

Barnet Local Plan EIP – Note on Policy CDH08 - Heritage

Reason for producing this note

On Day 9 (Wednesday 2nd November) at the hearing session's consideration of Matter 8 – Design, Tall Buildings and Heritage, Inspector Wildgoose requested provision of a Note covering the following:

- Council to reflect on CDH08 overall as concern that policy and supporting text are inconsistent with national policy. Consider what it is seeking to achieve in addition to the Framework's approach and focus on 'added value'.
- Council to be cautious in localising national policy approach. Pitfalls that sometimes wording matters, and a slight reinterpretation of something that is in national policy can have significant effects. Advice is to consider heritage in similar way to flood risk.
- Examples given that tests are inconsistent and repetitive in places with CDH08 having separate sections for different types of designated heritage assets. NPPF adopts single approach to harm to designated heritage assets. CDH08 applies slightly different approaches for each type of asset i.e. listed buildings and registered parks and gardens all refer to para 200 NPPF. Wording differs between sections and there is no rationale for clear and convincing harm reference in this section on heritage assets.
- Consider merits of having a structure that states "Proposals will be dealt with in accordance with national policy...", then some further detail.
- CDH08(vii) on conservation areas: unclear whether this is intended to apply just to conservation areas or all designated assets. Justification/clarification for approach needed.
- Non Designated Heritage Assets states that Council may identify such assets as a consideration of development proposals. Needs cross-reference to NPPG (18A-040-20190723) to explain that they will be identified on basis of sound evidence.
- Table 12 and sub-categories. Clarify inclusion of archaeological priority areas, local areas of special significance' and areas of 'special archaeological significant' and their spatial extent. Core_05 – Changes to the Policies Map indicates that areas of special archaeological significance are taken ahead without change. Check London Plan for clarification on terminology.
- Update Table 12 to account for name changes to heritage assets and make clear that table is not comprehensive in respect of NDHA.

Background

Following submission of the Barnet Local Plan in November 2021 the Council in June 2022 produced a table of proposed modifications (EXAM 4). This document was produced after consideration of the Reg 19 soundness representations received, together with subsequent discussions with parties on the drafting of Statements of Common Ground. EXAM 4 includes a proposed modification (MM181) to policy CDH08. This proposed modification was

considered during the examination hearing session where Matter 8 was discussed. However, in the light of that discussion and the requests made by the Inspector for further clarification, explanation and justification of the matters detailed in this note, the Council now wishes to withdraw MM181 and proposes a series of additional further modifications to both the policy and supporting text as set out below.

For ease of reference the proposed revisions to both Policy CDH08 and the supporting text are set out below in full with the following format used to denote further proposed modifications to the submission version of plan as revised further to the proposed modification listed in EXAM 4.

~~Strikethrough text~~ to indicate text proposed for removal.

Underlined text to indicate additional text.

Considerations

Matter raised at Hearing Session	Council Response
<ul style="list-style-type: none"> Council to reflect on CDH08 overall as concern that policy and supporting text are inconsistent with national policy. Consider what it is seeking to achieve in addition to the Framework’s approach and focus on ‘added value’. 	<p>Section 16 of the NPPF, Conserving and enhancing the historic environment, sets out the national policy context for the conservation and enjoyment of the historic environment. Revisions are proposed below to the wording of both the policy and supporting text. The Council accepts that, notwithstanding the modification (MM181) already proposed, there remain some inconsistencies with national policy with regards the precise wording of CDH08 and the supporting text but considers that the small difference in wording is justified.</p> <p>In terms of focusing on added value, Policy CDH08 as currently drafted has separate sections for each of the different types of designated heritage assets relevant to Barnet which serves to provide local context, and therefore which the Council would wish to retain. However, noting that the Framework adopts a single approach to harm to designated heritage assets, the Council recognises there is scope to rationalise the policy and supporting text, thereby reducing the amount of repetition.</p>
<ul style="list-style-type: none"> Council to be cautious in localising national policy approach. Pitfalls that sometimes wording matters, and a slight reinterpretation of something that is in national policy can have significant effects. Advice is to 	<p>The Council acknowledges this point and has proposed revisions accordingly. It is not the intention for the policy as currently worded to apply slightly different approaches for each type of Designated Heritage Asset (DHA) identified. The precise wording used in each section of</p>

