

MATTER 8
HISTORIC ENGLAND



PLAN:MK
EXAMINATION IN PUBLIC

Matter 8: Policies for Managing Development

Issue 4: Environment and Heritage

Q8.22: Is Policy HE1 justified, effective and consistent with national policy? In particular does it accord with NPPF paragraphs 132-135 in relation to proposals that may result in harm or loss to a heritage asset?

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 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 34 individual representations at the Regulation 19 stage of the Local Plan. Of those, nine were comments that related to matters of soundness.
- 2.2 In particular, we consider that Plan:MK is deficient in two important respects; that it should 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 that it fails to adequately set out “*a positive strategy for the conservation and enjoyment of the historic environment*” and “*contain a clear strategy for enhancing the.....historic environment*”.
- 2.3 We welcome Policy HE1 and consider that it satisfies the requirement of paragraph 156 of the National Planning Policy Framework for the local plan to include strategic policies to deliver the conservation and enhancement of the historic environment (and is justified, effective and consistent with national policy and accords with NPPF paragraphs 132-135).
- 2.4 However, in order to provide more of “*a clear indication of how a decision maker should react to a development proposal*”, we consider that either Policy HE1 is revised to include, or a policy or policies 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.
- 2.7 We also suggested some possible improvements to the Policy EH1 of Plan:MK, although these were not matters of soundness. Our representation on Policy HE1 is set out in full in Appendix 1 to this Statement.
- 2.8 The majority of our representations on Plan:MK actually relate to the statements in paragraphs 126 and 157 of the National Planning Policy Framework that “*Local Planning Authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment*” and “*contain a clear strategy for enhancing the.....historic environment*”.
- 2.9 Historic England considers that the positive strategy and the clear strategy should comprise recognition throughout a Plan of the importance of the historic environment, of the historic environment’s role in delivering a Plan’s vision and the wider economic, social and environmental objectives for a Plan area, and of the potential impacts of a Plan’s policies and proposals on the historic environment.
- 2.10 Although there are a number of references throughout Plan:MK to the historic environment, which we welcome, we do not consider that, as submitted, Plan:MK quite sets out the required positive strategy and clear strategy.
- 2.11 We therefore consider that to provide that positive and clear strategy, Plan:MK should include additional references to the historic environment and/or heritage assets throughout the Plan as we indicate in our other comments. If the changes we have suggested are made, we would consider that the Plan satisfies these requirements (our comments on this matter are set out in Appendix 2 to this Statement).
- 2.12 The occasions we identify in our other comments on the Local Plan where we consider that a reference to the historic environment or a specific heritage asset could reasonably be expected to be present but there is none relate to:
- 2.3 The Vision
 - 2.4 Strategic Objectives
 - Policy SD1
 - Policy ER18
 - Policy HN11
 - Policy HN12

- 2.13 We made a similar comment in respect of the Fareham Local Plan Part 2. The Inspector that examined that local plan concluded; *“There are, however, a number of issues where further clarity is required. The NPPF confirms the importance of conserving and enhancing the historic environment and for the avoidance of doubt the Council is now proposing to include in LP2 references to affording appropriate protection to archaeological sites; to the historic significance of boatyards; to views in and out of the Fareham Waterfront (including the listed railway viaduct); and to the wreck of the Grace Dieu in the River Hamble, on the boundary between Fareham and Eastleigh Boroughs. I consider that these changes to policies DSP6, DSP19, DSP25 and DSP54 (and their supporting text) are necessary to ensure that LP2 is justified and consistent with national policy and recommend them accordingly”.*
- 2.14 In April this year, the Inspector that examined the Rotherham Sites and Policies Local Plan concluded; *“Within Section 5 of the submitted RSP site development guidelines are identified for the allocations. In my view such guidelines are required to ensure that interested parties have a clear idea of those considerations that need to be addressed in the preparation and submission of planning applications. Consequently appropriate guidelines are an integral part of the production of sound and effective policies.”*

3. Statement of Common Ground

- 3.1 As the Inspector will be aware, Historic England has signed a Statement of Common Ground with the Council. In that Statement, the Council has agreed to proposed changes to the Strategic Objectives, Policy SD1 and Policy ER18. Historic England has agreed that these changes would overcome our concerns as regards these individual elements of Plan:MK.
- 3.2 However, the Council has not agreed to propose all the changes that we sought, and the Statement of Common Ground explains the remaining areas of “uncommon” ground between the Council and Historic England. Those remaining areas of uncommon ground relevant to this Matter concern the Vision, Policy HN11 and Policy HN12. Our concerns with these elements of the Plan:MK are set out in Appendix 3 of this Statement.

