

For enquiries on this agenda please contact  
David Cannings, Secretary to the Cabinet  
020 8547 4627/Fax 020 8547 5032  
e.mail: david.cannings@rbk.kingston.gov.uk



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## CABINET

The CABINET will meet at the Guildhall, High Street, Kingston upon Thames on  
TUESDAY, 8 JANUARY 2002 at 7.30 pm

### CABINET MEMBERS

Councillor Kevin Davis	(Chair)
Councillor Eric Humphrey	(Vice Chair)
Councillor David Booth	
Councillor David Cunningham	
Councillor David Edwards	
Councillor Paul Johnston	
Councillor Jane Smith	

### EMERGENCY EVACUATION ARRANGEMENTS

#### QUESTION TIME

From 7.30 pm, for up to thirty minutes, members of the public may put questions to the Cabinet and officers relating to the functions and responsibilities of the Cabinet. The questions may be lodged with the Secretary to the Cabinet in writing before the meeting or immediately before the start of the meeting on the form provided.

The questions will be considered in the order of their receipt.

#### PUBLIC PARTICIPATION

Contributions from members of the Authority and from members of the public can be made on items which appear on the Cabinet agenda. For each item on the agenda, there is a period of up to five minutes, at the discretion of the Chair, for contributions from members of the public and/or other members of the Authority. A place is reserved for members of the public wishing to address the Cabinet. When their contribution is completed, they shall retire to the public gallery.

#### APOLOGIES FOR ABSENCE

#### MINUTES

To approve as a correct record the minutes of the meeting of the Cabinet held on 18 December 2001.

1. **DEVELOPING eSERVICES – CITIZEN FIRST** [*minute 303/04/2001*] **Appendix A**
2. **BEST VALUE REVIEWS** [*minute 304/04/2001*] **Appendix B**

3. CONSERVATION AREA ASSESSMENT : RICHMOND PARK CONSERVATION  
AREA EXTENSION and KINGSTON HILL LOCAL AREA OF SPECIAL  
CHARACTER Appendix C
4. CARS and REFRIGERATORS Appendix D
5. INFORMATION ROUND-UP
6. DRAFT ROLLING PROGRAMME OF CABINET BUSINESS Appendix E
7. ANY URGENT BUSINESS AUTHORISED BY THE CHAIR

**EXTENSION TO RICHMOND PARK (KINGSTON) CONSERVATION AREA &  
DESIGNATION OF KINGSTON HILL CONSERVATION AREA**

Report by the Head of Planning & Development

**Purpose**

**This report assesses the area surrounding the existing Richmond Park (Kingston) Conservation Area and the nearby Kingston Hill Local Area of Special Character to consider whether the areas have sufficient special interests worthy of conservation area designation. The existing Richmond Park (Kingston) Conservation Area is recommended for extension to be known as the Kingston Vale Conservation Area. Additionally a new conservation area to be known as the Kingston Hill Conservation Area is recommended for public consultation to identify the support for conservation area designation.**

**Background to Conservation Areas**

1. It is the duty of every Local Planning Authority under Section 69 (1) of the Planning (Listed Buildings and Conservation Area) Act 1990 to determine which parts of its area are of "special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance", and to designate such areas as conservation areas. Additionally, there is a duty to review the past exercise and to determine whether any parts or any further parts of the area should be designated as conservation areas.
2. Policies BE3 (Development in Conservation Areas), and BE4 (Demolition of Buildings in Conservation Areas) of the Unitary Development Plan sets out the policies for existing conservation areas. The criteria which the Authority will take into account when considering the designation of an area as a conservation area are set out under BE3 and policy BE4 (Local Areas of Special Character) established that future conservation areas will be drawn from Strategic or Local Areas of Special Character.
3. Central Government guidance on the designation of conservation areas is to be found in PPG15 Planning Policy Guidance: Planning and the Historic Environment, this is supplemented by Conservation Area Practice and Conservation Area Appraisals published by English Heritage (October 1995 & March 1997).
4. The statutory definition of a conservation area is set out in paragraph 2, and the national guidance referred to in paragraph 4 makes it clear that it is the quality and character of areas, rather than that of individual buildings which should be the prime consideration in identifying conservation areas. It is important that conservation areas justify their status, and that the special architectural or historic interests are clearly defined. This careful analysis will determine whether the area has a character or appearance that it is desirable to preserve or enhance.
5. Borough-wide there are presently 22 conservation areas, designated over the last 30 years. The last designation was the Coombe House Conservation Area in March 1997. A Conservation Area publication series was approved by Cabinet in October 2001 and will be distributed in the spring. The Richmond Park (Kingston) Conservation Area leaflet has been delayed following the consideration of this report.

**Background to the Richmond Park (Kingston) Conservation Area**

6. The existing Richmond Park (Kingston) Conservation Area is identified on Plan No. 01/227/B in Annex 1. The London Borough of Richmond upon Thames in 1991

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designated Richmond Park Conservation Area, covering the whole of Richmond Park. In 1995 a part of this area at Robin Hood Gate was transferred to Kingston upon Thames in a boundary review. On 19 September 1996 the Royal park Neighbourhood Committee decided to retain the designated status and it was considered appropriate to extend it to include the Stag Lodge Stables. The area was renamed the Richmond Park (Kingston) Conservation Area. The character and appearance of the area was clearly identified as part of the historic Royal Park. Stage Lodge was included because it was felt to have a strong visual and functional relationship with the land within the park walls. The land surrounding the Kingston Vale area was not considered to be part of this character.

7. The Richmond Park (Kingston) Conservation Area is now being considered for an extension due to threats to two public houses on Kingston Vale, and local residents' requests that the area be protected. The Duke of Cambridge Public House was sadly demolished in October. It had been considered by the Department of Culture, Media and Sport to be of insufficient special architectural or historic interest to be worthy of spot listing. The Robin Hood Public House is also under threat of demolition, and any decision on a spot listing application will be reported as late material. The only planning controls to protect the building from demolition are spot listing or conservation area designation. Since conservation area designation is within the power of the local planning authority, and the building lies in close proximity to an existing conservation area designation it is within UDP policy and national guidance to consider an extension to the Richmond Park (Kingston) Conservation Area. An independent consultant has been commissioned to give an impartial and expert opinion based on a wider knowledge of regional and national conservation area qualities, and to provide a background for any future appeal evidence to defend the demolition of individual buildings.

### **Background to the Kingston Hill Local Area of Special Character**

8. The existing Kingston Hill Local Area of Special Character (LASC) is identified on Plan No. 01/183/B in Annex 2. This area was first identified as part of policy UD4 of the Royal Borough of Kingston upon Thames Local Plan 1989. This LASC was carried forward to the March 1998 Unitary Development Plan within Policy BE2. The area has not been formally assessed for conservation area designation before. It has been brought forward at this time due to its proximity to the Richmond Park (Kingston) Conservation Area, and the adjoining Kingston Vale area. It is considered appropriate to identify the differences in character between the two areas, and the rationale for the proposed boundaries.
9. Kingston Hill LASC contains many fine individual buildings, including two listed buildings, (Galsworthy House, and Dorich House) and several Buildings of Townscape Merit. Many of these properties were the first substantial residences built on Kingston Hill, and set the standard for this prestigious area of extensive landscaped grounds on a hillside setting enjoying the pleasing juxtaposition with Richmond Park. The LASC is also part of the Kingston Hill/Coombe Hill Strategic Area of Special Character under Policy BE1 which seeks to preserve the open and densely landscaped nature of the wider area and the important views, within and beyond the borough, into the area.

### **Conclusions on Assessment of the area surrounding Richmond Park (Kingston) Conservation Area**

10. The Consultants' report, referred to as background paper 1, carefully analyses the architectural and historic interests of the wider area around the existing conservation area. It concludes that the area has a character and appearance of its own quite

separate from the inward looking character of Richmond Park. The architectural interest lies in a group of eclectic styles that contribute to the collective range of uses expected in a self contained community. The area has a significant number of properties that make a positive contribution to the character of the area, and only a few buildings such as Sherwood House, and the petrol filling station that have a negative impact. Key landmark buildings are Stag Lodge, St John's Church, and the Robin Hood Hotel. The wall to Richmond Park encloses the north side of Kingston Hill; a grade II listed building. The historic interest lies in the establishment of an isolated village from 1837 on a strategic historic route, containing at one point three staging posts for coaches, and at the Robin Hood Gate to Richmond Park which is the link with the adjoining ancient Wimbledon common open space. The evidence of this village is very much retained in the physical fabric that includes the old school, church, one pub, the stables, the local shopping parade, and the eclectic mix of mainly small- scale housing.

11. The area within the boundary identified on Plan No. 01/229/B in Annex 3 is considered to be an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. This area forms an extension to the Richmond Park (Kingston) Conservation Area, but since its character is defined in the context of the land beyond the park it is considered that it should be renamed the proposed Kingston Vale Conservation Area.

#### **Conclusions on Assessment of Kingston Hill Local Area of Special Character**

12. The Consultants' report, referred to as background paper 2, carefully analyses the architectural and historic interests of Kingston Hill Local Area of Special Character and the areas immediately outside the boundary. It concludes that the area has a different character and appearance to that of Kingston Vale described above, although it acknowledges that the historic route of Kingston Hill and the topographic qualities unite the two areas. The architectural interest lies in the high quality of individual buildings from the 19<sup>th</sup> century and early 20<sup>th</sup> century which are each a product of individual tastes. The area does not have a harmonious architectural character, as there is no Kingston Hill style. The core of the area on the north side of Kingston Hill comprises a concentration of properties that make a positive contribution to the character of the area including St Aubyns, Holmwood, Kingston Hill Place, Dorincourt and Harewood. The more peripheral properties between the listed Galsworthy House and Dorich House are individually less significant but the quality of the landscaping is more important than the quality of the architecture and draws the character together. On the south side of Kingston Hill the whole of the Kingston University campus is considered to have architectural and historic interest derived from the older buildings of Kenry House, the stable court, the Lodge, and Coombehurst which together with the 1960's Walden Hall, the 1980's de Lisa Hall, and the recent Sir Frank Lampl Building provide a history of architecture from mid-19<sup>th</sup> to late 20<sup>th</sup> century. The historic interest lies in the distinctive arcadian character of a well-to-do early Victorian suburb, which resulted from a process of progressive sub-division of large minor estates established in the Coombe area in the late 18<sup>th</sup> and early 19<sup>th</sup> century. The dense landscaping, soft boundaries, changes in level and views over Richmond Park and Wimbeldon Common are the most striking features which give this area a distinctive character and appearance.
13. The area within the boundary identified on Plan No. 01/228/B in Annex 4 is considered to be an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. It is therefore suggested that a new designation named the proposed Kingston Hill Conservation Area be progressed.

### **Implications of Conservation Area Extension and Designation**

14. All land and properties located within a designated conservation area are subject to the following additional planning controls:-
  - a) Demolition of a structure over 115 cubic metres would require conservation area consent. Any applications would be determined in accordance with UDP policy BE4 which resists the loss of buildings that make a positive contribution to the character of the area;
  - b) Works to most trees would require six weeks notice, unless already subject to a tree preservation order (TPO). Although some TPOs exist in both areas assessed above the tree protection is not comprehensive throughout the areas;
  - c) Permitted development rights to single family houses and industrial or warehouse premises would be more restrictive. For example, planning permission would be required for alterations to any part of the roof of a house, the cladding of the exterior, and the installation of a satellite dish. However, houses would still have significant permitted development rights to changed windows and doors, and construct small extensions and porches unless they are controlled by the introduction of an Article 4 Direction.
15. The Authority's obligations following the designation of a conservation area are:-
  - a) To pay special attention to the conservation area in exercising any of its planning powers. In particular, applications for new development would be determined in accordance with UDP policy BE3 that seeks to preserve or enhance the character and appearance of each conservation area.
  - b) To advertise applications and take into account representations;
  - c) To formulate and publish proposals for the preservation and enhancement of the area. The imminent publication of the Conservation Area leaflet series is the first stage in a long process of conservation area character appraisals, and studies.
16. More detailed information on the implications of conservation area designation and good practice guidance can be found in the text of the Conservation Areas General Guide distributed with the October agenda.

### **Public Consultation & Designation Procedures**

17. There is no statutory duty to consult prior to designation of a conservation area, but guidance is that it will be highly desirable that there should be consultation with local residents, businesses, and other local interested bodies over both the identification of areas and the definition of their boundaries. The greater the public support for the designation the more likely it is that policies for the area will be implemented voluntarily, and without the need for additional controls. Guidance also acknowledges that consultation may produce a negative response and that the Authority should take the lead in deciding on the validity and desirability of designation, even if this runs counter to local feeling.
18. It has been this Authority's standard practice to consult with all property and landowners within a proposed designation boundary prior to a final decision to designate a conservation area. A letter and short questionnaire have typically been hand delivered to properties and response rates have generally been between 40 and 70%. It is common to receive a majority in favour of a designation and a minority against either the principle of a designation or the inclusion of their property in the area. Often the consultation process has resulted in revisions to the boundary

normally to include a wider area. There is no mechanism for an affected party to appeal against a conservation area designation. The only challenge would be by way of an application for a Judicial Review to the High Court on grounds of a breach of the *ultra vires* rule. There has not been a challenge to any of the previous designations in this Borough, although suggestions have been made.

19. It is suggested that in view of the known body of local opinion as a result of the Duke of Cambridge PH planning application consultation, and the representations from the Kingston Vale Residents' Association that there is sufficient evidence of local support to warrant designation of the proposed Kingston Vale Conservation Area without comprehensive consultation. The Kingston Vale Residents' Association have been sent a letter advising them of this suggested departure from adopted practice and any response will be reported as late material. All owners and occupiers within the affected boundary will be sent a letter notifying of any adopted designation and the implications affecting their property. It is suggested that the use of a consultant to carry out the assessment of the two areas demonstrates the validity and desirability of the designations in the event of any future High Court challenge or appeals against the refusal of planning permission or conservation area consent. Members of the Royal Park Neighbourhood Committee have been informally advised of the proposed designation.
20. With respect to the proposed Kingston Hill Conservation Area it is suggested that as there are no known threats to the character of this area that the standard Council practice of consultation prior to designation should be adopted. Consultation should include a letter to all property and landowners within the proposed boundary, and to any interested residents associations and other local, regional and national amenity bodies. Presentation material will be available at the meeting and during any consultation period to illustrate the proposed boundary at a large scale and photographs of the special architectural and historic interests which designation seeks to protect. The Royal Park Neighbourhood Committee will be consulted on the proposed designation.

**Action proposed by the Cabinet Secretary for Environment & Regeneration:**

**The Cabinet is requested to agree that**

1. **the designation of an extension to the Richmond Park (Kingston) Conservation Area, to be known as the Kingston Vale Conservation Area, as identified on Plan no.01/229/B in Annex 3 in accordance with the statutory procedures set out in sections 69 & 70 of the Planning (Listed Buildings & Conservation Areas) Act 1990;**
2. **owners and occupiers of all properties and land within the affected extension encompassing the Kingston Vale Conservation Area be notified by letter of the designation;**
3. **the Kingston Town & Royal Park Conservation Areas Advisory Committee be invited to bring the Kingston Vale Conservation Area within their remit and facilitate a local person to represent the interests of the area in any consultation;**
4. **the designation of the proposed Kingston Hill Conservation Area as identified on plan no. 01/228/B in Annex 4 in accordance with the statutory procedures set out in sections 69 & 70 of the Planning (Listed Buildings & Conservation Areas) Act 1990, subject to public consultation with:-**

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- a) the owners and occupiers of all properties within the proposed conservation area boundary;
  - b) local amenity groups including:-Kingston Town & Royal Park Conservation Areas Advisory Committee; Kingston upon Thames Society; Kingston upon Thames Archaeological Society, Friends of Kingston Heritage, Malden & Coombe Civic Society; The Kingston Vale Residents' Association and any other residents' association covering the area;
  - c) regional and national bodies including:- English Heritage; Victorian Society; Twentieth Century Society; Greater London Authority;
5. the Royal Park Neighbourhood Committee be consulted on the proposed Kingston Hill Conservation Area.

### Annexes

1. existing Richmond Park (Kingston) Conservation Area, Plan No. 01/227/B.
2. existing Kingston Hill Local Area of Special Character (LASC) Plan No. 01/183/B.
3. proposed Kingston Vale Conservation Area, Plan No. 01/229/B.
4. proposed Kingston Hill Conservation Area, Plan No. 01/228/B.

**Background Papers** : held by Karen Liddell [author of report], 020 8547 5359

1. Report by the consultant, The Conservation Studio, titled "Richmond Park (Kingston) Conservation Area";
2. Report by the consultant, The Conservation Studio, titled "Kingston Hill Local Area of Special Character".

MALDENS AND COOMBE NEIGHBOURHOOD COMMITTEE

21 SEPTEMBER 2004

PROPOSED DESIGNATION OF KINGSTON HILL CONSERVATION AREA

REPORT BY THE DIRECTOR OF ENVIRONMENTAL SERVICES

**SUMMARY**

On 8 January 2002 the Cabinet considered an assessment of the Kingston Hill Local Area of Special Character to determine if the area had sufficient special interests worthy of conservation area designation. This report sets out the results of the public consultation, and seeks the views of this Committee which it is anticipated will be reported to the Executive meeting of 19 October 2004 to consider the formal designation. The recommended boundary of the proposed area has been amended in response to an assessment of the consultation responses and is considered worthy of designation as the Kingston Hill Conservation Area. Such a designation would make the Kingston Hill Local Area of Special Character redundant for planning purposes and its cancellation will be recommended to the Executive.

