

MAYOR AND CABINET			
Report Title	Lewisham Park Conservation Area, Appraisal, and Article 4 direction (SPD)		
Key Decision	YES		Item No.
Wards	Lewisham Central		
Contributors	Head of Planning and Head of law		
Class	Part 1	Date: 26 June 2019	

1. Purpose

- 1.1 To report the response to the public consultation and recommend the designation of the Lewisham Park Conservation area, the adoption of a new Conservation area Appraisal as a supplementary planning document, and to recommend the making of a non-immediate Article 4 Direction to all single family dwellings identified within the proposed area in light of the appraisal

2 Summary

- 2.1 This report presents the results of the public consultation for the proposal to designate the Lewisham Park Conservation Area, adoption of the Conservation Area Appraisal and seeking to make an Article 4 Direction. It reports the response to the survey which was overwhelmingly positive, with a significant majority supporting the designation of the conservation area, and the proposed making of an Article 4 Direction. It includes summaries of consultation responses and notes where these have led to amendments to the Appraisal, and how we have responded to issues raised. It concludes with a recommendation to approve the designation of the conservation area, to adopt the appraisal, and to make a non-immediate Article 4 Direction.

3. Recommendation

- 3.1 The Mayor and Cabinet is asked to:
- Note the responses to the consultation
 - Designate the Lewisham Park Conservation Area
 - Adopt the Conservation Area Appraisal (Appendix 1), and;
 - Approve the making of a non-immediate Article 4 Direction to the single family dwellings within the proposed Conservation Area (Appendix 2)

4. Background

- 4.1 The proposal to go out to consultation for the designation of the proposed conservation area, adoption of the conservation area appraisal, and the seeking to make a non-immediate Article 4 Direction to remove permitted development rights to the single family dwellings within the proposed conservation area boundary, was approved by Mayor and Cabinet on 21 November 2018. The area's special interest, its history, and a summary of its character is set out in the previous Mayor and Cabinet report and is included here in Appendix 3.Legal Context

5. Legal Context

- 5.1 Section 69 of the Planning (Listed Building and Conservation Areas) Act 1990 states that the local planning authority 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 shall designate those areas as conservation areas.
- 5.2 Under Section 71 of the Planning (Listed Building and Conservation Areas) Act 1990 the local planning authority has a duty from time to time to formulate and publish proposals for the preservation and enhancement of conservation areas.

6. Policy Context

- 6.3 The Appraisal, if adopted, will be a supplementary planning document. The role of SPDs is to provide further details on the policies and proposals contained in Lewisham's development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design and conservation. Supplementary planning documents are a material consideration in planning decisions but are not part of the development plan.
- 6.4 The National Planning Policy Guidance on Plan-making states that SPDs 'should not add unnecessarily to the financial burdens on development'. Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for producing Supplementary Planning Documents.
- 6.5 The SPD would play a role in delivering the Council's Corporate Strategy 2018-22 at all stages of its development. Through early engagement with local residents in producing the draft, public consultation, and by using the SPD to help the Council apply its policies appropriately and secure high quality development the proposal would help deliver the following Priorities:
- Open Lewisham - Lewisham is a welcoming place of safety for all, where we celebrate the diversity that strengthens us.
 - Tackling the housing crisis - Everyone has a decent home that is secure and affordable.

- Building an inclusive local economy - Everyone can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
- Making Lewisham greener - Everyone enjoys our green spaces, and benefits from a healthy environment as we work to protect and improve our local environment.
- Building safer communities - Every resident feels safe and secure living here as we work together towards a borough free from the fear of crime.

6.6 Lewisham's Core Strategy Policy 16, states that '*the Council will continue to review its conservation areas, designating new ones and preparing associated management plans and policies to conserve their character*'.

It continues 'the Council will ensure that the value and significance of the borough's heritage assets, such as conservation areas, will continue to be monitored, reviewed, enhanced and conserved according to the requirements of government planning policy guidance, the London Plan policies, local policy and English Heritage best practice'.

'The Council will work with its partners, including local communities, to ensure that the borough's heritage assets and those yet to be identified will be valued positively and considered as central to the regeneration of the borough.....'

