

Duty to Co-operate
Memorandum of Understanding
East Herts Council and Historic England

- 1.1. This memorandum of understanding establishes a framework for co-operation between East Herts Council and Historic England with respect to strategic planning and development issues, with particular focus on the historic environment related to the proposed District Plan allocations to the east of Welwyn Garden City (Policy EWEL1), west of Hertford (Policy HERT3) and in the Gilston Area (Policy GA1).
- 1.2. Local Authorities are required through the Duty to Co-operate to engage constructively and actively on an on-going basis on planning matters that impact on more than one local planning area. The NPPF sets out the requirement that public bodies should cooperate on planning issues that cross administrative boundaries particularly those which relate to the following strategic priorities:
 - The homes and jobs needed in the area.
 - The provision of retail, leisure, and other commercial development.
 - The provision of infrastructure for transport telecommunications, waste management, water supply, wastewater, flood risk and coastal change management.
 - The provision of minerals and energy (including heat).
 - The provision of health, security, community and cultural infrastructure and other local facilities.
 - Climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment including landscape.
- 1.3. The NPPF requires Local Planning Authorities to work collaboratively with other bodies to make sure that strategic priorities across local boundaries are properly co-ordinated and clearly reflected in individual Local Plans. Local Planning authorities will be expected to demonstrate evidence of having effectively cooperated to plan for issues with cross- boundary impacts when their Local Plans are submitted for examination. This could be by way of plans or policies prepared as part of a joint committee, a memorandum of understanding or a jointly prepared strategy which is presented as evidence of an agreed position. Co-operation should be a continuous process of engagement from initial thinking through to implementation, resulting in a final position where plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development.
- 1.4. This Memorandum of Understanding (MoU) has been prepared in the context of the publication version of the East Herts District Plan (2011-2033) which was placed on public deposit for a six week period ending 15th December 2016 (hereafter “the Plan”). The MoU was prepared in January 2017 in the period leading up to the planned submission of the plan to the Secretary of State for independent examination.

2. Parties to the Memorandum

2.1. The Memorandum is agreed by the following authorities:

- East Herts Council (hereafter “the Council”)
- Historic England

2.2. We the undersigned, set out in this memorandum those matters of joint strategic interest to both authorities as they are dealt with in the East Herts District Plan, in accordance with paragraph 181 of the National Planning Policy Framework, March 2012.

2.3. It is important to place on record that discussions between the two authorities have embraced the full range of strategic cross-boundary matters covered by the Duty to Co-operate. Both authorities are content that the Duty to Co-operate has been met thus far and ongoing liaison will ensure that this continuing liaison will be effectively addressed.

3. Limitations

3.1. The Parties recognise that there might not always be full agreement with respect to all the issues on which they have agreed to co-operate. For the avoidance of doubt the Memorandum will not restrict the discretion of any of the Parties in the determination of any planning application, or in the exercise of any its statutory powers and duties or in its response to consultations and is not intended to be legally binding.

4. Objectives

4.1. The Memorandum has the following broad objectives:

- To help secure a consistent approach to strategic planning and development issues.
- To identify and manage spatial planning and heritage issues that impact on heritage assets and the historic environment within East Herts District.
- To make sure that the local planning and development policies prepared by the local authority are, where appropriate, informed by the views of the Historic England and that there are agreed channels of communication between both parties in relation to proposed amendments to the Pre-Submission District Plan.
- To make sure that decisions on strategic planning applications are informed by the views of both authorities by setting up an agreed approach to continued early engagement in the masterplanning of strategic sites.
- To identify and agree the need for and approach to undertaking further technical evidence to inform the submission of the District Plan and/or the examination of the District Plan.
- To make sure there is compliance with the Duty to Co-operate.

5. Matters Agreed

- 5.1. Engagement between the two authorities under the Duty to Co-operate has focussed on the location and quantum of development and the approach towards heritage assets and the historic environment policies within the East Herts District Plan. A summary of the discussions which have taken place between the authorities so far are listed in Section 8 below, while minutes of Duty to Co-operate meetings are included in Appendix 1. These have highlighted the following matters upon which both authorities agree or have an agreed approach to resolving:

- **District Plan**

Historic England has been engaged throughout the Plan-making process through various means such as through discussion on early stages of site assessment and shortlisting, through to drafting the District Plan policies.

- **District Plan Evidence Base**

Historic England has been involved in the production of the Heritage Impact Assessment for Panshanger Park and its Environs, from providing assistance in preparing the Technical Study Brief, appraisal of the proposed methodology and at the draft and final reporting stages.