**RECOMMENDATIONS**

It is **RECOMMENDED** that:

1. The results of the public consultation on the Proposed Kingston Hill Conservation Area be noted;
2. This Committee's comment on the proposed Kingston Hill Conservation Area as identified on plan 04/161/B in Annexe 2 be forwarded to Executive for a decision on the designation of the Proposed Kingston Hill Conservation Area.
3. The Maldens & Coombe Conservation Area Advisory Committee (CAAC) be asked to bring the proposed Kingston Hill Conservation Area within their remit and to appoint a representative from the area;
4. A notice board dedicated to the Proposed Kingston Hill Conservation Area be installed in a location to be agreed with the Maldens and Coombe CAAC and adjacent owners and occupiers, and a leaflet be published and distributed to all properties in the area (as identified in paras. 28-29), subject to officers identifying a budget of £1500.

**REASON FOR THE RECOMMENDATION**

To provide guidance to the Executive upon which to make a resolution on the designation and to enable the proposed designation to be effectively implemented and a management regime established.

## BACKGROUND

1. On 8 January 2002 the Cabinet considered an assessment of the Kingston Hill Local Area of Special Character to determine if the area had sufficient special interests worthy of conservation area designation. The Cabinet agreed the principle of the designation subject to public consultation with owners and occupiers of properties within the conservation area boundary; local, regional and national amenity bodies and the Neighbourhood Committee. The area was assessed by an independent consultant, The Conservation Studio, and was part of a joint assessment with the adjoining Kingston Vale area that was at that time suffering from the threat of demolition of two public houses. It was considered appropriate to identify the differences in character between the two areas and the rationale for the proposed boundaries. The Kingston Vale Conservation Area was designated at Cabinet on 8 January 2002 without prior public consultation.
2. The implications of conservation area designation are set out full in the Cabinet Report of 8 January 2002 (see Background Paper 1.). A designation brings into effect additional planning controls over the demolition of existing structures, works to trees (unless already covered by a Tree Preservation Order), and minor works comprising permitted development. The Council is also statutorily committed to pay special attention to the character and appearance of the area in all decisions it makes, and to prepare and publish proposals for the preservation and enhancement of the area. Policies BE3 and BE4 of the adopted Unitary Development Plan would also become a material consideration in all planning decisions. Public consultation on the proposed Kingston Hill Conservation Area has now been completed and the results and response are presented with a review of and recommendation on the proposal.

## SUMMARY OF THE ASSESSMENT

3. The full background and context with the adjoining Kingston Vale Conservation area is found in the Cabinet Report of 8 January 2002 and the consultant's report titled "Kingston Hill Local Area of Special Character" November 2001 referred to as background papers 1 & 2. A summary is provided only within this report. The Kingston Hill Local Area of Special Character (LASC) is identified on Plan No. 04/160/B in **ANNEX 1**, along with the proposed Kingston Hill Conservation Area boundary as adopted by Cabinet on 8/1/02 for the purpose of public consultation in plan no. 01/228/B. **Annex 1 shows the boundaries upon which the public consultation has been undertaken, but not the boundary recommended for designation in this report.** The Kingston Hill LASC was first identified as part of policy UD4 of the Royal Borough of Kingston upon Thames Local Plan 1989. This LASC was carried forward to the March 1998 Unitary Development Plan (UDP) within Policy BE2. The current UDP review does not propose alterations to the Kingston Hill LASC. The LASC is also part of the Kingston Hill/Coombe Hill Strategic Area of Special Character under Policy BE1 which seeks to preserve the open and densely landscaped nature of the wider area and the important views, within and beyond the borough, into the area.
4. The Consultant's report, referred to as Background Paper 2, carefully analyses the architectural and historic interests of Kingston Hill Local Area of Special Character

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and the areas immediately outside the boundary. The conclusion, as reported to Cabinet on 8 January 2002, was that

“...the area has a different character and appearance to that of Kingston Vale, although it acknowledges that the historic route of Kingston Hill and the topographic qualities unite the two areas. The architectural interest lies in the high quality of individual buildings from the 19<sup>th</sup> century and early 20<sup>th</sup> century which are each a product of individual tastes. The area does not have a harmonious architectural character, as there is no Kingston Hill style. The core of the area on the north side of Kingston Hill comprises a concentration of properties that make a positive contribution to the character of the area including St Aubyns, Holmwood, Kingston Hill Place, Dorincourt and Harewood. The more peripheral properties between the listed Galsworthy House and Dorich House are individually less significant but the quality of the landscaping is more important than the quality of the architecture and draws the character together. On the south side of Kingston Hill the whole of the Kingston University campus is considered to have architectural and historic interest derived from the older buildings of Kenry House, the stable court, the Lodge, and Coombehurst which together with the 1960's Walden Hall, the 1980's de Lisa Hall, and the recent Sir Frank Lampl Building provide a history of architecture from mid-19<sup>th</sup> to late 20<sup>th</sup> century. The historic interest lies in the distinctive arcadian character of a well-to-do early Victorian suburb, which resulted from a process of progressive sub-division of large minor estates established in the Coombe area in the late 18<sup>th</sup> and early 19<sup>th</sup> century. The dense landscaping, soft boundaries, changes in level and views over Richmond Park and Wimbledon Common are the most striking features which give this area a distinctive character and appearance.”

#### EXTENT OF PUBLIC CONSULTATION

5. The consultation exercise was undertaken between 24 March 2004 and 26 April 2004. A copy of the Cabinet report of 8 January 2002 was sent with a letter inviting comments from local, regional and national bodies. Additionally a total of 152 letters were sent to owners and occupiers and known agents of all land and buildings within the existing Kingston Hill Local Area of Special Character and the proposed Kingston Hill Conservation Area. The letter outlined the background to conservation areas, described the special architectural and historic interests in the area, identified the planning controls that would come into effect and gave guidance on how to find out more information. Each letter included a response form and a reply paid envelope. A display containing a large-scale plan illustrating the boundary and photographs of key buildings in the area was available for three weeks in the Guildhall, New Malden Library and Kingston Library. **This display with amendments showing the present recommended boundary will be on display at the meeting of this Committee.** The full Cabinet report, the consultant's report and historic maps for the area were also available with the display and could be downloaded from a dedicated page within the Council's web site, with links to ISIS for detailed planning histories. On-line responses were invited. This is the first use of the web site for a conservation area designation consultation.

## RESULTS OF PUBLIC CONSULTATION

### Organisations

6. The comments received from the organisations consulted (see Background Paper No. 4) are summarised below, with a response:

#### **The Maldens & Coombe Conservation Area Advisory Committee (CAAC)**

**Support.**

Minutes of 19 April 2004 state "Agree in principle". They have verbally confirmed that they had a long discussion on the proposed boundary and there was a consensus that the boundary was appropriate and that the whole university site should be included within the area. They have subsequently considered the representations that the two properties to the north of the proposed boundary should be within the area and would support an extension to the boundary in this area (A response is given at paragraph 9-10). The CAAC is happy to take the proposed area within its remit and appoint a representative for the area. They have also responded (letter dated 30 June 2004) to the Kingston University objection to support the boundary as used for public consultation and state in part:-

"We wish to point out that the designation of a conservation area would not eliminate any further expansion of the site. If plans were seen to be of good quality and necessary they could still be agreed. However, greater scrutiny would be paid to the consequences of an application in relation to the neighbouring area and how it would affect the wooded hill upon which the University stands..."

The Kingston Vale Conservation Area representative on the Maldens and Coombe CAAC has written an individual letter (15 April 2004) of support for the designation giving special regard to the landscape and topographical interest of the area and the relationship to Richmond Park and Wimbledon Common. It is considered that the controls will help safeguard the woodland within the University site.

The Kingston Town Conservation Area Advisory Committee also considered the consultation at their meeting of 7 April 2004 (although the proposed area is not within its remit). The minutes state "several members wanted most of Kingston University excluded, but with increased focus on significant buildings, e.g. Coombehurst. A minority agreed with the proposed boundary and would like the CA extended to include Ladderstile Road. (A response is given a paragraph 7-8). A letter dated 27 April 2004 stated that "with regards to the main part of the proposed CA, there was unanimous support".

A response to the issues on the boundary at Kingston University is given at paragraphs 13-17.

#### **Kingston upon Thames Society**

**Support**

Letter dated 18 May 2004 states "do not object to the boundary of the proposed conservation area".

#### **The Friends of Kingston Museum & Heritage Service**

**Support**

Agree to the inclusion of all the University campus. Suggest the boundary be extended to the north to include all land and buildings up to the Kingston Vale

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Conservation Area (A response is given a paragraph 9-10), and to the south as far as Ladderstile Road. (No reasons given). (A response is given at paragraph 7-8).

### **Kingston Vale Residents Association**

**Support**

Their letter of 16 April 2004 agrees that the area contains buildings of architectural and historic interest. They put much emphasis on the landscape interest of the hilltop and its contribution to the green corridor between the nationally important Richmond Park and Wimbledon Common. They consider that the woodland of the University site contributes significantly to the green corridor. They have inspected the representation made by the University and sent a letter on 26 June 2004 stating the concern expressed at their last committee meeting to any change to the boundary used for public consultation. They state in part:-

“The existing protection does not appear to be adequate, while the establishment of the conservation area would ensure the necessary building and rebuilding would not be to the detriment of the locality”.

A response to the issues on the boundary at Kingston University is given at paragraphs 13-17.

### **The Kingston upon Thames Archaeological Society**

**Support**

A member has verbally confirmed that the Society discussed at a recent meeting and agreed to support the boundary as proposed including all Kingston University site.

### **The Royal Parks**

**Support.**

They consider that the designation will help preserve the setting of Richmond Park, and support the protection of wildlife in the corridor between Richmond Park and Wimbledon common. They consider the boundary should be extended to include Ladderstile Gate that forms part of Richmond Park. (A response is given a paragraph 7-8).

### **English Heritage (London & SE Region)**

**Support**

Site visited on 8 June 2004 by Historic Areas Adviser and written response dated 9 June 2004. However, the Adviser questions the appropriateness of including the entire Kingston University campus within the conservation area boundary. They consider that the character of the area as a well-to-do Victorian suburb is immediately apparent as you proceed along Kingston Hill and that the University is defined by the swathe of trees. Within the campus the Adviser considers that the eclectic collection of buildings from the last 40 years do not provide a link with the north-west side of Kingston Hill. They suggest that the UDP policies BE1 and BE 8 should be sufficient to ensure the protection of the tree cover and the Buildings of Townscape Merit – Kenry House, former stables to Kenry House and Coombe Hurst. The conclusion is:-

” I consider that the character of the conservation area, the north eastern boundary of which would be defined by Dorich house, the south western boundary by Galsworthy House and the south eastern boundary by either back of pavement on Kingston Hill, or a better defined line following the internal topography of the site, would not be compromised by the exclusion of the remainder of the University campus.”...

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A response to the issues on the boundary at Kingston University is given at paragraphs 13-17.

<b>Maldens &amp; Coombe Civic Society</b>	Do not wish to comment
<b>The Federation of RBK Residents Associations</b>	<b>No response</b>
<b>The Kingston chamber of Commerce</b>	<b>No response</b>
<b>London Borough of Richmond upon Thames</b>	<b>No response</b>
<b>Greater London Authority (Architecture and Urbanism Unit)</b>	<b>No response</b>
<b>Government Office for London</b>	<b>No response</b>
<b>Victorian Society</b>	<b>No response</b>
<b>Twentieth Century Society</b>	<b>No response</b>

### Response to suggested amendments made by organisations

#### Land between Ladderstile Gate and Galsworthy House

7. The Royal Parks, Friends of Kingston Museum and Heritage Service, and the Kingston Town CAACs consider that the land and buildings between the proposed southern end of the proposed boundary at Galsworthy House, a grade II listed building, and Ladderstile Ride should be within the conservation area. The Royal Parks consider this area would benefit from the additional controls to preserve the setting of the park, but do not demonstrate if the land and buildings satisfy the test of containing features of special architectural or historic interest. The other two organisations similarly do not suggest what they consider the special interest of this area to be.
8. The area contains properties including The Russetts (1930s), Juniper Cottage/Ty Newydd (1958), Pleasant View (1958), Aranmor (1860s with 3 storey extension), Aranmor Lodge (1860's with many alterations), Warren Gate (1997), and 2-12 Ladderstile Ride (1969) and 14 Ladderstile Ride (1890s core with additions). The Kingston Hill properties, but not the Ladderstile Road properties, are within the LASC boundary identified in Plan 04/160/B in **Annex 1**. The Kingston Hill properties within the LASC were consulted on the proposed designation and no representations have been received. The consultant had considered this area, excluding Ladderstile Ride, an option for including within the boundary, but had identified all but one of the buildings as making a negative and one neutral contribution to the character of the area. Ladderstile Ride includes six 1969 three-storey town houses of no architectural or historic interest. The only building of interest is Aranmor, identified as a Building of Townscape Merit in the Unitary Development Plan, although the three storey front extension to a part two storey property undermines its interest. Whilst Ladderstile Road does comprise a tranquil approach to the Park it does not contain features of special architectural or historic interest. The group of Kingston Hill properties are not viewed as a continuation of the Kingston Hill properties when viewed from the Park, partly due to being blocked by Ladderstile Gate Lodge and its allotment garden, and partly due to the forward location of the buildings fronting Kingston Hill. From Kingston Hill there is a change in the character of the plot widths, frontage treatment and density of landscaping. In conclusion this group of properties are not considered to be part of the area of special architectural or historic interest, and are of a similar quality to those properties on the south east side of Kingston Hill that are not proposed within the conservation area boundary.

**Land to the north containing Arden House and Karrada**

9. The Friends of Kingston Museum and Heritage Service have suggested that the conservation area boundary should be contiguous with that of the adjoining Kingston Vale Conservation Area to the north but have not identified why they consider it of special architectural or historic interest. The Malden & Coombe CAAC would support an extension to include the two houses called Karrada House and Arden House. The consultant had previously considered that these two properties were worthy of consideration as part of the adjoining Kingston Vale Conservation Area.
  
10. Arden House is considered to be of some architectural interest being in a Spanish hacienda style with dramatic green-glazed pantiles, and a matching coping to its white rendered boundary wall. However, Karrada dates from 1989 and is of no architectural interest. It was considered that these houses did not form part of the Kingston Vale character, comprised of small-scale houses and community uses forming the nineteenth century village. As the houses are individually of limited architectural or historic interest it was considered that a break in the two conservation areas would reinforce the change in character. However, together these two plots do demonstrate features in their plot widths, boundary treatment and mature landscaping that contribute to the special character of the lower slopes of Kingston Vale and Kingston Hill. These plots are covered by a 1956 blanket Tree Preservation Order, which would be supplemented by the additional control on conservation area trees until such time as it is reviewed. For these reasons it is recommended that the conservation area boundary be extended to include Arden House and Karrada, Kingston Vale as identified on Plan No 04/161/B in **Annex 2**  
**The owners and occupiers of these two properties have been consulted and any response will be included in the late material.**

**Key Land Owners**

11. The major land owners identified in the area have responded (listed under background paper No. 4) as follows:-

**Kingston Hill Place Management Co Ltd**

**Support.**

12. Managing agents for 1-56 Kingston Hill Place. Letter dated 28 April 2004 states "in favour of the proposal".

**Kingston University**

13. A full (9 pages- see background paper no. 5) statement of representations, on behalf of Kingston University, has been made by Christopher Wickham Associates, objecting most strongly to the inclusion of its Kingston Hill campus within the proposed Kingston Hill Conservation Area. The grounds of objection are summarised as:-
  - I. **Absence of Architectural or Historic Interest:-** The main body of the campus is not considered to comprise an area of special architectural or historic interest, and the site no longer relates sufficiently strongly in visual or functional terms to the surviving historic character of Kingston Hill so as to justify conservation area designation. The character of the area on the north-western side of Kingston Hill is acknowledged, but the south eastern side containing the University is considered to have a different character. Kenry House, its stables, its Lodge

and Coombe Hurst are acknowledged as Buildings of Townscape Merit, but it is considered that their architectural and historic interest is compromised by the extensive post 1960s educational developments. It is considered that these buildings are individually of no architectural merit, and collectively they obscure or dominate the setting of the historic buildings; therefore the campus does not reflect the residential character of the north-west side of Kingston Hill. (plus 4.5 page justification);

- II. **Adequacy of Existing Planning Controls:-** The environmental qualities of the site derive chiefly from its landscape setting which is fully protected by the operation of Unitary Development Plan (UDP) and other planning policies, and by tree preservation orders. The UDP policies BE1 (SASCs), BE2 (LASCs), BE9 (Trees and landscaping), BE10 (Grass verges), BE12 (Design and Layout of Buildings) and BE14 (Building Plant) are considered sufficient to constrain the emerging master plan for the site and safeguard the acknowledged townscape qualities of the wider area (plus 1.3 page justification);
- III. **Designation as a Constraint on Necessary Change:-** The proposed designation will unduly inhibit the legitimate and desirable plans of the University to expand and enhance educational and support facilities at the site. The UDP is considered to contain policies that encourage the long-term educational use of the site, including designation as a "Proposal Site". There should be no constraint on the replacement of buildings at the end of their operational life, with buildings that can both enhance the educational facilities and respect the environmental qualities. The retention of four nineteenth century buildings already form an intrinsic part of the University's plans for the site. Consultants have been appointed to prepare a revised Master Plan for the site, and that designation would be counter productive and unduly constraining in relation to its legitimate renewal and expansion programme (plus 1 page justification);.