- 6.7 The National Planning Policy Framework (NPPF) identifies the protection of the historic environment as one of the key elements of its drive for sustainable development. It also asks local authorities under paragraph 186 when considering the designation of conservation areas, to '*ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest*'.
- 6.8 Paragraph 185 of the NPPF requires Local planning authorities to set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
 - the desirability of new development making a positive contribution to local character and distinctiveness; and
 - Opportunities to draw on the contribution made by the historic environment to the character of a place.
- 6.9 Paragraph 187 of the NPPF requires Local planning authorities to have up to date evidence about the historic environment in their area and use it to assess

the significance of heritage assets and the contribution they make to their environment. They should also use it to predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.

- 6.10 Policy 7.4 Local Character, London Plan (July 2011) requires Boroughs to consider the different characters of their areas to identify landscapes, buildings and places, including on the Blue Ribbon Network, where that character should be sustained, protected and enhanced through managed change.
- 6.11 Policy HC1A of the draft London Plan (2018) states that boroughs should, in consultation with Historic England and other relevant statutory organisations, develop evidence that demonstrates a clear understanding of London's historic environment. This evidence should be used for identifying, understanding, conserving, and enhancing the historic environment and heritage assets, and improving access to the heritage assets, landscapes and archaeology within their area.
- 6.12 Policy 7.8: Heritage Assets and Archaeology of the London Plan (July 2011) states that London's heritage assets and historic environment, including conservation areas and archaeological remains, should be identified, so that the desirability of sustaining and enhancing their significance and of utilising their positive role in place shaping can be taken into account.
- 6.13 Policy HC1, paragraph 7.1.3 of the draft London Plan (2018) states that 'Ensuring the identification and sensitive management of London's heritage assets in tandem with promotion of the highest standards of architecture will be essential to maintaining the blend of old and new that contributes to the capital's unique character'.
- 6.14 With regard to **Article 4 Directions**, paragraph 53 of the NPPF states;

'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 well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)'.
- 6.15 Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order"), grants planning permission for the classes of development described as Permitted Development in Schedule 2 of that Order. Article 4 of the Order states that if the Secretary of State or the local planning authority is satisfied that it is expedient that development (described in any Part, Class or paragraph in Schedule 2, other than Class K, KA or M of Part 17) should not be carried out unless permission is granted for it on an application, the Secretary of State or local planning authority may bring development into its control by making a direction under this paragraph that the permission granted by article 3 does not apply to—
 - (a)all or any development of the Part, Class or paragraph in question in a specified area; or

(b)any particular development, falling within that Part, Class or paragraph, which is specified in the direction,

and the direction must specify that it is made under this paragraph.

- 6.16 The procedure to be followed in making an Article 4 direction is set out in Schedule 3 of the Order.

7. **The Lewisham Park Conservation Area Appraisal SPD**

- 7.1 The appraisal follows best practice as set out in Historic England's '*Understanding Place: Conservation Area Designation, Appraisal and Management*', (February 2016, updated Feb 2019).
- 7.2 The aims of the conservation area appraisal aims to be used:
- As a tool to demonstrate the area's special interest, and not as a tool to prevent development
 - As an explanation to owners, businesses and inhabitants of the reasons for designation
 - As educational and informative documents created with the local community, expressing what the community particularly values about the place they live and work in
 - Greater understanding and articulation of its character which can be used to develop a robust policy framework for planning decisions
 - Informing those considering investment in the area in guiding the scale, form and content of new development
 - When adopted, it will be material to the determination of planning appeals and to Secretary of State decisions, including those where urgent works are proposed to preserve an unlisted building in a conservation area
 - Assistance in developing a management plan for the conservation area by providing the analysis of what is positive and negative, and in opportunities for beneficial change and enhancement or the need for additional protection and restraint (including the use of Article 4 directions)
- 7.3 The Appraisal includes a description of elements recommended in Historic England's guidance on character appraisals which includes the following:
- History of the Area
 - Spatial Character of the Area
 - Architectural Character of the Area
 - Views and landmarks
 - Open Spaces, gardens and trees
 - Locally important buildings, and positive contributors
 - Assessment of condition
 - Management Plan;
 - Proposal for Article 4 direction

- Public Realm and Traffic
 - Tree and Open Space
 - Guidance on alterations to buildings within the CA
- 7.4 The Appraisal also includes Management Guidelines, including design guidance which will be relevant to:
- Householders.
 - Design professionals, in drawing up proposals.
 - Development management officers, as a material consideration in assessing the suitability of applications.
 - Statutory and non-statutory consultees and the public in commenting on planning applications.
 - The Council, in determining planning applications and in upholding decisions at planning appeals.
 - The Planning Inspectorate, in considering appeals.

