

**MATTER 6**  
**HISTORIC ENGLAND**



**NEW FOREST NATIONAL PARK**  
**LOCAL PLAN**  
**EXAMINATION IN PUBLIC**

**Matter 6: Protecting and enhancing the historic environment**

**Issue: *Whether the Local Plan is justified, effective and consistent with national policy in relation to the approach towards protecting and enhancing the historic and built environment ?***

**6.1 *Is the approach to the historic and built environment set out at Policy SP16 appropriate, justified and consistent with national policy ? Does it provide an effective framework for the consideration of development proposals? What is the Authority's response to Historic England's concerns?***

## 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 historic environment. Paragraph 151 of the Framework explains that Local Plans must be prepared with the objective of contributing to the achievement of sustainable development and paragraph 9 explains that: "*Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment...*".
- 1.4 Paragraph 126 states "*Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment.....*"
- 1.5 Paragraph 156 states "*Local planning authorities should set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver the conservation and enhancement of the historic environment*".
- 1.6 Paragraph 157 states "*Crucially, Local Plans should "contain a clear strategy for enhancing the natural, built and historic environment" and "identify land where development would be inappropriate, for instance because of its environmental or historic significance"*.
- 1.7 Historic England believes that it is clear from these requirements that the Government is expecting local planning authorities, through their Local Plans, to actively deliver the conservation and enhancement of the historic environment. The Government's use of the words and phrases "*seeking positive improvements*", "*positive strategy*", "*deliver the conservation and enhancement*" and "*a clear strategy for enhancing*" all demonstrate that it is not sufficient for local planning authorities to be passive or merely reactive in the conservation and enhancement of their historic environment.
- 1.8 Indeed, the National Planning Practice Guidance states "*Such a [positive] strategy should recognise that conservation is not a passive exercise*".

## 2. Historic England's Representations

2.1 Historic England submitted a total of 23 individual representations at the Regulation 19 stage of the Local Plan. Of those, only one was a comment that related to matters of soundness, which we raised in our comments on Policy SP16, and which is set out in full in Appendix 1 to this Statement.

2.2 Paragraph 157 of the National Planning Policy Framework (2012) states, in part:

*“Local planning authorities should set out the **strategic priorities** for the area in the Local Plan. This should include strategic policies to deliver: .....conservation and enhancement of the natural and historic environment.....”..*

2.3 Historic England welcomes and supports, in principle, Policy SP16 as an appropriate strategic policy to deliver “*the conservation and enhancement of the historic environment*” (and as part of the positive strategy for conservation and enjoyment of, and clear strategy for enhancing, the historic environment of the Park required by paragraphs 126 and 157 of the Framework) and considers that it is justified, effective and essentially consistent with national policy.

2.4 However, paragraph 154 of the National Planning Policy Framework states, in part;

*“Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where. Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”*

2.3 We consider that the New Forest National Park Local Plan should provide more of “*a clear indication of how a decision maker should react to a development proposal*”, as required by paragraph 154. To do this, we consider that a policy or policies should be included in the Plan setting out the important elements or characteristics of listed buildings, archaeological sites, conservation areas and registered historic parks and gardens to which development proposals should have regard and seek to conserve or enhance.

2.5 We made the same point when commenting (as English Heritage) on the Chichester Key Policies DPD. The Inspector that examined that DPD concluded;

*“English Heritage has expressed concerns that Policy 47 does not provide a robust framework to enable the Council to manage applications for development that would affect a heritage asset. It is also argued that the Plan does not draw attention to the full range of tools that the Council will use to protect heritage assets. The Council and English Heritage have worked collaboratively to prepare a range of additions and amendments to the text and the policy and these are set out in modifications MM100, MM101, MM102, MM103, MM104 and MM105. Subject to these modifications I am satisfied that the Plan includes an effective strategy to ensure that the district’s heritage assets can be protected and which is consistent with the NPPF.”*

2.6 More recently, we worked with West Oxfordshire District Council and CPRE Oxfordshire, at the invitation of the Inspector examining the West Oxfordshire Local Plan 2031, to revise Policy EH7 in the submitted Plan to address this same point. As a consequence of that work, the Council suggested Further Main Modifications to the submitted Plan in the form of additional policies EH8, EH9, EH10, EH11, EH12, EH13 and EH14 setting out criteria for the assessment of development proposals affecting conservation areas, listed buildings, traditional buildings, historic landscape character, registered historic parks and gardens, scheduled monuments and other nationally important archaeological remains and non-designated heritage assets.