### **Consultant's Response to Kingston University**

14. The consultant that made the original assessment of the proposed area, The Conservation Studio, has responded to the Kingston University statement of objection. (see Background Paper no.6) On the above three grounds of objection the advice is reported:-
  - I. **Architectural or historic interest:-** A conservation area must have special interests, that may be either or both of architectural or historic interest. On the University campus, there are significant historic buildings of architectural interest, including Kenry House, the stable court, the lodge, the 18<sup>th</sup> century garden retaining wall that runs through the site, and Coombe Hurst. The changed use of these buildings does not take away their significance. Indeed, the adaptability of historic buildings generally is often an important factor in their survival. Of the more recent buildings, the Lawley Lecture Theatre and the Sir Frank Lampl building have definite architectural qualities. Even if all the post-19<sup>th</sup> century buildings are regarded as neutral, and a few clearly as negative, it is self-evident that there are significant elements of architectural interest on the campus site. There is historical interest too. The history is one of the gradual sub-division of minor country estates to produce a sub-urban landscape. Kenry House and Coombe Hurst demonstrate an earlier stage in this process where the relationships with service buildings

and a wider landscape are still apparent. In the case of Coombe Hurst, there are associations with Florence Nightingale and the garden layout has historic interest. There are, however, wider issues. Government policy states that 'It is the quality and interest of areas, rather than individual buildings, which should be the prime consideration in identifying conservation areas. The campus demonstrates an evolved history just as other sites in the area have, including Kingston Hill Place (apartments and new housing), Dorich House (University), or Galsworthy House (residential care). Taking historical relationships and landscape quality into account, it is clear that the whole area relates well to Kingston Hill rather than the later suburbs to the north, east and south. It is reasonable to include in a conservation area land that forms the setting of the architectural and historic interest. In this case, the inclusion of the tree-lined perimeter of the University campus is considered to be such a setting.

- II. **Existing planning controls:-** If the purpose of the proposed designation was purely to preserve trees or landscape, it would be an improper use of one planning mechanism to achieve the aims more appropriate to another, such as a Tree Preservation Order or landscape designation. However, the purpose of conservation area designation is to ensure that the architectural and historic interest is taken into account in the exercise of those considerations. It is said on behalf of the University that existing UDP policies are sufficient to protect the acknowledged qualities of the site. Conservation area controls would ensure the retention, where appropriate, of the significant 19<sup>th</sup> century buildings. The same guarantees are not provided purely on the basis of UDP policy BE 8, in relation to Buildings of Townscape Merit, and a development brief, master plan or other undertaking by interested parties. The Council should be concerned that the architectural and historic interest of the site be properly assessed and taken into account, and that there is no formal mechanism to ensure that this will happen. Conservation area designation will provide the framework for acknowledging the significance of the heritage issues and ensuring that their preservation and enhancement become part of the planning solution. It would appear that the case for designating the existing area of the LASC as a conservation area has been accepted by the University, but the boundary as it crosses the campus is very ill-defined. This is not good practice for conservation area designation. It is good practice when designating conservation area boundaries that they have definable edges and it is preferable to see a conservation area boundary on the ground.
- III. **Designation as a Constraint:-** While consent is required for the demolition of most buildings in conservation areas, it would be naïve to expect that change could not happen. Designation is simply a means by which change can be managed without detracting from the special interest. Indeed, a significant part of the definition of conservation areas accepts that enhancement is desirable. Government policy on conservation area controls carries a presumption in favour of retaining buildings that make a positive contribution to the character of a conservation area. This would apply to the buildings of special architectural or historic interest identified above as Kenry House, the stable court, the lodge, the 18<sup>th</sup> century garden retaining wall that runs through the site, and Coombe Hurst. It would not, however, apply to the

majority of the 20<sup>th</sup> century buildings that make only a neutral or negative contribution. The replacement of neutral and negative buildings would, therefore, be welcome especially if the new buildings provided a significant improvement. There is considerable scope to enhance the heritage assets of the campus through a balanced scheme of conservation and development. This could improve the relationship of Kenry House with its stables and the wider landscape, including the listed garden wall. It could also integrate Coombe Hurst better with its garden setting. At the same time, there is scope to increase the capacity of the site for accommodating further educational functions. It would appear that the Council's aims for environmental stewardship and the University's aims for the improvement of its campus are considerably aligned.

### **Concluding response to the University's Objection**

15. Policy BE2 of the Adopted Unitary Development Plan identifies the Kingston Hill LASC boundary to include that part of the University fronting Kingston Hill and including the Coombe Hurst complex and the lodge to Kenry House only. This boundary was first identified in 1987 and incorporated into the 1987 Local Plan. The LASC boundary has not been subject to objections (from the University or others) during adoption or the first Review of the UDP. It would appear from the background documents that the historic interest of the wider area was not recognised at that time. Kenry House was not identified as a Building of Townscape Merit. The site was a proposal site at that time which was a consideration in excluding the majority of the site from the LASC boundary. However, Kingston Hill Place was also a Proposal Site containing a Building of Townscape Merit and was wholly included in the LASC boundary, and subsequently developed with infill housing whilst retaining the building. Both policies BE2 (LASCs) and BE3 (Development in CAs) do not restrict the review of a LASC for conservation area assessment to the existing boundary. BE3 sets out the features that should be taken into consideration when considering a designation. This policy is derived from guidance in PPG 15 and in the English Heritage Guidance Conservation Area Practice which includes a checklist of 10 considerations when assessing the special interest of an area.
  
16. In the context of the established UDP policies, national guidance, the advice of the Conservation Studio, and the response on behalf of Kingston University, it would appear to be widely accepted that the Kingston Hill LASC (see **Annex 1** Plan 04/160/B) comprises an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and is therefore worthy of conservation area designation (see conclusions to this report). The matter is therefore whether the part of the University campus to the east of the LASC contributes to the wider character of that area. Whilst the land contains the majority of one of the earliest estates to be built on the Hill, including the main Kenry House (originally Coombe Wood), with unsympathetic extensions, the stables and the retaining wall and terraces, the legibility of the estate, and the setting of the buildings has been undermined by the extensive post 1960s educational development of the site. The 15 plus buildings form negative or neutral features in relationship to the character of the wider area. Whilst they may be considered to provide an opportunity where change that enhances the setting of the existing historic buildings could be encouraged, it is unusual to exercise conservation area

controls over such a large number of buildings lacking architectural or historic interest.

17. In contrast, the part of the University campus containing Coombe Hurst has not suffered the same degree of intrusion from educational buildings and its relationship with Kingston Hill is still legible in a manner comparable to the estates of Kingston Hill Place, Holmwood, Dorin Court, and Dorich House on the north west side of Kingston Hill. It is considered that the statutory duty to preserve the setting of the listed retaining wall to Kenry House, and the UDP policy BE8, identifying Kenry House and its stables as Buildings of Townscape Merit, will be sufficient to ensure the preservation of the historic structures without the necessity to use conservation area controls. Clearly the existing UDP policies and the Development Brief for the site, dating from 1993, have safeguarded the landscaping within the site, and minimised the intrusion of built form within the wider environment. In addition to Tree Preservation order protection, the open land around the development envelope which includes the main university buildings, is designated an Area of Nature Conservation Importance and is part of the Strategic Area of Special Character adopted in the UDP. To this has been added designation as a local open space in the UDP Proposed Alterations under new policy OL6. It is hoped that the Universities recent appointment of a consultant to prepare a master plan for the site will result in a positive dialogue in respect of the architectural and historic interest of the site and that the Development Brief can be reviewed, as part of the draft Local Development Documents, to incorporate objectives that enhance the setting of the historic structures and the adjoining proposed conservation area.

### **Owners & occupiers within the proposed Conservation Area and existing Local Area of Special Character**

18. In reply to the 152 letters sent out in the proposed conservation area and the existing LASC, a total of 34 written responses were received. (This is a 22% response rate). 25 responses agree with the designation, 1 is neutral, and 8 are against the designation.
19. Of both those agreeing or disagreeing with the designation none raises any issues concerning the proposed boundary.
20. Of the 8 responses that disagree with the designation, 2 have no reasons contained within. The remaining 6 raise issues including in summary:-
- a) Additional legislation is not required to protect the character of the area as existing planning policies have in the past safeguarded the area  
*(Response – existing controls do not cover the merits of demolishing existing buildings, and the statutory duty to preserve or enhance the character or appearance of the area);*
  - b) The covenants on Kingston Hill Place are onerous and further controls are not necessary  
*(Response – the additional controls will not affect the covenant and it is likely that the objectives of the covenant accord with the objective to preserve or enhance the character or appearance of the area. The Kingston Hill Place Management Co is in favour of the proposal);*

- c) There are no structures of architectural merit in the area  
*(Response -There are many structures of architectural merit as identified in the background reports, and already identified as listed buildings or Buildings of Townscape Merit. The key test is that the area must be of special architectural or historic interest, whilst individually buildings are identified as making a positive contribution to that character);*
- d) The additional controls would have no impact just add to the Council's costs.  
*(Response:- The Council already employs Conservation & Design Officers to manage the conservation area controls and no significant additional costs will be incurred) ;*
- e) The buildings identified as contributing to the character of the area are not publicly accessible or visible from public areas, and would be better protected by listing. The landscaping can be protected by tree preservation orders. Kingston Hill/Vale is the unifying feature and the engineering features detract from the character of the area. The area does not possess architectural or historic interest.  
*(Response:- The character and appearance of the area is enjoyed and appreciated from many view points other than from the public highway, including from within private and communal open spaces, from within buildings, from views into the area from Richmond Park, from longer views from Kingston Vale and Wimbledon Common. The character and appearance of the area is derived from both the general ambience perceived by occupiers and passers by and the contribution of individual buildings as described in the background documents).*

#### **Objection from Holmwood, Kingston Hill**

21. The owner of Holmwood House, Kingston Hill has objected on very extensive legal grounds. Many issues relate to the process of the consultation; the inadequacy of the Cabinet Committee report, and the Conservation Studio report; that the assessment and decisions are based on subjective, partial and biased considerations; the removal of property rights, lack of compensation, and the lack of appeal mechanisms; and the option to challenge the designation by way of a judicial review by the High Court or under the terms of the Human Rights Act 1988. The specific objections related to the assessment and the additional controls are summarised as:-
- The area has a diverse character and conservation area controls would fossilise the area;
  - The inclusion of Kingston University site reflects the diverse character and lacks the special architectural or historic interest;
  - An Article 4 direction should be considered without the designation of a conservation area;
  - The case for including Holmwood is not satisfactorily made;
  - That tree preservation orders could satisfactorily safeguard the landscaping;

#### **Consultant's Response to objection from Holmwood**

22. The consultant has provided the following response to the objection from Holmwood:

The designation of a conservation area might be considered to be an infringement of human rights if it constrained existing rights to enjoyment of a person's home, if there was no right of appeal, or if action and appeal were not separated by due

process. It is true that there is no provision in the Act for a direct appeal against conservation area designation. It is, however, possible to seek judicial review if it is considered that the designation has been arrived at by illegal, unreasonable or procedurally improper means.

The reason that there is no immediate appeal is because designation is not of itself expropriatory. Owners or occupiers of land or buildings in a conservation area do not suffer any change in circumstances due to designation unless they are frustrated in their ambitions by actions such as the refusal of planning permission or conservation area consent, or the service of an urgent works notice. Then, of course, there are rights of appeal, and appeals are heard by the Planning Inspectorate, or in a magistrates' court distinctly separate from the local planning authority. It was not the intention of Parliament, in passing the Human Rights Act, to dismantle the statutory framework of environmental protection. This point will soon be tested in a case where an owner demolished a listed building before obtaining consent and the local authority argued that to have refused consent would have infringed the owner's rights under the Human Rights Act. The decision by Runnymede Council has been called in by the Secretary of state to be heard at a public inquiry. Meanwhile, a near parallel is in Brecklands District in Norfolk where English Nature's proposal to include 13,000 hectares of farmland in a Site of Special Scientific Interest (SSSI) was challenged on the grounds that it would infringe the owners' rights under the Human Rights Act. This case was dismissed by the Court of Appeal on 26 May 2004 on the grounds that English Nature was fulfilling its duty and that the SSSI status did not contravene the owners' human rights. Similar conclusions could easily be drawn in this case.

### **Conclusions to the Holmwood Objection**

23. The issues related to property rights and the threat of a judicial review were explored at the time of designating the Coombe House Conservation Area in 1997. There was no judicial review. A challenge by way of a judicial review in the High Court on grounds of a breach of the ultra vires rule would not be successful unless procedures had not been followed, there had been a failure to take into account relevant matters, or on ground of irrationality. Legal advice on such challenges has concluded that:-
- The LPA has wide discretion in the judgement of what is special;
  - It is for the LPA to decide what weight should be given to the factors to be taken into consideration;
  - The LPA can consider the area as a whole and not individual buildings;
  - If a consultation exercise has been undertaken and the representations taken into consideration then the decision will not be irrational;
24. It is considered that the special architectural and historic interests of the area are comprehensively identified in this report, the report to the Cabinet in January 2002, and the Conservation Studio report of November 2001. Based upon the advice of the Conservation Studio above and the legal advice at the time of the designation of the Coombe House Conservation Area it is unlikely that a challenge under the terms of the Human Rights Act 1998, or a judicial review to the High Court would be successful. Individually Holmwood and its lodge are considered to make a positive contribution to the character and appearance of the proposed conservation area and its grounds form a central part of the swathe of land on the north west side of

Kingston Hill. It is therefore proposed that the boundary should not be reviewed to exclude Holmwood, Kingston Hill.

## REVIEW OF THE PROPOSED CONSERVATION AREA BOUNDARY AND SPECIAL INTERESTS

25. Public consultation has shown widespread support for the proposed conservation area from the owners and occupiers within the area and local and national amenity bodies and organisations. A minor amendment to extend the area to include two residential properties, Karrada and Arden House, to the north of the area, as described at paragraph 9-10, is recommended in response to two local bodies. The objection from Kingston University has been fully considered at paragraphs 13-17, and the recommendation is to reduce the size of the area, to revert to the boundary of the Local Area of Special Character adopted in the UDP, covering that part of the campus only forming the open land fronting Kingston Hill, and the Coombe Hurst complex. **The definitive proposed conservation area boundary, including the amendments, are illustrated in Annex 2**, drawing no.04/161/B, which can be compared with Annex 1, the boundary used for consultation and the LASC boundary.
26. If the Executive agree to designate the Kingston Hill Conservation Area, the purpose of the Kingston Hill Local Area of Special Character, as set out in policy BE2 of the adopted UDP, March 1998 will have been fulfilled and it will no longer serve a useful planning purpose. The only part of the LASC that now falls outside of the proposed conservation area boundary is the small group of eight buildings between Ladderstile Gate and Galsworthy House, that have been considered at paragraph 6, and do not comprise an area of special architectural or historic interest in the manner of the area recommended. They would not comprise an area of special character as a stand-alone area.
27. The special interests of the proposed conservation area have been set out in the Consultants report of November 2001, summarised at paragraph 3 above. These interests have been the reference point for the consideration of the suggestions to amend the boundary during the consultation process. For future reference purposes, and to establish the material consideration of the character and appearance of the area in accordance with policy BE3 (Development in Conservation Areas) and BE4 (Demolition of Buildings in Conservation Areas) of the adopted UDP (or any successor) the features which are considered to contribute to the special architectural or historic interest of the area and their character or appearance is therefore considered worthy of preservation or enhancement are listed as:-
  - a) the topographical and strategic interest of the historic route established in its current cutting position soon after 1828;
  - b) the development of three minor estates of Kingston Hill Place (1828), Kenry House (1832) and Coombe Hurst (1835) which began a period of royal and important patronage and visitors;
  - c) The development of a succession of large houses on diminishing plots from the mid 19<sup>th</sup> century through to the 1930's creating a epicentre of high society within an hours drive of the City of London, and hence a predecessor to the Surrey stockbroker belt;

## F15

- d) A collection of individual buildings of architectural interest making a positive contribution to the character and appearance of the area including Galsworthy House, Fairlight, St Margrets House and mews, Hamilton House, St Anns Church, St Auybyn, Holmwood, all properties at Kingston Hill Place, the DorinCourt group of attached buildings, Harewood, Woodlawn Cottage, Robin Wood, Cottage, Dorich House, Robin Wood, and Arden House all on the north side of Kingston Hill; and the lodge to Kenry House, Coombe Hurst and Coombe Hurst Court within part of the University Campus on the south side of Kingston Hill;
- e) The predominance of mature and dense landscaping and low key boundary treatments enclosing the Kingston Hill street-scene, with the positioning of buildings well within the plots making an inconspicuous and glimpsing contribution from the public realm.
- f) The high banks of the road cutting, and the embankment and verge to the Ullswater Crescent rear gardens make a dramatic landscape, providing views over Richmond Park and Wimbledon Common significantly reducing the sense of a suburban landscape.
- g) The strong relationship with Richmond Royal Park to the north, including the listed boundary wall, and the inter-visibility of traditional brick and pitched roof structures set within well landscaped plots;

In conclusion a summary description of the character and appearance of the area is:-  
“An group of early Victorian through to early 20<sup>th</sup> century large houses forming an early wealthy suburb along the dramatic and well landscaped historic strategic route enjoying a close inter-relationship with Richmond Park.”

### **IMPLEMENTATION OF THE PROPOSED CONSERVATION AREA**

- 28. The implications of conservation area designation are set out in the report to Cabinet of 8 January 2002 and were included in the public consultation letter in March 2004. More detailed information on the implications of designation and good practice guidance is contained in the text of the Conservation Areas General Guide. The additional controls over demolition, trees and permitted development rights come into effect immediately a Committee decision to designate is made. However, in addition to the statutory duties to make the designation a local land charge, and to advertise the designation and notify central government it is necessary to ensure that all owners and occupiers within the area are aware of the controls and policies to be applied. A letter will be sent to all owners, occupiers and any known agents notifying them of a decision to designate and the implications. In addition it is recommended that the information is available in a format that can used as a future reference document for owners and occupiers and accessible to the general public who may have a wider interest in conservation areas. The Council has a published series of conservation area leaflets containing illustrations identifying the boundary and the character or the area, and text summarising the character and stating the planning controls and ways to preserve the character of an area. The cost of producing a 500 print run would be approximately £300.
- 29. Similarly in order to raise the profile of conservation areas and to provide a forum for the display of material related to each conservation area by both the Council and local residents a set of conservation area notice boards have been installed in 21 existing conservation areas. This conservation area would benefit from a notice board to display a copy of the leaflet and to capture the attention of the large

numbers of passers by in the area, complimenting the exiting notice boards in conservation area in Kingston Vale, and at the bottom of Kingston Hill. A notice board from the same supplier could be supplied and installed for approximately £1200. The location of the notice board would be agreed with the Maldens & Coombe CAAC and any immediate property owners or occupiers. Officers will investigate potential methods of funding a budget for both a conservation area leaflet and a notice board up to £1500, including inviting an application from the Maldens & Coombe CAAC for a Neighbourhood Grant, external sources of grant aid, or making a capital programme bid at a latter date.