8.0 The need for an Article 4 Direction

- 8.1 The 21 Nov report (Appendix 3) sets out at para 6.10 - 6.12 the results of survey work on the condition of buildings and spaces within the area, undertaken by officers to assess the condition of the proposed conservation area and which led to the conclusion that the use of additional planning controls via an Article 4 Direction were justified.
- 8.2 The permitted development rights proposed to be removed are:

Schedule 2 Part 1 of the Order - Development within the curtilage of a dwellinghouse

- Class A – The enlargement, improvement, or other alteration of a dwellinghouse.
- Class C – Any other alteration to the roof of a dwellinghouse
- Class D – The erection or construction of a porch outside any external door of a dwellinghouse
- Class E – The provision within the curtilage of a dwellinghouse of
- (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such or the maintenance improvement or other alteration of such a building or enclosure; or
 - (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas
- Class F – Development consisting of:-
- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwelling house as such or
 - (b) the replacement in whole or in part of such a surface
- Class G – The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse
- Class H – The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse

Schedule 2 Part 2 of the Order - Minor Operations

Class C - The painting of the exterior of any building or work.

Schedule 2 Part 11 of the Order - Heritage and Demolition

Class C – Any building operation consisting of the demolition of the whole or any part of any gate, fence , wall or other means of enclosure

- 8.3 Cumulatively, these changes can significantly harm, and alter the character and appearance of the conservation area. The purpose of this Article 4 Direction is to restrict the changes owners can make to the outside of their property without first obtaining planning permission in order to help protect the special character, and setting of conservation areas. The fee for minor householder applications such as those required by the Article 4 Direction is £206.00.
- 8.4 Section 107 as applied by Section 108 of the Town and Country Planning Act 1990 provides for property owners to claim compensation where, amongst other circumstances, permitted development rights have been withdrawn and planning permission for the development formerly permitted by those PD rights is refused or is granted subject to conditions other than those they would have applied to that PD right. The compensation payable comes within two heads, abortive expenditure and any other loss or damage directly attributable to the loss of PD rights, which can include any depreciation in the value of the land.
- 8.5 S108(2A) of the Act provides that compensation is only payable if an application for planning permission for certain types of prescribed development formerly permitted by the Order is made within 12 months of the Article 4 direction taking effect. No compensation for the withdrawal of certain permitted development rights is payable if the council gives notice of the withdrawal between 12 months and 24 months in advance. Regulation 2 of the Town and Country Planning (Compensation) (England) Regulations 2015 prescribes those permitted development rights where no compensation would be payable if such notice is given.
- 8.6 This covers most of the PD rights that the current Article 4 Direction proposes to remove, except for in Class C of Part 2 of Schedule 2 (the demolition of a boundary wall/fence) and Class C of Part 11 of Schedule 2 (the painting of the exterior of a house). A claim for compensation in these cases, as set out in S107, would need to be made in writing and served on the LPA within 12 months from the date of the decision in respect of which the claim is made.
- 8.7 It is proposed that an Article 4 direction without immediate effect is made under Schedule 3, which will be brought back to Mayor and Cabinet for consideration of confirmation if officers conclude, after taking into account the representations borne out of the making of the Article 4, that it is appropriate to recommend confirmation of the same to Mayor and Cabinet.

9. Consultation Process

- 9.1 Following the Mayor and Cabinet's authorisation in November 2018, the public consultation was carried out in accordance with the Council's adopted Statement of Community Involvement (SCI), and took place during the period from 21 January 2019 to 1 March 2019 (6 weeks).
- 9.2 This process of consultation does not constitute statutory consultation for the purposes of the Article 4. Any Article 4 direction made will also have to follow the statutory consultation procedures for Article 4(1) Directions without immediate effect set out within Schedule 3, section 1 of the Order.
- 9.3 As part of the consultation process pursuant to the SCI, a consultation letter including a questionnaire was distributed to all residents and stakeholders within the proposed conservation area by post. The leaflet, questionnaire, draft Article 4 Direction, and character appraisal were also made available for consultation on the Council's website through an online consultation platform, as well as physical copies at the Lewisham Planning Information Desk at Laurence House, Catford, and the Lewisham Reference Library on Lewisham High Street. The letter and online consultation was sent to local amenity groups and bodies; the St Mary's Conservation Area Society and the Ladywell Society, local groups whose geographic areas of interest lie close to the proposed Conservation Area, and the Lewisham History Society. It was also sent to Historic England, The Victorian Society, The Twentieth Century Society and TfL.
- 9.4 Recognising that the Lewisham Park Conservation Area Appraisal SPD will be capable of being a material consideration in the determination of future planning applications, the Council was required to consider whether the SPD has the potential to result in significant environmental effects, particularly where such effects may not have already been assessed during the preparation of the council's statutory Development Plan. In line with the Strategic Environmental Assessment Directive (Directive 2001/42/EC), a draft screening report was prepared which summarised the likely environmental effects. Three statutory bodies were consulted on this report: The Environment Agency, Historic England and Natural England.
- 9.5 The consultation letter and online consultation platform outlined the proposals for the adoption of the conservation area and Article 4 Direction. A map of the proposed boundaries, and a short summary of why the area was considered to be of significant special interest to the borough, as well as information on how it could affect residents and stakeholders.
- 9.6 Stakeholders were asked five 'Yes or No' questions, with the opportunity to provide further comment. The questions were as follows:
- Do you live within the proposed conservation area boundaries?
 - Do you agree with the Council's proposals to designate the area as a Conservation area?

