



Examination of East Hertfordshire Local Plan

Chapter 21 Heritage Assets

Historic England, Hearing Statement

October 2017

Historic England Hearing Statement

Introduction

- 1.1 In carrying out its role in protecting and managing the historic environment Historic England gives advice to local planning authorities on certain categories of applications affecting the historic environment. Historic England is the principal Government adviser on the historic environment, advising it on planning and listed building consent applications, appeals and other matters generally affecting the historic environment.
- 1.2 Historic England is consulted on Local Development Plans under the provisions of the duty to co-operate and provides advice to ensure that legislation and national policy in the National Planning Policy Framework are thereby reflected in local planning policy and practice.
- 1.3 The tests of soundness require that Local Development Plans should be positively prepared, justified, effective and consistent with national policy. Historic England's representations in relation to the Publication Draft Local Plan are made in the context of the requirements of the National Planning Policy Framework ("the Framework") in relation to the historic environment as a component of sustainable development.
- 1.4 This statement addresses the Inspector's questions with regards to Stage 2 Chapter 21 of the Local Plan.
- 1.5 This hearing statement should be read alongside Historic England's comments submitted at previous consultation stages of the Local Plan.

Inspector's Questions

- 1.6 We set out below our responses to the Inspector's questions in light of our historic environment role.

Matters and Issues for East Hertfordshire Local Plan

Chapter 21 – Heritage Assets

Issues

19. HA1 – Heritage Assets. This should be reworded using the correct statutory tests. Criterion I is not technically correct. Criterion II is too simplistic as it misses out the guidance in NPPF paragraphs 132 and 133.

There is no need for criterion III to be set out in a policy. The NPPF paragraph 130 covers this and is sufficient for the purposes of development management. Putting it into the explanatory text would be acceptable. In any event, is policy HA1 necessary as the remaining policies set out criteria for heritage assets?

- 2.1 Criterion 1 should be re-worded to read ‘Development proposals should ~~preserve~~ conserve, and where appropriate enhance the historic environment of East Herts.’ This reflects the wording in PPG Paragraph: 003 Reference ID: 18a-003-20140306Revision date: 06 03 2014
- 2.2 Criterion 2 as currently worded does not properly reflect the tests of harm as set out in paragraphs 132 – 134 of the NPPF. Criterion 2 should be re-worded to more accurately reflect the NPPF. It should read:
‘Development proposals that would lead to substantial harm to significance of a designated heritage asset will not be permitted unless it can be demonstrated that the harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Less than substantial harm should be weighed against the public benefits of the proposal.’
- 2.3 Criterion 3 reflects paragraph 130 of the NPPF. To that end, the NPPF could be regarded as sufficient for development management purposes. Reference could be made in to this in the supporting text instead.
- 2.4 With respect to the necessity of Policy HA1, the introduction of the NPPF removed an entire suite of guidance documents that set out the expectations of developments. The remaining National Planning Guidance provides little in the way of clear advice. The District Plan is the first port of call when applicants are seeking to find out what they are required to consider. It is therefore helpful to ensure that the appropriate level of guidance is provided at the local level.

2.5 Historic England consider that without policy HA1, there is no-overarching local plan policy coverage for scheduled monuments (policy HA3 only refers to the development management process regarding archaeology). Policy HA1 is needed alongside Policies HA4 to HA7 to cater for the potential for harm, as there may be cases where the public benefits of the proposal outweigh the harm (otherwise you would need to insert the public benefit test into these other policies).

20. HA4 - Conservation Areas. Criterion I (e) should say 'have regard to' rather than 'conform to' Conservation Area Character Appraisals. (f) preserve or enhance not 'and'.

2.6 Historic England agree that criterion I (e) would be better if it read 'having regard to', rather than 'conform to'.

2.7 Historic England agree that criterion (f) should read 'preserve or enhance', not and, to align with the wording in paragraph 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

21. HA7 – Listed Buildings. Criterion III should say preserve (delete and enhance).

2.8 Historic England agree that criterion III should read 'preserve' (delete and enhance) to align with the wording in paragraph 3 (b) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

22. HA8 - Historic Parks and Gardens. This policy is not positively prepared and should be reworded. Criterion I – the words 'materially harmful' should be removed as they are unlikely to be effective.

2.9 Historic England consider that this policy would be improved by stating positively that development proposals should protect Registered Parks and Gardens. The policy could read:

Policy HA8 Historic Parks and Gardens

I. Development proposals ~~that materially harm~~ will protect the special historic character, appearance or setting of those sites listed on the Historic England 'Register of Historic Parks and Gardens' ~~will not be permitted~~. The same level of protection will be afforded to other locally important sites.

II. Where appropriate, the District Council will actively encourage proposals for the repair, restoration and management of historic parks and gardens.

23. HA9 – Enabling Development. Criterion I should say ‘having regard to’ rather than ‘in accordance with’. Criterion II (b) is not positively prepared. It should be reworded removing the words ‘materially detract’ for the same reason as set out above.

2.10 In our representations on the East Herts Plan in 2016 Historic England stated, that ‘whilst we appreciate that Policy HA9 (Enabling Development) replicates Historic England’s guidance on this issue there is a growing consensus that Enabling Development, which is by definition contrary to the Local Plan, should not be planned for with a supporting policy incorporated into a Local Plan. We are of the view that Local Plans do not require specific enabling development policies.

2.11 By definition within the NPPF, enabling development is development that is not otherwise in accordance with adopted policy. Paragraph 140 of the NPPF states

Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

Historic England is therefore of the view that a separate policy on enabling development is not a necessary component of a local plan document. A local plan should adequately set out a positive strategy for the historic environment without the need to include such a policy.

2.12 Notwithstanding our preference to remove Policy HA9 (Enabling Development), we understand that East Herts wish to retain this policy in some form. To that end, as recommended in our 2016 representations, East Herts has agreed to alter the reference to our guidance to a more generic one such as *Historic England’s latest guidance on Enabling Development*. This will ensure that the policy stays relevant over the plan period should there be any published revisions to the policy document. East Herts has also proposed the deletion of Criterion II which is welcomed by Historic England. This position is agreed in our Statement of Common Ground.