30. The Royal Borough of Kingston also has a well established set of three Conservation Area Advisory Committees (CAACs) established as independent lay committees representing the local areas and the local amenity bodies to give the Council advice on all planning matters affecting conservation areas. Their main business is as a special consultee on planning applications in conservation areas. The Maldens & Coombe CAAC would be happy to take the proposed Kingston Hill Conservation Area within their remit and to appoint a representative from the owners and occupiers in the area. They should be formally requested to extend their constitution to this effect.

## **ENVIRONMENTAL IMPLICATIONS**

31. The designation of any new conservation area would impose a duty on the Planning Authority to pay special attention to the preservation or enhancement of the character or appearance of that area (as described in this and background reports) in exercising any powers under the Planning Acts, including amongst others development control decisions. Additionally there is a duty to formulate and publish proposals for the preservation and enhancement of the area.

## **ANNEXES**

1. Plan No. 04/160/B Public Consultation on the Proposed Kingston Hill Conservation Area
2. Plan No.04/04/161/B Proposed Kingston Hill Conservation Area

**BACKGROUND PAPERS** held by Karen Liddell, author of the report 020 8547 5359 e-mail : karen.liddell@rbk.kingston.gov.uk

1. Cabinet Report 8 January 2002 Extension to Richmond Park (Kingston) Conservation Area & designation of Kingston Hill conservation Area;
2. Assessment of the Kingston Hill Local Area of Special Character November 2001 by The Conservation Studio;
3. Consultation letter dated 24 March 2004;
4. 11 representations from organisations;
5. Letter and report from Christopher Wickham dated 5 May containing the Kingston University Objection;
6. Report by The Conservation Studio received on 6 July containing a response to objections raised by Kingston University;
7. Letter from owners of Holmwood House, Kingston Hill dated 23 March 2004;
8. Letter from Kingston Hill Place Management Co. dated 28 March 2004;
9. 33 (1 neutral, 7 disagree & 25 agree) representation forms and letters from owners or occupiers.

**PROPOSED CONSERVATION AREAS – GENERAL PRINCIPLES**

Report by the Director of Director of Environmental Services  
Executive Member for Transportation and Sustainable Development

**Purpose**

To guide the process and considerations used during the designation of all new conservation area designations, and the variations or cancellations of existing conservation areas.

**Action proposed by the Executive Member for Transport and Sustainable Development:**

The Executive is requested to:

1. To be mindful of the process and considerations set out in this report when considering the following reports on this agenda for the proposed three conservation areas at Kingston Hill, Fishponds and Riverside North;
2. To agree the process and considerations set out in this report be followed for the investigation of any future conservation area designations; and
3. To receive a report containing a Conservation Areas Management Plan as set out in paras.49-53, and that this be a priority for the Conservation & Design Team work programme.

**Reason for action proposed**

To establish a consistent approach to the designation of all conservation areas throughout the borough.

**BACKGROUND**

1. Three other reports on this agenda concern the designation of new conservation areas. Each one falls within a different Neighbourhood. This reports sets out the general principles concerning the legislation and guidance for designating conservation areas. Additionally, it sets out the process which this authority has followed in recent years to fulfil the obligation to investigate areas, identify whether they warrant designation, carry out consultation, and follow up designations with action to satisfy the statutory duties and ensure their success.
2. It will form a useful basis on which to understand the current three proposed conservation areas, and any future areas under consideration, to ensure consistency throughout the Neighbourhoods, and to establish the priority for follow up action on all conservation areas designated.

## **LEGISLATION & DEFINITION**

3. Conservation areas were first designated under the Civic Amenities Act 1967. The current power to designate conservation areas is contained in the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act). A conservation area is defined in Section 69 of The Act as “an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance”. The general duties of a planning authority and controls over demolition are contained within The Act, and other related legal powers are contained within the main Town and Country Planning Act 1990 and subsidiary regulations, for example on trees and advertisements.

## **NATIONAL POLICY & GUIDANCE**

4. Government guidance and administrative requirements are set out in Planning Policy Guidance Note 15 (1994) “Planning and the Historic Environment”, “Planning and the Historic Environment” Circulars 14/97, and “Arrangements for Handling Heritage Applications” Circular 01/01.
5. English Heritage is the Government’s advisor on conservation area matters, and has a role in the management of designated areas. They have issued guidance titled “Conservation Area Practice” (1995) and “Conservation Area Appraisals” (1997).
6. National guidance suggests that it is the general ambience or character of an area as a whole, rather than the individual buildings that is to be protected. The character of historic areas depends on, amongst others, the layout of streets and plots, the mix of uses, characteristic materials, the prevailing scale and detailing of buildings, shopfronts and adverts, street furniture and hard and soft surfaces, vistas along streets and between buildings, and pedestrian and vehicular uses of spaces. Conservation area designation should be seen as the means of recognising the importance of all these factors and ensuring conservation policy addresses the quality of the townscape in its broadest sense.
7. Guidance stresses the importance of understanding the historic development of an area, and defining and recording the features that contribute to the special architectural and historic interest before a designation is made.

## **COUNCIL POLICY & GUIDANCE**

8. The adopted Unitary Development Plan (UDP) contains two key policies in the Built Environment Chapter. BE3 “Development in Conservation Areas” guides the form of development that will be acceptable in conservation areas, and BE4 “Demolition of Buildings in Conservation Areas” resists the loss of buildings that make a positive contribution to the area.
9. Other policies in the UDP and topic or site related supplementary planning guidance also make specific reference to conservation areas, for example within policy and supplementary planning guidance (SPG) on, shop-fronts and signs and advertisements, Kingston Town Centre and District Centre policies, and Proposal Sites guidance. Policies BE2, Local Areas of Special Character (LASC), and BE1 Strategic Areas of Special Character (SASC) identify potential conservation areas.

10. The SPG titled General Guide – Conservation Areas (2001) gives good practice guidance to expand the policies BE3 & 4. A series of leaflets accompany the general guide to identify each conservation area.

### **IMPLICATIONS OF DESIGNATION**

11. All land and properties located within a designated conservation area are subject to the following additional planning controls: -
  - a) Demolition of a structure over 115 cubic metres would require conservation area consent. Any applications would be determined in accordance with UDP policy BE4 which resists the loss of buildings that make a positive contribution to the character of the area;
  - b) Works to most trees would require six weeks notice, unless already subject to a tree preservation order (TPO). Works covered include surgery works, such as lopping branches, changing the shape, or felling any tree with a trunk over 75mm in diameter measured 1.5m above ground level, except fruit and dead or dangerous trees. The notice period enables an assessment of whether a TPO should be made.
  - c) Permitted development rights to single family houses and industrial or warehouse premises would be more restrictive. For example, planning permission would be required for alterations to any part of the roof of a house, the cladding of the exterior, and the installation of a satellite dish in certain locations. However, houses would still have significant permitted development rights to change windows and doors, and construct small extensions and porches unless they are controlled by the introduction of an Article 4 Direction.
12. The Authority's obligations following the designation of a conservation area are: -
  - a) To pay special attention to the conservation area in exercising any of its planning powers. In particular, applications for new development would be determined in accordance with UDP policy BE3 that seeks to preserve or enhance the character and appearance of each conservation area.
  - b) To advertise applications and take into account representations;
  - c) To formulate and publish proposals for the preservation and enhancement of the area. The publication of the Conservation Area leaflet series is the first stage in a long process of conservation area character appraisals, and studies.
13. Conservation area designation therefore has resource implications. However there is little quantified evidence on the costs. For example owners and occupiers, and new development may incur higher building costs if the form of alterations and new buildings and their materials are restricted to preserve the character of the area. English Heritage suggests that such costs may be outweighed by the cachet of a designation, and the tendency to generate a stable and secure built environment. Conservation areas are generally to the benefit of all section of the community as they are pleasant places to visit, live and work. They can generate increased tourism potential and be a catalyst for regeneration and private investment.
14. The cost implications to the Council are reflected in the additional applications generated by the controls, and the requirement to advertise and notify widely. Councils are also required to ensure that specialist conservation expertise is used to assess applications and progress character statements and proposals for the

preservation or enhancement of the area. There are currently Best Value Performance Indicators requiring the use of specialist advice on the historic environment (including conservation areas) in the preparation of the local development plan, planning guidance and in the determination of all application types, which are likely to be expanded in future years.

## INITIATING THE PROCESS

15. Local Authorities are under a duty to review their areas from time to time to see whether new designations are desirable and to review existing designations. It is therefore for the Council to decide on the timetable to review its area, and it should take the lead in the validity and desirability of designations. The decision to investigate an area can be as a response to any one of the following:-
  - a) A review of LASC's or SASC's identified in BE1 or BE2. The majority of existing areas have been reviewed since first identified in the 1980's. New LASC's may be identified as part of the Local Development Framework process about to commence.
  - b) A review of an existing conservation area, including its hinterland. There is a commitment to produce and publish a character statement for each area that will involve a review of the existing boundary. A programme will be adopted when the methodology has been established from the Old Town Conservation Area Study underway.
  - c) A petition or written request from an individual member of the public or a group.
  - d) A response to a threat to the character of an area, usually pressure for development involving the loss of buildings.
16. If the reasons for an investigation is a result of a) or b) above there is a UDP commitment to the principle of such a consideration. Officers would normally undertake a full assessment of an area for discussion with the Executive Spokesperson to agree a programme for public consultation based on an officer boundary recommendation. The consultation would then be agreed with the appropriate Neighbourhood Committee Chair and Ward Members (or two or more Neighbourhoods or Wards if affected).
17. Following consultation (see below for format) a report would be presented to the Neighbourhood Committee with the results of the consultation and to seek their views to forward to the Executive. The power to designate a conservation area falls to the Executive and the date the decision is made is the effective date for the conservation area designation to come into effect.
18. If the reasons for an investigation related to c) or d) above, and the area does not lie within an existing LASC or SASC or near an existing conservation area, officers would normally carry out an overview assessment. If the area was considered to have some merit worthy of a full assessment, or if requested in a Committee minute responding to a public question or petition, the Neighbourhood Committee(s) would be asked to agree that resources be allocated and public consultation be carried prior to any decision by the Executive. If officers consider the area does not meet designation criteria an individual or group would be advised without a Committee reference.

## THE CRITERIA FOR DESIGNATION

19. As identified in para. 5 above it should be the quality and interest of areas that justify conservation area designation, and the definition allows wide local interpretation. The character of conservation areas throughout England varies significantly and for this reason there are no national criteria. However the quality of and criteria for designations are being looked at more critically and guidance suggests that they should be based on a clear definition of the special architectural or historic interests that warrant designation.
20. These should be analysed in a written appraisal of its character and appearance prepared by a conservation specialist. This will provide a sound basis, defensible on appeal, for the development plan policies and development control decisions, and will form the groundwork for subsequent conservation area studies, including policies and proposals for the preservation and enhancement of the areas. English Heritage guidance "Conservation Area Appraisals" lists up to thirteen factors to be taken into consideration when assessing architectural or historic interest.
21. In summary it should be an objective and factual exercise to identify the origins of surviving building fabric and their uses, streets, plots, open spaces and landscape features. The assessment may identify greater evidence of historic interest evident in the extant features (as seen at Coombe House Conservation Area) as opposed to architectural interest. The area may have a character that has emerged over time, or be of a homogenous form evolved from a planned period of development.
22. The more features that make a positive contribution to the character of the area, and the less the incidence of negative or neutral features the more likely the area is to have a clearly definable special architectural or historic interest. The supporting text to UDP Policy BE3 states that the features to be taken into account when considering a designation are:-
  - a) The distinctive or cohesive architectural or historic qualities of an area;
  - b) The age, quality and arrangement of buildings, spaces, and views;
  - c) The number of individual buildings of townscape merit; and
  - d) the occurrence of other features of special interest including trees and landscaping.

## PUBLIC CONSULTATION FORMAT

23. There is no statutory requirement to consult prior to the designation, variation or cancellation of a conservation area. However, PPG 15 states that it will be highly desirable that there should be consultation with local residents, businesses, and other local interests over the identification of areas and their boundaries. The greater the public support that can be enlisted the more likely that the policies for an area will be implemented voluntarily without additional controls.
24. There is no firm guidance on the format of consultation, although English Heritage suggests advertising a proposal and, where there is scope to do so, use the draft stage of the development plan process to consult. Local Authorities are advised to take the lead in deciding on the validity and desirability of designation, even if there are objections to the designation or a lack of response to a consultation.
25. It has been this Authority's standard practice to consult with all property and land owners and occupiers within the proposed conservation area boundary prior to a

final decision to designate. Only Kingston Vale Conservation Area has been designated without consultation directly with all owners and occupiers. This was approved by Cabinet on 8<sup>th</sup> January 2002. However, in this instance there was a known body of local opinion in response to the demolition of the Duke of Cambridge Public House, and representations were received from the Kingston Vale Residents Association that together formed sufficient evidence of local support for the designation.

26. The consultation format is tailored to the area and the known interests in the area. Officers suggest a standard approach and a list of consultees to Neighbourhood Chairs and Ward Members for discussion. A letter is sent to owners and occupiers outlining the background to the proposal, describing the special architectural and historic interests, setting out the planning controls that would come into effect and giving guidance on how to find out more information.
27. A response form is sent to encourage a simple and quick response and a pre paid envelope supplied. A display containing a large scale plan and photographs illustrating the key buildings in the area is normally available in the Neighbourhood library and Guildhall 2. Letters are individualised to key land owners or known applicants or their agents where appropriate. Background documents are made available on request or to download from the web site. Electronic responses have been invited since march 2004 but none received.
28. In Riverside North Conservation Area special posters were displayed in key buildings and public notice boards to give visitors to the area an opportunity to comment. The consultation period normally runs for four weeks and the response rate from owners and occupiers varies from area to area of between 20 and 70%.
29. Comments from those with a wider interest in conservation areas, or representing a group interest are invited from local, regional and national amenity bodies or organisations. Such a local list would include any known residents association or management associations; the relevant Conservation Area Advisory Committee, Kingston upon Thames Society, The Friends of Kingston Museum and Heritage Service, Kingston upon Thames Archaeological Society, Maldens and Coombe Civic Society, the Chamber of Commerce or a Trade Group, the adjoining Local Authority.
30. Local or regional bodies may have an interest in specific sites within the area such as Royal parks, the Environment Agency, Thames Landscape Strategy, London & Surrey Wildlife Trust, The Garden History Society, Kingston Fiends of the Earth etc. The five national heritage amenity societies are consulted along with English Heritage, Government Office for London and the Greater London Authority.
31. Responses from organisations and owners and occupiers are analysed for those that agree and disagree. The reasons for disagreeing are given due consideration and a response is normally reported to the Neighbourhood Committee. Some representations will comment on the proposed boundary and may suggest an additional area is worthy of inclusion or occasionally that a site or part of the area should be excluded. Again the reasons are given due consideration and the proposed boundary may be amended if there is merit in the suggestion. If the amended boundary included additional properties a second stage consultation would be carried out. All persons that make a representation are informed of the

decision making timetable to ensure they have an opportunity to respond to any amendments.

## **THE DESIGNATION DECISION**

32. The decision to designate a conservation area currently falls within the responsibility of the Executive. The decision should be based on a sound consideration of the assessment of the special architectural or historic interest of the area, and a review of the understanding of the interests and proposed boundary in response to all consultation representations received. In particular the views of the Neighbourhood Committee should be given due regard.
33. The resolution to designate should be based on an accurate ordnance survey map identifying a finite boundary. Guidance suggests that a schedule of addresses within the boundary is useful, but this can be prepared for the statutory notices and for local land charges, as addresses can be subject to changes in property names and numbering.
34. It is important that the resolution sets out how the conservation area will be implemented and how the controls applied. In particular the material considerations used to assess whether any planning decision accords with policies BE3 & 4 should be identified. A clear statement of the features that contribute to the special architectural or historic interest of the area the character or appearance of which it is desirable to preserve or enhance should be set out.
35. All individual buildings that make a positive contribution to the character or appearance of the area should be identified to show where conservation area consent for demolition will be resisted in accordance with policy BE4. The resolution should be looking at the long term interests of the area to ensure that those affected by the controls remain informed and committed to the objectives, and that the Council fulfils its duty to formulate and publish proposals for the preservation and enhancement of conservation areas.

## **CHALLENGE OR APPEAL OPPORTUNITIES**

36. There is no statutory right of appeal against a building being included in a conservation area, because a designation is not of itself expropriatory. Owners or occupiers of a land or buildings in a conservation area do not suffer any change in circumstances unless they are frustrated in their ambitions by actions such as a refusal of planning permission or conservation area consent, or the service of an urgent works notice. Then of course there are rights of appeal distinctly separate from the local planning authority.
37. It is possible to seek a judicial review in the High Court if it is considered that the designation has been arrived at by illegal, unreasonable, or procedurally improper means. The issues of a threat of a judicial review were explored at the time of designating the Coombe House Conservation Area in 1997, but did not materialise. Legal advice on such challenges suggests that the procedures used by this Council are considered rational and reasonable if based on an assessment of the character of the area and public consultation, and the statutory procedures are followed and evidence available. Although in its infancy the only other possible challenge could be under the terms of the Human Rights Act 1998, although the intention of this legislation is not to dismantle the statutory framework of environmental protection.

A Court case has confirmed that human rights are not contravened in the designation of a Site of Special Scientific Interest and a comparable case on listed building legislation is due to be heard in November 2004.

38. An individual could of course write to the Council asking it to cancel the designation, or change the boundary after designation. It is suggested that unless there have been a significant change in circumstances since the designation that the request should not be considered formally.