- Do you agree with the Council's proposal to make an Article 4 Direction to the properties within the proposed boundaries for the Conservation Area?
 - Do you agree with the proposed boundaries for the Conservation Area?
 - Do you think the Conservation Area appraisal accurately describes the area?
- 9.7 Stakeholders were also asked three further questions to give them the opportunity to provide more detailed comments:
- What do you value the area for?
 - Is there anything else that you feel the Council should consider?
 - Do you have any other comments?
- 9.8 A local drop-in session was held on Thursday 7 February from 6:00 to 8:45pm at St Mary's Lewisham C of E Primary School, where Council officers were present to answer questions and to provide further information. Officers present included the Strategic Planning Manager, the Planning South Team Manager, the Tree Officer, and two Conservation Officers. Approximately 22 people attended.

10 Responses to the consultation

- 10.1 There are 325 address points within the proposed area (204 of these being within the three tower blocks Bredgar, Malling and Kemsley). The Council received 35 responses. 26 were made via the online platform, and 8 paper forms were completed at the drop in event or posted.

Table 1 below gives an overview of the responses to the survey questions:

Table 1

Question	Answer		
Q1. Do you live within the proposed conservation area boundaries?	Yes	19	54%
	No	7	20%
	Not Answered	9	26%
Q2. Do you agree with the Council's proposals to designate the area a conservation area?	Overall		
	Yes	34	97%
	No	0	0
	Don't know	1	3%
	Not Answered	0	0
Q3. Do you agree with the proposed boundaries?	Yes	32	91%
	No	2	6%
	Don't know	1	3%
	Not Answered	0	0
Q4. Do you think the Conservation Area Appraisal accurately describes the CA?	Yes	32	91%
	No	1	3%
	Don't know	0	0
	Not Answered	2	6%
Q5. Do you agree with the Council's proposal to make an Article 4 Direction to the properties within the proposed boundaries for the Conservation Area?	Yes	31	88%
	No	1	3%
	Don't know	2	6%
	Not answered	1	3%

19 (54%) of respondents stated that they lived in the area, 7 (20%) did not live in the proposed area. 9 (26%) of the respondents did not answer the question as this question was not included on the paper forms filled in at the event.

The main issues raised in this consultation are set out in the tables below and include a response as to how these have been addressed, including actions for amendments to the Appraisal where appropriate.

10.2 **Principle of Designation – Question 2**

Historic England support the designation of the conservation area, and considered that it meets the requirements set out in the NPPF for Council's to continue to develop positive strategies for the historic environment.

The responses to this question were overwhelmingly in support of the designation of the conservation area with 97% of survey respondents stating that they were in favour. In terms of the 19 (54%) of respondents who stated that they lived in the area 18 supported the designation of the conservation area, none did not support the principle of designation, and 1 answered 'Don't know' to the survey.

