

MAYOR AND CABINET		
Report Title	Perry Vale and the Christmas Estate Conservation Area, Appraisal, and Article 4 direction (SPD)	
Key Decision	Yes	Item No.
Wards	Perry Vale	
Contributors	Head of Planning and Head of Law	
Class	Part 1	Date: 16.01.2019

1. Purpose

- 1.1 To recommend the designation of the Perry Vale and Christmas Estate Conservation area, to adopt the Conservation Area Appraisal, and to introduce a non-immediate Article 4 Direction to all residential streets identified within the proposed area in light of the appraisal and response to the public consultation.

2 Summary

- 2.1 This report presents the results of the public consultation for the proposal to designate the Perry Vale and Christmas Estate Conservation Area, adoption of the Conservation Area Appraisal and the introduction of an Article 4 Direction. It explains how the response to the survey were overwhelmingly positive, with a significant majority supporting the designation of the conservation area, and the making of an Article 4 Direction. It explains how we have revised the appraisal, and responded to concerns raised since the consultation. 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. Law and Policy Context

- 3.1 The Appraisal, once 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.
- 3.2 The National Planning Policy Guidance states at Paragraph 28 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.

3.3 The SPD will play a role in delivering the Council's Corporate Priorities 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 will help deliver the following Priorities

- community leadership and empowerment – developing opportunities for the active participation and engagement of people in the life of the community
- clean, green and liveable – improving environmental management, the cleanliness and care for roads and pavements and promoting a sustainable environment
- active, healthy citizens – leisure, sporting, learning and creative activities for everyone
- inspiring efficiency effectiveness and equity – ensuring efficiency, effectiveness and equity in the delivery of excellent services to meet the needs of the community

3.4 SPDs play an important role in the implementation of the Sustainable Community Strategy (2008-2020) vision 'Together we will make Lewisham the best place to live, work and learn' and all of the six strategic priorities, which are:

- Ambitious and achieving – where people are inspired and supported to fulfil their potential
- Safer – where people feel safe and live free from crime, antisocial behaviour and abuse
- Empowered and responsible – where people are actively involved in their local area and contribute to supportive communities
- Clean, green and liveable – where people live in high quality housing and can care for their environment
- Healthy, active and enjoyable – where people can actively participate in maintaining and improving their health and well-being
- Dynamic and prosperous – where people are part of vibrant communities and town centres, well connected to London and beyond.

3.5 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.....’

- 3.6 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.
- 3.7 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.
- 3.8 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.*
- 3.9 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.
- 3.10 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.
- 3.11 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.

- 3.12 Policy HC1 A 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.
- 3.13 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.
- 3.14 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 modern architecture will be essential to maintaining the blend of old and new that gives the capital its unique character’.
- 3.15 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)’.
- 3.16 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.

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

4. Recommendations

4.1 The Mayor and Cabinet is asked to:

- a) Designate the Perry Vale and Christmas Estate conservation area
- b) Adopt the Conservation Area Appraisal (Appendix 1), and;
- c) Approve the making of a non immediate Article 4 Direction to the residential streets within the proposed conservation area (Appendix 3)

5. Background

5.1 The proposal to go out to consultation for the designation of the proposed conservation area, adoption of the conservation area appraisal, and the making of a non-immediate Article 4 Direction was brought to Mayor and Cabinet on June 6th 2018, and was approved. The special interest, its history, and summary of its character is set out in the previous Mayor and Cabinet report and is included here in Appendix 4.

6. The Perry Vale and Christmas Estate Conservation Area Appraisal SPD

6.1 The appraisal follows best practice as set out in Historic England's 'Understanding Place: *Conservation Area Designation, Appraisal and Management*', (February 2016).

6.2 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)

6.3 The character 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

6.4 The design guide should be read by:

- Household.
- 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.