<p>consider heritage in similar way to flood risk.</p>	<p>the policy slightly differs between the sections. Consequently, the Council also recognises that there are formatting and presentational issues required to the policy as currently drafted. For example, the use of a separate 'Designated Heritage Assets' heading is potentially confusing as the subsequent six sub-heading used in the policy relate to specific examples of designated heritage assets.</p>
<ul style="list-style-type: none"> Examples given that tests are inconsistent and repetitive in places with CDH08 having separate sections for different types of designated heritage assets. NPPF adopts single approach to harm to designated heritage assets. CDH08 applies slightly different approaches for each type of asset i.e. listed buildings and registered parks and gardens all refer to para 200 NPPF. Wording differs between sections and there is no rationale for clear and convincing harm reference in this section on heritage assets. 	<p>Proposed revisions to wording of policy and supporting text to address any inconsistencies and reduce unnecessary repetition both with national policy and between the policy and supporting text.</p> <p>The Council accepts that even a minor rewording or reinterpretation of something that is stated in national policy could have unintended effects. Therefore, unless there is a stated justifiable reason supported by evidence to do otherwise, it is appropriate to defer, use or simply cross reference to the wording used in national policy. Then, as appropriate, explain how the nationally stated policy criteria tests might be met.</p> <p>In terms of repetition statutory listed buildings and registered parks and gardens all make reference to wording used in para 200 of the NPPF regarding any harm to, or loss of, the significance of a designated heritage asset requiring clear and convincing justification.</p>
<ul style="list-style-type: none"> Consider merits of having a structure that states "Proposals will be dealt with in accordance with national policy...", then some further detail. 	<p>In the redrafting of Policy CDH08 the Council has sought to adopt this approach.</p>
<ul style="list-style-type: none"> CDH08(vii) on conservation areas: unclear whether this is intended to apply just to conservation areas or all designated assets. Justification/clarification for approach needed. 	<p>In redrafting the policy, the Council proposes to remove this criterion from the policy. Instead, it is proposed that additional text is added to the supporting text setting out the circumstances where the submission of a contract of works would be sought.</p>
<ul style="list-style-type: none"> Non Designated Heritage Assets states that Council may identify such assets as a consideration of 	<p>Text removed from policy and inserted into supporting text (para 6.33.1 refers)</p>

<p>development proposals. Needs cross-reference to NPPG (18A-040-20190723) to explain that they will be identified on the basis of sound evidence.</p>	<p>with a cross reference to the NPPG para added.</p>
<ul style="list-style-type: none"> Table 12 and sub-categories. Clarify inclusion of archaeological priority areas, local areas of special significance' and areas of 'special archaeological significant' and their spatial extent. Core_05 – Changes to the Policies Map indicates that areas of special archaeological significance are taken ahead without change. Check London Plan for clarification on terminology. 	<p>Revisions proposed clarifying and updating the terminology, entries and figures quoted in Table 12 listed Barnet's Heritage Assets.</p>
<ul style="list-style-type: none"> Update Table 12 to account for name changes to heritage assets and make clear that table is not comprehensive in respect of NDHA. 	<p>As above, revisions proposed updating Table 12.</p>

Proposed Modifications

Having taken account of the matters raised at the examination and detailed in the table above, the Council proposes a number of further modifications to both Policy CDH08 and the supporting text in section 6.23 of the Plan so as to now read as follows:

Supporting Text – Modifications to para 6.23.2, 6.24.1, 6.25.1, 6.25.2, 6.25.3, 6.25.4, 6.25.5, 6.28.1, 6.29.1, 6.32.1, 6.33.1 and 6.33.1A

6.23 Barnet's Heritage

Para 6.23.2

National planning policy distinguishes between designated and non-designated heritage assets. Table 12 lists Barnet's heritage assets (including statutory listed buildings, battlefield sites, Registered Parks and Gardens, Scheduled Monuments, Local Archaeological Priority Areas ~~Local Areas of Special Archaeological Significance~~ and Conservation Areas) and non-designated heritage assets (local heritage assets ~~locally listed buildings~~). These assets are an irreplaceable resource and the Council will therefore assess proposals based on a presumption that the heritage asset should be conserved while looking for opportunities to enhance a heritage asset's significance. The Council recognises that well designed development can make a positive contribution to and better reveal the significance of heritage assets. The Council takes a proactive approach to conserving its heritage assets in a number of ways. These include: the publication of Conservation Area Character Appraisals; working with Conservation Area Advisory Committees; working with Historic

England to remove heritage at risk assets from the register; the maintenance establishment of a Local Heritage List; and the creation of Design Guidance Notes. ~~production of Design Guidance and Codes.~~

