

Conservation Area Designation – The Implications

The statutory definition of a conservation area is “an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance”, according to the Planning (Listed Buildings and Conservation Areas) Act 1990. Conservation Areas are primarily concerned with the preservation of groups of buildings and their settings rather than individual buildings which are the preserve of the Listed Building legislation contained in part 1 of the Act.

Current guidance on applying heritage conservation legislation to specific sites and buildings is contained within Chapter 12 of the National Planning Policy Framework.

Each local Planning Authority has a duty to

- Review the need to identify new Conservation Areas, and to designate them;
- To carry out regular reviews of their Conservation Areas;
- To publish proposals for preservation and enhancement of their Conservation Areas;
- In exercising their planning powers, to pay special attention to the desirability of enhancing the character and appearance of the Conservation Area;
- The local authority (or the Secretary of State) may be able to take steps to ensure that a building in a conservation area is kept in good repair.

Designation of a conservation area affects all those who own, occupy or manage property within the defined area. The details as to the limits of what works may be carried out without planning permission are different to elsewhere. This is discussed in more detail below.

The principal effects of designation may be summarised as:

- Conservation Area Consent is required in advance the demolition of any unlisted building above 115 cu m within the area. Conservation area consent is publicised differently to planning applications;
- majority demolition of structures and boundary walls;
- alterations to boundary walls and gates fronting a highway over 1 m in height;
- notice must be given to the local authority before works are carried out to any tree in the area. Owners are required to give at least 6 weeks notice in writing to the Local Authority of any intention to cut down, lop, or top any tree within a Conservation Area. A criminal offence would result if such notice is not given. (see below);
- the display of advertisements is somewhat more restricted than elsewhere.
- Planning permission is required to change the exterior fabric of buildings with render, stone, artificial stone, timber, plastic or tiles.
- the range of “Permitted Development Rights” (which allow certain works and alterations to properties without the need for Planning Permission) is more limited within Conservation Areas. Planning permission may therefore be required for such things as extensions, satellite dishes, dormer windows, and Outbuildings where ordinarily they would not be necessary.

the planning authority must take into account the desirability of preserving and enhancing the character of the area when determining applications for planning permission and conservation area consent.

Implications of new development within Conservation Areas

As every development must either preserve or enhance the appearance and character of a Conservation Area, the Local Planning Authority will only permit new development that:-

- achieves a high standard of design sympathetic with the character of the area,
- is compatible with the scale, mass and form of adjacent buildings and their settings,
- uses appropriate materials,
- includes appropriate, good quality landscaping that complements the area,
- does not result in the loss of important open spaces or features of interest, and
- does not impinge upon views, into, out of and within the conservation area.

Designation Procedure

- The first stage is a survey to determine if the area is of sufficient quality in historic and architectural terms and to define carefully its special character.
- The second stage is not a statutory requirement but involves publicity for the proposals and public consultation. This consultation refers also to the Council's Statement of Community Involvement and the Wirral Compact.
- A report to both the Planning Committee and Cabinet is prepared, with map and schedule of properties. Designation is advertised in the local press and the London Gazette, and is then registered as a local land charge.
- There is no statutory right of appeal to the inclusion of a building within a Conservation Area.

Community Participation

- In partnership with local amenity groups Wirral Council has set up Conservation Area Advisory Committees. These bodies comment on development proposals or consult on longer term management.
- A local ward councillor is generally assigned by the Planning Committee to act as a Council representative on each of the advisory committees.
- The Council has also set up an annual Conservation Area Forum, which specifically considers the advancement of conservation interests across all designated areas and categories of historic asset.

Conservation Planning

In a residential area such as Lower Bebington, the main implications for householders are:

Trees in conservation areas

It is the character and appearance of conservation areas as a whole that the Council is required to preserve and enhance, not just that of the buildings within them. Major elements in the character and appearance of an area such as this are the trees, gardens and landscapes belonging to the individual houses. Gardens, quite rightly, are not suitable for 'control' as such. However, ill-considered works to trees may not only lead to the loss of the trees themselves, but can also spoil the setting of any buildings nearby. Since this is particularly unfortunate in conservation areas – whose appearance is, by definition, both special and worth preserving – local authorities are given some powers to control works to trees. Anyone proposing to carry out any works to a tree that is in a conservation area must give written notice of at least **six weeks** to the local planning authority. The works to be notified under this provision include the cutting down, topping, lopping, uprooting or wilful damage to any tree.