7.0 The need for an Article 4 Direction

7.1 As part of the analysis of the area, a comprehensive survey of alterations was undertaken. It was considered that generally, the proposed conservation area was well maintained, in a good state of preservation, which is one of the reasons the area merits designation. The survey did reveal that due to the existing permitted development rights afforded to residents, there is a degree of harmful impact to the areas cohesive character due to;

- Some loss of original features, as discussed below these impacts are at an early stage but are just reaching the point where character is threatened
- The subdivision of some larger properties into flats. This tends to be damaging to the character because of how the properties are divided such as increased services located on front elevations, parking, bin and bike storage etc.,
- Public realm; pavements, street furniture, signs, loss of trees, etc.,
- The high volume of traffic, and the increase in pressure to create parking in front gardens, and the removal of public parking spaces.

The analysis of the architectural interest of the buildings in the area has laid stress on the importance of the survival of original detailing such as windows and doors. Original materials and finishes to main and porch roofs and to

elevations are equally important to the character of the area, as are features within the setting of the buildings such as gates, garden walls and tiled paths.

- 7.2 As discussed, the continued existence of such original features is threatened. In places, windows, doors and roof materials have been subject to inappropriate modern replacements, with original fabric removed or replaced with new and less sympathetic designs. It is considered that many of these alterations, and the loss of these original features is detrimental to the special interest and cohesive character of the area. This is attributed to the permitted development rights that householders currently have, where they are permitted to carry out these works without planning permission.
- 7.3 Cumulatively, these changes can significantly harm, and alter the character and appearance of the conservation area. The purpose of an 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. A copy of the proposed Article 4 direction is attached as Appendix 2 to this report.
- 7.4 Article 4 Directions can be made either as immediate or non-immediate directions. To be able to use an immediate direction the LPA have to establish that to continue to allow the PD rights would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area. Such a direction would come into force on the serving of the statutory notices but will lapse six months after being made unless it is confirmed the LPA. A non-immediate direction comes into force once the direction has been confirmed by the LPA.
- 7.5 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.
- 7.6 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 LPA 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. This covers most of the PD rights that the

current Article 4 Direction proposes to remove save for those relating to Class A and D of Part 2 of Schedule 2 and Class C of Part 11 of Schedule 2. The right to compensation as set out in S107 would remain and 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.

- 7.7 It is proposed that an Article 4 direction without immediate effect is made under Schedule 3.
- 7.8 It is therefore proposed to give 12 months' notice of the introduction of an Article 4 Direction, and this would mean that the Council will not be liable for compensation for most of the PD rights that are to be withdrawn. In respect of the PD rights set out in paragraph 7.5 above the compensation rights would remain but would have to fall under the two heads set out in that paragraph. This for example would cover any fees payable for making a planning application which would not have been required previously.

8. Consultation Process

- 8.1 Following the Mayor and Cabinets approval in June 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 10 September 2018 to 23 October 2018 (6 weeks and 2 days).
- 8.2 After the initial non- statutory consultation process 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.
- 8.3 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, Lewisham Reference Library and locally accessible Forest Hill library. The letter and online consultation was sent to local amenity groups and bodies; the Forest Hill Society and the Sydenham Society who both have interest in the local history and development of the area. It was also sent to statutory bodies such as Historic England, the Victorian Society, Natural England, and the Environment Agency. Local Councillors were also made aware of the consultation, and sent invitations to the local meeting.
- 8.4 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 as to how it could affect residents and stakeholders was included.
- 8.5 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 Councils proposals to designate the area as a Conservation area?
- Do you agree with the Councils 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?

8.6 Stakeholders were also asked 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?

8.7 A local drop-in session was held on Monday, 8th October 2018 at the Perrymount 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. The workshop was well attended, with approximately 35 people taking part in the discussions and seeking further information.

9 Responses to the consultation

9.1 There are 182 address points within the proposed area, and the Council received 105 responses in relation to the proposed Perry Vale and Christmas Estate Conservation Area. 98 were made via the online platform, and 6 letters were sent in directly to the Council.