6.24 Designated heritage assets

Para 6.24.1

In accordance with the NPPF (paras 199 to 202), great weight will be placed on the conservation of the Borough's designated heritage assets when considering the impact of development proposals. The Council will not permit harm to a designated heritage asset unless the public benefits of the proposal, which can include heritage benefits, outweigh the harm. More detailed guidance on public benefits is set out in National Planning Practice Guidance. Harm to or loss of a designated heritage asset requires clear and convincing justification. ~~In determining applications affecting heritage assets the Council will take into consideration the scale of the harm and the significance of the asset.~~

6.25 Conservation areas

Para 6.25.1 - 2nd and 3rd sentences

The Council will manage changes in a way that ensures the distinctive characters of conservation areas is retained and all new development makes a positive contribution ~~to the conservation areas that it~~ to preserv[ing]es or enhanc[ing]es the special character or appearance of that area. The character of a conservation areas derives from a combination of factors, which include the ~~such as~~ built form and scale of its historic buildings and density, the pattern of development, the overall landscape including the topography and open space.

6.25.2 - 1st sentence

Barnet's conservation areas can also be impacted by development which takes place outside of the conservation area but may be visible from within it.

Para 6.25.3

A change in traditional patterns of use can erode the character of an area. It is essential therefore that uses contributing to the character of a conservation area are not displaced by redevelopment proposals including change of use. Public houses and local shops are of particular importance to the character of conservation areas especially when they are located in historic buildings. The Council will seek to protect these, and other uses where viable, under policies GSS08, TOW01, TOW02, TOW03 and CHW04. ~~The loss of traditional uses can erode the character of an area. It is essential therefore that traditional uses are not displaced by redevelopment proposals for change of use. Public houses and local shops are of particular importance to the character of conservation areas especially when they are traditionally located in historic buildings. The Council will seek to protect traditional uses of buildings where viable.~~

Para 6.25.4 - 2nd 3rd, 4th and 5th sentences

The Council will resist the total or substantial demolition of such buildings, including proposals for facadism, unless ~~significant~~ public benefits, which could include heritage benefits, are shown that outweigh the case for retention. Applicants will be required to have regard to National and Local Plan policies and any other relevant supplementary guidance produced by the Council in order to justify the demolition of a building that is considered to make a positive contribution to a conservation area. All planning applications proposing ~~total or~~ substantial demolition within conservation areas must clearly demonstrate that effective

measures will be taken to ensure the structural stability of all retained fabric during demolition and re- building. The Council must be satisfied that any approved development following the loss of a heritage asset, will proceed within an agreed timespan. Where the loss of any heritage asset is permitted, the Council will require the submission of a contract of works to ensure the new development will proceed immediately after the loss has occurred.

Para 6.25.5 2nd sentence

Proposals for alterations should normally be undertaken in materials matching that of the original.

6.28 Archaeological Priority Areas

Para 6.28 - 5th, 6th and 7th sentences

~~6.28.1 The Council will consult with Historic England and the Greater London Archaeology Advisory Service (GLAAS) on the implications of development proposals in Archaeological Priority Areas. GLAAS holds further information on archaeological sites in Barnet. When considering proposals which have the potential to impact on archaeological remains, the Council will have regard to the NPPF. It may also be appropriate for Hendon and District Archaeology Society (HADAS) to be consulted.~~

6.29 Registered Parks and Gardens

6.29.1 – 4th bullet point

- ~~Stephens House and Gardens Avenue House Grounds (grade II); and~~

6.32 Heritage at Risk

6.32.1 Barnet's Heritage at Risk Register is updated annually by Historic England (and reported through the Authorities Monitoring Report). The Council will work with Historic England, asset owners, developers and other stakeholders to find solutions to buildings, sites and places on the Heritage at Risk Register. ~~Developers considering the re-development of sites containing buildings on the Register must work with the Council and Historic England to determine the best course of action to retain and restore the historic asset.~~

