

EXECUTIVE BOARD – 18th September 2018

Subject:	Nottingham Local List Adoption
Corporate Director(s)/Director(s):	Chris Henning, Corporate Director of Development and Growth Paul Seddon, Chief Planner
Portfolio Holder(s):	Cllr Jane Urquhart – Portfolio Holder for Housing and Planning
Report author and contact details:	Alice Ullathorne alice.ullathorne@nottinghamcity.gov.uk 01158761993
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Criteria for Key Decision:	
(a) <input type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision	
and/or	
(b) Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input type="checkbox"/> No	
Type of expenditure:	<input type="checkbox"/> Revenue <input type="checkbox"/> Capital
Total value of the decision: Nil value	
Wards affected: All	
Date of consultation with Portfolio Holder(s): 16/04/2018	
Relevant Council Plan Key Theme:	
Strategic Regeneration and Development	<input type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	<input checked="" type="checkbox"/>
Community Services	<input type="checkbox"/>
Energy, Sustainability and Customer	<input type="checkbox"/>
Jobs, Growth and Transport	<input type="checkbox"/>
Adults, Health and Community Sector	<input type="checkbox"/>
Children, Early Intervention and Early Years	<input type="checkbox"/>
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>This report sets out the proposal for the adoption of a Local List of Heritage Assets in Nottingham and a mechanism for due consideration of applications for demolition of some historic buildings on the list through Article 4 Directions. The Local List is an opportunity for citizens from all communities to seek recognition of heritage assets, boosting pride and respect in neighbourhoods throughout the city. It will also enable due weight to be given to the consideration of local heritage value within the planning process due to those assets on the list having undergone a rigorous and fair selection process.</p> <p>Planning Committee has been consulted during the development of these proposals, though their adoption is an Executive function.</p>	
Exempt information: State 'None' or complete the following	
None.	
Recommendation(s):	
1 To adopt the Local List Criteria and Selection Process outlined in Appendix 1	
2 That in the case of a building being included on the Local List which is neither located in a Conservation Area nor suitable for a National Designation, the Portfolio Holder for Housing and Planning shall also consider authorising an Article 4 Direction to remove permitted development rights for the demolition of that building.	

1 REASONS FOR RECOMMENDATIONS

- 1.1 Paragraph 197 of the National Planning Policy Framework 2018 requires the Planning Authority to take the impact of development on non-designated heritage assets into account when determining planning applications and the National Planning Policy Guidance States, *“Local lists incorporated into Local Plans can be a positive way for the local planning authority to identify non-designated heritage assets against consistent criteria so as to improve the predictability of the potential for sustainable development”*.
- 1.2 Having adopted criteria for a Local List of Heritage Assets based on publically scrutinised and rigorous selection criteria provides a more robust basis for assessing planning decisions as well as identifying heritage issues at the earliest possible stage in the planning process. Adopting a list of non-designated Heritage Assets, can add weight to planning decisions on appeal.
- 1.3 The Examination Draft Nottingham City Land and Planning Policies Document follows the above approach and states, *“The Council will produce and maintain a list of non-designated heritage assets and set out the criteria for their identification.”* The adoption of such a list and the criteria for it is therefore in accordance with National and emerging local policy.
- 1.4 Even where a non-designated Heritage Asset is placed on a Local List it is generally afforded no higher level of protection in planning terms than any other property (unless it is situated in a conservation area). In particular, the demolition of a non-designated Heritage Asset would normally be permitted under the prior notification process. For this reason it is recommended that consideration also be given to the making of Article 4 Directions in the circumstances described in this report.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Many of the city’s most historically significant heritage assets are protected by national designations, with others being afforded higher levels of protection due to their location in Conservation Areas. However, many more significant buildings, historic landscapes and archaeological remains are not formally recognised, resulting in their actual and potential contribution and importance often being overlooked and unrecognised. The Nottingham City Aligned Core Strategy (Policy 11); the draft Nottingham City Land and Planning Policies Document (paragraph 4.130) and the Nottingham Heritage Strategy make reference to the Council creating a local list of non-designated heritage assets to ensure that their conservation and use remains a key part of the city’s heritage which prevails for the benefit of future generations.
- 2.2 Local Lists highlight key heritage assets in the townscape, which are cherished by communities. Such assets highlight the city’s history, providing an instinctive link to the past and giving us a sense of future direction by raising awareness of our origins. Local Lists differ from national designations as they draw attention to assets that are special

because they are locally significant.

