



## Appendix 11.5

### **RELEVANT PLANNING POLICY AND GUIDANCE**

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## Planning Policy and Guidance

### National Planning Policy

#### Ancient Monuments and Archaeological Areas Act 1979, updated 2014

- 1.1 Legislation regarding archaeology, including scheduled monuments, is contained in the Ancient Monuments and Archaeological Areas Act 1979, amended by the National Heritage Act 1983 and 2002, and updated in April 2014.

#### Planning (Listed Buildings and Conservation Areas) Act 1990

- 1.2 The relevant legislation that relates to the setting of heritage assets is contained in the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66(1) sets out the duty of the planning authority with regard to the determination of applications for development that may affect the setting of a heritage asset. It states that:

**“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.”**

- 1.3 This requirement is an acknowledgement that although the impact of a development proposal may not affect the physical fabric of a listed building or a heritage asset, it is possible to affect its historic interest through development that may be located within its setting.

#### National Planning Policy Framework September 2023

- 1.4 The revised National Planning Policy Framework (NPPF) was published in July 2018, which was most recently revised in December 2023. The NPPF sets out national policy relating to the historic built environment, and is supported by the National Planning Practice Guidance (PPG), a web-based resource that was launched on 6th March 2014 and has since been periodically updated.

- 1.5 Section 16 of the NPPF is entitled ‘Conserving and enhancing the historic environment’ and provides guidance for planning authorities, property owners, developers and others on the conservation and investigation of heritage assets. Heritage Assets are described as:

**“A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).”**

- 1.6 The guidance contained within Section 16, ‘Conserving and Enhancing the Historic Environment’ paragraphs 189-208, relates to the historic environment and developments which may have an effect upon it. These policies provide the framework for the preparation of policies for the historic environment and guidance for planning authorities, property owners, developers and others on the conservation

of heritage assets. Overall, the objectives of Section 16 of the NPPF can be summarised as seeking: the delivery of sustainable development; understanding the wider social, cultural, economic and environmental benefits brought by the conservation of the historic environment; conservation of England's heritage assets in a manner appropriate to their significance; and recognition that heritage contributes to our knowledge and understanding of the past.

1.7 Section 16 of the NPPF recognises that intelligently managed change may sometimes be necessary if heritage assets are to be maintained for the long term. Paragraph 194 states that planning decisions should be based on the significance of the heritage asset, and that the level of detail supplied by an applicant should be no more than sufficient to review the potential impact of the proposal upon the significance of that asset and to understand the potential impact of the proposal on their significance.

1.8 The NPPF policy states clearly that the more important the heritage asset, the greater the level of protection is given to that asset. This means that listed buildings, scheduled monuments, protected wrecks sites, battlefields, grade I and II\* registered parks and gardens and World Heritage Sites are afforded the highest level of protection. Paragraphs 199-200 state that:

**“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.**

**Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:**

**a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;**

**b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”**

1.9 Paragraphs 199-200 note that significance can be harmed or lost through development within the setting of a heritage asset. Paragraph 201 provides a test for assessing harm in relation to designated heritage assets: “Where the application will lead to substantial harm or total loss of significance, local planning authorities should refuse consent; Paragraph 202 notes that where development, will lead to less than substantial harm... the public benefits should be weighed against the loss.”

1.10 The Planning Practice Guidance (PPG) has been adopted in order to aid the application of the NPPF. It reiterates that conservation of heritage assets in a manner appropriate to their significance is a core planning principle.

1.11 Key elements of the guidance relate to assessing harm. It states that substantial harm is a high bar that may not arise in many cases and that while the level of harm will be at the discretion of the decision maker, generally substantial harm is a high test that will only arise where a development seriously affects a key element of an asset's special interest. It is the degree of harm, rather than the scale of development, that is to be assessed.

#### [Overview: Historic Environment Good Practice Advice in Planning](#)

1.12 The PPS5 Practice Guide was withdrawn in March 2015 and replaced with three Good Practice Advice in Planning Notes (GPAs) published by Historic England. GPA1: The Historic Environment in Local Plans provides guidance to local planning authorities to help them make well informed and effective local plans. GPA2: Managing Significance in Decision-Making includes technical advice on the repair and restoration of historic buildings and alterations to heritage assets to guide local planning authorities, owners, practitioners and other interested parties. GPA 3: The Setting of Heritage Assets replaces guidance published in 2011. These are complemented by the Historic England Advice Notes in Planning which include HEA1: Understanding Place: Conservation Area Designation, Appraisal and Management (February 2016), HEA2: Making Changes to Heritage Assets (February 2016), HEA3: The Historic Environment and Site Allocations in Local Plans (October 2015), and HEA4: Tall Buildings (December 2015).