Non-designated heritage assets

6.33 Local Heritage List

6.33.1 Barnet has many historic, locally significant buildings which make a positive contribution to the distinctiveness of local areas, including conservation areas. The NPPF identifies such buildings and structures as non-designated heritage assets. Barnet has a Local Heritage List which identifies buildings of historic or architectural interest. The Council may identify any potential non-designated heritage asset ~~when considering development proposals as part of the decision-making process on planning applications. (see NPPG Paragraph: 039 Reference ID: 18a-039-20190723).~~ The non-designated heritage asset will be identified by applying the adopted criteria for the selection of local heritage assets as found on the Council's website. In determining applications for planning permission that affect a non-designated heritage asset or its setting, the NPPF requires, amongst other things that local planning authorities should take into account the desirability of sustaining

and enhancing the significance of such heritage assets, and of putting them to viable uses consistent with their conservation, and the consideration of the positive contribution that conserving such heritage assets can make to sustainable communities including their economic vitality (NPPF paras 190 and 197). As indicated in the NPPF, the effect of an application on the significance of a non-designated heritage asset will be taken into account in determining the application, in accordance with paragraph 203. These NPPF requirements mean that the conservation of a building or site on a local heritage list as a heritage asset is an objective of the NPPF and a material consideration when determining the outcome of a planning application. Planning applications can be refused on the grounds of harm to a local heritage asset. The legitimacy and weight within the planning system of local heritage lists is increased when the list has been prepared in accordance with defined selection criteria and has been subject to public consultation. In considering applications that affect these non-designated heritage assets, the Council will have regard to the significance of the asset and the scale of any harm or loss. There is a presumption in favour of retaining all Locally Listed Buildings as well as any building which makes a positive contribution to the character or appearance of a Conservation Area.

Para 6.33.1A The Council will need to be satisfied that all efforts have been made to continue the present use or to find compatible alternative uses before considering demolition as a viable option, including marketing the property for the sole purpose of its ongoing use. In line with the NPPF a deteriorated condition as a result of deliberate neglect of or damage to a heritage asset will not be a factor considered in any decision. The ~~LPA Council~~ will assess proposals for demolition by taking into consideration both the condition of the existing building (particularly if it is beyond repair and its continued use is unviable), the harm to its significance, balanced against ~~and~~ the merits of the alternative proposals for the site including public benefits, which could include heritage benefits.

Policy CDH08 Barnet's Heritage – Modifications (MM181 withdrawn)

In accordance with national policy, the Council will ensure that Barnet's heritage assets (designated and non-designated), including its conservation areas, statutory listed buildings, scheduled monuments, registered historic parks and gardens, archaeological remains, ~~locally listed buildings~~ registered historic battlefield and non-designated heritage assets (referred to in Barnet as local heritage assets) are conserved and enhanced in a manner appropriate to their significance. These assets are an irreplaceable resource which greatly contribute to the Borough's distinctive character and should continue to be enjoyed by present and future generations.

MM181 Designated Heritage Assets

~~Great weight will be placed on the conservation of the Borough's designated heritage assets, including listed buildings and conservation areas, when considering the impact of development proposals irrespective of the level of harm. Any harm to, or loss of significance of, the designated heritage asset will require clear and convincing justification. Substantial harm to, or loss of, designated heritage assets should be wholly exceptional and will not be permitted unless it can be demonstrated that substantial public benefits will be achieved that outweigh such harm or loss.~~

Designated Heritage Assets

~~Great weight will be placed on the conservation of the Borough's designated heritage assets, including listed buildings and conservation areas, when considering the impact of development proposals. Any harm to, or loss of, the designated heritage asset will require clear and convincing justification. Substantial harm to, or loss of, designated heritage assets will not be permitted unless it can be demonstrated that substantial public benefits will be achieved that outweigh such harm or loss.~~

~~Where less than substantial harm will result from a development proposal, this harm will need to be balanced against any public benefits that emanate from the proposal.~~

Conservation Areas

The Council will seek to preserve or enhance the character and appearance of its conservation areas when assessing development proposals. Conservation area character appraisals, and where applicable conservation area-based design guidance, will be used in the assessment of planning applications.

The following criteria will be applied:

i) ~~the loss or substantial demolition of,~~ a building that makes a positive contribution to the character or appearance of a conservation area, including a local heritage asset ~~locally listed building~~, will be resisted.

ii) the impact of development outside a conservation area, but which has a harmful impact on its character or appearance, including its setting, will be resisted.

iii) ~~the impact of development~~ which has a harmful impact on trees, landscaping and open space, including gardens, that contributes to the character or appearance of a conservation area will be ~~opposed~~ resisted.

iv) proposals should have regard to ~~the~~ local historic context and character, including the appearance, scale, mass and height of buildings, use of materials, pattern of development and the layout of buildings and spaces.

~~v)~~

~~vi) proposals should retain architectural detailing, traditional features, including shopfronts, which contribute positively to the appearance of a building or an area~~

proposals should retain architectural detailing, traditional features, including shopfronts, which contribute positively to the character and appearance of a building or an area conservation area.

