

Examination of the North Hertfordshire Local Plan (2011-2031)

Examination hearing sessions

Statement of North Hertfordshire District Council

Matter 20 – The historic environment (Policies SP13, HE1, HE2, HE3 and HE4)

20.1 Are Policies SP13 and HE1 justified, effective and consistent with national policy? In particular:

a) Paragraph 132 of the National Planning Policy Framework says “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.” Are the policies consistent with this approach?

1. Policy SP13 sets out the Council’s heritage strategy and its positive intentions to conserve and enhance its heritage assets and their setting whilst enabling appropriate development in accordance with paragraph 126 of the NPPF. The policy is justified as it is based on a wide range of evidence that make up the District’s heritage.
2. Policy SP13 is a strategic policy which provides the overarching framework under which policies HE1 to HE4 in Section 12 of the Submission Plan (LP1) are considered. The different HE policies cover differing types of heritage assets and reflect local approaches to the assets, heritage at risk, including local definition of ‘risk’ and undesignated heritage assets. Policy HE4 specifically details the local approach taken to archaeological remains.
3. The Council recognises that Policy SP13 as the overarching strategic policy should make reference to the sequential approach detailed in paragraphs 132-134 of the NPPF, thereby making the policy more effective and consistent with the NPPF. However, it is the Council’s view that the detail of these paragraphs is best expressed in the NPPF and associated planning practice guidance, rather than being repeated here in local policy.
4. The following modification to Policy SP13 is proposed as follows:

SP13 Historic Environment

The Council will balance the need for growth with the proper protection and enhancement of the historic environment. When considering the impact of a proposed development on the significance of a heritage asset, the more significant the heritage asset the greater weight will be applied to the conservation of the asset and the management of its setting. We will pursue a positive strategy for the conservation and enjoyment of the historic environment through:

- a. Maintaining a strong presumption in favour of the retention, preservation and enhancement of heritage assets and their setting, according to their significance;*
- b. Identifying sites on the national register of Heritage at Risk or on the local risk Council's 'At Risk' register;*
- c. Periodic reviews of Conservation Areas and other locally designated assets; and*
- d. Publication of detailed guidance.*

b) Do the policies properly reflect the two-tier approach set out in paragraphs 132, 133 and 134 of the National Planning Policy Framework relating to 'substantial harm' and 'less than substantial harm'?

5. Paragraphs 132-134 of the NPPF are detailed and explain the sequential tests that are applied to proposals for heritage assets. They detail how significance should be balanced against the benefits of the proposal and any potential harm associated with the proposal. These points are all expanded upon in the Planning Practice Guidance which details how the policies are expected to be applied. It is the Council's view that these national approaches to the consideration of harm and its balance against significance are best expressed in national policy documents and applied accordingly rather than repeated in local policy.
6. Policy SP13 provides the overarching context while Policy HE1 seeks to recognise the significance of North Hertfordshire's designated heritage assets and their settings. While the policy is effective in setting criteria in line with paragraphs 128, 132 and 133 of the NPPF, it is proposed that:
 - a further criteria 'c' is added to ensure that the policy is consistent with paragraph 134 of the NPPF, and
 - an additional paragraph is added at the end of the policy to ensure the policy complies with the detail of paragraph 133 of the NPPF concerning substantial harm to, or total loss of significance of designated assets.

Paragraphs 12.2 and 12.3 in the supporting text of the Submission Plan (LP1, p127) provide the detail as to how the Council would expect to apply the policy.

7. A further minor modification is also proposed to remove the words 'impacted by the proposal' at the end of criteria 'i' for clarity purposes.
8. The following modifications are therefore proposed to Policy HE1:

Policy HE1: Designated heritage assets.

Planning applications relating to Designated heritage Assets or their setting shall be accompanied by a Heritage Assessment/Justification Statement that:

- i. assess the significance of heritage assets, including their setting, ~~impacted by the proposal~~;*
- ii. justify and detail the impacts of any proposal upon the significance of the designated heritage asset(s); and*
- iii. inform any necessary mitigation measures to minimise or mitigate against any identified harms;*

Planning permission for development proposals affecting Designated Heritage Assets or their setting will be granted where they (as applicable):

- a. enable the heritage asset to be used in a manner that secures its conservation and preserves its significance;*
- b. incorporate a palette of materials that make a positive contribution to local character or distinctiveness, where it is appropriate and justified; and*
- c. will lead to less than substantial harm to the significance of the designated heritage asset, if the harm is outweighed by the public benefits of the development, including securing the asset's optimum viable use.*

Where substantial harm to, or loss of significance, of a designated heritage asset is proposed the Council shall refuse consent unless it can be demonstrated that the scheme is necessary to deliver considerable public benefits that outweigh the harm or loss.

