

**NON-EXEMPT**

## **HAVANT BOROUGH COUNCIL**

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**Operations and Place Shaping Board**

**17 JULY 2019**

### **OLD BEDHAMPTON CONSERVATION AREA APPRAISAL**

**David Hayward (Planning Policy Manager)**

#### **INFORMATION**

**Portfolio: Cabinet Lead for Planning, Regeneration and Communities**

**Executive Director: Director of Regeneration and Place (Simon Jenkins)**

**Key Decision: Yes**

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#### **1 Purpose of Report**

- 1.1. This report is to give the Operations and Place Shaping Board an update on the current review of the Old Bedhampton Conservation Area Appraisal, the process the appraisal has followed, the consultation responses received and the proposed way forward.

#### **2 Recommendations**

- 2.1 The Operations and Place Shaping Board is recommended to:
- a) Note the consultation responses received to the recent public consultation on the Old Bedhampton Conservation Area Appraisal;
  - b) Note the nine recommendations contained within the Conservation Area Appraisal and Management Plan and the proposed extension to the Old Bedhampton Conservation Area;
  - c) Recommend to Cabinet that the Old Bedhampton Conservation Area Appraisal and Management Plan (at Appendix A) be recommended Full Council for adoption.
  - d) Recommend that Cabinet consider implementing an Article 4(1) Direction to restrict permitted development in the Conservation Area;
  - e) Recommend that Cabinet consider locally listing the Manor Farm buildings to the south of Lower Road.

### **3 Summary**

3.1 The Old Bedhampton Conservation Area was first designated in May 1980 and then reviewed and extended in October 1994.

3.2 Under the Planning (Listed Building and Conservation Areas) Act 1990 section 69 sets out that *‘Every local planning authority shall from time to time determine which parts of their areas are of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and shall designate those as conservation areas’.*

It goes on to say: *‘It shall be the duty of a local planning authority from time to time to review the past exercise of function under this section and to determine whether any parts or any further parts of their area should be designated as conservation areas.’*

3.3 The NPPF further expands this in paragraph 186 to highlight 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.”*

3.4 Conservation Area designation seeks to preserve and enhance those areas through special controls provided by the Act. Those are outlined below:

- Control of demolition;
- Notification of works to trees;
- Permitted development rights<sup>1</sup> are reduced in respect to some works including the size and position of extensions; addition of cladding or render.

#### **The background to the appraisal**

3.5 In early 2017 the Conservation Team were approached by the Friends of Bidbury Mead (BMF) requesting that the Old Bedhampton Conservation Area Appraisal be up-dated.

3.6 The general approach taken by the Conservation Officers has been to review conservation area appraisals in chronological order unless there is a specific reason to do otherwise. Of the 14 appraisals there are four that are older than the Old Bedhampton appraisal.

3.7 Due to resourcing limitations it was expressed that Old Bedhampton CAA would not be the next for re-appraisal. The Friends of Bidbury Mead offered to undertake the research and write the appraisal by contracting a consultant in order to bring forward a reappraisal sooner.

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<sup>1</sup> Under the Town and Country Planning (General Permitted Development) order 2015 as amended.

- 3.8 The then Head of Planning agreed to allow BMF to undertake the drafting of an updated appraisal subject to Conservation Officers review and subsequent public consultation by the Council.
- 3.9 It should be noted that only Local Planning Authorities can designate Conservation Areas. As such, whilst BMF have produced evidence to support the update, it is only Havant Borough Council that can formally change the Old Bedhampton Conservation Area.
- 3.10 In summer 2018 the first draft of the BMF commissioned appraisal was submitted to the Council for consideration and review. The fifth, and last, version was submitted in October 2018. This is included in this report at Appendix E.
- 3.11 The review process included a meeting in August 2018 with Ward Councillors, Historic England, the consultant and a representative of BMF to discuss areas of difference and to seek amendments prior to submission of the final draft from BMF and public consultation.

#### **The appraisal document**

- 3.12 It should be noted that the document that went out to public consultation was largely based on the one produced by BMF. The fundamental differences are:
- Omission of land at Lower Road;
  - Omission of 'Donkey Field'
  - Omission of Portsmouth Water land to the east
  - Removing Lower Road as a sunken lane.

The text within the appraisal was amended to reflect these changes. See Appendix B.