Summary of comments on the principle of designation and Officers' response Question 2	
Historic England Historic England considers the proposed conservation area designation to be clearly justified and appropriately defined. The cohesive nature of the large, well detailed, Victorian and Edwardian houses set in well-planted, leafy streets and arranged around the landscaped park, is both attractive and of local historic significance. The development of the Park itself from open fields to a planned "rus in urbe" idyll, to a more conventional grand middle class development and then to an important publically accessible local amenity is in itself of considerable local significance and historic interest. We also note that the three point blocks are identified as local landmarks/buildings of townscape merit but not considered to make a strong positive architectural contribution to the conservation area. In our view it would be helpful to provide a photograph of these given that they do have a significant visual impact, and while not of exceptional architectural merit the relationship of their construction concurrently with the municipal acquisition of the park do serve to illustrate an important phase in the role of Post-War local government. A story underlined, and given further significance, by the physical relationship to the war memorial.	Noted. Change made - a photograph of Bredgar, Malling and Kemsley towers has been added to the Appraisal and their historic value has been expanded upon.
Residents <ul style="list-style-type: none">• Conservation veluxes and windows at the front of houses• Do not regard the tower blocks as positively stated. Regard many of the restrictions that exist to, for example to replacement windows, to contradict efforts to save	Unclear whether this is an objection or in support. Noted. Proposals do not prevent the upgrading of timber windows

<p>energy and thereby reduce carbon emissions. Feel that council money would be better spent enforcing existing policies. In favour of preserving the park as available local amenity and essential green space.</p> <ul style="list-style-type: none"> The proposal to designate Lewisham Park as a CA was a factor in resisting the development (for the construction of 4 three storey houses) on land at the rear garden of 45 Lewisham Park. The formal adoption of the area as a CA is therefore essential in resisting any future development proposals and for retaining the use of these spaces as garden land and therefore protecting the ""verdant sense of space resulting from the gardens of Lewisham Park"" (paragraph 35 of the Inspector's Appeal Decision). There is clearly a risk that the developers (who purchased the land without planning permission) will come back with further development proposals and the CA designation will clearly be helpful in continuing to resist inappropriate development in the area. On the other hand if the designation fails to go ahead this could have the effect of strengthening the developers position. 	<p>to improve thermal efficiency. <i>No change.</i></p> <p>Noted</p>
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10.3 Proposed Boundaries – Question 3

A significant majority (91%) of respondents agreed with the proposed boundaries. In terms of the 19 (54%) of respondents who stated that they lived in the area 17 agreed with the proposed boundaries for the proposed conservation area, and 1 stated that they did not know.

Summary of comments regarding the boundaries and Officers' response – Question 3	
Historic England <ul style="list-style-type: none"> Considers the proposed conservation area designation to be clearly justified and appropriately defined. 	<p>Noted.</p>
Residents <ul style="list-style-type: none"> Could the historic buildings on the west side of Lewisham High Street facing the war memorial gardens not be included in this very welcome designation too? The Grade II listed former public library, the early post-war registry office, the 1895 hospital frontage building (undesignated) and the late Georgian former workhouse (Waterloo block - also surprisingly unlisted) all have a very strong relationship with the war memorial gardens and all merit inclusion in the proposed conservation area. And the Grade II listed No.78 Lewisham Park does too, as the sole surviving mid 19th Century villa on this side of the park. 	<p>Officers consider that these buildings belong to a phase of development better connected to the adjacent St Mary's Conservation Area which comprises the former centre of the Parish and contains a number of Victorian Civic Buildings. These buildings therefore will be considered for inclusion to St Mary's CA at the next review of that CA. <i>No change.</i></p> <p>The CA Appraisal notes that no. 78 is already within St Mary's CA but would be better included within Lewisham Park for the reasons stated by the respondent, and so</p>

	<p>at the next review of St Mary's CA this change will be recommended. <i>No change</i></p> <p>Noted</p> <ul style="list-style-type: none"> I do not think that the memorial gardens offer as much decorative, environmental, or social benefit as they might but would like to protect them, and the park from future development. The tower blocks provide valuable housing but I do not see them as architecturally important.
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10.4 Accuracy of the Conservation Area Appraisal – Question 4

A significant majority of respondents (91%) agreed that the appraisal accurately describes the proposed conservation area. In terms of the 19 (54%) of respondents who stated that they lived in the area 16 agreed that the appraisal accurately described the area, 1 did not agree and 2 did not answer.

Summary of comments raised regarding the accuracy of the Conservation Area Appraisal and Officers' response – Question 4	
Residents	<p>Noted - the Appraisal notes that the blocks are of some architectural value. Their historic value as part of the post war redevelopment of the area is also noted. They have not however been identified as positive contributors to the CA as they are not core to the special interest of the CA. <i>No change</i></p> <ul style="list-style-type: none"> I do not want the ugly blocks protected

10.5 Adoption of an Article 4 Direction – Question 5

A significant majority of survey respondents (88%) state that they support the adoption of an Article 4 Direction. Of the 19 (54%) of respondents who stated that they lived in the area, 16 agreed with the proposal, 2 did not know and 1 did not answer.