~~vii) in exceptional circumstances, where the loss of any heritage asset is permitted, the Council will require the submission of a contract of works to ensure the new development will proceed immediately after the loss has occurred~~

Statutory Listed Buildings

The conservation of Barnet's statutory listed buildings will be given a high priority of importance ~~when assessing applications.~~ In accordance with national policy, any harm to, or loss of, the significance of a listed building will require clear and convincing justification.

The following criteria will be applied:

- i) Resist any harm to, or loss of significance, from whole or partial demolition, extension or alteration that are inappropriate in design, scale or material.
- ii) Resist harmful alterations to the interior or exterior, ~~or~~ including changes to curtilage features.
- ~~iii) Resist extensions or additions that are inappropriate in design, scale or material~~
- iii) Resist any harm to, or loss of, ~~its~~ significance, from development within ~~its~~ the setting of a listed building, including tall buildings³⁰.

Registered Parks and Gardens

Development proposals within Registered Parks and Gardens should respect their special historic character and aesthetic qualities, whilst avoiding any adverse impact on their setting or on key views within or outside the designated sites. In accordance with national policy, any harm to, or loss of, their significance, from alterations, destruction, or from development within ~~its~~ their setting, should require clear and convincing justification. Substantial harm to Grade II Registered Parks or Gardens should be exceptional, and wholly exceptional for Grade II* Registered Parks or Gardens.

Registered Historic Battlefield

The site of the Battle of Barnet (1471) is of great historical importance and will be protected from development, both above and below ground, that would result in harm to its significance.

Archaeology

Archaeological remains will be protected in accordance with their significance. Assets of national archaeological importance should be preserved in-situ. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, particularly within the identified Local Archaeological Priority Areas Areas of Special Significance, by requiring that acceptable measures ~~are~~ should be taken proportionate to the significance of the heritage asset to preserve them and their setting, including physical preservation, where considered appropriate. Development which impacts substantially on archaeological assets of national importance will be resisted.

~~Scheduled monuments and other undesignated assets which are demonstrably of national archaeological importance, which hold, or potentially hold, evidence of past human activity, should be preserved in situ. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, t~~The Council will require developers to consult with GLAAS and if appropriate HADAS the Greater London Archaeological Advisory Service (GLAAS) and if appropriate the Hendon and District Archaeological Society (HADAS) and submit an appropriate desk-based assessment together with, where necessary, a field evaluation. Archaeological Priority Areas are identified in Table 12. Development proposals within these areas will need to provide detail in consultation with GLAAS of how they will investigate, catalogue and where possible preserve the remains in situ or in a museum as part of any application.

Locally Listed Buildings and Other Non-Designated Heritage Assets

Local Non-Designated Heritage Assets

The Council will protect ~~Locally Listed Buildings~~ local non-designated heritage assets and their settings in accordance with their significance. Therefore, and in accordance with national policy, the effect on the significance of a non-designated heritage asset will be taken into account in determining an application. There is a presumption in favour of their retention, and their loss will normally be resisted. When considering applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required, having regard to the scale of any harm or loss, taking into account any public benefits that might result. Development proposals, including external alterations and extensions, should conserve, reveal and enhance the significance of these non-designated heritage assets and their settings.

Non-Designated Heritage Assets

~~When assessing the impact of a proposal on a non-designated local heritage asset, the effect on its significance will be taken into account when determining the application. A balanced judgement will be required, having regard to the scale of any harm or loss and any public benefits that might result. The Council may identify any potential non-designated heritage asset as a consideration of development proposals.~~

~~The Council may identify any potential non-designated heritage asset local heritage asset as a consideration part of the decision-making process on planning applications development proposals. (NPPG Paragraph: 039 Reference ID: 18a-039-20190723). They will be identified by applying the adopted criteria for the selection of local heritage assets. (<https://www.barnet.gov.uk/planning-and-building-control/conservation-and-heritage/locally-listed-buildings>)~~

Heritage at Risk

~~The Council will work with Historic England, asset owners, developers and other stakeholders to find solutions to buildings, sites and places on the Heritage at Risk Register.~~

Archaeological Interest

~~The Council will protect remains of archaeological importance in accordance with their significance. Assets of national archaeological importance should be preserved in-situ. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, the Council will require developers to consult with GLAAS and if appropriate HADAS and submit an appropriate desk-based assessment and, where necessary, a field evaluation.~~

Conclusion

The Council invites the Inspectors to consider and recommend that the Council makes the additional further modifications set out in this paper recognising that those considered to be Main Modifications will need to be formally consulted upon following the examination hearing sessions.