

MATTER 12
HISTORIC ENGLAND



HART LOCAL PLAN
EXAMINATION IN PUBLIC

Matter 12: The Environment

12.19 Is the Plan based on adequate, up-to-date and relevant evidence about the historic environment within Hart?

12.20 Is Policy NBE9 justified and consistent with national policy?

1. Introduction

- 1.1 Historic England is the public body that looks after England's historic environment and champions historic places, helping people understand, value and care for them.
- 1.2 Paragraph 2 of the National Planning Policy Framework (2012) states that the Framework "*must be taken into account in the preparation of local plans*". Paragraph 151 requires Local Plans to be "*consistent with the principles and policies set out in this Framework*". One of the four "tests" of soundness is that the plan should be consistent with national policy (paragraph 182).
- 1.3 The National Planning Policy Framework contains a number of requirements as regards local plans and the consideration of the historic environment in local plans.
- 1.4 Historic England submitted a total of 22 individual representations at the Regulation 19 stage of the Local Plan relating to these requirements. Of those, only two were comments that related to matters of soundness; in respect of the historic environment evidence base for the Plan and Policy NBE9 (including concerns about the lack of detailed policies).
- 1.6 As the Inspector will be aware, Historic England and the Council have signed a Statement of Common Ground (SCG1). This confirms that Historic England is now satisfied that the Local Plan is underpinned by an "*adequate, up-to-date and relevant evidence about the historic environment*" as required by paragraphs 158 and 169 of the National Planning Policy Framework and that the preparation of a Development Management Policies Local Plan document will provide the opportunity to consider more detailed policies on proposals affecting heritage assets.
- 1.7 The only remaining issue between Historic England and the Council is therefore Policy NBE9.

2. Historic England's Representation on Policy NBE9

- 2.1 Historic England welcomes the inclusion of a strategic historic environment policy within the Plan as part of the positive strategy for the conservation and enjoyment of, and clear strategy for enhancing, the historic environment as required by paragraphs 126 and 157 of the National Planning Policy Framework, and in line with paragraph 156 of the Framework, which requires local plans to include "*strategic policies to deliver the conservation and enhancement of the historic environment*".

- 2.2 However, we consider that Policy NBE9 is not a policy that really guides how the presumption in favour of sustainable development should be applied locally as required by paragraph 15 of the National Planning Policy Framework, nor provide a sufficiently clear indication of how a decision maker should react to a development proposal, the latter two as required by paragraph 154 of the Framework.
- 2.3 This is unfortunate, as we previously agreed a form of wording for a strategic historic environment policy with the Council in 2016. This provided the guidance and clarity that we believe Policy NBE9 should have. We therefore consider that Policy NBE9 should be reworded along the lines that we previously agreed with the Council, with some modifications.
- 2.4 The Council's response to our representation, explaining why it does not fully accept our suggested amendments to Policy NBE9 is set out in the Statement of Common Ground. Each point of its response is addressed below.
- *Inclusion of the descriptions of designated and non-designated assets is not part of a Policy and this text is proposed to be added as a footnote.*
- 2.5 Historic England is content that the descriptions of designated and non-designated assets is set out in a footnote rather than in the main body of the policy.
- *the proposed Historic England criteria a to c have the same effect as the second paragraph of NBE9, however some wording amendments are proposed.*
- 2.6 We do not agree that our proposed criteria a to c have the same effect as the second paragraph of Policy NBE9, even as proposed to be amended. Our proposed criteria relate to what will be required of development proposals in order for them to be permitted, whereas the second paragraph of the policy explains what will be required of the heritage statement by which it requires development proposals to be supported in order for permission to be granted.
- 2.7 The requirement for a heritage (impact) assessment is one that Historic England would support. However, as proposed to be amended, the policy lacks clarity as the second paragraph states that proposals that would affect a heritage asset will be permitted where they are supported by a heritage statement, provided that it, inter alia, sets out how the assessment has informed the proposal in order to avoid, minimise or mitigate harm to the significance of the asset.