#### [GPA1: The Historic Environment in Local Plans \(March 2015\)](#)

1.13 This advice note focuses on the importance of identifying heritage policies within Local Plans. The advice echoes the NPPF by stressing the importance of formulating Local Plans based on up-to-date and relevant evidence on economic, social and environmental characteristics and prospects of the area, including the historic environment.

#### [GPA2: Managing Significance in Decision-Taking in the Historic Environment \(March 2015\)](#)

1.14 This document provides advice on numerous ways in which decision making in the historic environment could be undertaken, emphasising that the first step for all applicants is to understand the significance of any affected heritage asset and the contribution of its setting to that significance. In line with the NPPF and PPG, the document states that early engagement and expert advice in considering and assessing the significance of heritage assets is encouraged. The advice suggests a structured, staged approach to the assembly and analysis of relevant information:

- Understand the significance of the affected assets;
- Understand the impact of the proposal on that significance;

- Avoid, minimise and mitigate impact in a way that meets the objectives of the NPPF;
- Look for opportunities to better reveal or enhance significance;
- Justify any harmful impacts in terms of the sustainable development objective of conserving significance balanced with the need for change; and
- Offset negative impacts to significance by enhancing others through recording, disseminating and archiving archaeological and historical interest of the important elements of the heritage assets affected.

### [GPA3: The Setting of Heritage Assets \(Second Edition; December 2017\)](#)

- 1.15 This advice note focuses on the management of change within the setting of heritage assets. This document replaces GPA3: The Setting of Heritage Assets (March 2017) and Seeing History in the View (English Heritage, 2011) in order to aid practitioners with the implementation of national legislation, policies and guidance relating to the setting of heritage assets found in the 1990 Act, the NPPF and PPG. The guidance is largely a continuation of the philosophy and approach of the 2011 and 2015 documents and does not present a divergence in either the definition of setting or the way in which it should be assessed.
- 1.16 As with the NPPF the document defines setting as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve'. Setting is also described as being a separate term to curtilage, character and context. The guidance emphasises that setting is not a heritage asset, nor a heritage designation, and that its importance lies in what it contributes to the significance of the heritage asset, or the ability to appreciate that significance. It also states that elements of setting may make a positive, negative or neutral contribution to the significance of the heritage asset.
- 1.17 While setting is largely a visual term, with views considered to be an important consideration in any assessment of the contribution that setting makes to the significance of an asset, and thus the way in which an asset is experienced, setting also encompasses other environmental factors including noise, vibration and odour. Historical and cultural associations may also form part of the asset's setting, which can inform or enhance the significance of a heritage asset.
- 1.18 This document provides guidance on practical and proportionate decision making with regards to the management of change within the setting of heritage assets. It is stated that the protection of the setting of a heritage asset need not prevent change and that decisions relating to such issues need to be based on the nature, extent and level of the significance of a heritage asset, further weighing up the potential public benefits associated with the proposals. It is further stated that changes within the setting of a heritage asset may have positive or neutral effects.
- 1.19 The document also states that the contribution made to the significance of heritage assets by their settings will vary depending on the nature of the heritage asset and its setting, and that different heritage assets may have different abilities to

accommodate change without harming their significance. Setting should, therefore, be assessed on a case-by-case basis.

1.20 Historic England recommends using a series of detailed steps in order to assess the potential effects of a proposed development on significance of a heritage asset. The 5-step process is as follows:

- Identify which heritage assets and their settings are affected;
- Assess the degree to which these settings and views make a contribution to the significance of a heritage asset(s) or allow significance to be appreciated;
- Assess the effects of the proposed development, whether beneficial or harmful, on the significance or on the ability to appreciate it;
- Explore ways to maximise enhancement and avoid or minimise harm; and
- Make and document the decision and monitor outcomes.

