



To: Communities & Neighbourhoods Scrutiny Board (4)

Date: 13th March 2025

Subject: Conservation Areas

1 Purpose of the Note

- 1.1 To provide the Communities and Neighbourhoods Scrutiny Board (4) with an overview of identified Conservation Areas in the city and a summary of the relevant Legislation and Policy and how that is considered and applied through the Planning process, together with the principles of Planning Enforcement and Grant Funding for Heritage

2 Recommendations

- 2.1 The Communities and Neighbourhoods Scrutiny Board are recommended to:
- a) Note the National Legislative and Policy Framework and how it is applied by the local planning authority, having regard to planning enforcement and heritage funding.
 - b) Identify any further recommendations for the appropriate Cabinet Member

3 Information and Background

- 3.1 Coventry City Council has 18 designated Conservation Areas, sixteen of which have been in place prior to the most recent Local Plan adoption in 2017 and listed at policy HE1. The adopted Local plan then established a commitment for the authority to bring forward two additional Conservation Areas during the plan period, within the areas of Brownhill Green and Earlsdon.
- 3.2 The Conservation Areas are identified and available on the public planning map, and listed on the CCC website, alongside supporting Management Plans and Appraisals where available. Work to provide management plans and appraisals of all Conservation Areas in the city remains ongoing and is also proposed to be carried forward as a commitment in the emerging Local Plan.

4 Legislation and Policy

- 4.1 Planning (Listed Buildings and Conservation Areas) Act 1990

- 4.2 The Planning (Listed Buildings and Conservation Areas) Act 1990 provides specific protection for buildings and areas of special architectural or historic interest. Any decisions where listed buildings and their settings and conservation areas are a factor must address the statutory considerations of the Planning (Listed Buildings and Conservation Areas) Act 1990 (see in particular sections 16, 66 and 72) as well as applying the relevant policies in the development plan and the National Planning Policy Framework.
- 4.3 (16 and 66 relate to Listed Buildings (16 – applications for listed building consent and 66 – general duty as respects listed buildings in exercise of planning functions.)
- 4.4 The relevant sections of the Planning (Listed Buildings and Conservation Areas) Act 1990 fall under Part II of the Act. Section 69 relates to the designation of conservation areas and 72 sets out the general duty in respect of planning functions. The relevant parts of these sections are as follows:
- “69 Designation of conservation areas.
- (1) Every local planning authority—
- (a) shall from time to time determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and
- (b) shall designate those areas as conservation areas.
- (2) It shall be the duty of a local planning authority from time to time to review the past exercise of functions under this section and to determine whether any parts or any further parts of their area should be designated as conservation areas; and, if they so determine, they shall designate those parts accordingly.”
- “72 General duty as respects conservation areas in exercise of planning functions.
- (1) In the exercise, with respect to any buildings or other land in a conservation area, of any [F1functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”
- 4.5 The Act also sets out requirements for publicity for applications affecting conservation areas.
- 4.6 The Act is reinforced by the National Planning Policy Framework (NPPF) 2024 and the Council’s Local Plan 2017. The latter continues through the review of the Local Plan.

5 National Planning Policy Framework 2024

- 5.1 Section 16 Conserving and enhancing the historic environment states that Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats (para 203). Para 204 states that “when considering the designation of conservation areas, local planning authorities should 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.” Local authorities are required to maintain or have access to a historic environment record that should contain up-to-date evidence about the historic environment in their area (para 205) and should make information about the historic environment publicly accessible (para 206).

- 5.2 In respect of decision taking, para 207 states “in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.” Local planning authorities should consider the impact of a proposal on a heritage asset having first identified and assessed the significance of a heritage asset. Para 209 states that “where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision”.
- 5.3 Para 210 states that, in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;
 - and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 5.4 Any harm to or loss of the significance of a heritage asset should require clear and convincing justification. Substantial harm to designated heritage assets should be wholly exceptional. Applications should be refused if it cannot be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh the harm or loss (para’s 213 and 214). Less than substantial harm to the significance should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use (215). Para 220 notes that not all elements of a Conservation Area will necessarily contribute to its significance.