The below information shows the results of the consultation:

Table 1

Question	Answer			
Do you live within the proposed conservation area boundaries?	Yes	57		
	No	34		
	Not Answered	15		
Do you agree with the Councils proposals to designate the area a conservation area?	Overall	Lives in area		
	Yes	94	Yes	50
	No	8	No	5
	Don't know	3	Don't know	2
	Not Answered	0	Not Answered	0
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	91	Yes	47
	No	10	No	7
	Don't know	3	Don't know	2
	Not answered	1	Not answered	1
Do you agree with the proposed boundaries?	Yes	97	Yes	52
	No	8	No	5
	Don't know	0	Don't know	0
	Not Answered	0	Not Answered	0

Do you think the Conservation Area Appraisal accurately describes the CA?	Yes	98	Yes	54
	No	5	No	3
	Don't know	1	Don't know	0
	Not Answered	1	Not Answered	0

57 (54%) of respondents stated that they lived in the area, 34 (32%) did not live in the proposed area, and 15 (14%) did not answer the question.

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

9.2 Principle of Designation – Question 2

Historic England support the designation of the conservation area, and consider that it meets the requirements set out in the NPPF for Council's to continue to develop positive strategies for the historic environment. The Forest Hill Society, and the Sydenham Societies also support the designation of the conservation area.

The responses to this question were overwhelmingly in support of the proposal. 94 (89.5%) of the representations received supported the designation of the Perry Vale and Christmas Estate Conservation Area, 8 (8%) respondents did not support the principle of designation, and 3 (2%) answered 'Don't know' to the survey.

In terms of the 54% of respondents who stated that they lived in the area 50 (87.8%) supported the designation of the conservation area, 5 (8.7%) did not support the principle of designation, and 2 (3.5%) answered 'Don't know' to the survey.

In terms of responses to the principle of designation, it is clear that in both instances there is a significant majority of those that support the designation of the conservation area.

Table 2

Summary of comments in support of the principle of designation- Question 2	
<p>Historic England Historic England considers the proposed designation and boundary to be clearly justified and appropriately defined. As such we consider the proposal to designate and publish the appraisal to contribute to the requirement for the Council to develop a positive strategy for the historic environment, as set out in the NPPF. In our view, the estate, principally built to the architectural vision of the local developer, Ted Christmas, clearly demonstrates local significance and wider significance as part of the growing influence of the Arts and Crafts and Queen Anne movement in London, exemplified in developments such as Bedford Park and Hampstead Garden Suburb. The inclusion of a number of properties pre-dating the Estate</p>	<p>Noted. No further action (NFA)</p>

and which have significance in their own right, including the important landmark of Christ Church and a number of 18 th and 19 th century houses, helps tell the story of the development of the area.	
<p>Sydenham Society The proposed conservation area is an initiative the Sydenham Society has advocated for many years. The houses which were designed and built by Ted Christmas share many of the features of the Thorpes yet are, in many features, more elaborate with their beautiful woodwork, porches and leaded lights. Just like the Thorpes they form a unique set of Edwardian buildings and should be accorded conservation area status in order to protect them from inappropriate development.</p>	Noted. NFA
<p>Forest Hill Society Delighted about the proposals, and fully supportive of the designation</p>	Noted. NFA
<p>Residents</p> <ul style="list-style-type: none"> In favour of preserving the character, and ensuring that improvements are done to the highest possible standard with attention to detail (A5 of Q2) In favour of maintaining the high quality craftsmanship, architectural character, and legacy of Ted Christmas (A13 of Q2) 	<p>Noted. NFA</p> <p>Noted. NFA</p>
Summary of concerns raised regarding the principle of designation - Question 2	
<p>Residents</p> <ul style="list-style-type: none"> That it would make houses more difficult to sell 	Not borne out by Historic England research
<ul style="list-style-type: none"> Concerns over the costs arising from the need for Planning Permission 	Accepted. This is a result of designation as Lewisham charges for planning applications where Article 4 Directions are applied
<ul style="list-style-type: none"> That it is not needed as the area is already well preserved and well cared for 	As part of the analysis of the area, a comprehensive survey of alterations was undertaken. It was considered that generally, the proposed conservation area was well maintained and in a good state of preservation, which is one of the reasons the area merits designation. The survey did reveal however, that due to the existing permitted development rights afforded to residents, there is a degree of harmful impact to the areas cohesive character due to current development rights afforded to homeowners, and that many of the alterations and continual loss of original features is detrimental to the special interest of the area. Historic England supports this position.
<ul style="list-style-type: none"> Concerns over the restrictions on residents for the felling or lopping of trees 	The designation is not put in place to restrict maintenance and care for trees. The Council requires a 6 week notification period to fell or carry out work to trees within conservation areas whose stem diameter is above 7.5cm. Furthermore, to avoid the need

