed Conservation Area will not have adverse impact on equality, diversity and human rights as the property owners were notified and offered the opportunity to participate in the consultation process.

## **7. Strategic Plan References**

- 7.1 The Council's Strategic Plan 2018-2021 includes "*Opportunity-Promoting and improving Colchester and its environment.*" as one of its key objectives. The designation of Mill Field Estate Conservation Area will contribute to this theme, that seeks to "Promote and enhance Colchester borough's heritage and visitor attractions to increase visitor numbers and to support job creation.

## **8. Consultation**

- 8.1 The six-week public consultation was carried out between 30 April 2018 and 10 June 2018. Details on the process and a summary of the responses are included in Section 5.0 of this report.

## **9. Publicity Considerations**

- 9.1 The designation of the proposed Conservation Area may generate publicity for the Council. As the consultation responses demonstrate, there may be some concerns regarding the implications for property owners and possible financial implications, but the limited number of responses including positive comments indicate that the initiative will be well-received and demonstrates the Council's proactive approach to heritage protection and enhancement of the historic environment.

## **10. Financial implications**

- 10.1 Despite the relevant concerns that were expressed during the public consultation, the designation of the proposed Conservation Area will not have significant financial implications for the Council. If the designation is approved with Article 4 Directions, the costs involved will be limited to the notification in writing to the property owners and advertisement of the designation and article 4 direction.

**11. Community Safety Implications**

- 11.1 The designation of the proposed Conservation Area does not involve any community safety implications for the Council.

**12. Health and Safety Implications**

- 12.1 No Health and Safety implications are associated to the designation of the proposed Conservation Area.

**13. Risk Management Implications**

- 13.1 No Risk Management implications are associated to the designation of the proposed Conservation Area.

**Appendices**

Appendix I: Public Consultation Response Form

Appendix II: Public Consultation Notification Letter to property owners

## Appendix I



### PUBLIC CONSULTATION RESPONSE FORM

#### **Proposed Conservation Area for the area between Maldon Road and Butt Road ('Mill Field Estate')**

Monday 16<sup>th</sup> April 2018 – Sunday 27<sup>th</sup> May 2018

Your name: [please add detail]

Your address with post code: [please add detail]

Q1: Do you support the principle of designating the area as a conservation area?

☐

YES

☐

N

Please explain why if you wish..

Q2: Do you support the principle of restricting permitted development rights?

☐

YES

☐

N

Please explain why if you wish..



Q3: Do you wish to suggest making alterations to the proposed boundary?

☐

YES

☐

N

If YES please describe the alteration/s you wish to suggest and the reason/s

Q4: If you wish to make specific comment/s on any part of the Appraisal and Management Proposals document please do so below. These will be considered fully and may influence alteration to and modification of the final document in the event that formal Conservation Area status [Designation] is agreed by the Council's Local Plan Committee

[please add detail]

## Appendix 2

### Colchester Borough Council

PO Box 889, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG

### Policy & Corporate CONSERVATION

Contact: Simon Cairns

Phone: 01206 508650

Fax: (01206) 282598

E-mail: [planning.policy@colchester.gov.uk](mailto:planning.policy@colchester.gov.uk)

Your ref:

Our ref: **180812**

Date: 30 April 2018

*Dear Sir or Madam*

### **Proposed Conservation Area for the area between Maldon Road and Butt Road (to be known as 'Mill Field Estate' Conservation Area) & Article 4 Direction**

Town and Country Planning Act 1990, as amended; Town & Country Planning (General Permitted Development) (England) Order 2015, as amended, [Article 4]; Planning (Listed Buildings and Conservation Areas) Act 1990 [S69, 70 & 71], as amended & National Planning Policy Framework [paragraph 127].

---

**PUBLIC CONSULTATION: Monday 30 April 2018 (09.00hrs) – Sun. 10 June 2018 (23.59hrs)**

---

At its meeting of 19 March 2018, the Local Plan Committee of Colchester Borough Council resolved to approve, for the purposes of public consultation, the area identified on **page 5** of this letter for consideration as a new conservation area to be known as Colchester Conservation Area No.4. The plan and the proposed conservation area is supported by a Conservation Area Appraisal and Management proposal documents:

- The 'Mill Field Estate' Appraisal and Management Proposals document

This can be viewed on the Council's Planning Consultation website.