2.7 The report of the Inspector that conducted the Examination in Public was published on 24<sup>th</sup> August 2018. As regards Policy EH7, the Inspector opined:

*“Policy EH7 (Historic Environment), as originally submitted, was criticised as being inconsistent with national policy whilst at the same time providing inadequate locally specific detailed policy guidance. I share these concerns and, thus, for the plan to be justified, effective and consistent with national policy MM5, MM35, MM36, MM37, MM38, MM39, MM40, MM41, MM42 and MM43 are necessary.....In conclusion, subject to the above-mentioned modifications, the plan’s policies in respect of environmental and heritage assets are positively-prepared, justified, effective and consistent with national policy”.*

### **3. The National Park Authority's Minor Modifications**

3.1 Historic England notes that the National Park Authority is proposing a number of Minor Modifications. We are pleased to note Minor Modifications MIN-22, MIN-23, MIN-24 and MIN-25 in response to our comments on the Submission Plan. However, none of these Minor Modifications address our concern at the lack of more detailed development management policies in the Local Plan.

3.2 Proposed Minor Modification MIN-25 includes:

*“b) Where development proposals will lead to substantial harm to, or total loss of significance of, a designated heritage asset, permission will be refused.”*

3.3 The justification for this proposed Minor Modification is stated as *“For clarity, and to reflect the wording in the NPPF.”* However, paragraph 133 of the National Planning Policy Framework actually states:

*“Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- the nature of the heritage asset prevents all reasonable uses of the site; and*
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- the harm or loss is outweighed by the benefit of bringing the site back into use.”*

3.4 The National Planning Policy Framework does therefore allow for circumstances in which substantial harm to or total loss of significance of a designated heritage asset could be acceptable. Proposed Minor Modification MIN-25 therefore goes beyond the policy in the Framework (even though paragraph 132 of the Framework makes it clear that substantial harm or loss should be exceptional or wholly exceptional, and that any harm or loss should require clear and convincing justification).

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

- 4.1 In our representation on Policy SP16 we explained the change to the Local Plan that we consider is necessary to provide more of “*a clear indication of how a decision maker should react to a development proposal*”, as required by paragraph 154 of the National Planning Policy Framework and therefore to make the Plan consistent with national planning policy and thus, in turn, sound.
- 4.2 We consider that the Local Plan should contain a more detailed development management policy or policies setting out the important elements or characteristics of designated heritage assets such as listed buildings, scheduled monuments, conservation areas and registered historic parks and gardens, and non-designated assets, such as those of local significance as identified on local lists, archaeological deposits and historic landscapes, to which development proposals should have regard and seek to conserve or enhance.
- 4.3 This policy or policies should include criteria for assessing the potential impact of development proposals on the significance of all those heritage assets.
- 4.4 We provided additional advice on these matters in an appendix to our original submission, reproduced as Appendix 2 to this Statement. We have also offered to work with the Council to develop these policies, and we would commend Policies EH7, EH8, EH9, EH11, EH12, EH13 and EH14 of the West Oxfordshire Local Plan 2031 (as recommended by the Inspector that examined the Plan for inclusion in the Plan) or Policies ENV6, ENV7, ENV8, ENV9 and ENV10 of the emerging South Oxfordshire Local Plan 2011-2033, as exemplars of the policy or policies we are advocating.
- 4.5 If such a detailed development management policy or policies was/were to be included in the Local Plan, we would consider the Plan to be consistent with the National Planning Policy Framework and sound in respect of the historic environment.

## **Appendix 1: Historic England’s comments on Policy SP16**

We welcome and support, in principle, Policy SP16 as part of the positive strategy for conservation and enjoyment of, and clear strategy for enhancing, the historic environment of the Park required by paragraphs 126 and 157 of the NPPF, which should include strategic policies to deliver the conservation and enhancement of the historic environment. We consider Policy SP16 fulfils this requirement.

However, we feel that it could perhaps benefit from slight rewording – as it is written it gives support to development proposals where they conserve and enhance the significance of designated or non-designated heritage assets, particularly where they cause no harm to designated heritage assets, and any harm is outweighed by public benefits. A development proposal cannot cause no harm and yet cause harm.

We accept that the policy is rightly identifying that public benefits may outweigh harm, but we suggest that the policy is split into sub-sections, one setting out the approach where there would be no harm to the significance of heritage assets and the other where there would be harm.