## **IMPLEMENTATION – STATUTORY REQUIREMENTS**

39. Once an area has been designated, varied or cancelled the authority must place an advert in the local paper, and the London Gazette clearly identifying the area. The authority must also notify the Secretary of State (Government Office for London) and English Heritage. Designation is also registered as a local land charge as a “planning charge”, which means that future purchasers of property in the area will be warned of its existence.

## **IMPLEMENTATION- INFORMING THOSE AFFECTED OR INTERESTED**

40. There is no duty to give notice to owners or occupiers of land within a new conservation area. This means that there is a likelihood of an owner or developer carrying out works without being aware that consent is required. English Heritage guidance (Conservation Area practice) stresses the importance of ensuring that all owners and occupiers are aware of the controls and policies, and understand the positive benefits of designation.
41. Four types of leaflet are recommended covering policy guidance; detailed character analyses; site-specific design briefs; and technical leaflets. The Council’s Conservation Areas - General Guide fulfils the first type of policy guides. However, this is not of a form that stimulates awareness and understanding of a particular area that an owner or occupier may be interested in.
42. The Council has adopted a standard procedure immediately following a designation to send a letter to all owners, occupiers and any known agents, and all local, national, and regional amenity bodies or organisations notifying them of a decision to designate and the implications. In addition it is recommended that the information is available in a format that can be used as a future reference document for owners and occupiers and accessible to the general public who may have a wider interest in conservation areas.
43. The Council has a published series of conservation area leaflets containing illustrations identifying the boundary and the character of the area, and text summarising the character and stating the planning controls and ways to preserve the character of an area. The cost of producing a 500 print run is currently approximately £300. These leaflets do not contain a full character analysis, as they have a common format and limited space. However, as the analysis is produced it can be incorporated into the leaflets in a summary form.
44. The full designation reports and any background documents are available to download on the Council’s web site, and they are soon to be available within ISIS online attached to all land parcels in conservation areas.

45. The Council is also advised to consider using other forms of media to publicise a designation. Consideration can be given to using a press release, which may be used by local papers, radio or local amenity group to disseminate information further through their own publications and meetings. Local estate agents are also a possible channel to pass on information to potential purchasers.

#### **IMPLEMENTATION – NOTICE BOARDS**

46. Similarly in order to raise the profile of conservation areas and to provide a forum for the display of material related to each conservation area by both the Council and local residents a set of conservation area notice boards have been installed in 21 existing conservation areas. All new conservation areas would benefit from a notice board to display a copy of the leaflet and to capture the attention of visitors to these areas. A notice board from the same supplier can currently be supplied and installed for approximately £1200.
47. The source of funding would need to be identified for each conservation area and could be either allocated from the Neighbourhood Discretionary/Environmental Initiatives Budget, a Neighbourhood grant submitted by a residents association or a Conservation Area Advisory Committee (CAAC), a Capital Programme Budget, or any external sources that may become available. The location of all notice board would be agreed with the relevant CAAC and any immediate property owners or occupiers.

#### **IMPLEMENTATION – CONSERVATION AREAS ADVISORY COMMITTEES (CAAC'S)**

48. PPG 15 asks authorities to consider setting up CAAC's and suggests their membership. The Royal Borough of Kingston also has a well established set of three CAACs established as independent lay committees representing the local areas and the local amenity bodies to give the Council advice on all planning matters affecting conservation areas. Their main business is as a special consultee on planning applications in conservation areas. The appropriate CAAC should be asked to take a new conservation area within their remit and to appoint a representative from the owners and occupiers in the area. They should be formally requested to extend their constitution to this effect.

#### **IMPLEMENTATION – PROPOSALS FOR THE PRESERVATION OR ENHANCEMENT OF AN AREA**

49. As set out in para. 12 above, following designation it is a statutory duty of the authority to formulate and publish proposals for the preservation and enhancement of any parts of their areas which are conservation areas (Section 71 the Act). A recent survey carried out in England suggests that only a small proportion of conservation areas have satisfied this duty. Whilst Kingston has carried out several local projects within conservation areas and has produced some publications the process for managing all designated areas is not established in any strategic or programmed manner.
50. The conservation Areas - General Guide identifies a commitment to produce a "Conservation Areas Management Plan". This would develop the English Heritage guidance that recommends a two stage process of preparing a "Character Appraisal" as stage 1 which should define and analyse the character and appearance of the area. Stage 2 should build on the "Character Appraisal" and lead

to a "Conservation Area Study" containing initiatives, proposals, and policies to promote the future preservation or enhancement of the area. Public consultation is vital to adopting a successful Study and it is a statutory duty to hold a public meeting and have regard to any views expressed.

51. The conservation areas designated in Kingston in the last 10 years have had fairly extensive character appraisals as part of the designation process. However, they do not all go far enough in defining the features that contribute to the special architectural or historic interest, and in particular do not identify the buildings or structures that make a positive contribution to the areas. A full "Character Appraisal" has recently been completed for Kingston Old Town Conservation Area, and the stage 2 "Study" has been commenced.
52. The Study will establish policy guidance to supplement UDP policies BE3 & 4 specifically designed for the character of this area. A public realm strategy is intended to establish a co-ordinated approach to the pro-active enhancement and guide the treatment of public spaces to be integrated into the K+20 Strategy. Both parts of Stage 2 will be subject to consultation. Further initiatives may evolve from both parts of the Study, such as the introduction of additional planning controls, or enforcement initiatives.
53. The process used for Kingston Old Town will be used to develop a methodology to guide the statutory duty for all other conservation areas. It is envisaged that the methodology could be incorporated into a "Management Plan", together with a priority list and timetable, subject to identifying resources early in 2005.

## **ENVIRONMENTAL IMPLICATIONS**

54. Conservation area designations by their definition are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance. The existing built fabric within these areas that makes a positive contribution to its character is therefore likely to be preserved.

**Background papers** : held by Karen Liddell (author of report)], 020 8547 5359; e-mail: Karen.liddell@rbk.Kingston.gov.uk

1. Planning (Conservation Areas and Listed Building) Act 1990
2. PPG15 planning and The Historic Environment 1994
3. Conservation Area Practice English Heritage 1995
4. Conservation Area Appraisals English Heritage 1997

**PROPOSED DESIGNATION OF KINGSTON HILL CONSERVATION AREA**

Report by the Director of Environmental Services  
Executive Member for Transport and Sustainable Development

**Purpose**

On 8<sup>th</sup> January 2002 the Cabinet considered an assessment of the Kingston Hill Local Area of Special Character to determine if the area had sufficient special interests worthy of conservation area designation. Public consultation on the Proposed Kingston Hill Conservation Area was undertaken between March and April 2004. The results of the consultation were reported to Maldens & Coombe Neighbourhood Committee of 21<sup>st</sup> September 2004 for their comments. This report recommends a minor amendment to the boundary of the proposed area used for consultation. The issue of whether to including the whole University site in the area is reviewed in this report. A boundary is recommended for formal designation as the Kingston Hill Conservation Area. Such a designation would make the Kingston Hill Local Area of Special Character redundant for planning purposes and its cancellation is recommended.

**Action proposed by the Executive Member for Transport and Sustainable Development:**

The Executive is requested to:

1. designate the Kingston Hill Conservation Area as shown in Annexe 3 Drwg. No. 04/202/B;
2. agree that the necessary statutory procedures for the designation of the Kingston Hill Conservation Area, under Sections 69 and 70 of the Planning ( Listed Buildings and Conservation Areas) Act 1990, be carried out;
3. agree that the owners and occupiers of properties and land within the designated conservation area be notified by letter of the designation;
4. agree the special architectural or historic interest identified in this report and related background papers be adopted as a material consideration for the purposes of Development Control and any other planning decisions, specifically in the application of UDP policies BE3 and BE4;
5. agree that a conservation area leaflet be published to follow the existing series of conservation area leaflets;
6. agree the installation of a conservation area notice board to follow the existing set of conservation area notice boards, in an appropriate location agreed with the Maldens and Coombe Conservation Area Advisory Committee and adjoining occupiers, subject to officers identifying the necessary budget;
7. agree that the Kingston Hill Conservation Area shall fall within the remit of the Maldens & Coombe Conservation Area Advisory Committee; and
8. cancel the Kingston Hill Local Area of Special Character.

**Reason for action proposed**

To preserve the special architectural or historic interest of the proposed Kingston Hill Conservation Area.

## BACKGROUND

1. A report on the process and considerations used during the designation of all conservation areas is found on this agenda, titled "Proposed Conservation Areas-General Principles." These are the considerations and processes followed in the investigation of the proposed Kingston Hill Conservation Area.
2. The full report of the Malden & Coombe Neighbourhood Committee of 21<sup>st</sup> September 2004 is attached in **Annexe 1** and the minute in **Annex 2**. The Maldens and Coombe Neighbourhood Committee recommends to the Executive that the boundary of the conservation area is different to that contained in its report and should include the whole University site. This report only gives further consideration to the objection by the University, the issues for and against including the whole site in the context of the character and appearance of the wider area. The issues relating to all other objections and a minor amendment to the proposed boundary since the initial consultation should be taken as set out in the Maldens & Coombe Neighbourhood Committee report of 21<sup>st</sup> September. Similarly the guidance on the implications of designation and the tools to implement the designation as reflected in the recommendations in this report should be referenced back to the Neighbourhood report and the General Principles Report on this agenda.

## SUMMARY OF THE OBJECTION BY KINGSTON UNIVERSITY

3. The University's grounds of objection were reported more fully in paragraph 13 of the report to the Maldens and Coombe Neighbourhood of 21<sup>st</sup> September, and a verbal representation was made by their agent. A letter dated 15<sup>th</sup> October has been received from the University's advisers GVA Grimley<sup>1</sup>. These representations will be referenced below. A full statement of representations<sup>2</sup>, on behalf of Kingston University, has been made by Christopher Wickham Associates, objecting most strongly to the inclusion of its Kingston Hill campus within the proposed Kingston Hill Conservation Area. In brief the grounds of objection are:-
  - I. The main body of the campus is not considered to comprise an area of special architectural or historic interest. The listed wall, and Buildings of Townscape Merit, Kenry House, its stables, its Lodge and Coombe Hurst are acknowledged, but it is considered that their setting is compromised by the extensive post 1960's educational developments.
  - II. The environmental quality of the site is derived chiefly from its landscape setting that is fully protected by the operation of the Unitary Development Plan (UDP) and other planning policies, and by tree preservation orders. The UDP policies BE1 (SASC's), BE2 (LASC's), BE9 (Trees and landscaping), BE10 (Grass verges), BE12 (Design and Layout of Buildings) and BE14 (Building Plant) are considered sufficient to constrain the emerging master plan for the site and safeguard the acknowledged townscape qualities of the wider area.
  - III. The proposed designation will unduly inhibit the legitimate and desirable plans of the University to expand and enhance educational and support facilities at the site. Consultants have been appointed to prepare a revised master plan for the site, and that designation would be counterproductive and unduly constraining in relation to its legitimate renewal and expansion programme.

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<sup>1</sup> See background paper no 11

<sup>2</sup> See background paper no 5

## SUMMARY OF THE EXTERNAL ADVICE

4. The Neighbourhood report also contains at paragraph 14, a very detailed response to the University's statement by the Council's consultant, The Conservation Studio<sup>3</sup>. This consultant's advice is impartial and sets the designation within their knowledge of regional and national standards for conservation areas. Their conclusion was that the inclusion of the whole campus within the boundary was defensible as the special architectural and historic interests can be clearly defined and are significant. Conservation area designation was recommended by the consultant as the formal mechanism to ensure the architectural and historic interests of the site are properly considered in any future development proposals and that existing policies cannot ensure the same statutory weight is given to these matters. Landscape and tree issues were considered by the consultant to be a valuable feature contributing to the special architectural and historic interests of the area.
5. The consultant considered that the inclusion of the campus within a conservation area would not unduly constrain the future development of the site providing the replacement of the 20<sup>th</sup> century buildings enhanced the setting of the 19<sup>th</sup> century buildings, and preserved the wider character and appearance of the conservation area. The boundary for the proposed conservation area used for public consultation was therefore that recommended by the consultant in respect of the inclusion of the whole of the University.

## SUMMARY OF CONSULTATION RESPONSES ON THE UNIVERSITY SITE

6. Representations were made by Maldens and Coombe Conservation Area Advisory Committee (M&C CAAC), Kingston Vale Residents Association, Kingston upon Thames Society, The Friends of Kingston Museum & Heritage Service, and The Kingston upon Thames Archaeological Society that considered the whole of the University site should be within the conservation area. English Heritage had some concerns about the quality and quantity of the modern buildings within the University site. None of the representations from owners or occupiers within the proposed boundary raised issues relating to the University site. These are reported in para. 6 of the attached Neighbourhood Committee report.

## REASONS FOR THE RECOMMENDATION TO THE NEIGHBOURHOOD COMMITTEE

7. The report to the Maldens and Coombe Neighbourhood of 21<sup>st</sup> September sets out in a conclusion at paras. 15-17 that the issue of the contribution of the western part of the University campus, already identified as a LASC, is widely accepted as having special architectural and historic interest and contributing to the character and appearance of the western and northern sections of Kingston Hill and Vale. The part of the campus being deliberated was therefore the part set back from Kingston Hill towards the east containing the core group of buildings within the built envelope and the surrounding protected woodland. Whilst recognising the architectural and historic interest within this part of the site the recommendation to the Maldens and Coombe Neighbourhood Committee was an on balance judgement that the eastern part of the campus may not be appropriate for inclusion within the boundary. The reasons given were that:-

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<sup>3</sup> See background paper no 6

- I. It is unusual to exercise conservation area controls over the demolition of the large group of fifteen 20<sup>th</sup> century buildings that make a neutral or negative contribution to the character or appearance of the area; and
- II. The existing Unitary Development policies and Development Brief for the site have safeguarded the retention of the historic buildings, trees and landscaping, and minimised the intrusion of built form within the wider environment and can continue to achieve the same objectives, and that additional consideration can be given to enhancing the setting of the historic structures when the Development Brief is reviewed as part of the Local Development Framework.

## **MALDEN AND COOMBE NEIGHBOURHOOD COMMITTEE VERBAL REPRESENTATIONS**

8. The M&C CAAC and the Kingston Vale Residents Association, (whose constitution covers the northern part of the proposed conservation area including the University campus) made verbal representations at the Committee. They recognised the historic development of the area, and identified that the key historic buildings contained within the dense landscaping, set within the unique topography, and its relationship with the surrounding lands of Richmond Park, Wimbledon Common, and the wider South West London skyline are important to the residents of Kingston Vale and Coombe.
9. Similarly at the Neighbourhood Committee meeting the Kingston University agent, reiterated the points made in the University's written statement summarised in para.3 above. He stated that the University would have no objection to a conservation area boundary based on the LASC boundary as recommended in the report. The University acknowledges that the environmental qualities of the site are recognised by the LASC, SASC and TPO designations and that these should be considered sufficient to preserve the area. A statement was given to confirm that a master plan is being prepared for the University to be brought forward in the context of the outstanding planning permission dating from 1994.
10. The letter from GVA Grimley has confirmed that the University is on the verge of appointing a multi-disciplinary team to prepare a master plans for all of the campuses including Kingston Hill. One of the team's first instructions will be to update the master plan subject of the 1994 outline planning permission and thereafter work collaboratively with the Council to prepare the Area Action Plan proposed in the Draft Local Development Scheme. This master plan process will provide an opportunity for all the salient issues, including both conservation and the future space needs of the University, to be considered in a cohesive fashion and for the appropriate forms of future development to be agreed"

## **MALDEN AND COMMBE NEIGHBOURHOOD COMMITTEE RECOMMENDATION**

11. The Maldens and Coombe Neighbourhood Committee acknowledged the needs of the University to develop their site and considered that they should be encouraged to develop future buildings of excellence that preserve the best buildings and landscape features on the site, and retain the full extent of the tree cover. Resolution 2, set out in Annex 1, recommends that the whole of the University site be included in the proposed Kingston Hill Conservation Area.

## **REVIEW OF THE UDP POLICIES AND PLANNING HISTORY FOR THE KINGSTON HILL CAMPUS**

12. Clearly the University plays an important role in the borough and various UDP policies support and encourage development of educational and community facilities. The site is identified as Proposal Site 32 in the UDP and the guidelines refer to the 1993 planning brief and to the 1994 outline planning permission that provides a framework for the development of the University site in the long term. This balances the need for infrastructure improvements and the University's operational requirements (CS1) with safeguards for the open space, nature conservation and tree preservation (OL6 & 11, BE9), and the protection of the local and strategic character of the area (BE1, 2, 5,6 & 8). The draft Local Development Scheme proposes the production of an updated planning brief for the site during 2005 to be adopted as a Supplementary Planning Document.
13. The 1993 Planning Brief identifies:- a "Development Envelope", excluding all protected woodland; building height zones; and buildings to be retained including Coombe Hurst, Kenry House and its stables. The 1994 outline planning permission for redevelopment of the site approved a development framework for the site, identifying new access arrangements; a built development area and important buildings for retention including the stable Block, Kenry House, Kenry Lodge, and Coombe Hurst. The section 106 agreements associated with both the 1993 and 1994 planning permissions include a requirement covering management of the protected woodland. Phase 1 approved in March 1995 established a new Master Plan, infrastructure improvements, and phasing for the whole site and the now completed new buildings, landscaping and car park to the south of the site.
14. The letter from GVA Grimley sets out their understanding of the planning permissions and states that the 1993 outline planning permission permitted 18,050sqm of floor space of which only 8,600sqm was taken up in the detailed permission of 1994. "There therefore remains an in principle acceptance that an additional 9,450sqm of floor space could be suitably developed on the site. Detailed planning permission is, however, required to build this floor space and the conferring of conservation area status across the entire site could, in my view provide a constraint on the ability of the site to acceptably accommodate such a level of development"
15. There is clearly an operational need to continue to upgrade and develop parts of the site. There is a UDP commitment to support and encourage development of the site within the limits of the material considerations.

