



# REPRESENTATION

## Heritage consideration of consultation draft for Tonge Conservation Area Character Appraisal and Management Plan (October 2020) produced by Swale Borough Council

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### Introduction

In November 2020 Trenport Investment Ltd. commissioned Icen Heritage & Townscape to consider the consultation draft Conservation Area Character Appraisal and Management Plan (October 2020) for Tonge Conservation Area, which includes proposals for its extension.

Trenport Investments Ltd have interests in the area, owning land to the west and north of the conservation area, including one of the parcels of land which falls within the proposed Conservation Area extended boundary (TCA2). These Representations consider the consultation draft Conservation Area Character Appraisal and Management Plan for Tonge, in the light of the statutory requirements for conservation area designation and management, set out in the Planning (Listed Building and Conservation Areas) Act 1990, and amplified through the National Planning Policy Framework (June 2019), as well as guidance set out by Historic England.

### Conservation Area Designation

As set out in the Planning (Listed Building and Conservation Areas) Act 1990 a Conservation Area is an area *"of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance"*

More specifically, in Paragraph 69 of the Planning Act 1990, it states:

#### **69 Designation of Conservation Areas**

*(1) Every local planning authority—*

*(a) shall from time to time determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and*

*(b) shall designate those areas as conservation areas.*

*(2) It shall be the duty of a local planning authority from time to time to review the past exercise of functions under this section and to determine whether any parts or any further parts of their area should be designated as conservation areas; and, if they so determine, they shall designate those parts accordingly.*

*(3) The Secretary of State may from time to time determine that any part of a local planning authority's area which is not for the time being designated as a conservation area is an area of special architectural or historic interest the character or appearance of which it is*

*desirable to preserve or enhance; and, if he so determines, he may designate that part as a conservation area.*

*(4) The designation of any area as a conservation area shall be a local land charge.”*

In conjunction with this, paragraph 186 of the National Planning Policy Framework (June 2019) states:

*“When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.”*

To assist with Conservation Area appraisal and designation, Historic England provides guidance which helps to establish criteria for appropriate designation, ensuring the significance of Conservation Areas are not devalued, as aforementioned.

Conservation Area Appraisal, Designation and Management Historic England Advice Note 1 (Second Edition) [emphasis added]

Para 72 of Historic England’s Advice Note - Suitability for designation

*The different types of special architectural and historic interest which have led to designation include;*

- *areas with a high number of nationally or locally designated heritage assets and a variety of architectural styles and historic associations*
- *those linked to a particular individual, industry, custom or pastime with a particular local interest*
- *where an earlier, historically significant, layout is visible in the modern street pattern*
- *where a particular style of architecture or traditional building materials predominate*
- *areas designated because of the quality of the public realm or a spatial element, such as a design form or settlement pattern, green spaces which are an essential component of a wider historic area, and historic parks and gardens and other designed landscapes, including those included on the Historic England Register of Parks and Gardens of special historic interest*

Para 73 of Historic England’s Advice Note

**Conservation area designation is not generally an appropriate means of protecting the wider landscape** (agricultural use of land falls outside the planning framework and is not affected by designation as a conservation area) **but it can protect open areas particularly where the character and appearance concerns historic fabric, to which the principal protection offered by conservation area designation relates.**

Historic England's guidance confirms the spirit of the legislation and guidance that the protection offered by Conservation Areas relates to historic (and in our view extant built) fabric, not to landscape which lacks such fabric or where interest is principally archaeological.

Having analysed the criteria set out by the 1990 Act, as well as the NPPF and Historic England guidance, and applied it in this case to the proposed extensions to the conservation area, we have serious concerns that the proposed extension to include area TCA2 is not appropriate.

This is because this parcel of land is not considered to hold sufficient architectural and historic interest to be identified as an area *"of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance"*. To identify it as such would be contrary to the local planning authority's duty to ensure that an area justifies such status owing to special architectural or historic interest, as set out in paragraph 186 of the NPPF. In our view, extending the conservation area to include area TCA2 would devalue the concept of conservation by designating an area that lacks special interest, again contrary to paragraph 186 of the NPPF.

TCA2 should not, therefore, be included within an updated Tonge Conservation Area boundary. Further detailed assessment is set out below.

### Tonge Conservation Area - Summary

As set out in the draft Tonge Conservation Area Character Appraisal and Management Plan (October 2020), the summary of its significance and special interest includes: **[emphasis added]**

- **Surviving earthworks** of Tonge Castle, and fortified manor - the earthwork and its environs have high potential for Medieval and Post Medieval **archaeology**.
- **Archaeological** potential for prehistoric and Roman activity in the landscape and perhaps focused on the spring.
- The spring and stream have **paleo-environmental potential**.
- **Association** with legend of Vortigern, Hengist and Horsa.
- **Association** between the spring, the cult of Thomas Becket and **grounds of former leper hospital**.
- The historic mills include rare and attractive examples of Kentish vernacular industrial architecture and history.
- **History of milling** dating from 1086 to the 20th century utilising wind, water, and steam power.
- The **stream and millpond** and their relationship to the **castle and mills**.
- **Area of informal recreation and varied natural habitat to the south of the millpond**.

Having identified only two listed buildings within the Conservation Area itself, it is evident that it predominantly encompasses an area of archaeological and historical interest, largely relating to Tonge Castle, the mills, and associated water source. However, whilst this interest would ordinarily be expected to perhaps be protected in Kent through designation of an 'Area of Archaeological Importance', as a designated Conservation Area already, we would also expect to see a summary of the Area's significance and special interest which derives from the built fabric.