Summary of comments in support of the proposal to make an Article 4 Direction– Question 5	
Historic England The introduction of Article 4 Directions to secure and safeguard the character and appearance of the conservation area is in line with best practice and as such we would consider such measures proportionate and appropriate.	Noted.
Residents <ul style="list-style-type: none"> • I agree in principle but I would want more detail of what restrictions there would be in order to answer yes. • Conservation status would offer benefits but can restrict reasonable home improvements unnecessarily. Some residents think that it will restrict development, some of which we consider undesirable, but I see that this is specifically not ruled out, so I don't see the point. • Article 4 Designation for the entire CA is important, as in CAs where designation does not cover the whole CA, some ""inappropriate"" alterations have been made • I agree with the Council's view that their survey revealed some examples of harmful impact to the area's cohesive character as a result of residents exercising their permitted development rights. In addition, I note from the council's planning website that further proposals to exercise these rights have been agreed but not yet built. The Conservation area will help to ensure that any future developments take into account the unique character of the area and therefore I feel that an article 4 direction is an essential part of this process. 	<p>Noted. The details were available during the consultation and statutory consultation will provide another opportunity to consider the proposals prior to the Article 4 being confirmed.</p> <p>Lack of clarity is noted – we will review the way that the information is provided during the statutory consultation for the Article 4.</p> <p>Noted</p> <p>Noted</p>

10.6 The value that people place in the area – Question 6

Historic England asks local planning authorities to consider the values the community and other stakeholders attribute to the area when defining its special interest. A great many comments were provided by residents and other respondents, often explaining in great detail why they consider the area special to them.

Many respondents cherish the Lewisham Park area for the qualities that have been highlighted in the Appraisal. The most common qualities highlighted by residents were

- The architectural heritage, its sense of history and state of preservation,
- The green space provided by the Park
- The trees
- significant biodiversity and birdlife,

- the peace and tranquillity of the area, and
- the sense of a good community: mixed and neighbourly.

The comments are included in full at Appendix 4 to this report

10.7 Issues raised under Question 7 (any other points the Council should consider) and Question 8 (other comments)

Respondents provided similarly detailed comments on aspects of the area that are problematic or need more attention. These grouped broadly into 4 areas: Highways and traffic; The Park, Litter and Housing.

Summary of other points raised that asked for the Council to consider – Question 6	
Traffic Road surface in need of maintenance Problems with rat running Various proposals for blocking the road to through traffic Removal of parking	This information will be conveyed to the Highways Team within the Council.
Park Maintenance needed to gates and fences Improvements to the play area Introduce Cricket practise nets More trees and wildlife friendly planting Provision made for a Park Keeper to improve security	This information will be conveyed to Councils Green scene service.
Local Streetscape Fly tipping Fox proof bins Street sweeping	This information will be conveyed to the Councils Street scene team.
Housing One specific comment about poor quality of work undertaken to L&Q-managed Council-owned properties.	This response is not relevant to the 3 matters at issue in this consultation

10.8 Other comments:

Other comments	
<ul style="list-style-type: none"> • The park should be designated as an asset of community value. 	A nomination would need to be made by a local community group of more than 21 members. This falls outside the scope of this consultation.
<ul style="list-style-type: none"> • In the future, perhaps consideration could be given to extending the St. Mary's CA along the west side of Lewisham High Street to include the Register Office and the original workhouse and hospital buildings. They represent the heritage of Lewisham, and would link in with the former library (Grade II listed) and the Victorian 	Noted – this will be considered at the next review of St Mary's CA

buildings of the former fire station, coroners' court and former Ladywell Baths (aka Playtower).	
<ul style="list-style-type: none"> • There are other areas, which although aesthetically less pleasing, are being 'vandalised' by DIY and other renovations - the 1930's houses in the Elsiemaud Road/Chudleigh Road. There are also some nice examples of the 1930s semis in Ewhurst Road. 	Noted – these streets are outside CAs and alterations are probably being undertaken under pd rights. The newly adopted SPD on residential Alterations and Extensions will assist in raising the quality of proposals which do need planning permission.
<ul style="list-style-type: none"> • There is no representation from Lewisham Park on the Lewisham Green Spaces Forum 	This is a forum for members of 'Friends of' groups. Officers have advised the Lewisham Park Residents' Association of the existence of this group and their details have been added to the Useful Contacts section of the Appraisal. Change made.