#### **Consultation**

- 3.13 The consultation on the proposed changes to the appraisal was approved by The Director of Regeneration and Place and the Portfolio holder for Planning under delegated authority. The consultation then took place alongside the Pre-Submission Local Plan consultation from 4 February to 29 March 2019. The consultation was advertised in a local paper, online on the Council's website ([www.havant.gov.uk/oldbedhampton](http://www.havant.gov.uk/oldbedhampton)) as well as a mail shot leaflet to all residents within the proposed boundary or in close proximity to the proposed boundary.
- 3.14 A drop-in session was arranged at the Plaza on the 6 March between 5-7pm. This is above and beyond the level of engagement which is normally carried out for conservation area reviews.
- 3.15 Nineteen responses were received within the consultation period. Within these responses 107 points were raised. Nine of those responses were from individuals, seven from local groups in the Old Bedhampton area as well as

responses from Historic England, Havant Borough Council Arboriculture team and Bargate Homes.

- 3.16 Five of the individual responses were positive in supporting the conservation area appraisal with further support from Bargate Homes and, HBC Arboriculture Team. Historic England broadly supported the appraisal and its recommendations whilst making further suggestions on the content and order of the document itself.
- 3.17 Other comments raised a broad spectrum of concerns and are detailed in Appendix C. The full consultation response can be found in Appendix D.

### **Proposed way forward**

- 3.18 Officers have considered the consultation responses and the comments that were raised.
- 3.19 The appraisal has been subject to a number of alterations in light of the consultation. These changes have been set out in the Comment and Response document. (see Appendix C)
- 3.20 These include the addition of a statement of special interest at the front of the document and more detail in chapters 4 and 6 addressing the character of the area.
- 3.21 A number of comments requested that the proposed extensions in the BMF appraisal, particularly the one to the south of Lower Road, be included in the Conservation Area. Since the consultation, further viewpoints have been submitted, including a Definitive Map Modification Order<sup>2</sup> and a report titled *A study of the character and antiquity of the road network of the community*. It has subsequently been confirmed that this report will be updated.
- 3.22 However, the pieces of information provided, before, during and after the consultation concluded, are not considered to demonstrate that the areas in question demonstrate the “special architectural or historic interest” to warrant inclusion in the conservation area. Whilst there is *some* historic interest to the land parcels that are not proposed for inclusion, it is not considered to be special historic interest. As a result, it is proposed that no additional changes take place to the proposed boundary of the Old Bedhampton Conservation Area.
- 3.23 Furthermore, it should be highlighted, for the avoidance of doubt, that the areas in question, ie those which were proposed for inclusion in the BMF report but not proposed to be taken forward, would form part of the setting of the Conservation Area. As such, development proposals in these areas could still potentially cause harm to the setting of the Conservation Area. As such,

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<sup>2</sup> This is a formal request to Hampshire County Council, as rights of way authority, to amend the definitive map of rights of way to include ‘Narrow Marsh Lane’. This is, at current time, a farm track linking Lower Road, via a private railway bridge, to a field to the south of the railway line and north of the A27.

heritage matters would be key in the determination of any planning applications not only inside the Conservation Area but in its setting as well.

- 3.24 It is proposed that the Operations and Place Shaping Scrutiny Board recommend to Cabinet that a recommendation is submitted to the Full Council that the Old Bedhampton Conservation Area Appraisal be adopted based on the plan in Appendix A.

### **Appraisal proposals differences to the BMF appraisal**

- 3.25 Considerations of different proposed extension to the conservation area were made against the criteria set out in the Planning (List Building and Conservation Area) Act 1990, the guidance of the National Planning Policy Framework (NPPF) paragraph 186, the National Planning Policy Guidance (NPPG) as well as Historic England publications: '[Conservation Area Appraisal, Designation and Management: Historic England Advice Note 1](#)' and '[The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 \(second edition\)](#)'.

### **Proposed extension - Bidbury Mead**

- 3.26 This proposal from the BMF document was retained in the public consultation document. The area has a positive use, is visually attractive and is linked to the Manor via its boundary wall and Tudor gateway.
- 3.27 Records show that Bidbury Mead has historically been used as a recreational space by the village.
- 3.28 Bidbury Mead boundary is clearly defined by imposing brick walls and these have purposely been included within the boundary as a character feature of the area.

### **Proposed extension - Bedhampton Road**

- 3.29 The BMF appraisal proposed an extension to include an area around the Old School and the Gospel Hall, Bedhampton Road. This area includes two listed buildings (the old school and the Golden Lion Public House). The BMF report also identified a further ten properties as being positive building within this proposed extension.
- 3.30 The consultation document retained this proposed extension as the area has special architectural interest in those positive buildings identified by the BMF appraisal. The extension of the Conservation Area to include this section has potential to lead to improvements over time in this area as a result of the recommendations and tighter permitted development controls that apply for conservation areas.