#### Local Planning Policy

1.21 The saved policies of the Cherwell Local Plan 1996 remain relevant for the site and the following policy has been saved:

**C25 in considering proposals for development which would affect the site or setting of a scheduled ancient monument, other nationally important archaeological sites and monuments of special local importance, the council will have regard to the desirability of maintaining its overall historic character, including its protection, enhancement and preservation where appropriate.**

1.22 The Cherwell Local Plan 2011-2031 Part 1 was adopted in July 2015 and replaced many of the policies in the previous 1996 plan. The following policy is relevant to archaeology at the site:

**Policy ESD 15: The Character of the Built and Historic Environment Successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Where development is in the vicinity of any of the District's distinctive natural or historic assets, delivering high quality design that complements the asset will be essential. New development proposals should:**

- **...Conserve, sustain and enhance designated and non-designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG. Proposals for development that affect non-designated heritage assets will be considered taking account of**

the scale of any harm or loss and the significance of the heritage asset as set out in the NPPF and NPPG. Regeneration proposals that make sensitive use of heritage assets, particularly where these bring redundant or under used buildings or areas, especially any on English Heritage's At Risk Register, into appropriate use will be encouraged

- Include information on heritage assets sufficient to assess the potential impact of the proposal on their significance. Where archaeological potential is identified this should include an appropriate desk based assessment and, where necessary, a field evaluation...

1.23

The Mid-Cherwell Area Neighbourhood Plan 2018-2013 was "made" by Cherwell District in May 2019. The Neighbourhood Plan will be used to help decide planning applications in the Mid-Cherwell Neighbourhood Plan area. This included the western site parcel only. Relevant policy is as follows:

#### **POLICY PD1: DEVELOPMENT AT CATEGORY A VILLAGES**

**Any residential development proposal which is outside the settlement areas of these three villages must have particular regard to all the following criteria...**

...d) The development should conserve and, where possible, enhance the special interest, character and appearance of the conservation areas and the significance of other heritage assets (see Appendix K: Heritage and Character Assessment)...

#### **POLICY PC1: LOCAL EMPLOYMENT**

**Proposals for the establishment of new small businesses will be considered favourably where they:...**

...b) do not have an adverse effect on the surrounding built, natural or historic environment that is not clearly outweighed by the economic benefits of the development...

#### **POLICY PD5: BUILDING AND SITE DESIGN**

**New development should be designed to a high standard which responds to the distinctive character of the settlement and reflects the guidelines and principles set out within the Heritage and Character Assessment (see Appendix K). Development proposals should have full regard to the following criteria:**

- a) Proposals should wherever possible include appropriate landscape mitigation measures to reduce the impact of the built form, to ensure that development is in keeping with the existing rural character of the village, and to provide a net gain in biodiversity.
- b) Development affecting existing traditional stone walls should identify them on proposals drawings, and wherever possible retain and/or repair them using traditional forms and materials.

- c) **Proposals for minor development schemes (excluding infill and conversions) of new housing will be required to provide new or improve existing footpaths and cycle ways to ensure that new residents of all ages and mobility have safe access to village amenities such as the school, bus stops, shop and green spaces. Where new routes are proposed to meet this requirement, the development proposals shall contain full details of all associated materials and infrastructure.**
- d) **The section on Managing Change on p.76-77 of the Heritage and Character Assessment (see Appendix K), which sets out general principles and specific recommendations for villages highlighted in the document.**

**NOTE 1: This policy does not apply to development within the area covered by CDC's policy Villages 5, where site-specific design and place-shaping standards are already set out.**

**NOTE 2: Part 2 of APPENDIX K covers only Category A and B villages and Upper Heyford; other Category C villages were excluded from AECOM's study because of funding limitations affecting the scope of the work.**

- 1.24 The Cherwell Local Plan Review 2040 has undergone public consultation and the Consultation Draft (Regulation 18) draft version is dated September 2023. The draft strategic Objective 13 reads as follows:
- 1.25 SO 13: Protect and enhance the historic environment, including protecting and enhancing cultural heritage assets and archaeology, and promoting inclusive access to local assets where appropriate.
- 1.26 Further relevant draft policies read as follows:

#### [Core Policy 57: Historic Environment and Archaeology](#)

All development proposals should conserve and/or enhance the special character, appearance and distinctiveness of Cherwell District's historic environment, including the significance of its designated and non-designated heritage assets, in a manner appropriate to their historic character and significance and in a viable use that is consistent with their conservation, in accordance with legislation, national policy and guidance for the historic environment.