11 Programme for Adoption of the SPD

- 11.1 If approved to be adopted, the character appraisal would be published as a number of hard copies as well as on the Council's website. The SPD would become part of the Local Development Plan portfolio.
- 11.2 If adopted, the adoption would be advertised in the London Gazette and a local paper. All addresses within the CA would be advised in writing of the new designation and would be added to the Local Land Charges Register.

12 Financial Implications

- 12.1 There are no direct financial implications arising from the designation of a conservation area. The survey and drafting of the Appraisal was carried out in house and the costs of printing, publishing and consulting on the draft appraisal will be met from the existing Planning budget.
- 12.2 There are no direct financial implications arising from the making of a non-immediate Article 4 Direction in respect of the withdrawal of the majority of permitted development rights set out in the draft direction, providing that the procedures set out in paragraphs 7.6-7.7 are followed. Section 108 of the Town and Country Planning Act 1990 includes a provision that compensation can be sought where (i) the LPA makes an Article 4 Direction, (ii) an application is made for planning permission to carry out development that would formerly have been permitted by the GPDO and (iii) the LPA refuses that application or grants permission subject to conditions differing from those in the GPDO.
- 12.3 However, where 12 months' notice is given in advance of a direction taking effect (non-immediate Article 4 Direction) there will be no liability to pay

compensation (provided that the development authorised by the new changes had not started before the notice was published).

- 12.4 In respect of those permitted development rights falling within Class A and D of Part 2 of Schedule 2 and Class C of Part 11 of Schedule 2 of the Town and Country Planning Act (i.e. the alteration or demolition of a boundary wall/fence and for the painting of the exterior of a house) a claim for compensation could still be made if an application for planning permission is made to carry out development that would have previously been permitted under those classes and that permission is either refused or granted subject to conditions other than those imposed by the order that granted the permitted development right. Such a claim would need to be made within 12 months of such a decision being made and would remain payable in respect of 11.5 Compensation may only be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. It is not possible to estimate the amount of compensation that the Council may need to pay but given the nature of the rights in question, namely the alteration or demolition of a boundary wall/fence and the painting of the exterior of a house, it is likely that the amount claimable would be restricted to the cost of the planning application fee.

13 Legal Implications

- 13.1 Section 69 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires the Council from time to time to determine which parts of the borough are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. They should designate those areas as conservation areas and review this designation periodically. Section 71 of the same Act places a duty on local planning authorities to from time to time formulate and publish proposals for the preservation and enhancement of their conservation areas; to hold a public meeting to canvas views; and to take into consideration the views expressed at that time.
- 13.2 The report at paragraph 3 identifies that Town and Country Planning (Local Planning) (England) Regulations 2012 sets out the main steps in the procedure for the production and adoption of supplementary planning documents and that the procedure for making an Article 4 Direction is set out in Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 13.3 Section 9D of the Local Government Act 2000 states that any function of the local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 does not specify that the certain functions proposed here are by law the responsibility of the Council, and therefore they are an executive function.

- 13.4 The position with regards to potential compensation payable as a result of the making of the Article 4 Direction is as set out in the main body of this report.
- 13.5 The Equality Act 2010 (the Act) brings together all previous equality legislation in England, Scotland and Wales. The Act includes a public sector equality duty which covers the following nine protected characteristics: age; disability; gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation
- 13.6 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimization and other conduct prohibited by the Act;
 - Advance equality of opportunity between people who share a protected characteristic and those who do not;
 - Foster good relations between people who share a protected characteristic and those who do not.
- 13.7 It should be noted that it is not an absolute requirement to eliminate unlawful discrimination, harassment, victimization or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not; rather it is a duty to have due regard to the need to achieve these goals.
- 13.8 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in each circumstance.
- 13.9 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

13.10 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty: A guide for public authorities
4. Objectives and the equality duty. A guide for public authorities

13.11 Equality Information and the Equality Duty: A Guide for public authorities

The guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

14. Crime and Disorder Implications

14.1 There are no direct implications relating to crime and disorder issues.

15. Equalities Implications

15.1 The Council's Comprehensive Equality Scheme for 2016-20 provides an overarching framework and focus for the Council's work on equalities and helps ensure compliance with the Equality Act 2010. It describes the Council's commitment to equality and fairness for citizens, service users and employees through its powers to influence access to good quality housing, education, safety & security, health and leisure services.