Limitation of 'permitted development rights'

Since conservation area consent is not needed for the erection of new buildings or for the alteration of existing ones, the need for planning permission to be obtained is the only way in which the planning authority can control works that may significantly affect character and appearance. However, if the works are 'permitted development', then no planning application is normally needed and the authority has no planning control (although other controls may still apply).

The limits of what is 'permitted development' within a conservation area can therefore be of considerable significance. There are, accordingly, certain differences between permitted development limits generally and those applying in conservation areas. The main differences that are important to a residential area such as this are changes to dwelling houses, as follows:

- The rules regarding the installation of a satellite dish (on any building or structure, or within the curtilage of a dwellinghouse) are much tighter. The installation is only considered to be 'permitted development' if all the following criteria are met:
 - (i) the dish does not exceed 90cm in any dimension.
 - (ii) no part of it must exceed the highest part of the roof.
 - (iii) it is not installed on a chimney.
 - (iv) it is not on a building exceeding 15m in height.
 - (v) it is not on a wall or roof slope fronting a highway (including a footway).
 - (vi) it is located so that its visual impact is minimised.
 - (vii) it is removed as soon as it is no longer required.
 - (viii) there is not already a dish on the building or structure.
- The construction of any detached building forwards of a front or side elevation, or towards a highway.
- The installation of solar panels to either the front or side elevations walls (not roof) requires planning consent.
- The rendering or cladding of a side elevation in render or another material. This includes solid wall insulation projects.
- The alteration or replacement of a flue or chimney on a front or side elevation.

- Any alteration to a roof such that either the height of the ridge is exceeded or a new element extends 15cm beyond the plane of the roof.

Article 4 Directions

A local planning authority may sometimes wish to restrict the right of landowners to carry out certain categories of development which would be otherwise automatically permitted development. This will occur where that type of permitted development would have a particularly unfortunate effect on the appearance of the area.

There are two types of direction:-

- Article 4(1) Directions. These orders can restrict any external alteration to a dwelling house.

Article 4(2) directions These are less extensive and restrict permitted development rights in relation to a building or land that fronts a highway, waterway or open space in one or more of the following categories:-

1. the enlargement, improvement or other alteration of a dwelling house, enclosure, swimming pool, etc.
2. the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure within the curtilage of a dwelling house.
3. the painting of the exterior of any part of a dwelling house or of a building or enclosure within the curtilage of a dwelling house.
4. the demolition of all or part of a gate, fence, wall or other means of enclosure within the curtilage of a dwelling house, and therefore the creation of forecourt parking where originally none existed.
5. The erection, alteration or removal of a chimney on a dwelling house or on a building in the curtilage of a dwelling house, whether or not it fronts the locations above.
6. the provision within its curtilage of a building.
7. the provision of a hard surface.
8. the installation of microgeneration equipment.
9. the installation of a satellite antenna.

Notes

1. Dwelling houses do not include flats; flats do not enjoy the permitted development rights which relate to dwelling houses.
2. Wirral Council currently has only one Article 4 direction in force in a conservation area; this applies to Bromborough Pool Village.

It is not presently considered appropriate to implement an Article 4 Direction in any more areas due to financial constraints. However, if there is overwhelming public support for such an instrument then this will be reported to Committee.

Policy Development

The government has introduced a new kind of planning system in which the focus is on flexibility. Local authorities now produce *local development frameworks* (LDFs),

which consist of *development plan* (DPDs), which form part of the statutory development plan; *supplementary planning documents* (SPDs), which expand policies set out in a DPD; and the local authority's *statement of community involvement* (AAPs), which focus on short-term implementation, can be used within the LDF to provide the planning framework for areas where significant change or conservation is needed. All of the above documents should take account of conservation objectives when considering future development and management.

Other information.

The criteria for including properties within a conservation area are set out in the Planning (Listed Buildings and Conservation Areas) 1990, (http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900009_en_1.htm), as are provisions relating to the operation of conservation area status.

Additional guidance is provided via the English Heritage web pages on conservation areas (<http://www.english-heritage.org.uk/server/show/conWebDoc.2407>)

Wirral Council operates local policies in relation to planning in conservation areas (general policy CH2), viewable via the government's planning website: <http://planningportal.gov.uk>. Eventually, our UDP programme will be supplanted by our emerging Local Development Framework and the heritage Local Plan. Regional policy guidance places a special emphasis on the conservation of built resources and good design.

There is presently a great deal of information on built conservation in general, and this can be accessed via the government's portal on the subject at: www.helm.org.uk.

A good number of amenity societies offer helpful advice on building conservation and publish many helpful texts, and these are cited towards the rear of the appraisal documents.