In determining applications, great weight and importance will be given to conserving and/or enhancing the significance of designated heritage and nondesignated assets, including:

- I. The special architectural and historic interest of Listed Buildings, with regard to their character, fabric and their settings;
- II. The special architectural and historic interest, character and/or appearance of the District's Conservation Areas and their settings, including the



contribution their surroundings make to their physical, visual and historic significance;

- III. The special archaeological and historic interest of nationally important monuments (whether Scheduled or not), both with regard to their fabric and their settings, and
- IV. The special cultural, architectural and historic interest of Registered Parks and Gardens, and Registered Battlefields, including the contribution their surroundings make to their physical, visual and historical significance.

All applications which affect, or have the potential to affect, heritage assets will be expected to use appropriate expertise to describe the significance of the assets, their setting and historic landscape context of the application site, at a level of detail proportionate to the historic significance of the asset or area, using recognised methodologies and, if necessary, a field survey. The Historic Environment Record should be consulted as a minimum. The level of assessment should be proportionate to the proposal and shall be sufficient to understand the potential impact of the proposal on the asset's historic, architectural and archaeological features, significance and character.

Development which could adversely affect sites, structures, landscapes or buildings of archaeological interest and their settings will require an assessment of the archaeological resource through a desk-top study, and where appropriate a field evaluation.

Development will not be permitted that would adversely affect archaeological remains and their settings unless the applicant can demonstrate that the archaeological resource will be physically preserved in-situ, or if appropriate to their significance, a suitable strategy has been put forward to mitigate the impact of development proposals.

Where the loss of a heritage asset is considered acceptable, the developer will be responsible for making appropriate provision for a programme of archaeological investigation, recording, analysis and publication that will ensure the site is preserved by record prior to destruction. Such measures will be secured either by a planning agreement or by a suitable planning condition.

Proposals which would harm the significance of a designated or undesignated asset will not be approved, unless there is a clear and convincing justification in the form of substantive tangible public benefits that clearly and convincingly outweigh the harm, using the balancing principles set out in national policy and guidance.

#### [Core Policy 58: Conservation Areas](#)

Proposals for development in a Conservation Area or affecting the setting of a Conservation Area must conserve or enhance its special interest, character, appearance and setting. In particular special attention will be paid to:

- i. The location, form, scale, massing, density, height, layout, landscaping, use, alignment and external appearance of the development;
- ii. Views within, into or out of the Area;
- iii. The pattern of development and the effects to important green spaces, and other gaps or spaces between buildings and the historic street pattern which make a positive contribution to the character in the Conservation Area;
- iv. The wider social and environmental effects generated by the development, and
- v. Any loss or harm to features that makes a positive contribution to the special interest, character or appearance of the Conservation Area, unless the development would make an equal or greater contribution.

Applications for the demolition of a building in a Conservation Area will only be permitted where it has been demonstrated that:

- i. The building detracts from or does not make a positive contribution to the special interest, character or appearance of the Conservation Area; or
- ii. The building is of no historic or architectural interest or is wholly beyond repair and is not capable of beneficial use; and
- iii. Any proposed replacement building makes an equal or greater contribution to the special interest, character or appearance of the Conservation Area.

Wherever possible the sympathetic restoration and re-use of buildings that make a positive contribution to the special interest, character and appearance of a Conservation Area will be encouraged, thereby preventing harm through the cumulative loss of features which are an asset to the Conservation Area.

#### Core Policy 59: Listed Buildings

Proposals for additions or alterations to, or change of use of, a Listed Building (including partial demolition) or for development within the curtilage of, or affecting the setting of, a Listed Building, should:

- i. Conserve or enhance the special architectural or historic interest of the building's fabric, detailed features, appearance or character and setting;
- ii. Respect the building's historic curtilage or context or its value within a group and/or its setting, including its historic landscape or townscape context, and
- iii. Retain the special interest that justifies its designation through appropriate design that is sympathetic both to the Listed Building and its setting and that of any adjacent heritage assets in terms of siting, size, scale, height, alignment, materials and finishes (including colour and texture), design, details and form.