



Matter 9: Historic Environment

Examination of the Cheshire East Local Plan Site
Allocations and Development Policies Document

For: Emery Planning

Emery Planning project number: 17-087

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1. Introduction

- 1.1 This hearing statement is submitted in relation to Matter 9: Historic Environment. The hearing session is scheduled to take place on 3rd November 2021.

2. Conservation areas (Policy HER 3)

Q146. Is part 2 of Policy HER 3 consistent with national policy in its definition of the circumstances in which proposals for the demolition of buildings that contribute positively to the character or appearance of a conservation area will be supported?

- 2.1 As set out in our December 2020 representations, any harm should be assessed in the context of paragraphs 199 to 202 and 207 of the Framework.
- 2.2 Paragraph 207 of the Framework states that:

“Not all elements of a Conservation Area or a World Heritage Site will necessarily contribute to its significance.. Loss of a building (or other element which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 200 or less than substantial harm under paragraph 201, as appropriate taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.”

- 2.3 There is no requirement in national policy for a building to be structurally unsound or alternative uses to be investigated before the assessment in either paragraph 200 or 201 is undertaken.
- 2.4 As currently drafted the policy is not consistent with the Framework.

3. Listed buildings (Policy HER 4)

Q147. Is Policy HER 4 consistent with the LPS and national policy, particularly in the following respects:

a) In part 1, the expectation for development proposals to ‘enhance’ as well as preserve a listed building and its setting?

3.1 No.

3.2 As set out in our December 2020 representations, development proposals affecting a listed building must be considered in the context of the legal duty conferred by s16 (2) and s66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16 (2) relates to the grant of listed building consent and section 66(1) relates to the grant of planning permission. Section 66 (1) states:

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

3.3 There is no mention in statute of enhancement of the building or its setting. The policy seeks to apply a higher test than is required in law, which is simply one of preservation.

b) In part 2, specifying that alterations to a listed building will only be supported where criteria (i) to (v) are met, given that paragraph 201 of the NPPF allows for substantial harm to a listed building if it can be demonstrated that it is necessary to achieve substantial public benefits?

3.4 No. The policy is inconsistent with paragraphs 201 and 202 of the Framework and seeks to apply a more restrictive policy approach than that set out in the Framework. The policy should be amended to reflect the Framework.

c) In part 3, requiring exceptional circumstances to be demonstrated for the demolition of a listed building, when paragraph 200 of the NPPF requires clear and convincing justification?

3.5 No. Paragraph 200 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. It goes on to state that substantial harm to or loss of Grade II listed buildings or registered parks and gardens should be exceptional and that substantial harm to assets of the highest significance should be wholly exceptional. It does not however, require exceptional circumstances to be demonstrated.

d) In part 4, specifying changes of use to a listed building will be supported where criteria (i) to (iii) are met, given that paragraph 201 of the NPPF allows for substantial harm to a listed building if it can be demonstrated that it is necessary to achieve substantial public benefits?

3.6 No. As set out above, part 4 is inconsistent with paragraph 201 of the Framework in this regard and should be amended.

e) In part 5, expecting development affecting the setting of a listed building to 'enhance' as well as preserve its setting?

3.7 No. Please see our response to a) above.

4. World heritage site (Policy HER 9)

Q153. With regard to proposals which would cause harm to the significance of Jodrell Bank Observatory (JBO) World Heritage Site (WHS), is Policy HER 9 consistent with national policy, particularly in respect of the approach to assessing substantial and less than substantial harm in paragraphs 200-202 of the NPPF?

- 4.1 No. We would refer to our response to Q146 in relation to Policy HER3 on Conservation Areas above. Paragraph 207 of the Framework sets out the approach that should be taken to the loss of a building or other element which makes a positive contribution to either a Conservation Area or World Heritage Site and the same considerations apply.

Q154. Is it evident from Policy HER 9 and its supporting justification how harm to the significance of the JBO WHS should be evaluated for proposals on sites within the WHS Buffer Zone?

- 4.2 No. The JBO buffer zone boundary replicates the JBO consultation zone boundary as set out on the UNESCO Designation Map. It is not clear how harm to the significance of the JBO WHS will be evaluated from a heritage perspective for proposals within it.

Q155. Is the distinction between the JBO Consultation Zone for radio interference and the WHS Buffer Zone, and the respective planning and heritage considerations that apply within each, clear from Policy HER 9 and its supporting justification

- 4.3 No. The JBO Consultation Zone for radio interference and WHS Buffer Zone have the same boundary. However, the JBO Consultation Zone deals with radio interference and the Buffer Zone deals with the setting of the WHS.
- 4.4 Paragraph: 033 Reference ID: 18a-033-20190723 of the PPG states:

"The UNESCO Operational Guidelines seek protection of "the immediate setting" of each World Heritage Site, of "important views and other areas or attributes that are functionally important as a support to the Property" and suggest designation of a buffer zone wherever this may be necessary. A buffer zone is defined as an area surrounding the World Heritage Site which has complementary legal restrictions placed on its use and development to give an added layer of protection to the World Heritage Site. The buffer zone forms part of the setting of the World Heritage Site".

- 4.5 The policy wording should be revised to confirm that an assessment of the immediate setting of the WHS is separate to the UNESCO buffer zone which is based on the JBO consultation zone for radio inference.
- 4.6 As set out in our December 2020 representations, the policy needs to be more prescriptive as to the requirements for an applicant within the buffer zone producing a heritage impact assessment. For example is the heritage impact assessment expected to include a section relating to whether or not there is technical inference? If it is, the policy must set out a methodology for the assessment, to ensure that each application is assessed on a like-for-like basis using a consistent approach and applicants have access to that methodology when assessing development proposals. This applies even if the technical impact is covered by Policy SE14. At present there is no transparent process as to how the impact on JBO is assessed by the University and applied by the LPA. This must be rectified through this plan due to its inclusion in Policy HER9.
- 4.7 We also question why a heritage impact assessment is required for all proposals in the buffer zone. The PPG (Paragraph: 035 Reference ID: 18a-035-20190723) allows applicants to "*submit sufficient information with their applications to enable assessment of the potential impact on Outstanding Universal Value. This may include visual impact assessments, archaeological data and/or historical information*". This is particularly the case if the buffer zone remains when assessing setting and it is apparent that there would be no impact of the WHS from an initial visual assessment.
- 4.8 We refer to the proposed amendments to the policy as set out in our representations of December 2020.