15.2 When considered against the five objectives of this strategy the proposed Conservation Area Designation, Appraisal and the making of an Article 4 do not have any direct implications on tackling victimisation, discrimination and harassment or on closing the gap in outcomes for all residents. However, through providing Supplementary Planning Guidance it will provide equality of access to guidance that, if used, will increase the likelihood of successful planning applications. The proposal to designate the area as a conservation area was requested by local residents, who also drafted the initial version of the Appraisal. The process of revising this draft and

consulting on the process provided opportunities for conversations amongst residents, particularly at the public drop in event, and may have furthered mutual understanding within this community. This process also was clearly driven by citizen participation and increased engagement.

- 15.3 The consultation process was in line with the Council's Statement of Community Involvement.

16. Environmental Implications

- 16.1 We have considered the need to prepare a Habitats Regulation Assessment (HRA). An earlier HRA report that considered the policies in the 2011 Core Strategy concluded that no options have been found to have a likely significant effect on any designated European sites. As this SPD gives effect to the policy in the Core Strategy and does not introduce new policy, there is no need to prepare another HRA in this instance.
- 16.2 A draft screening report was prepared to identify if a Strategic Environmental Assessment (SEA) would be required, and statutory consultation was undertaken between 21 January and 1 March, concurrently with the statutory consultation for the Conservation Area, Appraisal and Article 4. The responses from the three statutory consultees (Historic England, Natural England, The Environment Agency) are set out in the final screening report, attached as Appendix 5. Historic England advised that the proposals do not raise sufficient heritage or environmental issues to require a full SEA. Natural England responded stating that they had no comments to make. The Environment Agency stated that they were in agreement with the Council's determination that the proposals were unlikely to have any significant environmental effects and therefore a full Strategic Environmental Assessment will not be required.
- 16.3 Based on our assessment and the comments national statutory bodies, we will not undertake a full SEA.

17. Conclusion

- 17.1 The Appraisal of the proposed Lewisham Park Conservation Area shows that the area has special architectural and historic interest, the character and appearance of which it is desirable to preserve or enhance, and it therefore warrants designation as a conservation area. Historic England, who represent the Secretary of State agree with Officers appraisal and recommendations, including with the proposal to use Article 4 Direction powers.
- 17.2 Public consultation on the proposed designation, adoption of the appraisal, and the seeking to make an Article 4 Direction has shown overwhelmingly positive public support for the proposed designations, with many residents and respondents taking the opportunity to give their reasons for support in great detail. The appraisal has been amended in two instances in light of representations made, and other comments have been passed on to relevant Council teams.

- 17.3 As discussed within the report, a survey of alterations was carried out. It considered that while the area was in a relatively good state of preservation the survey did reveal that due to existing permitted development rights afforded to residents that there is a degree of harmful impact to the areas special interest and cohesive character.
- 17.4 Based on the local residents' work that underpinned the production of Conservation Area proposals, and the support demonstrated more widely during the consultation, it is recommended to designate the Lewisham Park as a Conservation Area and to adopt the Appraisal as a Supplementary Planning Document to assist in the understanding, protection and enhancement of the area.

Background documents and originator

Short Title Document	Date	File Location	File Reference	Contact Officer	Exempt
<u>Planning & Compulsory Purchase Act 2004</u>	May 2004	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No
<u>Localism Act 2011</u>	November 2011	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No
<u>National Planning Policy Framework (NPPF)</u>	June 2018	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No
<u>Town and Country Planning (Local Planning) Regulations 2012 (as amended)</u>	March 2012	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No
<u>The London Plan 2016 (and draft London Plan 2018)</u>	March 2016	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No
<u>The Core Strategy</u>	June 2011	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No
<u>Lewisham Development Management Plan</u>	November 2014	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No
<u>Statement of Community Involvement</u>	July 2006	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No

<u>Comprehensive Equalities Scheme 2016 - 2020</u>	2016	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No
<u>Conservation Area Designation, Appraisal and Management</u> <u>Historic England Advice Note 1</u>	March 2016	2 nd floor Civic Suite	Strategic Planning Team	Joanna Ecclestone	No

If you have any queries on this report, please contact David Syme, Strategic Planning Manager, 2nd floor Civic Suite, Catford Road, Catford, SE6 4RU, telephone 020 8314 7400.

Appendix 1: Lewisham Park Conservation Area Appraisal

Appendix 2: Article 4 direction

Appendix 3: Report to M&C 21 Nov 2018 seeking authorisation to consult

Appendix 4: Consultation responses to Q6: What do you value about the area?

Appendix 5: Final SEA Screening Report