**<https://beta.colchester.gov.uk/info/cbc-article/?catid=local-plan-consultations&id=KA-01751>**

As part of the public consultation exercise, I am writing to you to seek your views on the proposal to designate the area indicated on the accompanying plan as a Conservation Area. Conservation Areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Local planning authorities have a statutory duty to consider whether parts of their area should be designated as Conservation Areas.

In this case, the quality of the largely Victorian architecture and the uniformity of appearance road by road is considered to be special. The area is a wonderful example of the higher quality suburban expansion of Colchester beyond its origins within the town wall. The area is highly visible sitting as it does between two principal arteries into and out of Colchester Town Centre.

Within the area is currently only one listed buildings but such is the quality of other buildings that the majority within the proposed boundary are considered to have special townscape merit. They form a fine group.

The proposed conservation area in places adjoins the existing conservation area known as Colchester Conservation Area no 2: Lexden Road and the Garrison Conservation Area.

Designation of a conservation area is a recognition of special character but with that will come certain new planning restrictions and responsibilities for home owners. These are described in summary form below:

**Your house and permitted development:**

Permitted development (PD) rights\* [\*your ability to undertake certain works to your house without the need for planning permission] are slightly different in conservation areas compared to other areas. This means that you need to make a planning applications for some forms of development which would not need such applications outside conservation areas. For example:

- Detailed residential changes like two-storey extensions, dormer windows, and stone cladding
- Extensions to retail premises (smaller floorspace increases; appearance should match the existing; limitations to click and collect facilities)
- Industrial and warehouse buildings (smaller floorspace increases)
- Limitations on change of use such as retail or agricultural to dwellinghouse

**Demolition:**

If you want to demolish your building you will need planning permission. If the building is also listed you will also need listed building consent.

**Trees:**

If you want to cut down, top or lop any but the smallest of trees in a conservation area you must notify your local planning authority six weeks before work begins. The authority will then consider the contribution the tree makes to the character of the area and if necessary create a Tree Preservation Order (TPO) to protect it.

**Article 4 Direction:**

It is the Council's intention to apply an 'Article 4 Direction' to preclude any works of extension or alteration to the exterior of a dwelling within the area defined as the new conservation area without first having secured planning permission even where such works would previously have constituted 'permitted development'. Whilst this may at first seem somewhat onerous it does the mean the Council is better able to control changes in the conservation area that would otherwise have not needed planning permission and that might unintentionally harm its special character.

The website described above provides an explanation of conservation area principles and the Full Draft Conservation Area Character Appraisal and Management proposals Document upon which the proposed conservation area is based.

I welcome any views you might have on this proposal and in particular any comments you may have on the proposed boundary of the Conservation Area. Your comments will be reported back to a future meeting of Local Plan Committee. It will then consider designating the proposed Conservation Area either in its proposed configuration or as amended following the views put forward during this public consultation period.

All properties within and adjoining the proposed Conservation Area are being consulted along with local Council members and relevant external agencies. Your views and comments can be made on-line at:

**<https://beta.colchester.gov.uk/info/cbc-article/?catid=local-plan-consultations&id=KA-01751>**

or in writing to

Colchester Borough  
Council Policy &  
Corporate Services  
Conservation Area Consultation  
[MRBR] Rowan House  
33 Sheepen Road  
Colchester  
CO3 3WG

If you are not the property owner, would you please pass this letter and accompanying information on to the appropriate person. Thank you for your assistance and I look forward to receiving your views on this proposal. If you wish to discuss any of the above please contact me at [vincent.pearce@colchester.gov.uk](mailto:vincent.pearce@colchester.gov.uk) or 01206 282452. Please note that I work on Wednesdays, Thursdays and Fridays.

Yours faithfully

*Simon Cairns*

Simon Cairns, MRTPI, IHBC  
**Planning Manager**