	for repeated notices over a relatively short period of time, one notice may, where appropriate, be submitted for repeated operations, phased works or programmes of work. This is particularly useful for fruit trees.
<ul style="list-style-type: none"> • Council is wasting resources, and efforts should instead be given over for more pressing matters such as environmental and social problems in the area 	The points raised here refer to separate budgets within the Council. In terms of heritage, it is a statutory duty of Council's to proactively manage heritage in their borough.
<ul style="list-style-type: none"> • That the area is not of enough interest, or special enough to warrant designation 	Disagree, and not supported by Historic England
<ul style="list-style-type: none"> • That the draft Alterations and extensions guidance is already enough to prevent unsympathetic alterations, so therefore CA status is not needed 	The draft guidance only refers to properties without permitted development rights
<ul style="list-style-type: none"> • Concerns over the consultation process resulting from designation – specifically that local amenity groups are consulted, and that that could result in unhappiness and disagreement 	The consultation process is covered in detail within our adopted Statement of Community involvement (DATE), this is to ensure our consultation is a fair and just process in line with the Planning Act, and national policy.
<ul style="list-style-type: none"> • Does not address issues which make the area appear uncared for- namely rubbish, and under-maintained properties 	We will make the refuse collection services aware of the concerns raised in this consultation. In terms of untidy land or properties, the Council already has powers it can utilise in the form of Section 215 notices if needed.

9.3 Adoption of an Article 4 Direction – Question 3

In terms of responses to the principle of the adoption of an Article 4 Direction, It is clear that in both instances there is a significant majority of those that support the adoption of an Article 4 Direction.

91 (86.6%) of the representations received agree with the Council's proposal to make an Article 4 Direction to the properties within the proposed boundaries for the conservation area, 10 (9.5%) respondents did not agree, 3 (2.8%) answered 'Don't know' to the survey, and 1 (.9%) did not answer the question.

In terms of those that responded to the survey who stated that they lived in the area (54%), 47 (82.4%) supported the designation of the conservation area, 7 (12.2%) did not support the principle of designation, 2 (3.5%) answered 'Don't know' to the survey, and 1 (1.75%) did not answer the question.

Table 3

Summary of comments in support of the proposal to make an Article 4 Direction– Question 3	
Historic England The proposed Article 4 will be an important tool in preserving and enhancing the character of the area, which draws considerable significance from its picturesque use of architectural features, such as stained glass, clay roof tiles, oriole windows, and ornate joinery. The estate is therefore particularly susceptible to the erosion of its character through the incremental loss of such features.	Noted. NFA
Forest Hill Society Supportive of the use of an Article 4 Direction	Noted. NFA
Sydenham Society Supportive of the use of an Article 4 Direction	Noted. NFA
Summary of concerns raised regarding the proposal to make an Article 4 Direction– Question 3	
Residents <ul style="list-style-type: none"> • Considers Article 4 Direction unfair to residents • Considers it to be excessive, costly, and that the time and administration for residents is frustrating. Considers that residents already actively maintain and look after their homes, and that an Article 4 Direction is not needed. 	Noted as objection to the designation. The Council will continue to provide information and advice to residents to help them better understand how this will affect them.
<ul style="list-style-type: none"> • Concerns over the costs associated with the making of an Article 4 direction- particularly over the materials that can or cannot be used i.e, uPVC windows not being allowed. 	The direction and designation are not proposed to restrict residents from development, but to ensure that development does not adversely affect the character of the area. Often materials such as uPVC can be void of character as they can be found anywhere. Furthermore they are often more costly in the long term as they have a very short lifespan as opposed to traditional materials.
<ul style="list-style-type: none"> • Comments that alterations to elevations that are not visible from the road should be allowed, and those that those that are visible should not be 	The article 4 direction proposed only refers to visible elevations from the public realm
<ul style="list-style-type: none"> • Concerns over the restriction of pruning their trees, and that TPO's could be used instead 	Works to trees are not covered under the Article 4 Directions, but through the designation of conservation areas. This concern is addressed in Table 2 above.