- 2.8 This implies that, potentially, permission will be granted provided that any harm to the significance of a heritage asset is minimised or mitigated, which is not consistent with the National Planning Policy Framework, which requires harm to designated heritage assets to be outweighed by public benefits, not simply a minimisation or mitigation of the harm.
- 2.8 The third paragraph of Policy NBE9 deals with the circumstances in which there would be harm to the significance of a heritage asset and recognises that it may be appropriate not to permit development proposals in these circumstances. There is therefore an inconsistency between the second and third paragraphs of the policy that needs to be resolved e.g. by the inclusion of a link between the paragraphs as suggested in our revised policy text.
- *reference to the tests and assessments in the NPPF is sufficient to determine applications where the proposal may lead to the loss of, or harm to a heritage asset and it is not necessary to repeat national policy;*
- 2.9 Historic England does not agree that reference to the tests and assessments in the National Planning Policy Framework is sufficient. The Framework is only a material consideration and is not part of the development plan.
- 2.10 In addition, paragraph 15 of the Framework requires “*All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally*”. Paragraph 154 states that “*Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan*”.
- 2.11 We consider that the phrase “*unless they meet the relevant tests and assessment factors specified in the National Planning Policy Framework*” as proposed by the Council does not guide how the presumption in favour of sustainable development will be applied locally and does not give a clear indication of how a decision maker should react to a development proposal.
- *the recording of a heritage asset that is to be harmed or lost is considered more appropriate for supporting text and is included in the Local Plan at paragraph 347;*
- 2.12 Paragraph 141 of the National Planning Policy Framework requires local planning authorities to require developers “*to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible*”.

2.13 However, Historic England is content, as this is not a requirement to be satisfied in order for a development proposal to be permitted, for this matter to be addressed in the supporting text rather than in Policy NBE9.

- *the additional criteria proposed by Historic England are considered by the Council to apply tests that go beyond national policy (c.f. paragraphs 133 and 134 of the NPPF). As a result the Council is concerned that their inclusion would result in a policy that is unsound by virtue that it would not be in accordance with national planning policy*

2.14 The additional criteria that Historic England suggested are:

Development proposals that would cause harm to the significance of a heritage asset, whether designated or non-designated, or its setting, will not be permitted without:

i) a clear demonstration that the harm cannot be avoided;

ii) a demonstration that the harm has been minimised or mitigated; and

iii) clear and convincing justification for the residual harm in the form of a demonstration that the public benefits of the proposal outweigh any harm to the significance or special interest of the heritage asset, proportionate to the impact and the significance of the heritage asset, in accordance with the National Planning Policy Framework or the four circumstances in paragraph 133 of the Framework apply.”

2.15 Paragraph 126 of the National Planning Policy Framework requires local planning authorities, in setting out a positive strategy for the conservation and enjoyment of the historic environment in their local plans, “*to recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.*”

2.16 Paragraph 132 of the National Planning Policy Framework states, in part, “*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.*”

2.17 Historic England therefore considers that it is entirely consistent with the National Planning Policy Framework to require a clear demonstration that the harm cannot be avoided, or has been minimised or mitigated, and clear and convincing justification for the residual harm in the form of a demonstration that the public benefits of the proposal outweigh any harm to the significance or special interest of the heritage asset.

4. Changes Historic England considers necessary to make the Plan sound

4.1 Taking into account the Council's response to our representation on Policy NBE9, Historic England suggests that the policy be reworded as follows:

“Development proposals should protect, conserve and enhance heritage assets and their settings, taking account of their significance, as well as the distinctive character of the district’s townscapes and landscapes. Such heritage assets consist of both designated [insert new footnote 1] and non-designated assets [insert new footnote 2]. All of these contribute to the district’s historic environment and local distinctiveness.

Development proposals that would affect the significance or special interest of designated or non-designated heritage assets will be permitted where:

a) they are supported by a heritage statement (proportionate to the importance of the heritage asset and the potential impact of the proposal) that:

i) demonstrates a thorough understanding of the significance of the heritage assets and their setting, including their historic form, fabric, character and any other aspects that contribute to their significance, using appropriate references such as the Historic Environment Record or relevant Conservation Area Character Appraisal and, if necessary, original survey (including, for assets of archaeological interest, an appropriate desk-based assessment and, where necessary, a field evaluation);

ii) identifies the nature and level of potential impacts on the significance of the heritage assets; and

iii) demonstrates how this assessment has informed the proposed development, so as, where possible, to avoid any harm to the significance of the asset(s) and to enhance or better reveal that significance, including opportunities to improve access to and understanding of the asset(s);

and

b) where the proposed development would cause harm to the significance or special interest of a heritage asset there is:

i) a clear demonstration that the harm cannot be avoided;

ii) a demonstration that the harm has been minimised or mitigated; and

iii) justification for the residual harm in the form of a demonstration that the public benefits of the proposal clearly and convincingly outweigh any harm to the significance or special interest of the heritage asset, proportionate to the impact and the significance of the heritage asset, in accordance with the National Planning Policy Framework or the four circumstances in paragraph 195 of the Framework apply."