

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING
MANAGER

TO: Nelson Area Committee

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Whitefield Conservation Area

PURPOSE OF REPORT

- (1) To discuss whether it is appropriate to de-designate Whitefield as a conservation Area

RECOMMENDATIONS

- (1) That no recommendation is made to the Executive to de-designate the conservation area.

REASONS FOR RECOMMENDATIONS

- (1) The Conservation Area is worthy of its designation and there would be no legitimacy to de-designating it under current planning law

ISSUE

- 1 There has been a request to consider whether or not Whitefield should remain as a designated conservation area or whether that status should be rescinded. This report details the background to its designation and what it is legitimate for the Council to do in respect of its status as a conservation area.

Background

- 2 The area of Whitefield had suffered from multi problems resulting in the Council pursuing CPOs for the compulsory acquisition of properties with a view to demolishing and replacing them. This happened during the latter part of the 1980s and culminated in a public inquiry in 2002.

- 3 The CPO was heavily objected to by the then English Heritage based on their view of the historic significance of the area. The decision on the CPO was issued by the Deputy Prime Minister in September 2003. The decision letter, at paragraph 10, recognised the historic significance of the area. Of particular importance to that significance was the intact nature of the townscape with its uniformity and grid iron pattern of development.

Conservation Areas and the Law

- 4 The overarching legislation covering conservation areas is contained in the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 5 Section 69 of that Act requires that from time to time every Local Planning Authority shall determine which parts of its area are of special architectural or historic significance. If an area is deemed to be of special architectural or historic interest section 69 (1) b states that the LPA shall designate that area as a conservation area. In other words it is mandatory to designate any area that has special historic or architectural interest as a conservation area.
- 6 Section 70 of the Act allows a designation to be varied or cancelled. However prior to doing this it must be first notified to the Secretary of State.

The Designation of Whitefield as a Conservation Area

- 7 Subsequent to the decision of the Deputy Prime Minister on the CPO we looked at the merits of Whitefield from a heritage perspective and determined that it was of special historic and architectural significance. Whitefield was designated as a conservation area in 2004.
- 8 Since then a substantial amount of public investment has occurred which has improved the area and which has increased the area's historic and architectural importance.

Implications for De-designation

- 9 The de-designation of any conservation area must be read in conjunction with section 69. Section 69 requires areas to be designated as conservation areas if they are assessed, as Whitefield has been, as having special architectural and historic interest.
- 10 It follows therefore that in order for an area to no longer be compliant with Section 69 there would have to be something that has occurred that would lead to that area no longer having that special interest. Whitefield has, since 2004, had significant improvements made to it. Key sites and buildings have been regenerated, terraced housing has been brought up to a conservation standard and improvements have been made to the public realm.
- 11 Overall the quality of the area has not deteriorated but has improved. Indeed that improvement has been to such a significant extent that Historic England has removed Whitefield Conservation Area from the national Heritage at Risk register. This marks a considerable achievement for Pendle, and is the result of a decade of sustained public and private investment. It however reinforces the case that the conservation area has been enhanced over that period and has not deteriorated in a way that would undermine its special architectural and historic interest.
- 12 Pendle, as with all LPA's, is required to keep under review conservation areas. Unless there has been a deterioration of a conservation area there would be no lawful justification for de-designating it. Any move to do so would be susceptible to a judicial challenge as we would not be fulfilling our statutory function as set out in section 69 of the Act.

- 13 The impetus for de-designating is to allow dormer and other extensions. The reasons to de-designate must relate to the historic and architectural significance of an area not that it restricts aspirations to extend properties. Were it to be decided to proceed to de-designate evidence on the historic significance of the area would need to be produced that showed the area as a whole had deteriorated to the extent that it did not warrant being a designated heritage asset.
- 14 We are not aware of any evidence that could point to that having occurred. The removal of the area from the at risk register, the improvements to it that have been made over the last 10 years or so combined with the Secretary of State's decision on the CPO which confirmed the area had historic significance would not point to a credible case for de-designation being able to be made. The evidence points in the other direction of the historic significance increasing.
- 15 The de-designation could also not be approved unless the Secretary of State had been consulted on it. The proposal would need to be published in the London Gazette and in at least one local newspaper.
- 16 Both the designation and de-designation of conservation areas needs to be undertaken based on sound evidence. Judicial reviews can be pursued if either are pursued without evidence thus making the decision to designate or de-designate unsound.

Conclusions

- 17 In order to justify the de-designation of a conservation area there would need to be some demonstrable deterioration in its special architectural or historic interest. In the case of Whitefield those interests have not diminished but have increased since its designation in 2004. There would therefore be no justifiable basis for de-designating it as a conservation area.

IMPLICATIONS

Policy:	None
Financial:	None
Legal:	De-designating Whitefield without there having been a reduction in its architectural or historic significance would be contrary to section 69 of the Listed Buildings Act. It would leave Pendle susceptible to a judicial review for making a decision contrary to the Act.
Risk Management:	None
Health and Safety:	None
Sustainability:	None
Community Safety:	None
Equality and Diversity:	None