We are also not quite sure why the policy says “In particular” – this implies that there are circumstances other than those specified in which proposals that conserve and enhance the significance of designated or non-designated heritage assets will be supported. Perhaps these relate to non-designated heritage assets as the circumstances set out relate only to designated assets ?

Or where a development proposal makes a positive contribution to, or better reveals the significance of, a heritage asset or its setting, which might be considered to be too onerous if this was required of all development proposals ? Clause iv) relating to public benefits should be a principle that applies in all circumstances, not just particular circumstances.

Whilst we welcome and support, in principle, Policy SP16 as a strategic policy, we consider that the Local Plan should also contain a more detailed development management policy or policies setting out the requirements of development proposals and providing a clear indication of how a decision maker should react to a development proposal as required by the NPPF, differentiating in approach between designated and non-designated assets.

This policy or policies should include criteria for assessing the potential impact of development proposals on the significance of all relevant heritage assets: designated assets such as listed buildings, Scheduled Monuments, conservation areas and Registered Historic Parks and Gardens, and non-designated assets, such as those of local significance as identified on local lists, archaeological deposits and historic landscapes, identifying those characteristics the Council will expect development proposals to conserve or enhance. Further advice is set out in an appendix to this letter and we would be pleased to work with the Council to develop these policies.

The development management policy or policies should reflect the NPPF requirement that any harm or loss of a heritage asset should require clear and convincing justification, most often in the form of public benefits. In accordance with paragraphs 132 -135 of the NPPF, the more important the asset, the greater the weight that should be given to its conservation – the greatest weight should be given to designated heritage assets of the highest significance, then other designated assets, then non-designated assets (including

archaeological remains, except those that are demonstrably of equivalent significance to designated heritage assets, which should be considered subject to the policies for designated heritage assets).

We would expect the development management policy or policies to set out in more detail what is required of applicants e.g.

*Applications which affect, or have the potential to affect, heritage assets will be expected to;*

*i) describe the significance of the asset and its setting, using appropriate expertise; at a level of detail proportionate to its significance and sufficient to understand the potential impact of the proposal; using appropriate references such as the Historic Environment Record and, if necessary, original survey (including, for assets of archaeological interest, an appropriate desk-based assessment and, where necessary, a field evaluation);*

*ii) to set out the impact of the development on the heritage assets and a suggested mitigation that is proportionate to the impact and the significance of the heritage asset, including where possible positive opportunities to conserve and enjoy heritage assets as well as recording loss and advancing knowledge; and*

*iii) to demonstrate how the proposed development has responded to potential impacts on the heritage asset(s) to avoid, minimise or mitigate harm.*

*Where development is permitted that would result in harm to or loss of the significance of a heritage asset, developers will be required to record and advance understanding of the significance of that asset, in a manner appropriate to its importance and the impact, and to make that evidence publicly accessible.*

## **Appendix 2: Development Management Policy Advice**



### Archaeology

- The preservation of scheduled monuments and other nationally important archaeological sites and their settings; and
- The preservation, in situ, of other archaeological remains or, in those cases where this is not justifiable or feasible, provision is made for excavation recording; and
- Requiring that an appropriate assessment and evaluation is submitted as part of the planning application in areas of known or potential archaeological interest.
- Appropriate publication/curation of findings

### Listed Buildings

- Ensuring that proposed alterations, extensions or changes of use to listed buildings, or development in their vicinity, will not have an adverse impact on those elements which contribute to their special architectural or historic interest including, where appropriate, their settings;
- Taking measures to ensure that neglected listed buildings are appropriately repaired and re-used.

### Conservation Areas

- Ensuring that development within or which would affect the setting of a conservation area will conserve or enhance those elements which contribute to its special character or appearance;
- Safeguarding spaces, street patterns, views, vistas, uses and trees which contribute to the special character or appearance of that conservation area.
- Where they exist, reference to the fact that Conservation Area Appraisals will be used to guide development in those areas.
- Where up-to-date Conservation Area Appraisals are not available developers are required to submit character statements to demonstrate the impact of the development upon their character and appearance of the conservation area.

### Historic Parks and Gardens

- Safeguarding features which form an integral part of the special character or appearance of the Park or Garden;
- Ensuring that development does not detract from the enjoyment, layout, design, character, appearance or setting of the Park or Garden, key views out from the Park, or prejudice its future restoration;

### Locally important heritage assets

- Setting out definitions of what constitutes a locally important or 'non-designated' heritage asset.
- Providing criteria for their assessment for development proposals, including alteration and extension, and demolition.
- Ensuring applicants are required to demonstrate significance and setting out information requirements for applications.