6 Coventry Local Plan 2017

- 6.1 In line with the NPPF, Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is reinforced through the Local Plan. The local plan notes the requirement for local planning authorities to review their Conservation Areas from time to time and designate extra areas where appropriate. The 2017 Local Plan identified two new Conservation Areas in the Victorian and Edwardian suburb of Earlsdon and the rural Arden settlement of Brownhill Green. These were appraised and designated as two new Conservation Areas, please see the map at Appendix One, bringing the total in Coventry to 18:

- Allesley

- Brownhill Green
- Chapelfields
- Coventry Canal
- Earlsdon
- Far Gosford Street
- Greyfriars Green
- Hawkesbury Junction
- High Street
- Hill Top
- Ivy Farm Lane
- Kenilworth Road
- Lady Herbert's Garden and The Burges
- London Road
- Naul's Mill
- Spon End
- Spon Street
- Stoke Green

- 6.2 The Local Plan further states that "Conservation Area Appraisals and Management Plans will be produced for all of the Conservation Areas to guide their preservation and enhancement. All development proposals within Conservation Areas will be determined in accordance with this Plan and the appropriate Appraisal and Management Plan." In addition, our Policies are supported by Supplementary Planning Documents including our Design Guidance for Shopfronts in Conservation Areas and Historic Buildings.
- 6.3 Policy HE2 reinforces the NPPF in that all proposals should aim to sustain and reinforce the special character and conserve the distinctive historic elements of Coventry.
- 6.4 Policy HE3 states that proposals for a City Heritage Park in the grounds of the Charterhouse and London Road cemetery will be supported along with measures to improve linkages to the area along the River Sherbourne (between Charterhouse and Far Gosford Street), the former Coventry loop railway line and across the London Road.

7 Planning Enforcement

- 7.1 Parliament has given local planning authorities the primary responsibility for taking whatever enforcement action may be necessary, in the public interest; and within their administrative area (the private citizen cannot initiate planning enforcement action). Central Government advice regarding planning enforcement action is contained within the National Planning Policy Framework and the National Planning Practice Guidance documents. There is a range of ways of tackling alleged breaches of planning control, and local planning authorities have an obligation to act in a proportionate way. Local planning authorities have discretion to take enforcement action when they regard it as expedient to do so having regard to the development plan and any other material considerations. Expediency is an assessment of (a) is there a serious breach of planning control which results in

demonstrable harm, (b) have informal negotiations failed to resolve the harm and / or breach, and (c) is it within the public interest and commensurate to pursue prosecution through the Courts. If the answer to the above three main criteria is positive, then enforcement action would normally be justified, and the local planning authority would be reasonably satisfied that the Secretary of State would agree at appeal and the Courts would convict if found guilty. If the assessment is not conclusive, then doubts must be raised over the appropriateness of any formal prosecution, and either further negotiation to resolve the matter informally; or further work to identify harm must be undertaken.

- 7.2 In some cases, it may not be appropriate to pursue the matter further, as indicated in the formal enforcement guidance to which all local planning authorities must work 'it is usually inappropriate to take enforcement action against a trivial or technical breach of planning control which causes no harm to amenity in the locality of the site'.
- 7.3 The Town and Country Planning Act provides no additional enforcement powers to tackle general breaches of planning control within Conservation Areas. Any breach of planning control alleged within a Conservation Area must be assessed in the normal way and enforcement action can only be justified if serious demonstrable harm is identified. The only additional legislation specific to Conservation Areas relates to the protection of none TPO trees.
- 7.4 In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 207 'Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control'. Paragraph 005 of the National Planning Practice Guidance further states 'Effective enforcement is important to tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area; maintain the integrity of the decision-making process; and to help ensure that public acceptance of the decision-making process is maintained'. However, Government guidance and the Courts are clear that enforcement action cannot be taken as a matter of principle and must always be commensurate with the breach of planning control to which it relates; for example it is usually inappropriate to take enforcement action against a trivial or technical breach of planning control which causes no harm to amenity in the locality of the site. It is normal practice to negotiate wherever possible to avoid recourse to formal legal action and to encourage property owners to engage positively with the planning process. Hence there are many breaches of planning control that are resolved informally or regularised through the submission of respective planning applications, without the requirement to take formal action. If enforcement action is considered expedient and informal attempts to resolve the matter fail, formal action is taken in accordance with standard procedures.
- 7.5 The listed building enforcement provisions are set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the demolition of an unlisted building in a conservation area ("relevant demolition") are in the Town and Country Planning Act 1990. Whilst broadly similar, there are important differences between

planning enforcement and listed building and conservation area enforcement, namely:

- *there are no application fees for listed building consent or applications for relevant demolition;*
- *there are no time- limits for issuing listed building enforcement notices or for when enforcement action may be taken in relation to a breach of planning control with respect to relevant demolition, although the length of time that has elapsed since the apparent breach may be a relevant consideration when considering whether it is expedient to issue a listed building enforcement notice;*
- *carrying out work without the necessary listed building consent, or failing to comply with a condition attached to that consent, whereby such works etc materially affect the historic or architectural significance of the building, is an offence under section 9 of that Act – whether or not an enforcement notice has first been issued;*
- *carrying out work without the required planning permission for relevant demolition, or failing to comply with a condition attached to that planning permission is an offence under section 196D of the Town and Country Planning Act 1990, and;*
- *listed building consent and planning permission for relevant demolition are not granted retrospectively*

8 Heritage Grants and Funding

- 8.1 Heritage grant investment and funding are typically focused towards identified funder investment principles and local priorities. Local priorities may be identified and defined by policy (e.g. a place-based, local heritage strategy), the recognised importance of a specific heritage asset, or by a geographical area of focus (e.g. defined Area Action Plans focusing on areas marked for regeneration/ development). Investment priorities and principles are usually set at national or funder level. For example, Historic England's Future Strategy sets out three areas of focus (i) Thriving Places (ii) Connected Communities and (iii) Active Participation and The National Lottery Heritage Fund Corporate Plan 2023-26 sets out four investment principles to guide its decision making through open programme funding, namely (i) saving heritage (ii) protecting the environment (iii) inclusion, access and participation, and (iv) organisational sustainability.
- 8.2 Coventry's recent Cultural Capital Investment Programme supported investment in a range of cultural and heritage buildings (e.g. Anglican Chapel; Charterhouse; Coventry Cathedral; Daimler Powerhouse; Drapers' Hall; St. Mary's Guildhall; Unique Visitor Stay Places Accommodation) and was guided by a local prioritisation strategy, developed to provide a framework for capital investment prioritisation in the period leading up to and into UK City of Culture 2021. The strategy identified key cultural assets (including heritage assets) that would be significant in contributing to the visitor experience, reputation of the city, and future resilience and sustainability of cultural organisations and the cultural sector in the city. The strategy assessed both the appropriateness and readiness of capital scheme

proposals against six strategic priorities linked to Cultural Strategy and City of Culture objectives: (i) developing and improving the Cathedral/Museum Quarter as a key, multi-faceted visitor destination (ii) strengthening the city's creative sector economy through the provision of space for production, training and creative industries working (iii) ensuring that the city's key venues are equipped to deliver programmes of the highest national quality and appeal (iv) creating new space for dance, independent film and exhibition (v) creating and improving informal spaces for a wide range of indoor and outdoor events and performances (vi) addressing the city centre public realm through coordinated initiatives to improve the creative environment.

- 8.3 The Coventry Demonstrator High Street Heritage Action Zone (HSHAZ) project is a further example where Coventry, through local partnerships, has secured a £2m heritage-led regeneration project on the Burges and Hales Street, through participation in Historic England's High Streets Heritage Action Zones programme, which seeks to unlock the potential of historic high streets across England through combining investment in buildings and shop fronts with community engagement and cultural events.
- 8.4 Following the significant period of investment reflected in the programmes above, work has commenced on a new cultural infrastructure audit for the city. The aligned development of a new Heritage Strategy for Coventry is also recommended to help prioritise and secure improved investment prospects for remaining at-risk and underutilised heritage assets in the city, and to meet the Council's wider corporate objectives and priorities for regeneration.

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