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

- 4.1 In our representation on Policy HE1 we explained the change that we considered was 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 thus to make the Plan sound.
- 4.2 The change is; “*that either Policy HE1 is revised to include, or a policy or policies 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*”.
- 4.3 In our comments on paragraph 13.5 (which we considered the most appropriate part of the Plan to express these concerns), we explained that we considered that to provide an adequate positive strategy for the conservation and enjoyment of, and a clear strategy for enhancing, the historic environment, as required by paragraphs 126 and 157 of the National Planning Policy Framework, the Plan should include additional references to the historic environment and/or heritage assets throughout the Plan as we indicated in our other comments.
- 4.4 In those other comments (on the paragraphs and policies in the bullet point list above) we set out the specific changes to the other policies and paragraphs we consider necessary to make the Plan sound (see Appendix 4 to this Statement).
- 4.5 If these changes to the Plan were to be made, Historic England would be satisfied that Plan:MK **complied with paragraph 154 of the National Planning Policy Framework** and that the Plan **contained an adequate positive strategy for the conservation and enjoyment of the historic environment and a clear strategy for enhancing the historic environment**, and was therefore sound in these respects.

Appendix 1: Historic England's comments on Policy HE1

We welcome Policy HE1 and consider that it satisfies the requirement of paragraph 156 of the National Planning Policy Framework for the local plan to include strategic policies to deliver the conservation and enhancement of the historic environment. However, we suggest some possible improvements to the Policy.

Section D should refer to the National Planning Policy Framework's requirements for public benefits to be substantial to outweigh substantial harm to designated heritage assets, or for all four circumstances in paragraph 137 of the Framework to apply.

We welcome the principle in section F that harm to the significance of non-designated assets [will be accepted] "*only once all feasible solutions to avoid and mitigate that harm have been fully implemented*", but this caveat should also apply to instances where there could be harm (substantial or less than substantial) to designated heritage assets (sections D and E).

Section G 2 should include "significance", as being what is important and valuable about a heritage asset.

Historic England also considers that the Plan should 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, by setting out the considerations that should be taken into account when determining a development proposal that would affect a particular type of heritage asset e.g. the interests, elements or characteristics that comprise its significance or special interest to which development proposals should have regard and seek to conserve or enhance.

We therefore believe that either Policy HE1 is revised to include, or a policy or policies 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 e.g. for conservation areas, the spaces, street patterns, views, vistas, uses and trees which contribute to the special interest, character or appearance of the area, or for Registered Historic Parks and Gardens, safeguarding features which form an integral part of the special character or appearance of the Park or Garden, including its, layout, design, character, appearance or setting of, or key views out from, the Park or Garden.

These development management policy or policies should also reflect the requirement in paragraph 132 of the National Planning Policy Framework 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).

Appendix 2: Historic England's comments on a "positive strategy"

Historic England considers that the positive strategy for the conservation and enjoyment of, and the clear strategy for enhancing, the historic environment should comprise recognition throughout the Plan of the importance of the historic environment, of the historic environment's role in delivering the Plan's vision and the wider economic, social and environmental objectives for the Plan area, and of the potential impacts of the Plan's policies and proposals on the historic environment.

We have identified and welcomed a number of references to the historic environment and/or heritage assets throughout the Plan. However, we have also identified a number of instances where we consider that there should be further references.

Accordingly, as currently drafted, we do not consider that the Local Plan quite sets out a positive strategy for the conservation and enjoyment of, or a clear strategy for enhancing, the historic environment. However, if the changes we have suggested are made, we would consider that the Plan satisfies these requirements.

Appendix 3: Historic England's comments on the Strategic Objectives, Policy HN11 and Policy HN12

The Vision

Historic England is disappointed that there is not greater explicit reference to the important original design principles and 20th century pioneering architecture that characterises Milton Keynes and helps make it the special place that it is in the Vision.

The Vision is important as setting the context for the policies and proposals of the Plan. We would therefore like to see explicit reference to the conservation and enhancement of the historic environment, both the 20th C buildings in the city and the older buildings in the outlying historic settlements, 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.

Policy HN11

Historic England would like to see an additional criterion in Policy HN11: "*The site would not adversely affect a heritage asset*" 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.

(The terms "built environment" and "historic environment" are not interchangeable: not all heritage assets are built and the National Planning Policy Framework refers to the historic environment (distinguishing it from the built environment in paragraph 7) and even includes a specific definition of the historic environment).

Policy HN12

Historic England would like to see an additional criterion in Policy HN12: "*The site would not adversely affect a heritage asset*" 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.

(The terms "built environment" and "historic environment" are not interchangeable: not all heritage assets are built and the National Planning Policy Framework refers to the historic environment (distinguishing it from the built environment in paragraph 7) and even includes a specific definition of the historic environment).

Appendix 4: Changes Sought by Historic England

2.3 Vision

The inclusion within the Vision of a reference to the important original design principles and 20th century pioneering architecture that characterises Milton Keynes and helps make it the special place that it is.

Policy HN11

The addition of a new criterion to Policy HN11; “*The site would not adversely affect a heritage asset*”.

Policy HN12

The addition of a criterion to Policy HN12: “*The site would not adversely affect a heritage asset*”.