6. Outstanding Matters

- 6.1 Historic England made representations to the Pre-Submission District Plan. The Council met with Historic England (and Welwyn Hatfield Borough Council Officers) on the 23rd January to discuss their comments and have agreed the following approach:

- **Sustainability Appraisal**

Historic England made comments on the Pre-Submission District Plan consultation raising concern about the Sustainability Appraisal (SA) supporting the District Plan. They have concern that the SA does not give sufficient weight to the importance of the historic environment in its consideration of the alternatives, or indeed in the appraisal of the proposed Plan approach.

The Council's Sustainability Appraisal consultants have been invited to respond to the comments made by Historic England and the Council will act as the intermediary in discussions in regard to the Sustainability Appraisal.

- **Bishop's Stortford**

Historic England request that Policy BISH5 (Bishop's Stortford South) elaborates point (o) to refer to Wallbury Camp, and to set out a mitigation approach which includes careful layout, design and planted screening. Officers agree that this would be proposed as a minor change to the Plan when submitted to the Planning Inspectorate in due course.

- **Buntingford**

Historic England request that Policy BUNT1 (Development in Buntingford) be amended to clarify that development is only appropriate where it protects or enhances the historic environment. As the Plan is intended to be read as a whole, it is agreed that the addition of the word 'appropriate' would be proposed as a minor change to the Plan: "in accordance with Policy DPS3 (Housing Supply 2011-2033), appropriate development proposals will be permitted...". It was agreed with Historic England that this was a suitable way forward.

- **Hertford**

Historic England request that Policy HERT2 (Mead Lane Area) references the grade II listed Hertford East Station. At the meeting on 23rd January 2017, Historic England further elaborated that reference to the Mead Lane Urban Design Framework (UDF), which refers to the importance of the station would be insufficient, and that specific elements of the UDF should be referred to within the policy to make it explicit. However, the area of Mead Lane which is subject to this allocation is separated from the station setting by virtue of a recent development to the north of the station (3/15/0413/FUL), to which Historic England responded to say that it wished to make no comment and did not wish to be consulted again on the application. Due to the juxtaposition of this development between the station and the remaining development area, it is considered unlikely that there would be any impact on the station. The UDF already sets the parameters for urban realm improvements that may be occasioned by any alteration of the highway mitigation through further development in the area. This is supplemented by the provisions of the Hertford Town Centre Urban Design Strategy, where Policy HERT7 (Hertford Town Centre Urban Design Strategy) applies. This has the potential to impact positively on the setting of the station through townscape improvements connecting the station to the town centre.

Historic England was pleased that, further to their representations to the Preferred Options District Plan, East Herts and Welwyn Hatfield Councils had jointly commissioned a Heritage Impact Assessment of Panshanger Park and its Environs. However, in response to the Pre-Submission consultation, Historic England raises concerns that the sites to the West of Hertford (Policy HERT3) and East of Welwyn Garden City (Policy EWEL1) would have the potential to impact on the heritage assets and the wider historic landscape, including the open landscaped Grade II* listed Panshanger Park and the Grade I landscape around Hatfield House.

Whilst it is noted that Historic England does not object to the principle of development to the west of Hertford, it does seek to ensure that appropriate mitigation is provided to address the relationship and proximity of the two sites and the eastern edges of the Park. The southern site to the west of Thieves Lane has historically formed a continuation of the rural parkland and agricultural character of the Park. Therefore, it is important that an appropriate buffer zone should be maintained between the development and the boundary of the Park, and measures taken to minimise the traffic using the B1000 (Hertford Road) and Thieves Lane, as this would have the potential to

be detrimental to the rural quality of the north-eastern edges of the Park. It is considered that the provisions of Policy HERT3 will address all of these issues and dialogue with the land promoters of each site has occurred on these matters. It is therefore considered that these concerns can be successfully addressed through the masterplanning process.

- **East of Welwyn Garden City**

Historic England is concerned that the Heritage Impact Assessment of Panshanger Park and its Environs undertaken to inform the East Herts District Plan and the Welwyn Hatfield Local Plan had not taken account of land immediately adjoining the western edge of Panshanger Park adjacent to the former Panshanger Aerodrome, and by omission, the proposed site allocations had not been prepared in accordance with sound evidence. However, following an explanation by Officers that the area in question was indeed included in the HIA study area and that the proposed allocation had taken account of the evidence in requiring an appropriate heritage buffer, Historic England agreed that the two local plans had been soundly prepared in this regard.