9. Policy SP13 in conjunction with policy HE1 (together with their proposed modifications) and the suggested changes to policy HE3 as set out in question 20.3 reflects the separation of designated and undesignated assets, and the differing approach to the planning balance, as detailed in the NPPF.

c) Does Policy SP13 make an appropriate distinction between designated and non-designated heritage assets, and is it consistent with paragraph 135 of the National Planning Policy Framework in this regard?

10. Policies HE1 to HE4 cover designated heritage assets, a positive policy concerning heritage at risk, undesignated assets and archaeological remains. Policy SP13 is a strategic policy from which the specific approaches detailed in policies HE1 to HE4 stem. Together these policies are based upon a survey of heritage assets, both designated and undesignated, and taking into consideration the representations made by the archaeology team at Hertfordshire County Council and Historic England to the Preferred Options consultation of the Local Plan. The concerns of paragraph 135, undesignated heritage assets, are covered in the policy HE3 along with its proposed amendments (as to which see below).

20.2 Is Policy HE2 justified, effective and consistent with national policy?

11. Policy HE2 is concerned with the Council's efforts to manage 'at risk' heritage. This covers the national Historic England heritage at risk register, which includes scheduled monuments and heritage assets designated at grade I or II* and conservation areas. The Council also produces an 'At Risk' register that covers all listed building grades. Historic England in their representation to the Submission Plan have supported the text of this policy and recommended a change in the wording from 'restore' to 'conserve', which accords with the language of the NPPF.

12. The Council is also proposing a further minor modification, which is that the word 'implemented' is changed to 'assessed' at the end of the policy to reflect the local approach taken to heritage at risk.

13. The following minor amendments are therefore proposed to Policy HE2 to make the policy more effective and consistent with the NPPF:

Policy HE2 Heritage at risk

Planning permission will be granted for proposals that seek to ~~restore~~ conserve or provide new uses for designated heritage assets identified on the national register, or the Council's 'At Risk' ~~local-risk~~ register maintained by the Council, that are justified and appropriate to the significance of the asset to return a heritage asset to beneficial use.

Proposals that harm the significance of heritage assets included on national and local registers will be resisted unless the need for, and the benefits of, the development in that location clearly outweigh that harm, taking account of the assets significance and importance, and all feasible solutions to avoid and mitigate that harm have been fully implemented assessed.

20.3 Is Policy HE3 justified, effective and consistent with national policy?

14. Policy HE3 reflects the Council's approach to local heritage assets. Assets are identified as part of a rolling programme of research to inform local lists of heritage assets and through the planning and plan making process. The policy text has been revised to include a wider range of heritage assets and to ensure the planning balance reflects that detailed in paragraph 135 of the NPPF. This will make the policy more effective and consistent with the NPPF.

15. The following modifications to Policy HE3 is therefore proposed:

Policy HE3: Local heritage assets

Permission resulting in harm to or the loss of a building heritage assets of local interest will only be granted where the significance of the heritage asset is outweighed by the public benefits of the proposal. In the case of demolition, permission will only be granted where:

- a. the replacement building contributes to preserving the local character and distinctiveness of the area; and*
- b. where the asset is located in a conservation area a continuous contract for the demolition and redevelopment of the site has been secured, unless there are justifiable grounds for not developing the site.*

20.4 Is Policy HE4 justified, effective and consistent with national policy?

16. Policy HE4 concerns archaeological remains. As the approach taken to archaeology differs in detail in the NPPF from undesignated assets, reflecting the methods to investigate, and the potential for chance discoveries, policy HE4 sits under strategic Policy SP13 and is consistent with national policy. Justification for the policy is based on the amount of evidence that is held by the Hertfordshire Historic environmental record and recognises the significance of archaeological remains that may exist within the District.

17. On the advice of Hertfordshire County Council, in their representation to the submission Plan, and to reflect the potential for chance discoveries, it is proposed to add an additional paragraph at the end of Policy HE4 (LP1, p.129) to address this point as follows:

Areas of as yet, unknown archaeology may be identified during research, or through the planning or plan making process. These sites or areas should be treated in the same way as archaeology areas and areas of archaeological significance.