- 2.3 Research suggests that around 60% of local authorities in England now have Local Lists. Nottingham has an established and detailed Local List, developed by the Nottingham Civic Society from an earlier list produced by the Council some years ago. However, the list is not formally adopted and can be afforded no weight in decision-making. Improving the list so that it is fit for purpose and formally adopted would enable the city to care for its valued assets and put them to best use as Nottingham grows.
- 2.4 The Nottingham Local Plan and the Heritage Strategy contain actions to adopt criteria for selection of heritage assets to be included in the Nottingham Local List. The Local List could then be used through the Local Plan as part of the evidence-base for planning and development as well as ensuring due process in decisions about the future of heritage assets and having a robust process for the justification of decisions on appeal.
- 2.5 The proposed Local List Criteria and Selection Process has been written by officers from the Heritage and Urban Design Team in collaboration with the City Archaeologist and colleagues in Planning and Planning Policy Teams and having regard to the advice in *Historic England's Advice Note 7: Local Heritage Listing*. It has also been developed in consultation with the Nottingham Civic Society, the Nottingham Heritage Panel, Historic England, and the University of Nottingham.
- 2.6 As the Planning Committee will use the list to help it assess planning applications the initial Local List criteria were considered by that Committee following which they were subject to a 6 week public consultation period ending 7th January 2017. This enabled members of the public to input into the formation of the Local List Criteria and Selection Process. From the consultation, 98% (80 people) thought that NCC should hold a Local List and 95% (77 people) felt that Article 4 Directions should be used in the case of demolition.
- 2.7 Following consultation the proposals have been revised and are reflected in the proposed Criteria and Selection Process outlined in Appendix 1. The Consultation Report is contained in Appendix 2 by way of information. Planning Committee was consulted on these revisions on 18 July 2018 and has recommended the adoption of a Local List using the Criteria and Selection Process to the Board.
- 2.8 Historic England Advice Note 7 on Local Heritage Listing recommends, *"Where changes do not require planning permission, an authority may consider whether the exercise of permitted development rights would undermine the aims for locally listed heritage assets. In cases where it would, authorities may consider the use of an Article 4 Direction (in tandem with the local listing process) to ensure any permitted development is given due consideration."* Some authorities (such as Leicester City Council) have imposed Article 4 directions taking away these permitted development rights for Locally Listed Heritage Assets.
- 2.9 The public consultation on the Local List gave a clear steer (95%) that NCC should impose Article 4 Directions in the case of demolition of a

Locally Listed Heritage Asset. The imposition of Article 4 Directions in the case of Local Lists has been explored nationally and forms the basis for recommending which Local Heritage Assets (that currently have Permitted Development rights for demolition by Prior Notification) should have Article 4 Directions placed on them to require planning permission to be gained in the case of demolition. This would equalise protection of Locally Listed historic buildings with buildings within Conservation Areas. The process of applying the criteria of the Local List and using Article 4 Directions has been tested through a pilot project in Basford. Planning Committee has recommended that Article 4 Directions be considered in the circumstances outlined in Appendix 3.

- 2.10 As can be seen from Appendix 1 it is intended that decisions as to whether an asset is ultimately placed on the list shall be taken by the Portfolio Holder for Housing and Planning rather than Board as this falls within their standard remit as do decisions relating to the making of Article 4 Directions. The process to add an asset to the Local List would run in parallel with the process for making an Article 4 Direction with a 6-week consultation period with two public notices, a notice in a Local Newspaper and consultation with the owner, applicant, Local Stakeholders, such as ward councillors, Planning and Regeneration Team, businesses and heritage organisations. Following the consultation period, final approval to add to the list would be made by the Portfolio Holder. Officers would address any objections or appeals prior to final approval to add to the Local List.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Not to adopt a Local List – the Local List is an opportunity to engage Citizens from all communities in recognising heritage value throughout the city. Without a Local List those heritage assets of Local Value would not be identified early in the planning process potentially making such decisions less robust. Therefore, this option is not recommended.
- 3.2 Not to Apply Article 4 Directions - while such Directions will not be used in every case failing to use them at all could result in the loss of heritage buildings without appropriate opportunity being given to consider whether such loss is justified or mitigated.