## **REVIEW OF THE ARCHITECTURAL AND HISTORIC INTERESTS ON THE UNIVERSITY SITE**

16. If the inclusion of the whole of the site within a conservation area is to be considered this should be justified by means of a clear definition of the special architectural or historic interests of this part of the conservation area and its contribution to the character of the wider conservation area. The site has been assessed by an independent consultant and the Council's Conservation & Design Officers have reviewed the historic development of the site and the contribution of the existing features. The features that can be identified as making a positive contribution to the character or appearance of the area are identified as:-

- a) The relationship of the built form with the hilltop topography, and woodland setting that gives the area a distinctive and cohesive character, and proved so attractive to the nineteenth century high society ;
  - b) The two well preserved historic estate boundaries to Coombe Hurst and Kenry House;
  - c) The listed retaining wall; Kenry House, the stable building, and Coombe Hurst all identified as Buildings of Townscape Merit in the UDP; and Kenry Lodge and Coombehurst Court, both pre 1900 buildings making a positive contribution to the character of this part of the area; totalling six pre 1900 buildings making a positive contribution to the special architectural interest of the area;
  - d) The two 20<sup>th</sup> century buildings, named Frank Lampl and the Lawley Lecture Theatre making a positive contribution to the special architectural interest of the area;
  - e) The historic landscape interest of the mature woodland, individual tree specimens and extensive shrubbery within the two estates. This landscape contains structures including paths, embankments, terraces, formal lawn, ponds and hard surfacing that contribute to the special interest of the area.
  - f) The prominence of the complex in wider views from the north within the proposed area, and from views into the area from the north, north east and south defining the visible edges to the area;
17. The incidence of features that make a negative or neutral contribution to the character or appearance of the wider area is confined to the remaining building fabric within the core of the site. Although there are approximately 15 post 1950's buildings within the site that are of no architectural or historic interest, their contribution does not intrude on the character of the wider area. There has been some debate about the contribution of individual buildings and the consultant and Council officers have agreed that all 15 modern buildings, excluding those referred to in c) and d) above, definitely do not make a positive contribution to the character of the area.

## **IMPLICATIONS OF CONSERVATION AREA DESIGNATION FOR THE UNIVERSITY SITE**

18. Conservation area designation is not retrospective and the inclusion of the whole campus within a conservation area would not remove the ability to implement the 1994 and 1995 planning permissions for the redevelopment of the site. However, the University would need to take account of the additional conservation area controls, and the Council in making decisions on the details of future phases or a new master plan would be obliged to consider the desirability of preserving or enhancing the conservation area. Conservation area designation should be seen as a means of recognising the importance of the features identified above, and an additional mechanism to manage change without detracting from the special interest of the wider area. The additional planning controls that come with designation would achieve the following:-
- a) Control over the demolition of all buildings above 115 cubic metres in volume. In accordance with UDP Policy BE4 the Council would resist the demolition of buildings that make a positive contribution to the character or appearance of the area. A statement of the buildings that make a positive contribution to the character or appearance of the area is made above at para 16 c) and d) and thus the intention

would be to resist any proposals for their demolition. The March 1995 planning permission for phase 1 included a master plan and phasing for the whole site that included the retention of all six pre 1900 buildings listed above in para 16 c);

- b) A six weeks notification procedure about works for all trees on the site not covered by individual or woodland tree preservation orders. The site was last surveyed in 1991 and there are trees on the site not covered by existing orders. Designation over the whole campus would be of benefit to the protection of trees in that a six week notification period would enable the assessment of trees proposed for surgery or removal to determine if new tree preservation orders should be made, and whether such trees should be retained or replaced if removed.
  - c) There would be a statutory duty to pay special attention to the character or appearance of the conservation area in all planning decisions. This would ensure that greater weight is given to the defined architectural and historic interests within the site. The features contributing to the area are set out in para. 16 above. Applications would be determined in accordance with UDP Policy BE3.
  - d) An opportunity to review the planning brief for the site and give due weight to the preservation and enhancement of the conservation area. The requirements can continue to encourage and support development whilst promoting enhancement of the area. Consideration can be given to the retention of historic buildings, the enhancement of the setting and views of historic buildings, the retention of woodland trees and other landscape features important to the character of the area, and achieving a high standard of design and the detailing of new buildings in the context of the character of the site and surrounding area.
19. In the context of the established policies and guidance, and the advice of The Conservation Studio it is considered that the complete Kingston University site should be included within the proposed conservation area boundary to preserve the special architectural or historic features of interests identified in para. 14 above.

## **REVIEW OF THE PROPOSED CONSERVATION AREA BOUNDARY AND SPECIAL INTERESTS OF WHOLE AREA**

20. Public consultation has shown widespread support for the proposed Kingston Hill Conservation Area from the owners and occupiers within the area, and local and national amenity bodies and organisations. A minor amendment to extend the area to include two residential properties, Karrada and Arden House, to the north of the area, as described at paragraph 9-10 of the Maldens and Coombe Neighbourhood Committee report, is recommended in response to representations from two local bodies.
21. The objection from Kingston University has been fully considered at paragraphs 13-17 of the report to the Maldens and Coombe Neighbourhood Committee of 21<sup>st</sup> September 2004<sup>4</sup>, and debated at the same Committee with representations from two amenity bodies and the University. Paragraphs 3-17 above review the considerations of whether the eastern part of the University should be included in the conservation area. Having reviewed the original advice of the consultant, The Conservation Studio, and being mindful of the boundary used for consultation and the majority support for the inclusion of the whole of the campus in the area, it is considered that on balance the wider area including the whole university site has special architectural or historic interest the character or appearance of which it is

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<sup>4</sup> See background paper no 1

desirable to preserve or enhance. This recommendation is considered rational following the consultation representations, as the Council has wide discretion in the judgement of what is special and has considered the area as a whole and not just the individual buildings within the University site. The definitive proposed conservation area boundary, including the amendments, is illustrated in the plan at **Annex 3**, drawing no.04/202/B, which can be compared with the plan at **Annex 1**, the boundary used for consultation and the LASC boundary.

22. If the Executive agree to designate the Kingston Hill Conservation Area, the purpose of the Kingston Hill Local Area of Special Character, as set out in policy BE2 of the adopted UDP, March 1998 will have been fulfilled and it will no longer serve a useful planning purpose. The only part of the LASC that now falls outside of the proposed conservation area boundary is the small group of eight buildings between Ladderstile Gate and Galsworthy House, (that have been considered at paragraph 6 of the Maldens and Coombe Neighbourhood Committee report), and do not comprise an area of special architectural or historic interest in the manner of the area recommended. They would not comprise an area of special character as a stand-alone area.
23. The special interests of the whole of the proposed conservation area are set out in the Consultants report of November 2001, and considered at para. 27 of the Maldens and Coombe Committee report. These interests have been the reference point for the consideration of the suggestions to amend the boundary during the consultation process. There is a need to amend the statement of interests as a result of a review of the boundary to include the whole University site. For future reference purposes, and to establish the material consideration of the character and appearance of the area in accordance with policy BE3 (Development in Conservation Areas) and BE4 (Demolition of Buildings in Conservation Areas) of the adopted UDP (or any successor) the features which are considered to contribute to the special architectural or historic interest of the area, and their character or appearance is therefore considered worthy of preservation or enhancement are listed as:-
- a) the topographical and strategic interest of the historic route established in its current cutting position soon after 1828;
  - b) the development of three minor estates of Kingston Hill Place (1828), Kenry House (1832) and Coombe Hurst (1835) which began a period of royal and important patronage and visitors;
  - c) The development of a succession of large houses on diminishing plots from the mid 19<sup>th</sup> century through to the 1930's creating a epicentre of high society within an hours drive of the City of London, and hence a predecessor to the Surrey stockbroker belt;
  - d) A collection of individual buildings of architectural interest making a positive contribution to the character and appearance of the area including Galsworthy House, Fairlight, St Margaret's House and mews, Hamilton House, St Ann's Church, St Auybyn, Holmwood, all properties at Kingston Hill Place, the Dorin Court group of attached buildings, Harewood, Woodlawn Cottage, Robin Wood Cottage, Dorich House, Robin Wood, and Arden House all on the north side of Kingston Hill; and the lodge to Kenry House, Kenry House, Stables to Kenry House, retaining wall to Kenry House, Coombe Hurst and Coombe Hurst Court, Frank Lampl and Lawley Lecture Theatre within part of the University Campus on the south side of Kingston Hill;

- e) The predominance of mature and dense landscaping and low key boundary treatments enclosing the Kingston Hill street-scene, with the positioning of buildings well within the plots making an inconspicuous and glimpsing contribution from the public realm.
- f) The mature tree cover on the high banks of the road cutting, and the embankment and verge to the Ulswater Crescent rear gardens making a dramatic landscape, and providing views over Richmond Park and Wimbledon Common significantly reducing the sense of a suburban landscape.
- g) The strong relationship with Richmond Royal Park to the west and north west, including the listed boundary wall, and the inter-visibility of traditional brick and pitched roof structures set within well landscaped plots;
- h) The relationship of the built form and woodland setting with the hilltop topography that defines the edges of the area in the strategic views from the north, east and south from Kingston Vale, Wimbledon Common, Coombe Hill, Kingston, and further afield.

22. In conclusion a summary description of the character and appearance of the area is:-

“A group of early Victorian through to early 20<sup>th</sup> century large houses in a woodland setting forming an early wealthy suburb along the dramatic and well landscaped historic strategic route of Kingston Hill, enjoying a close inter-relationship with Richmond Park and strategic importance in longer views”

## **IMPLEMENTATION OF THE PROPOSED CONSERVATION AREA**

23. The decision to designate a new conservation area not only involves additional statutory requirements but also the need to ensure owners or occupiers of land are aware of the controls and policies and understand the positive benefits of designation. To achieve this a leaflet would be produced, a Conservation Areas Advisory Committee representative appointed, and a notice board installed, in order to raise the profile of the conservation area and to provide a forum for the display of material. These actions and mechanisms are picked up in recommendations 5-7 of this report and referred to in Paragraphs 40-47 of the General Principles report on Conservation Areas found on this Agenda.

## **ENVIRONMENTAL IMPLICATIONS**

24. The designation of any new conservation area would impose a duty on the Planning Authority to pay special attention to the preservation or enhancement of the character or appearance of that area (as described in this and background reports) in exercising any powers under the Planning Acts, including amongst others development control decisions. Additionally there is a duty to formulate and publish proposals for the preservation and enhancement of the area.

## **ANNEXES**

1. Report of the Maldens & Coombe Neighbourhood Committee, including plan no Plan No. 04/160/B Public Consultation on the Proposed Kingston Hill Conservation Area
2. Minute No. 38 of the Maldens & Coombe Neighbourhood Committee 21<sup>st</sup> September 2004
3. Plan No.04/202/B Proposed Kingston Hill Conservation Area

**BACKGROUND PAPERS** held by Karen Liddell, author of the report 020 8547 5359 e-mail : karen.liddell@rbk.kingston.gov.uk

1. Maldens and Coombe Neighbourhood Committee 21<sup>st</sup> September 2004 Appendix F and Late Material
2. Cabinet Report 8<sup>th</sup> January 2002 Extension to Richmond Park (Kingston) Conservation Area & designation of Kingston Hill conservation Area;
3. Assessment of the Kingston Hill Local Area of Special Character November 2001 by The Conservation Studio;
4. Consultation letter dated 24<sup>th</sup> March 2004;
5. 11 representations from organisations ;
6. Letter and report from Christopher Wickham dated 5<sup>th</sup> May containing the Kingston University Objection;
7. Report by The Conservation Studio received on 6<sup>th</sup> July containing a response to objections raised by Kingston University;
8. Letter from owners of Holmwood House, Kingston Hill dated 23<sup>rd</sup> March 2004;
9. Letter from Kingston Hill Place Management Co. dated 28<sup>th</sup> March 2004;
10. 33 (1 neutral, 7 disagree & 25 agree) representation forms and letters from owners or occupiers.
11. Letter dated 15/10/04 from GVA Grimley for Kingston University

**MALDENS AND COOMBE NEIGHBOURHOOD COMMITTEE  
21 SEPTEMBER 2004**

**PROPOSED DESIGNATION OF KINGSTON HILL CONSERVATION AREA**

**REPORT BY THE DIRECTOR OF ENVIRONMENTAL SERVICES**

**SUMMARY**

On 8 January 2002 the Cabinet considered an assessment of the Kingston Hill Local Area of Special Character to determine if the area had sufficient special interests worthy of conservation area designation. This report sets out the results of the public consultation, and seeks the views of this Committee which it is anticipated will be reported to the Executive meeting of 19 October 2004 to consider the formal designation. The recommended boundary of the proposed area has been amended in response to an assessment of the consultation responses and is considered worthy of designation as the Kingston Hill Conservation Area. Such a designation would make the Kingston Hill Local Area of Special Character redundant for planning purposes and its cancellation will be recommended to the Executive.

**RECOMMENDATIONS**

It is **RECOMMENDED** that:

1. The results of the public consultation on the Proposed Kingston Hill Conservation Area be noted;
2. This Committee's comment on the proposed Kingston Hill Conservation Area as identified on plan 04/161/B in Annexe 2 be forwarded to Executive for a decision on the designation of the Proposed Kingston Hill Conservation Area.
3. The Maldens & Coombe Conservation Area Advisory Committee (CAAC) be asked to bring the proposed Kingston Hill Conservation Area within their remit and to appoint a representative from the area;
4. A notice board dedicated to the Proposed Kingston Hill Conservation Area be installed in a location to be agreed with the Maldens and Coombe CAAC and adjacent owners and occupiers, and a leaflet be published and distributed to all properties in the area (as identified in paras. 28-29), subject to officers identifying a budget of £1500.

**REASON FOR THE RECOMMENDATION**

To provide guidance to the Executive upon which to make a resolution on the designation and to enable the proposed designation to be effectively implemented and a management regime established.

## BACKGROUND

25. On 8 January 2002 the Cabinet considered an assessment of the Kingston Hill Local Area of Special Character to determine if the area had sufficient special interests worthy of conservation area designation. The Cabinet agreed the principle of the designation subject to public consultation with owners and occupiers of properties within the conservation area boundary; local, regional and national amenity bodies and the Neighbourhood Committee. The area was assessed by an independent consultant, The Conservation Studio, and was part of a joint assessment with the adjoining Kingston Vale area that was at that time suffering from the threat of demolition of two public houses. It was considered appropriate to identify the differences in character between the two areas and the rationale for the proposed boundaries. The Kingston Vale Conservation Area was designated at Cabinet on 8 January 2002 without prior public consultation.
26. The implications of conservation area designation are set out full in the Cabinet Report of 8 January 2002 (see Background Paper 1.). A designation brings into effect additional planning controls over the demolition of existing structures, works to trees (unless already covered by a Tree Preservation Order), and minor works comprising permitted development. The Council is also statutorily committed to pay special attention to the character and appearance of the area in all decisions it makes, and to prepare and publish proposals for the preservation and enhancement of the area. Policies BE3 and BE4 of the adopted Unitary Development Plan would also become a material consideration in all planning decisions. Public consultation on the proposed Kingston Hill Conservation Area has now been completed and the results and response are presented with a review of and recommendation on the proposal.

## SUMMARY OF THE ASSESSMENT

27. The full background and context with the adjoining Kingston Vale Conservation area is found in the Cabinet Report of 8 January 2002 and the consultant's report titled "Kingston Hill Local Area of Special Character" November 2001 referred to as background papers 1 & 2. A summary is provided only within this report. The Kingston Hill Local Area of Special Character (LASC) is identified on Plan No. 04/160/B in **ANNEX 1**, along with the proposed Kingston Hill Conservation Area boundary as adopted by Cabinet on 8/1/02 for the purpose of public consultation in plan no. 01/228/B. **Annex 1 shows the boundaries upon which the public consultation has been undertaken, but not the boundary recommended for designation in this report.** The Kingston Hill LASC was first identified as part of policy UD4 of the Royal Borough of Kingston upon Thames Local Plan 1989. This LASC was carried forward to the March 1998 Unitary Development Plan (UDP) within Policy BE2. The current UDP review does not propose alterations to the Kingston Hill LASC. The LASC is also part of the Kingston Hill/Coombe Hill Strategic Area of Special Character under Policy BE1 which seeks to preserve the open and densely landscaped nature of the wider area and the important views, within and beyond the borough, into the area.
28. The Consultant's report, referred to as Background Paper 2, carefully analyses the architectural and historic interests of Kingston Hill Local Area of Special Character and the areas immediately outside the boundary. The conclusion, as reported to Cabinet on 8 January 2002, was that

“...the area has a different character and appearance to that of Kingston Vale, although it acknowledges that the historic route of Kingston Hill and the topographic qualities unite the two areas. The architectural interest lies in the high quality of individual buildings from the 19<sup>th</sup> century and early 20<sup>th</sup> century which are each a product of individual tastes. The area does not have a harmonious architectural character, as there is no Kingston Hill style. The core of the area on the north side of Kingston Hill comprises a concentration of properties that make a positive contribution to the character of the area including St Aubyns, Holmwood, Kingston Hill Place, Dorincourt and Harewood. The more peripheral properties between the listed Galsworthy House and Dorich House are individually less significant but the quality of the landscaping is more important than the quality of the architecture and draws the character together. On the south side of Kingston Hill the whole of the Kingston University campus is considered to have architectural and historic interest derived from the older buildings of Kenry House, the stable court, the Lodge, and Coombehurst which together with the 1960's Walden Hall, the 1980's de Lisa Hall, and the recent Sir Frank Lampl Building provide a history of architecture from mid-19<sup>th</sup> to late 20<sup>th</sup> century. The historic interest lies in the distinctive arcadian character of a well-to-do early Victorian suburb, which resulted from a process of progressive sub-division of large minor estates established in the Coombe area in the late 18<sup>th</sup> and early 19<sup>th</sup> century. The dense landscaping, soft boundaries, changes in level and views over Richmond Park and Wimbledon Common are the most striking features which give this area a distinctive character and appearance.”