The Appraisal fails to provide such a summary, most likely as a result of the lack of surviving built fabric which holds special interest. In consequence, the character and appearance of the Area and, therefore, its special interest and significance, is not identified. The character and appearance of the Area *'of which it is desirable to preserve or enhance'* is, therefore, not established adequately within the draft Conservation Area Character Appraisal and Management Plan (October 2020).

### TCA2 and its Significance

At present, TCA2 forms part of the existing setting to the north of the Conservation Area.

The setting provided by the land is not described directly in the draft Appraisal, rather there is reference to the influence of the railway embankment at its northern edge:

*“The railway embankment, aligned east-west along the northern edge of Tonge, is an important feature in the local landscape, especially where the banks are covered with tree growth. This embankment has, in effect, severed Tonge visually from the wide sweep of low lying land to the north including the marshes so that it now forms a well-defined northern edge to the Conservation Area.”*

There is no identification of built form upon the land or an assessment of how it might contribute to the significance of the area. There is also no specific mention of the character and appearance of the land which is enclosed within the boundary of TCA2. This is not surprising as we consider the importance of this parcel of land and its contribution to the significance of the Conservation Area to be extremely limited, except for the small portion of the Castle ditch which is located at its southern edge. Our concern for the designation of TCA2, in light of Paragraph 186 of the NPPF, is further reinforced as a result.

The consultation draft of the Conservation Area Appraisal (Oct 2020), gives the following reasons for the designation of TCA2:

***“Area TCA2 Land to the north of Tonge Castle***

*The small triangle of land to the north of the Castle and south of the railway line follows the original access to the Castle and Mill and also includes the site of the former Windmill. This small (0.4 hectare) extension will ensure this important historical context is included within the Conservation Area.”*

The Appraisal notes that “There was also a windmill just north of the castle (shown on the 1820s map) which existed as late as 1834.” It does not, however, include a map dating to the 1820s to demonstrate this. However, by comparison of the 1787 map and the position of the existing windmill at this time, the draft Appraisal argues that the windmill was located within the boundary of TCA2. In fact, by carefully overlaying historic mapping, it would seem appropriate to suggest that the windmill fell to the north west of the boundary of TCA2 and the existing railway line has been constructed upon the site of the windmill.

Additionally, whilst it is acknowledged that there is evidence of a historic road which aligned the south boundary of TCA2, the land within the TCA2 itself formed part of a larger field, with no evidence of access from the field to the Castle and Mill within it. Whilst the road has since been removed and realigned to the east (Church Road), reference to this road is partially retained by the public footpath to the south boundary although this, itself, appears to have been redirected to the south by comparison of Ordnance Survey mapping.

The lack of evidence of any connection between the land area making up TCA2 and the castle and mill is further emphasised as TCA2 is identified within the draft Area Appraisal to be ‘landscape development’ dating to the seventeenth and eighteenth century. This is illustrated through historic mapping presented within the draft Area Appraisal and confirms that no structures are known to have been constructed upon the parcel of land.

As a result, having assessed historic map regression and concluded there is no evidence to suggest that any built structures have stood upon the land captured within TCA2 historically and confirmed there are no built structures or evidence of significant visible remains upon the land today, we consider the proposed designation of this land would be contrary to the purpose of the legislation and guidance discussed above.

## Conclusion

To summarise, most of the area TCA2 is not appropriate for designation as part of the existing Tonge Conservation Area.

The area does not include built fabric “of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance”. Only a portion of the historic road which gave access between the mill and the castle survives, represented by a footpath which follows a section of the southern boundary of TCA2. There is insufficient evidence that it includes the site of the former Windmill, and in any event the Windmill is no longer extant in visible form.

If the whole TCA2 area were designated as part of an extension to the existing Conservation Area, it could be contrary to para. 186 of the NPPF because it would devalue the concept of conservation through the designation of an area that lacks special interest. The pragmatic and more appropriate approach would be to extend the boundary of the conservation area into the TCA2 area only by a few metres to take in only the Castle ditch, in a similar way to the approach proposed for area TCA1. Inclusion of the whole of area TCA2, however, would be much more problematic.

The Appraisal Foreword states, “As a community and as a local authority, we have a responsibility to safeguard our historic assets for future generations and to make sure that they are not compromised by unsympathetic alterations or poor quality developments. Conservation area designation and subsequent management is one way in which this can be achieved.”

While Conservation Area designation is one way of managing development and is appropriate in cases where the special qualities of an area meet the criteria for designation, it is not appropriate in those cases where the criteria are not met. We would suggest, therefore, that the Council explore alternative and more appropriate ways to safeguard the significance of the existing Tonge Conservation Area and its setting, rather than erroneously designating additional land parcels beyond its existing boundary.

This could be achieved using local development management policy, as well as the provisions of the NPPF which relate to the ‘setting’ of heritage assets and ensure that changes to the setting of a heritage asset are properly considered during the planning process. Appropriate management of future development might also be achieved by way of planning conditions. For example, future planning consents might be conditioned to ensure an Archaeological Assessment is carried out prior to works being implemented. This would ensure any archaeological interest is properly considered in accordance with legislation.

With regards to views, setting and the relationship between the TCA2 land, the existing Conservation Area, and the wider landscape which is a prominent focus within the draft Appraisal, the Council could manage proposed development within the setting of the Conservation Area by providing guidance within the Appraisal itself and by requiring any planning applications to assess any effects on the significance of the conservation arising from a change in setting. This would reflect the approach in the NPPF. Historic England’s “Conservation Area Appraisal, Designation and Management Historic England Advice Note 1 (Second Edition)” also provides key guidance on how this could be achieved.