<ul style="list-style-type: none"> Concerns over under-occupation of larger properties, and that restrictions from an Article 4 Direction could make conversion of these properties to smaller units more difficult 	<p>Conservation designation is not proposed to deter development, but to help manage it, and to make sure that development does not start to negatively affect the special character of the area. The designation would not restrict the conversion of larger buildings to smaller dwellings if the conversion did not negatively harm the character of the building or area.</p>
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9.4 Boundaries – Question 4

A significant majority of respondents agreed with the proposed boundaries (92% avg), and raised no comments. One respondent wished to see the boundaries of the conservation area extended to include the adjacent Victorian properties included, and two others sought clarity or inclusion of garages to the rear of Gaynesford Road. The landowners who objected to the principle of designation tended to combine this with a request to have their respective properties excluded, or objected to the principle of adoption.

97 (92.4%) of the representations received agreed with the proposed boundaries for the proposed conservation area, and 8 (7.6%) respondents did not agree with the proposed boundaries.

In terms of those that responded to the survey who stated that they lived in the area (54%), 52 (91.2%) agreed with the proposed boundaries for the proposed conservation area, and 5 (8.77%) did not agree with the proposed boundaries.

Table 4

Summary of concerns raised regarding the boundaries– Question 4	
<p>Historic England</p> <ul style="list-style-type: none"> One area where you might wish to include further guidance is in respect of new development. The boundary has clearly been drawn tightly in accordance with the guidance set out in the NPPF. However there is potential for development to occur both adjacent and within the setting of the conservation area. We would therefore recommend that the document draws attention to the Council’s and National policy for new development in the setting of heritage assets, and also the need for development to preserve or enhance historic and architectural significance through design which responds positively to local character. Historic England Good Practice Advice in Planning Note 3 offers detailed guidance on decision making in this respect, 	<p>Noted. Changes made to appraisal to include further guidance in respect of new development adjacent to or within the setting of the proposed Conservation Area. The appraisal has also been updated to include further information regarding demolition within the boundaries.</p>

<p>https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/. Equally you also may wish to identify that demolition within the conservation area is likely to cause harm to heritage assets (given the tight boundary) and that any proposals for demolition will be resisted unless clearly justified against the criteria set out in Chapter 16 of the NPPF.</p>	
<p>Residents</p> <ul style="list-style-type: none"> Proposed Conservation Area is not a cohesive set of housing – not limited to either Christmas houses or whole blocks 	<p>The area is largely made up of Christmas' houses. Additional historic buildings are included in the area as they are significant in their own right, and help to tell the story of the development of the area.</p>
<ul style="list-style-type: none"> Proposed boundary an odd shape which leads to confusion- garages on the Perry Vale side of the area are included, but Gaynesford ones are not Garages to the rear of 14 to 22 Gaynesford Road should be included 	<p>These garages are now included within the proposed conservation area, as they are part of the historic plot pattern and formerly formed part of garden land.</p>
<ul style="list-style-type: none"> Consideration should also be given to include the large Victorian houses on Sunderland Road, and some adjacent to the proposed area Any substantial development on the modern blocks in future would detract from the attractiveness of the Christmas houses opposite 	<p>Noted. These properties have not been included in this designation as they have not been appraised as part of this work. There is potential to include these properties if the conservation area boundaries were ever extended. Noted. The appraisal has been amended to include further information of how development which affects the setting of the CA could detract from its significance and special interest.</p>
<ul style="list-style-type: none"> Does not believe that No. 127A should be included. It was constructed in 2000, and not a building of historic interest. Does not object to the Christmas Houses being protected, they do object to their property being included 	<p>This property has been removed from the proposed boundaries</p>

9.5 Accuracy of the Conservation Area Appraisal – Question 5

In terms of responses to the accuracy of how the appraisal describes the area, it is clear that in both instances there is a significant majority of those that agree that the appraisal is accurate in its description of the proposed conservation area.