### **Proposed extension – Portsmouth Water land to the east**

- 3.31 The proposed extension includes land to the south east of Bidbury Mead to include Portsmouth Water land. Portsmouth Water are a statutory undertaker

and therefore could carry out works that could be contrary to the aims and objectives of the designation of a Conservation Area using their permitted development rights.

- 3.32 In discussion with the BMF consultant, ward councillors and Historic England it was decided to remove this area from consideration for inclusion in the Old Bedhampton Conservation Area and to consider the area separately as an area based around the history of water in Bedhampton. This would best be taken forward in collaboration with Portsmouth.

#### **Proposed extension – Land south of Lower Road**

- 3.33 This proposed extension would include land to the south of Lower Road including Old Manor Farm buildings and the cottages on the northern side of Lower Road as well as two large areas of open fields. The fields straddle the railway line.
- 3.34 These areas were omitted from the consultation document as the fields have no special architectural interest. BMF have claimed the path way across the fields, formally known as Narrow Marsh Lane, is of historical interest because it formed a route to the harbour. This is considered to be a slightly tenuous claim to historic interest given there are many historic routes, including ones which span railway lines or linked to the coast. As such, it is not considered to meet the definition in the Act of being of *special* historic interest.
- 3.35 A path way is not something that would usually warrant conservation area designation. However, it should be noted that comparison have been drawn with part of the Billy Line that was included in the Mill Lane conservation area. In that instance it was included as the path follows the track bed of the lost railway line, it connects the two conservation areas of Mill Lane and Langstone and is in the Councils ownership.
- 3.36 Another point of concern to officers is that the path (known as Narrow Marsh Lane) is not a designated Public Right of Way (PROW) and therefore to include it with the conservation area could be construed as attributing a right of access that does not exist. This could potentially result in claims from the land owner against the Council.
- 3.37 It is noted by officers that BHA are in the process of submitting a request to Hampshire County Council to seek PROW status for the path across the fields. It is not considered that this will change the position on the non-designation of this parcel of land. It's potential designation as a right of way is a separate decision for Hampshire County Council as rights of way authority.
- 3.38 With the fields removed from the proposed extension the buildings at Manor farm and the cottages opposite become removed and dis-connected from the historic core of the village.
- 3.39 Officers have previously agreed with ward councillors, BMF and their consultant that the Manor Farm buildings, to the south of Lower Road, have

the necessary significance to be added to the local list. However, the cottages on the northern side are considered to be of low value as they have been considerably altered.

### **Proposed extension – Triangle of land**

- 3.40 The proposed extension would include the triangle of land bound by Mill Lane, the railway line and Bidbury Lane (known locally as the Donkey Field or allotments). This extension was dropped from the appraisal prior to consultation as it was deemed that the land in question did not meet the requirement for special historic or architectural interest as set out in the Act. Furthermore, the allotments detract visually from the view across this area.
- 3.41 Whilst officer acknowledge that there have been various phases of development within parts of this area there is presently no obvious remains to provide any tangible historic or architectural evidence to meet the requirement for special architectural or historic interest.

### **Proposed change to maps – Sunken Lanes**

- 3.42 The appraisal produced by BMF indicated the following as being sunken lanes: Kings croft Lane; Bidbury Lane and Lower Road (section from Number 11 to number 68).
- 3.43 The consultation document removed the sunken lane symbol from Lower Road, but retained those along Bidbury and Kingscroft Lanes as they are more enclosed, with Kingscroft Lane being more sunken and clearly defined by strong boundary feature brick walls.
- 3.44 Sunken lanes are routes that over centuries of use and erosion have become significantly lower than the ground levels either side. These routes are often narrow and feel enclosed, with the route often several metres below the surrounding land.
- 3.45 It is not disputed that the lanes mentioned in the BMF appraisal are historic routes. However, Lower Road with its considerable width and openness lacks the qualities of a sunken lane.
- 3.46 The changes outlined above were made to the document that went out to public consultation and no further boundary changes are proposed for the version to be adopted by the Council. This version, though, does include further amendments to the text as set out in the comments and responses document. See appendix C.

## **4. Resource Implications**

- 4.1 **Financial implications:** The costs of producing this document would usually be covered within existing budgets. In this instance the BMF contracted a consultant to undertake the research and produce draft versions of the appraisal. However, it should be noted that managing this particular

conservation area re-appraisal has taken more officer time than would be usual for an in-house review of a conservation area.