## EXTENT OF PUBLIC CONSULTATION

29. The consultation exercise was undertaken between 24 March 2004 and 26 April 2004. A copy of the Cabinet report of 8 January 2002 was sent with a letter inviting comments from local, regional and national bodies. Additionally a total of 152 letters were sent to owners and occupiers and known agents of all land and buildings within the existing Kingston Hill Local Area of Special Character and the proposed Kingston Hill Conservation Area. The letter outlined the background to conservation areas, described the special architectural and historic interests in the area, identified the planning controls that would come into effect and gave guidance on how to find out more information. Each letter included a response form and a reply paid envelope. A display containing a large-scale plan illustrating the boundary and photographs of key buildings in the area was available for three weeks in the Guildhall, New Malden Library and Kingston Library. **This display with amendments showing the present recommended boundary will be on display at the meeting of this Committee.** The full Cabinet report, the consultant's report and historic maps for the area were also available with the display and could be downloaded from a dedicated page within the Council's web site, with links to ISIS for detailed planning histories. On-line responses were invited. This is the first use of the web site for a conservation area designation consultation.

## RESULTS OF PUBLIC CONSULTATION

### Organisations

30. The comments received from the organisations consulted (see Background Paper No. 4) are summarised below, with a response:

**The Maldens & Coombe Conservation Area Advisory Committee (CAAC)**

**Support.**

Minutes of 19 April 2004 state "Agree in principle". They have verbally confirmed that they had a long discussion on the proposed boundary and there was a consensus that the boundary was appropriate and that the whole university site should be included within the area. They have subsequently considered the representations that the two properties to the north of the proposed boundary should be within the area and would support an extension to the boundary in this area (A response is given at paragraph 9-10). The CAAC is happy to take the proposed area within its remit and appoint a representative for the area. They have also responded (letter dated 30 June 2004) to the Kingston University objection to support the boundary as used for public consultation and state in part:-

"We wish to point out that the designation of a conservation area would not eliminate any further expansion of the site. If plans were seen to be of good quality and necessary they could still be agreed. However, greater scrutiny would be paid to the consequences of an application in relation to the neighbouring area and how it would affect the wooded hill upon which the University stands..."

The Kingston Vale Conservation Area representative on the Maldens and Coombe CAAC has written an individual letter (15 April 2004) of support for the designation giving special regard to the landscape and topographical interest of the area and the relationship to Richmond Park and Wimbledon Common. It is considered that the controls will help safeguard the woodland within the University site.

The Kingston Town Conservation Area Advisory Committee also considered the consultation at their meeting of 7 April 2004 (although the proposed area is not within its remit). The minutes state "several members wanted most of Kingston University excluded, but with increased focus on significant buildings, e.g. Coombehurst. A minority agreed with the proposed boundary and would like the CA extended to include Ladderstile Road. (A response is given a paragraph 7-8). A letter dated 27 April 2004 stated that "with regards to the main part of the proposed CA, there was unanimous support".

A response to the issues on the boundary at Kingston University is given at paragraphs 13-17.

**Kingston upon Thames Society**

**Support**

Letter dated 18 May 2004 states "do not object to the boundary of the proposed conservation area".

**The Friends of Kingston Museum & Heritage Service**

**Support**

Agree to the inclusion of all the University campus. Suggest the boundary be extended to the north to include all land and buildings up to the Kingston Vale Conservation Area (A response is given a paragraph 9-10), and to the south as far as Ladderstile Road. (No reasons given). (A response is given at paragraph 7-8).

**Kingston Vale Residents Association**

**Support**

Their letter of 16 April 2004 agrees that the area contains buildings of architectural and historic interest. They put much emphasis on the landscape interest of the hilltop and its contribution to the green corridor between the nationally important Richmond Park and Wimbledon Common. They consider that the woodland of the University site

contributes significantly to the green corridor. They have inspected the representation made by the University and sent a letter on 26 June 2004 stating the concern expressed at their last committee meeting to any change to the boundary used for public consultation. They state in part:-

“The existing protection does not appear to be adequate, while the establishment of the conservation area would ensure the necessary building and rebuilding would not be to the detriment of the locality”.

A response to the issues on the boundary at Kingston University is given at paragraphs 13-17.

**The Kingston upon Thames Archaeological Society** **Support**

A member has verbally confirmed that the Society discussed at a recent meeting and agreed to support the boundary as proposed including all Kingston University site.

**The Royal Parks** **Support.**

They consider that the designation will help preserve the setting of Richmond Park, and support the protection of wildlife in the corridor between Richmond Park and Wimbledon common. They consider the boundary should be extended to include Ladderstile Gate that forms part of Richmond Park. (A response is given a paragraph 7-8).

**English Heritage (London & SE Region)** **Support**

Site visited on 8 June 2004 by Historic Areas Adviser and written response dated 9 June 2004. However, the Adviser questions the appropriateness of including the entire Kingston University campus within the conservation area boundary. They consider that the character of the area as a well-to-do Victorian suburb is immediately apparent as you proceed along Kingston Hill and that the University is defined by the swathe of trees. Within the campus the Adviser considers that the eclectic collection of buildings from the last 40 years do not provide a link with the north-west side of Kingston Hill. They suggest that the UDP policies BE1 and BE 8 should be sufficient to ensure the protection of the tree cover and the Buildings of Townscape Merit – Kenry House, former stables to Kenry House and Coombe Hurst. The conclusion is:-

” I consider that the character of the conservation area, the north eastern boundary of which would be defined by Dorich house, the south western boundary by Galsworthy House and the south eastern boundary by either back of pavement on Kingston Hill, or a better defined line following the internal topography of the site, would not be compromised by the exclusion of the remainder of the University campus.”...

A response to the issues on the boundary at Kingston University is given at paragraphs 13-17.

<b>Maldens &amp; Coombe Civic Society</b>	Do not wish to comment
<b>The Federation of RBK Residents Associations</b>	<b>No response</b>
<b>The Kingston chamber of Commerce</b>	<b>No response</b>
<b>London Borough of Richmond upon Thames</b>	<b>No response</b>
<b>Greater London Authority (Architecture and Urbanism Unit)</b>	<b>No response</b>

Government Office for London  
 Victorian Society  
 Twentieth Century Society

No response  
 No response  
 No response

## Response to suggested amendments made by organisations

### Land between Ladderstile Gate and Galsworthy House

31. The Royal Parks, Friends of Kingston Museum and Heritage Service, and the Kingston Town CAACs consider that the land and buildings between the proposed southern end of the proposed boundary at Galsworthy House, a grade II listed building, and Ladderstile Ride should be within the conservation area. The Royal Parks consider this area would benefit from the additional controls to preserve the setting of the park, but do not demonstrate if the land and buildings satisfy the test of containing features of special architectural or historic interest. The other two organisations similarly do not suggest what they consider the special interest of this area to be.
32. The area contains properties including The Russetts (1930s), Juniper Cottage/Ty Newydd (1958), Pleasant View (1958), Aranmor (1860s with 3 storey extension), Aranmor Lodge (1860's with many alterations), Warren Gate (1997), and 2-12 Ladderstile Ride (1969) and 14 Ladderstile Ride (1890s core with additions). The Kingston Hill properties, but not the Ladderstile Road properties, are within the LASC boundary identified in Plan 04/160/B in **Annex 1**. The Kingston Hill properties within the LASC were consulted on the proposed designation and no representations have been received. The consultant had considered this area, excluding Ladderstile Ride, an option for including within the boundary, but had identified all but one of the buildings as making a negative and one neutral contribution to the character of the area. Ladderstile Ride includes six 1969 three-storey town houses of no architectural or historic interest. The only building of interest is Aranmor, identified as a Building of Townscape Merit in the Unitary Development Plan, although the three storey front extension to a part two storey property undermines its interest. Whilst Ladderstile Road does comprise a tranquil approach to the Park it does not contain features of special architectural or historic interest. The group of Kingston Hill properties are not viewed as a continuation of the Kingston Hill properties when viewed from the Park, partly due to being blocked by Ladderstile Gate Lodge and its allotment garden, and partly due to the forward location of the buildings fronting Kingston Hill. From Kingston Hill there is a change in the character of the plot widths, frontage treatment and density of landscaping. In conclusion this group of properties are not considered to be part of the area of special architectural or historic interest, and are of a similar quality to those properties on the south east side of Kingston Hill that are not proposed within the conservation area boundary.

### Land to the north containing Arden House and Karrada

33. The Friends of Kingston Museum and Heritage Service have suggested that the conservation area boundary should be contiguous with that of the adjoining Kingston Vale Conservation Area to the north but have not identified why they consider it of special architectural or historic interest. The Malden & Coombe CAAC would support an extension to include the two houses called Karrada House and Arden House. The consultant had previously considered that these two properties were worthy of consideration as part of the adjoining Kingston Vale Conservation Area.

34. Arden House is considered to be of some architectural interest being in a Spanish hacienda style with dramatic green-glazed pantiles, and a matching coping to its white rendered boundary wall. However, Karrada dates from 1989 and is of no architectural interest. It was considered that these houses did not form part of the Kingston Vale character, comprised of small-scale houses and community uses forming the nineteenth century village. As the houses are individually of limited architectural or historic interest it was considered that a break in the two conservation areas would reinforce the change in character. However, together these two plots do demonstrate features in their plot widths, boundary treatment and mature landscaping that contribute to the special character of the lower slopes of Kingston Vale and Kingston Hill. These plots are covered by a 1956 blanket Tree Preservation Order, which would be supplemented by the additional control on conservation area trees until such time as it is reviewed. For these reasons it is recommended that the conservation area boundary be extended to include Arden House and Karrada, Kingston Vale as identified on Plan No 04/161/B in **Annex 2**. **The owners and occupiers of these two properties have been consulted and any response will be included in the late material.**

#### **Key Land Owners**

35. The major land owners identified in the area have responded (listed under background paper No. 4) as follows:-

#### **Kingston Hill Place Management Co Ltd**

#### **Support.**

36. Managing agents for 1-56 Kingston Hill Place. Letter dated 28 April 2004 states "in favour of the proposal".

#### **Kingston University**

37. A full (9 pages- see background paper no. 5) statement of representations, on behalf of Kingston University, has been made by Christopher Wickham Associates, objecting most strongly to the inclusion of its Kingston Hill campus within the proposed Kingston Hill Conservation Area. The grounds of objection are summarised as:-

**IV. Absence of Architectural or Historic Interest:-** The main body of the campus is not considered to comprise an area of special architectural or historic interest, and the site no longer relates sufficiently strongly in visual or functional terms to the surviving historic character of Kingston Hill so as to justify conservation area designation. The character of the area on the north-western side of Kingston Hill is acknowledged, but the south eastern side containing the University is considered to have a different character. Kenry House, its stables, its Lodge and Coombe Hurst are acknowledged as Buildings of Townscape Merit, but it is considered that their architectural and historic interest is compromised by the extensive post 1960s educational developments. It is considered that these buildings are individually of no architectural merit, and collectively they obscure or dominate the setting of the historic buildings; therefore the campus does not reflect the residential character of the north-west side of Kingston Hill. (plus 4.5 page justification);

**V. Adequacy of Existing Planning Controls:-** The environmental qualities of the site derive chiefly from its landscape setting which is fully protected by the operation of Unitary Development Plan (UDP) and other planning policies, and by tree

preservation orders. The UDP policies BE1 (SASCs), BE2 (LASCs), BE9 (Trees and landscaping), BE10 (Grass verges), BE12 (Design and Layout of Buildings) and BE14 (Building Plant) are considered sufficient to constrain the emerging master plan for the site and safeguard the acknowledged townscape qualities of the wider area (plus 1.3 page justification);

**VI. Designation as a Constraint on Necessary Change:-** The proposed designation will unduly inhibit the legitimate and desirable plans of the University to expand and enhance educational and support facilities at the site. The UDP is considered to contain policies that encourage the long-term educational use of the site, including designation as a "Proposal Site". There should be no constraint on the replacement of buildings at the end of their operational life, with buildings that can both enhance the educational facilities and respect the environmental qualities. The retention of four nineteenth century buildings already form an intrinsic part of the University's plans for the site. Consultants have been appointed to prepare a revised Master Plan for the site, and that designation would be counter productive and unduly constraining in relation to its legitimate renewal and expansion programme (plus 1 page justification);

### **Consultant's Response to Kingston University**

38. The consultant that made the original assessment of the proposed area, The Conservation Studio, has responded to the Kingston University statement of objection. (see Background Paper no.6) On the above three grounds of objection the advice is reported:-

- I. **Architectural or historic interest:-** A conservation area must have special interests, that may be either or both of architectural or historic interest. On the University campus, there are significant historic buildings of architectural interest, including Kenry House, the stable court, the lodge, the 18<sup>th</sup> century garden retaining wall that runs through the site, and Coombe Hurst. The changed use of these buildings does not take away their significance. Indeed, the adaptability of historic buildings generally is often an important factor in their survival. Of the more recent buildings, the Lawley Lecture Theatre and the Sir Frank Lampl building have definite architectural qualities. Even if all the post-19<sup>th</sup> century buildings are regarded as neutral, and a few clearly as negative, it is self-evident that there are significant elements of architectural interest on the campus site. There is historical interest too. The history is one of the gradual sub-division of minor country estates to produce a sub-urban landscape. Kenry House and Coombe Hurst demonstrate an earlier stage in this process where the relationships with service buildings and a wider landscape are still apparent. In the case of Coombe Hurst, there are associations with Florence Nightingale and the garden layout has historic interest. There are, however, wider issues. Government policy states that 'It is the quality and interest of areas, rather than individual buildings, which should be the prime consideration in identifying conservation areas. The campus demonstrates an evolved history just as other sites in the area have, including Kingston Hill Place (apartments and new housing), Dorich House (University), or Galsworthy House (residential care). Taking historical relationships and landscape quality into account, it is clear that the whole area relates well to Kingston Hill rather than the later suburbs to the north, east and south. It is reasonable to include in a conservation area land that forms the setting of the architectural and historic interest. In this case, the

inclusion of the tree-lined perimeter of the University campus is considered to be such a setting.

- II. **Existing planning controls:-** If the purpose of the proposed designation was purely to preserve trees or landscape, it would be an improper use of one planning mechanism to achieve the aims more appropriate to another, such as a Tree Preservation Order or landscape designation. However, the purpose of conservation area designation is to ensure that the architectural and historic interest is taken into account in the exercise of those considerations. It is said on behalf of the University that existing UDP policies are sufficient to protect the acknowledged qualities of the site. Conservation area controls would ensure the retention, where appropriate, of the significant 19<sup>th</sup> century buildings. The same guarantees are not provided purely on the basis of UDP policy BE 8, in relation to Buildings of Townscape Merit, and a development brief, master plan or other undertaking by interested parties. The Council should be concerned that the architectural and historic interest of the site be properly assessed and taken into account, and that there is no formal mechanism to ensure that this will happen. Conservation area designation will provide the framework for acknowledging the significance of the heritage issues and ensuring that their preservation and enhancement become part of the planning solution. It would appear that the case for designating the existing area of the LASC as a conservation area has been accepted by the University, but the boundary as it crosses the campus is very ill-defined. This is not good practice for conservation area designation. It is good practice when designating conservation area boundaries that they have definable edges and it is preferable to see a conservation area boundary on the ground.
- III. **Designation as a Constraint:-** While consent is required for the demolition of most buildings in conservation areas, it would be naïve to expect that change could not happen. Designation is simply a means by which change can be managed without detracting from the special interest. Indeed, a significant part of the definition of conservation areas accepts that enhancement is desirable. Government policy on conservation area controls carries a presumption in favour of retaining buildings that make a positive contribution to the character of a conservation area. This would apply to the buildings of special architectural or historic interest identified above as Kenry House, the stable court, the lodge, the 18<sup>th</sup> century garden retaining wall that runs through the site, and Coombe Hurst. It would not, however, apply to the majority of the 20<sup>th</sup> century buildings that make only a neutral or negative contribution. The replacement of neutral and negative buildings would, therefore, be welcome especially if the new buildings provided a significant improvement. There is considerable scope to enhance the heritage assets of the campus through a balanced scheme of conservation and development. This could improve the relationship of Kenry House with its stables and the wider landscape, including the listed garden wall. It could also integrate Coombe Hurst better with its garden setting. At the same time, there is scope to increase the capacity of the site for accommodating further educational functions. It would appear that the Council's aims for environmental stewardship and the University's aims for the improvement of its campus are considerably aligned.