98 (93.3%) of the representations received agreed that the appraisal accurately described the area, 5 (4.7%) respondents did not agree, 1 (1%) answered 'Don't know' to the survey, and 1 (1%) did not answer the question.

In terms of those that responded to the survey who stated that they lived in the area (54%), 54 (94.7%) agreed that the appraisal accurately described the area, and 3 (5.3%) did not agree.

A number of amendments were made as a result of public and internal consultation to the appraisal (Appendix 3).

Table 5

Summary of concerns raised regarding the accuracy of the Conservation Area Appraisal– Question 5	
<p>Historic England</p> <ul style="list-style-type: none"> One area where you might wish to include further guidance is in respect of new development. The boundary has clearly been drawn tightly in accordance with the guidance set out in the NPPF. However there is potential for development to occur both adjacent and within the setting of the conservation area. We would therefore recommend that the document draws attention to the Council’s and National policy for new development in the setting of heritage assets, and also the need for development to preserve or enhance historic and architectural significance through design which responds positively to local character. Historic England Good Practice Advice in Planning Note 3 offers detailed guidance on decision making in this respect, https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/. Equally you also may wish to identify that demolition within the conservation area is likely to cause harm to heritage assets (given the tight boundary) and that any proposals for demolition will be resisted unless clearly justified against the criteria set out in Chapter 16 of the NPPF. We note page 58 refers to English Heritage’s website. We assume this should be amended to say Historic England. We also note that the page numbering has slipped out of synch at the end of the document but assume that this will be corrected following consultation. 	<p>Noted. Changes made as outlined above.</p>
<ul style="list-style-type: none"> Provided further information: decorative blocks running along under eaves as an architectural detail, as well as internal details such as cisterns with “E.Christmas Sanitary Engineer Forest Hill” cast onto it. As well as an external manhole cover with the same inscription. 	<p>Noted. Some of this information will be included in the appraisal</p>
<ul style="list-style-type: none"> Considers some of the photographs misleading. Specifically refers to fences and painted roughcast render, and questions whether they are original. 	<p>Noted. This will be better clarified within the appraisal</p>

9.6 Value the community places on the area – Question 6

Historic England asks local planning authorities to consider the values the community and other stakeholders place on the area when defining its special interest. The majority of the respondents took up the opportunity enthusiastically; often responding comprehensively and in great detail why they consider the area is special to them.

Many respondents cherish the Christmas Estate for the qualities that have been highlighted in the Appraisal. The most common qualities highlighted by residents were

- its architectural heritage, its sense of history and state of preservation,
- the character and quality of the Ted Christmas buildings and architectural style,
- the nature of the planned development with its large plots with generous gardens to the front and back,
- the tree lined avenues,
- significant biodiversity and birdlife,
- the peace and tranquillity of the area, and
- the strong sense of community and pride in the area.

Residents were also passionate about preserving the area from further harmful changes, and explained in detail how happy they were to see how well it has survived. They were proud to live in an area of this architectural style which they explained is very well maintained, and that living here invokes much pride, along with a strong sense of community. These comments are overwhelmingly positive, and very comprehensive with 88 comments in total. These comments are included in Appendix 5 to this report and the Appraisal has been amended to take account of these comments.

9.7 Other points that respondents thought the Council should consider – Question 7

Table 6

Summary of other points raised that asked for the Council to consider – Question 7	
<p>Traffic</p> <ul style="list-style-type: none"> • Key road crossing points should be prioritised for pedestrians • More zebra crossings should be provided • The area feels disconnected because of the busy traffic on Perry Vale. • Ten respondents expressed concern about the speed of traffic on Perry Vale, and that speed control measures should be carried out and enforced. • Traffic calming and reduction measures should be used • Traffic restrictions on Sunderland road to restrict lorries etc from using residential roads • Three residents raised concerns over the potential redevelopment of the Brampton estate and how this could further exacerbate the traffic issues on Perry Vale • Easing traffic in the borough to improve air quality 	<p>This information will be conveyed to the Highways Team within the Council.</p>
<p>Trees</p> <ul style="list-style-type: none"> • Raised concerns about heavy handed pollarding being excessive, brutal and destroying entire tree canopies in the area. That this has been incredibly distressing to 	<p>This information will be conveyed to Councils <i>Green scene</i> service.</p>