- 4.2 Additional resource requirements are expected for the consideration of the recommended introduction of an Article 4 (1) Direction. This is anticipated to be revisited after the adoption of the appraisal with a separate report to Cabinet and Full Council. See also section on risk below.
- 4.3 The implementation of an Article 4 (1) Direction, could pose a financial risk to the Council in terms of potential claims for compensation resulting from the withdrawal of permitted development rights. A claim for compensation could be made to the LPA if planning permission is refused or granted subject to conditions other than those imposed by the General Permitted Development Order for development which, but for Article 4 (1) Direction, would have constituted permitted development.
- 4.4 The claim for compensation could include abortive expenditure and other loss or damage directly attributed to the withdrawal of permitted development right. This can include the difference in the value of the land if the development has been carried out and its value in its current state, as well as the cost of preparing plans for the work.
- 4.5 However, on 6 April 2010, Section 108(2A) of the Town and Country Planning Act came into force and provides that compensation is only payable if an application for planning permission for certain development formerly permitted by the General Permitted Development Order 1995, is made within 12 months of the Article 4 (1) Direction taking effect.
- 4.6 However, no compensation for the withdrawal of permitted development rights is payable if the LPA gives between 12 and 24 months notice in advance of the withdrawal. When deciding to confirm the Article 4 (1) Direction (following the notification period), it would be up to Cabinet to decide when the Article 4 (1) Direction would come into effect.
- 4.7 **Legal:** On adoption, the Old Bedhampton Conservation Area Appraisal will replace the 1994 appraisal.
- 4.8 The Council has powers to make and review conservation areas and management plans by virtue of Part II, section 69 (1) and (2) and section 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 4.9 Any potential legal implications of adopting a management plan for Old Bedhampton Conservation Area and the implementation of Article 4 Directions will be subject to a further report to the Cabinet.

- 4.10 **Strategy:** The completion of the Conservation Area Character Appraisal and Management Plans for the 14 conservation areas in the Borough will help to achieve the Council's aspirations within the Corporate and Community Strategies, in terms of 'improving the design and quality of the built environment and the better maintenance / presentation of public spaces and places'; and within the Regeneration Strategy through 'the improvement of the public realm; the provision of environmental improvements and developing a sense of pride in place; and ensuring quality urban design and distinctiveness' and within the Cultural Strategy through the 'promotion of the local distinctiveness of the Borough'.
- 4.11 **Risks:** The Old Bedhampton Conservation Area Appraisal has been highly contentious due to it coinciding with the progression of the Local Plan and proposed development sites.
- 4.12 The risks can be separated into two categories: those as a direct result of the appraisal's recommendations and those from the unusual process of producing the appraisal.
- 4.13 The risks from the direct implementation of the conservation area appraisal are dealt with section on financial 4.2 – 4.5 of this report.
- 4.14 Risks from the unusual process of permitting a local community to lead on a CAA include that the appraisal followed by Council designation are that it may be subject to close examination by those involved on both sides in the development plans in the area. For an area where the proposed development is controversial, additional time and resources are thus needed to avoid any actual or perceived bias in evidence gathering and decision making.

It is because of these process risks that the Old Bedhampton conservation Area Appraisal has been brought to OPS board for scrutiny: to review the amended appraisal and the decision made as well as the process.

- 4.15 **Communications:** please see section on consultation (below).
- 4.16 **For the Community:** The designation of a wider area as Conservation Area will benefit the community in recognising the special character of the area and the community's pride in the village of Bedhampton.
- 4.17 **Consultation:** the proposals were subject to consultation between February and March 2019. These have been fed into the considerations before the OPS Scrutiny Board. The consultation was advertised alongside the Pre-Submission Local Plan, which is a higher level of marketing and promotion than would usually take place for a Conservation Area Appraisal.

## **Appendices and background papers**

Appendix A: Post consultation appraisal including maps

Appendix B: Consultation appraisal including maps (HBC)

<https://www.havant.gov.uk/sites/default/files/documents/HBC%20final%20Old%20Bedhampton%20CAA.PDF>

Appendix C: Comments and responses document

Appendix D: Consultation comments received

Appendix E: Old Bedhampton Conservation Area Appraisal draft (BMF)

**Background Papers:** none.

## **Glossary**

OBCAA – Old Bedhampton Conservation Area Appraisal

BMF – Bidbury Mead Friends

## **Agreed and signed off by:**

Finance: Andrew Clark

Legal: Razana Begum

Head of Service: Simon Jenkins

Cabinet Lead: Cllr Tim Pike

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