### Concluding response to the University's Objection

39. Policy BE2 of the Adopted Unitary Development Plan identifies the Kingston Hill LASC boundary to include that part of the University fronting Kingston Hill and including the Coombe Hurst complex and the lodge to Kenry House only. This boundary was first identified in 1987 and incorporated into the 1987 Local Plan. The LASC boundary has not been subject to objections (from the University or others) during adoption or the first Review of the UDP. It would appear from the background documents that the historic interest of the wider area was not recognised at that time. Kenry House was not identified as a Building of Townscape Merit. The site was a proposal site at that time which was a consideration in excluding the majority of the site from the LASC boundary. However, Kingston Hill Place was also a Proposal Site containing a Building of Townscape Merit and was wholly included in the LASC boundary, and subsequently developed with infill housing whilst retaining the building. Both policies BE2 (LASCs) and BE3 (Development in CAs) do not restrict the review of a LASC for conservation area assessment to the existing boundary. BE3 sets out the features that should be taken into consideration when considering a designation. This policy is derived from guidance in PPG 15 and in the English Heritage Guidance Conservation Area Practice which includes a checklist of 10 considerations when assessing the special interest of an area.
40. In the context of the established UDP policies, national guidance, the advice of the Conservation Studio, and the response on behalf of Kingston University, it would appear to be widely accepted that the Kingston Hill LASC (see **Annex 1** Plan 04/160/B) comprises an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and is therefore worthy of conservation area designation (see conclusions to this report). The matter is therefore whether the part of the University campus to the east of the LASC contributes to the wider character of that area. Whilst the land contains the majority of one of the earliest estates to be built on the Hill, including the main Kenry House (originally Coombe Wood), with unsympathetic extensions, the stables and the retaining wall and terraces, the legibility of the estate, and the setting of the buildings has been undermined by the extensive post 1960s educational development of the site. The 15 plus buildings form negative or neutral features in relationship to the character of the wider area. Whilst they may be considered to provide an opportunity where change that enhances the setting of the existing historic buildings could be encouraged, it is unusual to exercise conservation area controls over such a large number of buildings lacking architectural or historic interest.
41. In contrast, the part of the University campus containing Coombe Hurst has not suffered the same degree of intrusion from educational buildings and its relationship with Kingston Hill is still legible in a manner comparable to the estates of Kingston Hill Place, Holmwood, Dorin Court, and Dorich House on the north west side of Kingston Hill. It is considered that the statutory duty to preserve the setting of the listed retaining wall to Kenry House, and the UDP policy BE8, identifying Kenry House and its stables as Buildings of Townscape Merit, will be sufficient to ensure the preservation of the historic structures without the necessity to use conservation area controls. Clearly the existing UDP policies and the Development Brief for the site, dating from 1993, have safeguarded the landscaping within the site, and minimised the intrusion of built form within the wider environment. In addition to Tree Preservation order protection, the open land around the development envelope which includes the

main university buildings, is designated an Area of Nature Conservation Importance and is part of the Strategic Area of Special Character adopted in the UDP. To this has been added designation as a local open space in the UDP Proposed Alterations under new policy OL6. It is hoped that the Universities recent appointment of a consultant to prepare a master plan for the site will result in a positive dialogue in respect of the architectural and historic interest of the site and that the Development Brief can be reviewed, as part of the draft Local Development Documents, to incorporate objectives that enhance the setting of the historic structures and the adjoining proposed conservation area.

### **Owners & occupiers within the proposed Conservation Area and existing Local Area of Special Character**

42. In reply to the 152 letters sent out in the proposed conservation area and the existing LASC, a total of 34 written responses were received. (This is a 22% response rate). 25 responses agree with the designation, 1 is neutral, and 8 are against the designation.
43. Of both those agreeing or disagreeing with the designation none raises any issues concerning the proposed boundary.
44. Of the 8 responses that disagree with the designation, 2 have no reasons contained within. The remaining 6 raise issues including in summary:-
  - a) Additional legislation is not required to protect the character of the area as existing planning policies have in the past safeguarded the area  
*(Response – existing controls do not cover the merits of demolishing existing buildings, and the statutory duty to preserve or enhance the character or appearance of the area);*
  - b) The covenants on Kingston Hill Place are onerous and further controls are not necessary  
*(Response – the additional controls will not affect the covenant and it is likely that the objectives of the covenant accord with the objective to preserve or enhance the character or appearance of the area. The Kingston Hill Place Management Co is in favour of the proposal);*
  - c) There are no structures of architectural merit in the area  
*(Response -There are many structures of architectural merit as identified in the background reports, and already identified as listed buildings or Buildings of Townscape Merit. The key test is that the area must be of special architectural or historic interest, whilst individually buildings are identified as making a positive contribution to that character);*
  - d) The additional controls would have no impact just add to the Council's costs.  
*(Response:- The Council already employs Conservation & Design Officers to manage the conservation area controls and no significant additional costs will be incurred) ;*
  - e) The buildings identified as contributing to the character of the area are not publicly accessible or visible from public areas, and would be better protected by listing. The landscaping can be protected by tree preservation orders. Kingston Hill/Vale is the unifying feature and the engineering features detract from the character of the area. The area does not possess architectural or historic interest.  
*(Response:- The character and appearance of the area is enjoyed and appreciated from many view points other than from the public highway, including from within*

*private and communal open spaces, from within buildings, from views into the area from Richmond Park, from longer views from Kingston Vale and Wimbledon Common. The character and appearance of the area is derived from both the general ambience perceived by occupiers and passers by and the contribution of individual buildings as described in the background documents).*

### **Objection from Holmwood, Kingston Hill**

45. The owner of Holmwood House, Kingston Hill has objected on very extensive legal grounds. Many issues relate to the process of the consultation; the inadequacy of the Cabinet Committee report, and the Conservation Studio report; that the assessment and decisions are based on subjective, partial and biased considerations; the removal of property rights, lack of compensation, and the lack of appeal mechanisms; and the option to challenge the designation by way of a judicial review by the High Court or under the terms of the Human Rights Act 1988. The specific objections related to the assessment and the additional controls are summarised as:-

- The area has a diverse character and conservation area controls would fossilise the area;
- The inclusion of Kingston University site reflects the diverse character and lacks the special architectural or historic interest;
- An Article 4 direction should be considered without the designation of a conservation area;
- The case for including Holmwood is not satisfactorily made;
- That tree preservation orders could satisfactorily safeguard the landscaping;

### **Consultant's Response to objection from Holmwood**

46. The consultant has provided the following response to the objection from Holmwood:

The designation of a conservation area might be considered to be an infringement of human rights if it constrained existing rights to enjoyment of a person's home, if there was no right of appeal, or if action and appeal were not separated by due process. It is true that there is no provision in the Act for a direct appeal against conservation area designation. It is, however, possible to seek judicial review if it is considered that the designation has been arrived at by illegal, unreasonable or procedurally improper means.

The reason that there is no immediate appeal is because designation is not of itself expropriatory. Owners or occupiers of land or buildings in a conservation area do not suffer any change in circumstances due to designation unless they are frustrated in their ambitions by actions such as the refusal of planning permission or conservation area consent, or the service of an urgent works notice. Then, of course, there are rights of appeal, and appeals are heard by the Planning Inspectorate, or in a magistrates' court distinctly separate from the local planning authority. It was not the intention of Parliament, in passing the Human Rights Act, to dismantle the statutory framework of environmental protection. This point will soon be tested in a case where an owner demolished a listed building before obtaining consent and the local authority argued that to have refused consent would have infringed the owner's rights under the Human Rights Act. The decision by Runnymede Council has been called in by the Secretary of state to be heard at a public inquiry. Meanwhile, a near parallel is in Brecklands District in Norfolk where

English Nature's proposal to include 13,000 hectares of farmland in a Site of Special Scientific Interest (SSSI) was challenged on the grounds that it would infringe the owners' rights under the Human Rights Act. This case was dismissed by the Court of Appeal on 26 May 2004 on the grounds that English Nature was fulfilling its duty and that the SSSI status did not contravene the owners' human rights. Similar conclusions could easily be drawn in this case.

### **Conclusions to the Holmwood Objection**

47. The issues related to property rights and the threat of a judicial review were explored at the time of designating the Coombe House Conservation Area in 1997. There was no judicial review. A challenge by way of a judicial review in the High Court on grounds of a breach of the ultra vires rule would not be successful unless procedures had not been followed, there had been a failure to take into account relevant matters, or on ground of irrationality. Legal advice on such challenges has concluded that:-
- The LPA has wide discretion in the judgement of what is special;
  - It is for the LPA to decide what weight should be given to the factors to be taken into consideration;
  - The LPA can consider the area as a whole and not individual buildings;
  - If a consultation exercise has been undertaken and the representations taken into consideration then the decision will not be irrational;
48. It is considered that the special architectural and historic interests of the area are comprehensively identified in this report, the report to the Cabinet in January 2002, and the Conservation Studio report of November 2001. Based upon the advice of the Conservation Studio above and the legal advice at the time of the designation of the Coombe House Conservation Area it is unlikely that a challenge under the terms of the Human Rights Act 1998, or a judicial review to the High Court would be successful. Individually Holmwood and its lodge are considered to make a positive contribution to the character and appearance of the proposed conservation area and its grounds form a central part of the swathe of land on the north west side of Kingston Hill. It is therefore proposed that the boundary should not be reviewed to exclude Holmwood, Kingston Hill.

### **REVIEW OF THE PROPOSED CONSERVATION AREA BOUNDARY AND SPECIAL INTERESTS**

49. Public consultation has shown widespread support for the proposed conservation area from the owners and occupiers within the area and local and national amenity bodies and organisations. A minor amendment to extend the area to include two residential properties, Karrada and Arden House, to the north of the area, as described at paragraph 9-10, is recommended in response to two local bodies. The objection from Kingston University has been fully considered at paragraphs 13-17, and the recommendation is to reduce the size of the area, to revert to the boundary of the Local Area of Special Character adopted in the UDP, covering that part of the campus only forming the open land fronting Kingston Hill, and the Coombe Hurst complex. The definitive proposed conservation area boundary, including the amendments, are illustrated in Annex 2, drawing no.04/161/B, which can be compared with Annex 1, the boundary used for consultation and the LASC boundary.

50. If the Executive agree to designate the Kingston Hill Conservation Area, the purpose of the Kingston Hill Local Area of Special Character, as set out in policy BE2 of the adopted UDP, March 1998 will have been fulfilled and it will no longer serve a useful planning purpose. The only part of the LASC that now falls outside of the proposed conservation area boundary is the small group of eight buildings between Ladderstile Gate and Galsworthy House, that have been considered at paragraph 6, and do not comprise an area of special architectural or historic interest in the manner of the area recommended. They would not comprise an area of special character as a stand-alone area.
51. The special interests of the proposed conservation area have been set out in the Consultants report of November 2001, summarised at paragraph 3 above. These interests have been the reference point for the consideration of the suggestions to amend the boundary during the consultation process. For future reference purposes, and to establish the material consideration of the character and appearance of the area in accordance with policy BE3 (Development in Conservation Areas) and BE4 (Demolition of Buildings in Conservation Areas) of the adopted UDP (or any successor) the features which are considered to contribute to the special architectural or historic interest of the area and their character or appearance is therefore considered worthy of preservation or enhancement are listed as:-
- i) the topographical and strategic interest of the historic route established in its current cutting position soon after 1828;
  - j) the development of three minor estates of Kingston Hill Place (1828), Kenry House (1832) and Coombe Hurst (1835) which began a period of royal and important patronage and visitors;
  - k) The development of a succession of large houses on diminishing plots from the mid 19<sup>th</sup> century through to the 1930's creating an epicentre of high society within an hours drive of the City of London, and hence a predecessor to the Surrey stockbroker belt;
  - l) A collection of individual buildings of architectural interest making a positive contribution to the character and appearance of the area including Galsworthy House, Fairlight, St Margaret's House and mews, Hamilton House, St Ann's Church, St Auybyn, Holmwood, all properties at Kingston Hill Place, the Dorin Court group of attached buildings, Harewood, Woodlawn Cottage, Robin Wood, Cottage, Dorich House, Robin Wood, and Arden House all on the north side of Kingston Hill; and the lodge to Kenry House, Coombe Hurst and Coombe Hurst Court within part of the University Campus on the south side of Kingston Hill;
  - m) The predominance of mature and dense landscaping and low key boundary treatments enclosing the Kingston Hill street-scene, with the positioning of buildings well within the plots making an inconspicuous and glimpsing contribution from the public realm.
  - n) The high banks of the road cutting, and the embankment and verge to the Ullswater Crescent rear gardens make a dramatic landscape, providing views over Richmond Park and Wimbledon Common significantly reducing the sense of a suburban landscape.
  - o) The strong relationship with Richmond Royal Park to the north, including the listed boundary wall, and the inter-visibility of traditional brick and pitched roof structures set within well landscaped plots;

In conclusion a summary description of the character and appearance of the area is:-

“An group of early Victorian through to early 20<sup>th</sup> century large houses forming an early wealthy suburb along the dramatic and well landscaped historic strategic route enjoying a close inter-relationship with Richmond Park.”

## **IMPLEMENTATION OF THE PROPOSED CONSERVATION AREA**

52. The implications of conservation area designation are set out in the report to Cabinet of 8 January 2002 and were included in the public consultation letter in March 2004. More detailed information on the implications of designation and good practice guidance is contained in the text of the Conservation Areas General Guide. The additional controls over demolition, trees and permitted development rights come into effect immediately a Committee decision to designate is made. However, in addition to the statutory duties to make the designation a local land charge, and to advertise the designation and notify central government it is necessary to ensure that all owners and occupiers within the area are aware of the controls and policies to be applied. A letter will be sent to all owners, occupiers and any known agents notifying them of a decision to designate and the implications. In addition it is recommended that the information is available in a format that can be used as a future reference document for owners and occupiers and accessible to the general public who may have a wider interest in conservation areas. The Council has a published series of conservation area leaflets containing illustrations identifying the boundary and the character of the area, and text summarising the character and stating the planning controls and ways to preserve the character of an area. The cost of producing a 500 print run would be approximately £300.
53. Similarly in order to raise the profile of conservation areas and to provide a forum for the display of material related to each conservation area by both the Council and local residents a set of conservation area notice boards have been installed in 21 existing conservation areas. This conservation area would benefit from a notice board to display a copy of the leaflet and to capture the attention of the large numbers of passers by in the area, complimenting the existing notice boards in conservation area in Kingston Vale, and at the bottom of Kingston Hill. A notice board from the same supplier could be supplied and installed for approximately £1200. The location of the notice board would be agreed with the Maldens & Coombe CAAC and any immediate property owners or occupiers. Officers will investigate potential methods of funding a budget for both a conservation area leaflet and a notice board up to £1500, including inviting an application from the Maldens & Coombe CAAC for a Neighbourhood Grant, external sources of grant aid, or making a capital programme bid at a latter date.
54. The Royal Borough of Kingston also has a well established set of three Conservation Area Advisory Committees (CAACs) established as independent lay committees representing the local areas and the local amenity bodies to give the Council advice on all planning matters affecting conservation areas. Their main business is as a special consultee on planning applications in conservation areas. The Maldens & Coombe CAAC would be happy to take the proposed Kingston Hill Conservation Area within their remit and to appoint a representative from the owners and occupiers in the area. They should be formally requested to extend their constitution to this effect.

## ENVIRONMENTAL IMPLICATIONS

55. The designation of any new conservation area would impose a duty on the Planning Authority to pay special attention to the preservation or enhancement of the character or appearance of that area (as described in this and background reports) in exercising any powers under the Planning Acts, including amongst others development control decisions. Additionally there is a duty to formulate and publish proposals for the preservation and enhancement of the area.

## ANNEXES

1. Plan No. 04/160/B Public Consultation on the Proposed Kingston Hill Conservation Area
2. Plan No.04/04/161/B Proposed Kingston Hill Conservation Area

**BACKGROUND PAPERS** held by Karen Liddell, author of the report 020 8547 5359 e-mail : karen.liddell@rbk.kingston.gov.uk

12. Cabinet Report 8 January 2002 Extension to Richmond Park (Kingston) Conservation Area & designation of Kingston Hill conservation Area;
13. Assessment of the Kingston Hill Local Area of Special Character November 2001 by The Conservation Studio;
14. Consultation letter dated 24 March 2004;
15. 11 representations from organisations;
16. Letter and report from Christopher Wickham dated 5 May containing the Kingston University Objection;
17. Report by The Conservation Studio received on 6 July containing a response to objections raised by Kingston University;
18. Letter from owners of Holmwood House, Kingston Hill dated 23 March 2004;
19. Letter from Kingston Hill Place Management Co. dated 28 March 2004;
20. 33 (1 neutral, 7 disagree & 25 agree) representation forms and letters from owners or occupiers.

**MINUTES OF THE MALDENS AND COOMBE NEIGHBOURHOOD COMMITTEE  
21 SEPTEMBER 2004**

**38. PROPOSED DESIGNATION OF KINGSTON HILL CONSERVATION AREA Appendix F**

On 8 January 2002 the Cabinet considered an assessment of the Kingston Hill Local Area of Special Character to determine if the area had sufficient special interests worthy of conservation area designation. The report set out the results of the public consultation, and sought the views of the Committee for reference to the Executive, probably for its meeting on 19 October 2004, to consider the formal designation of a Kingston Hill Conservation Area. The originally recommended boundary of the proposed area was shown in Annex 1 to the report and an amendment to this in response to an assessment of the consultation responses was shown in Annex 2 to the report. Should Conservation Area designation be confirmed, the Executive would be recommended to de-designate Kingston Hill as a Local Area of Special Character as that designation would be redundant for planning purposes.

The Committee noted the late material which was tabled at the meeting in relation to the objections raised in respect of inclusion of Arden House and Karrada, and the officer's advice that the boundary remain, as identified, to include those properties in the Conservation Area. The Committee also noted representations made by representatives of the Maldens and Coombe Conservation Area Advisory Committee, Kingston University and the Kingston Vale Residents Association.

**RESOLVED** that:

1. the results of the public consultation on the Proposed Kingston Hill Conservation Area be noted and officers be thanked for their work on the report.
2. the Executive be **RECOMMENDED** to designate the Kingston Hill Conservation Area as originally identified, to include the whole of the University site, as shown on plan 04/160/B Annex 1 of the report and to note that the Committee is particularly concerned to protect the tree cover on the University site because of its screening value for Kingston Vale residents and for the Kingston Hill route, and because of its importance in strategic views from Richmond Park and Wimbledon Park.
3. should designation of the Conservation Area be agreed, the Maldens and Coombe Conservation Area Advisory Committee (CAAC) be requested to bring the proposed Kingston Hill Conservation Area within their remit and to appoint a representative from the area.
4. should designation of the Conservation Area be agreed, a noticeboard dedicated to the Proposed Kingston Hill Conservation Area be installed at a location to be agreed with the Maldens and Coombe Conservation Area Advisory Committee and with adjacent owners and occupiers and a leaflet be published and distributed to all properties in the area (as identified in paragraphs 28-29 of the report), subject to officers identifying a budget of £1500.

**Reason for the decisions:**

(2): To provide guidance to the Executive upon which to make a resolution on the designation; and (3-4)(Executive): to enable the proposed designation to be effectively implemented and a management regime established.