<ul style="list-style-type: none"> residents in the area • That residents should be provided with notice of major alterations to street trees, or removal, with a chance to object • That trees that were removed by the Council be reinstated • More street trees planted, and hanging baskets on lamp posts • Restrictions on how tall trees in rear gardens can be because of how it can restrict sunlight to other properties 	<p>This is not something the Council can control or restrict.</p>
<p>Local Streetscape</p> <ul style="list-style-type: none"> • Better street lighting needed • Improving the management of street planting, fixing broken pavements, collecting bins more frequently, and better street-sweeping • Restoring street furniture • More should be done to retain the soft landscaping in front gardens to encourage wildlife • Signage about the area and Ted Christmas • Three respondents expressed the desire to preserve the area 	<p>This information will be conveyed to the Councils Street scene, regeneration and highways team.</p>
<p>Appraisal</p> <ul style="list-style-type: none"> • That the Victorian houses adjacent and the leafy green character of the wider area should be 'protected' in some way too. • That other Christmas houses on Siddons Road nearby should also be included in this designation • The appraisal should discuss the properties on Perry Vale 	<p>Noted. They could be considered at a later time, however are not relevant to the Christmas Estate, and so will not be included in this designation.</p> <p>These properties could be considered if the conservation area were ever extended. As the consultation period has finished, and homeowners on Siddon Road were not consulted- we could not include this many properties in this designation without formal consultation.</p> <p>The appraisal does discuss the properties on Perry Vale, and they are included in the proposed boundaries.</p>
<p>Accessibility</p> <ul style="list-style-type: none"> • Forest Hill Station should be more accessible for those with accessibility problems- especially from the Perry Vale side 	<p>Noted. This will be conveyed to our Transport team.</p>
<p>General</p> <ul style="list-style-type: none"> • More should be done to let residents know what is and what is not allowed in conservation areas • That poor quality work completed in the area should be tidied up • That the Council should apply a realistic metric of how affordable housing could be improved in the borough • That effective policies to encourage shop owners to better maintain their frontages or methods to mobilise collective improvement (on Dartmouth Road) 	<p>Noted.</p> <p>Noted.</p> <p>Not relevant to this consultation.</p> <p>Noted, but not relevant to this consultation</p>

<ul style="list-style-type: none"> Grants should be provided from the Council to improve their properties 	At this stage the Council does not have any programmes for providing grants to private homeowners to restore their properties.
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9.8 Other comments raised

Table 7

Summary of other comments raised – Question 8	
<ul style="list-style-type: none"> That there is a lobby group active in the area and that the view of the silent majority should be taken 	Noted
<ul style="list-style-type: none"> Authors did not get permission to take photographs of homes within the area 	Photos were taken from the public realm and permission is not required for this.
<ul style="list-style-type: none"> Five comments with congratulations to the team that produced the document, and appreciation given 	Noted
<ul style="list-style-type: none"> Thanks to the Council for hosting a public event 	Noted
<ul style="list-style-type: none"> Traffic calming needed 	Responded to above in Table 6
<ul style="list-style-type: none"> Street lighting is needed 	Responded to above in Table 6

10 **Programme for Adoption of the SPD**

10.1 The character appraisal will be published as a number of hard copies as well as on the Council’s website. The SPD will become part of the Local Development Framework portfolio.

10.2 The adoption will be advertised in the London Gazette and a local paper. All addressed in the CA will be advised in writing of the new designation and Article 4 direction and it will be added to the Local Land Charges Register for these properties. It is proposed to give 12 months’ notice of the introduction of an Article 4 Direction. Residents, stakeholder, local and national amenity societies will be made aware of the outcome of the Mayor and Cabinet decisions.

11 **Financial Implications**

11.1 There are no direct financial implications arising from the designation of a conservation area. The survey and drafting of the conservation area 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.

11.2 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.