4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 4.1 This report seeks approval to adopt a Local List of Heritage Assets in Nottingham as well as the selection criteria and process governing the list. The additional funding implications of a Local List of Heritage Assets is nil as all resource requirements can be met from existing resources.
- 4.2 Compilation and the ongoing maintenance of the Local List will require staff time which will be met by increasing the efficiency of existing resources. The data will be held on the authority's existing GIS system and Historic Environment Record maintained by the GIS team and the City Archaeologist.
- 4.3 No further cost implications are expected at this stage. If this were to change further approval would need to be sought.

Ceri Walters,
Head of Commercial Finance
31st August 2018

5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

- 5.1 The proposals appear consistent with relevant National and Local Planning Policy and Guidance and whilst not carrying the weight of a Supplementary Planning Document the placing of assets on the local list will still amount to a material planning consideration in determining planning applications thereby affording such assets an additional layer of protection.
- 5.2 Once the selection process has been followed decisions as to which assets will be placed on the list and whether an Article 4 Direction should be made will ultimately rest with the Portfolio holder. Once on the local list there is no formal right of challenge other than potentially by judicial review or challenging any planning decision where the relevant asset has formed a material planning consideration. Where it is determined that an Article 4 Direction is also required a separate statutory procedure has to be followed which may mean that there is a delay between an asset being placed on the Local List and any relevant Article 4 Direction being confirmed and taking effect (unless special circumstances exist necessitating the Direction to take effect immediately)

Ann Barrett,
Team Leader Planning, Environment and Leisure Solicitors
22 August 2018

6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)

- 6.1 The proposals set out in this report are supported on the basis that processes will be put in place to ensure that Property colleagues are consulted at an early stage in respect of all properties owned by the Council to be considered for inclusion in the Local List. Furthermore, processes should be put in place to ensure other relevant Council colleagues, for example Regeneration colleagues, are consulted at an early stage in respect of properties not owned by the Council to be considered for inclusion in the Local List.

Rod Martin
Development Manager
29th August 2018

7 SOCIAL VALUE CONSIDERATIONS

- 7.1 To enhance the heritage at the heart of Nottingham is a public benefit helping instil a sense of pride and place-making in citizens. Heritage is a key part of the unique selling point of Nottingham and a Local List would help citizens gain recognition of Local Heritage Value.

8 REGARD TO THE NHS CONSTITUTION

8.1 Not applicable

9 EQUALITY IMPACT ASSESSMENT (EIA)

9.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because:

(Please explain why an EIA is not necessary)

The Local List will provide opportunities for citizens from all communities to make applications to add entries to the Local List. The criteria includes a means of recognising diverse heritage within Nottingham and the contribution that all communities have made to the history of the city. Dissemination will be through central Communication teams and forwarded to staff networks. The inclusion of inaccessible buildings would not preclude promotion of better access for all to heritage and public buildings.

Yes



Attached as Appendix x, and due regard will be given to any implications identified in it.

10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)

Appendix 1 – Proposed Local List Criteria and Selection Process

Appendix 2 – Local List Criteria and Selection Process Consultation Report

Appendix 3 – Flowchart of recommendations for cases to use Article 4

Directions in the case of demolition

11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

11.1 Nottingham Heritage Strategy (Published March 2015)

11.2 Historic England Advice Note 7: Local Heritage Listing (Published May 2016)
National Planning Policy Framework and Guidance (2018)

11.3 Nottingham City Aligned Core Strategy (part 1 Local Plan) (adopted September 2014) and the Nottingham City Land and Planning Policies Document (part 2 Local Plan) (Publication Version January 2016)

11.4 Nottingham Local List Adoption, Planning Committee, 18th August 2018

11.5 Nottingham Local List Criteria and Selection Process, Planning Committee, 23rd November 2016