Historic England maintains an 'in principle objection' to the southern portion of the proposed East of Welwyn Garden City allocation, within Welwyn Hatfield Borough. Their main concern is the potential impact on setting, views, vistas, approach and the valley setting of the Grade I Listed Hatfield House and Gardens. The HIA prepared by Beacon indicates that the southern extremity of the proposed site allocation at WGC5 (within Welwyn Hatfield Borough) would start to enclose the eastern views from Hatfield House with development, to the detriment of the Park. However, the HIA indicated that there is scope for development but it will need to be carefully considered and designed to integrate into the landscape. The HIA further mentions that the mitigation required will depend upon the extent and nature of development that comes forward, with the retention of open spaces and landscaping required. These could however, be determined through the masterplanning process.

It is the intention that Historic England is fully engaged in the masterplanning process, which will evolve into a Supplementary Planning Document to inform applications on the site moving forward. In order to inform the masterplanning, further work will be required which assesses the potential impact on the views from and of Hatfield House and Gardens, the valley setting and approach and the type and extent of mitigation required. The landowner will be required to submit this assessment to inform the collaborative masterplanning of the overall site.

- **Gilston Area**

As part of its response to the District Plan Preferred Options consultation, Historic England suggested that a comprehensive study should be undertaken in order to assess the potential impacts of development on heritage assets, both within the site area and beyond. In response, the site promoters commissioned a Heritage Desk Based Assessment and Historic Environment Management Plan. Historic England has some concerns about the work

undertaken but has agreed to provide feedback and recommended actions. The Council is committed to addressing any matters raised by Historic England, either through further technical work and/or through masterplanning.

- **Chapter 21 – Heritage Assets**

Historic England records that there are 16 rather than 15 Registered Parks and Gardens within East Herts. The Council agreed that this could be proposed as a minor change to the Plan in due course.

Historic England advises that their approach to Enabling Development has changed, and that this type of development should not be planned for within a Local Plan as it is by definition, contrary to policy. Therefore, they recommend that Policy HA9 (Enabling Development) should either be removed in full or should contain only reference to the Historic England guidance on the matter. It is agreed that only Part I of the policy, which refers to the Historic England guidance should be retained and this would be proposed as a minor change to the Plan in due course.

7. Commitment to Future Co-operation

7.1 Both authorities remain committed to effective co-operation on all matters relating to the Duty to Co-operate. As such, both East Herts Council and Historic England commit to review and update this agreement as appropriate, as key milestones are reached in the preparation of the District Plan, and any review, including if any amendments are proposed following the Pre-Submission District Plan consultation which may impact on heritage assets and the historic environment.

7.2 Historic England is a statutory stakeholder in Plan-making, but has a less frequent involvement in planning applications and the development of masterplans.

- **Masterplanning and Decision Making**

As strategic developments sites come forward as planning applications, it may be necessary for Historic England to engage in the masterplanning process of these larger, more complex sites, particularly where there may be impacts on the historic environment. East Herts Council therefore agrees that Historic England will be consulted at an early stage in the masterplanning process to enable Historic England officers to determine their level of further involvement. Matters of detail may be best managed by other local stakeholders such as the Historic Environment Unit at Hertfordshire County Council, for example.

- **Approach to Plan Reviews and the Review of Evidence**

East Herts Council is committed to the early review of the District Plan as required and will therefore engage with stakeholders such as Historic England at an early stage in the process. Where new or revised evidence is required, the Council and Historic England will engage pro-actively on the preparation of technical briefs, throughout the evidence gathering and reporting stages as

appropriate. This may involve attendance at meetings or through written representation.

8. Evidence of Co-operation

- 8.1 The Council and Historic England have co-operated throughout each stage of the Plan-making process. Historic England responded to the Core Strategy Issues and Options consultation in 2010. Their comments helped to shape the initial topic assessment stage of the District Plan.
- 8.2 Historic England responded with detailed comments at the Preferred Options stage. These comments were used to inform policies proposed in the Pre-Submission District Plan. At that time they requested that a Heritage Impact Assessment be carried out, which assessed the significance of Panshanger Park and the capacity of land in the vicinity of the park to accommodate development. This work was jointly commissioned with Welwyn Hatfield Borough Council and English Heritage Officers provided advice and feedback throughout each stage of the assessment.
- 8.3 Historic England was again consulted and responded to the Pre-Submission District Plan, making further detailed comments. In order to address these comments, Officers from East Herts Council and Welwyn Hatfield Borough Council attended a meeting with Historic England on 23rd January 2017. One of the outcomes of the meeting is the production of this Memorandum of Understanding and the matters agreed as set out in detail above.