- 11.3 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). Where directions are made with immediate effect or less than 12 months' notice (immediate Article 4 Direction), compensation will only be payable in relation to planning applications which are submitted within 12 months of the effective date of the direction and which are subsequently refused or where permission is granted subject to conditions.
- 11.4 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 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 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 any 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 the given the nature of the rights in question, namely the alteration or demolition of a boundary wall/fence and for 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. It should be noted that the Council is already forecasting a significant overspend against the revenue budget for the 2018/19 financial year.

12 Legal Implications

- 12.1 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.
- 12.2 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.

- 12.3 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.
- 12.4 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.
- 12.4 The Equality Act 2010 introduced a public sector equality duty. It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 12.5 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.
- 12.6 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.
- 12.7 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.
- 12.8 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>

12.9 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
1. Equality Information and the Equality Duty: A Guide for public authorities

12.10 The essential 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>

13. Crime and Disorder Implications

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

14. Equalities Implications

14.1 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

- 14.2 The Council must in the exercise of its functions, have regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation 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.
- 14.3 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.
- 14.4 The proposed Conservation Area Designation, Appraisal and introduction of Article 4 do not have any direct equalities implications. The consultation process will be in line with the Council's Equality and Diversity Policy (2002), and the Council's Statement of Community Involvement in identifying hard to reach groups which are relevant in the local context.

15. Environmental Implications

- 15.1 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.

A screening report was prepared to identify if a Strategic Environmental Assessment (SEA) would be required. It concluded that an SEA was not needed for the designation of the conservation area, or the adoption of the appraisal and making of the Article 4 Direction. This is included as Appendix 7 within this report. We consulted three statutory bodies; Environment Agency, Natural England and Historic England at the same time as the SPD. Historic England agreed that an SEA was not needed, and Natural England responded to the consultation to say that they did not have any comments to make. The Environment Agency did not respond to the consultation.

Based on the consultation to the national statutory bodies, we do not consider that a SEA is required.

16. Conclusion

- 16.1 The Appraisal of the Perry Vale and Christmas Estate shows that the area has special architectural and historic interest, the character and appearance of which it is desirable to preserve or enhance. Therefore it is considered that the grounds apply to warrant its designation as a conservation area. Historic England, who represent the Secretary of State consider the area to be of

enough special interest to warrant designation, and also recommend the use of an Article 4 Direction.

- 16.2 Public consultation on the proposed designation, adoption of the appraisal, and the making of an Article 4 Direction has shown overwhelmingly positive public support for the proposed designations, with many residents and respondents taking the opportunity to go into great detail of their support. Where considered appropriate the boundary of the area and the contents of the appraisal have been amended in the light of representations made.
- 16.3 As discussed within the report, a comprehensive 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. With the introduction of an Article 4, it is likely that further harmful alterations will not be permitted and the special interest of the area can be preserved for generations to come.
- 16.4 Based on the great public support garnered from the public consultation, and the information and evidence presented throughout this report and appendices, it is recommended to designate the Perry Vale and Christmas Estate a conservation area and to adopt the Appraisal as a guidance document for the understanding, protection and enhancement of the area.

Background documents and originator

Short Title Document	Date	File Location	File Reference	Contact Officer	Exempt
Planning & Compulsory Purchase Act 2004	May 2004	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	No
Localism Act 2011	November 2011	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	No
National Planning Policy Framework (NPPF)	June 2018	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	No
Town and Country Planning (Local Planning) (England) Regulations	March 2012	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	No

2012 (as amended)					
The London Plan (and current draft London Plan 2018)	March 2016	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	No
The Core Strategy	June 2011	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	No
Lewisham Development Management Plan	November 2014	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	No
Statement of Community Involvement	July 2006	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	No
Equality and Diversity Policy	2002	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	No
Conservation Area Designation, Appraisal and Management Historic England Advice Note 1	March 2016	2 nd floor Civic Suite	Strategic Planning Team	Natasha Peach	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: Perry Vale and Christmas Estate Conservation Area Appraisal

Appendix 2: Article 4 direction

Appendix 3: Map of Conservation area

Appendix 4: Previous M&C report from June 2018

Appendix 5: Consultation responses

Appendix 6: Statutory Consultees responses

Appendix 7: SEA Report

Appendix 8: Legal briefing for compensation claims