

# *Tendring* *District Council*



**Independent Examination of Section 2 of the Tendring  
District Local Plan '2013-2033 and Beyond'**

**STATEMENT OF COMMON GROUND BETWEEN  
TENDRING DISTRICT COUNCIL AND HISTORIC  
ENGLAND IN RESPECT OF  
CHAPTER 7 PROTECTED PLACES**

**March 2021**

## 1. **Introduction**

- 1.1 This is a Statement of Common Ground between Tendring District Council (TDC) and Historic England (HE) ('the parties') for the purposes of the examination of Section 2 of the emerging Tendring Local Plan. It relates specifically to policy wording and supporting text within Chapter 7 (Matter 8) 'Protected Places' as defined in the emerging Local Plan and its supporting evidence base. The Statement of Common Ground states the areas of agreement following the submission of hearing statements and any outstanding areas of disagreement between the two parties.
- 1.2 Historic England has been consulted at each stage of the plan-making process and has submitted representations at each stage. The Council has suggested some amendments to the Local Plan in response to Historic England's Regulation 19 representations, however Historic England's hearing statement identified some outstanding concerns and suggestions – on some of which the parties have been able to reach agreement ahead of the hearing sessions.
- 1.3 During the recent dialogue Historic England have requested specific references in Policies PPL7, PPL8 & PPL9 to the relevant paragraphs of the NPPF to ensure current NPPF tests are applied. Together with HE and using guidance from Place Services TDC are proposing to insert a similar text into these three policies rather than include a new overarching policy at this stage in the proceedings.

## 2. **Archaeology Policy PPL7**

- 2.1 In response to the Regulation 19 consultation Historic England requested that specific reference to scheduled monuments should be made within Policy PP7. This change was not put forward as one of the Council's suggested amendments however HE maintain that, to ensure PPL7 is sound the explicit reference to designated and non-designated sites is necessary.
- 2.2 HE is also concerned that, as currently worded, the policy implies that development that may affect archaeological remains will be permitted if accompanied by a desk based assessment – notwithstanding the findings of such an assessment.
- 2.3 TDC agrees that changes to the wording of Policy PPL7 could resolve the above concerns and the parties agree that the following text be suggested to the Inspectors for inclusion in Policy PPL7 as a possible modification:

Any new development which would affect, or might affect, designated or non-designated archaeological remains will only be considered where accompanied by an appropriate initial desk-based assessment. Where identified as necessary ...

- 2.4 The addition of 'affecting designated and non-designated heritage assets' will ensure clarity in the supporting text as well as the Policy itself, as such the

parties agree that the following be suggested to the Inspectors for inclusion as a possible modification:

7.7.7 The National Planning Policy Framework sets out government policy for conserving and enhancing the historic environment. The following policies PPL7, PPL8 and PPL9 will be applied alongside and having regard to the specific requirements of the Framework in respect of development **affecting designated and non-designated** heritage assets including Archaeology, Conservation Areas, Listed Buildings and Registered Parks and Gardens.

- 2.5 Historic England has highlighted the need for a reference to the NPPF tests to be contained within policy PPL7 as outlined in the introduction above. The following change is being suggested to the Inspectors as a possible modification:

~~Proposals for n~~New development ~~which are not~~ is unable to demonstrate that known or possible archaeological remains will be suitably protected from loss or harm, or have an appropriate level of recording, will not be permitted.

Proposals for new development affecting a heritage asset or its setting will only be permitted where it will protect or where appropriate enhance the significance of the asset. Where a proposal will cause harm to the asset, the relevant paragraphs of the NPPF should be applied dependant on the level of harm caused. Proposals will be treated favourably where they:

a. are explained and justified through an informed assessment and understanding of the significance of the heritage asset (including any contribution made to that significance by its setting); and

b. are of a scale, design and use materials and finishes that respect the heritage asset.

Within the District the Council keeps a record of scheduled monuments at risk of degradation. The Council will support proposals that protect and enhance heritage assets at risk.

- 2.6 The parties agree with the above suggested change.

### **3 Conservation Areas and Registered Parks and Gardens Policy PPL8**

- 3.1 Historic England have suggested that references to character and appearance in Policy PPL8 should read “character **or** appearance”, to add to its soundness. The Council has no objection to this change and the parties therefore agree that the following amendments be put forward to the Inspector for consideration as potential modifications:

New development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving

or enhancing the special character or appearance of the area especially in terms of:

a. scale and design...

d. the importance of spaces and trees to the character or appearance; and

- 3.2 With regard to HE's concerns around the designation of new Conservation Areas and associated documents over the plan period, the Council support these proposals and as such the parties have agreed that the following text could also be included in policy PPL8 as a possible modification:

In collaboration with community groups and other interested parties, the Council will consider and support the designation of new Conservation Areas in line with the relevant criteria as set out within the NPPF and legislation. New Conservation Area Management Plans will be prepared in addition to updates to the existing Conservation Area Character Appraisals.

- 3.3 Our discussions with Historic England have highlighted the need for a reference to the NPPF tests to be contained within policy PPL8 – this has been addressed by modifying the text in the Councils Hearing Statement which was intended originally for PPL9 but HE would like to see included within PPL8 and PPL7.

“Proposals for new development affecting a Conservation Area or its setting will only be permitted where it will protect its special character or appearance. Where a proposal will cause harm to a Conservation Area, the relevant paragraphs of the NPPF should be applied dependant on the level of harm caused. Proposals will be treated favourably where they:

a. are explained and justified through an informed assessment and understanding of the significance of the heritage asset (including any contribution made to that significance by its setting); and

b. are of a scale, design and use materials and finishes that respect the character or appearance of the Conservation Area and its setting.”

Within the District the Council keeps a record of conservation areas that are at risk of degradation. The Council will support proposals that protect and enhance conservation areas at risk.

Development should conserve or enhance the significance of the registered parks and gardens (noting that significance may be harmed by development within the setting of an asset).

- 3.4 The parties agree with the above suggested change.

#### 4. **Listed Buildings PPL9**

- 4.1 Historic England has highlighted the need for a reference to the NPPF tests to be contained within policy PPL9 – this has been addressed in The Councils Hearing Statement and advice from Essex County Place Services has resulted in the following change being suggested to the Inspectors as a possible modification:

“Proposals for new development affecting a listed building or its setting will only be permitted where it will protect its special architectural or historic interest, its character, appearance, fabric and: Where a proposal will cause harm to a listed building, the relevant paragraphs of the NPPF should be applied dependant on the level of harm caused. Proposals will be treated favourably where they:

a. are explained and justified through an informed assessment and understanding of the significance of the heritage asset (including any contribution made to that significance by its setting); and

b. are of a scale, design and use materials and finishes that respect the significance of the listed building (including any contribution made to that significance by its setting).”

Within the District the Council keeps a record of listed structures and buildings that are at risk of degradation. The Council will support proposals that bring Heritage assets into viable use.

- 4.2 The parties agree with the above suggested change.
- 4.3 Historic England have set out a number of concerns regarding the lack of reference to non-designated Heritage assets within the policies of the Local Plan and have suggested in particular that provision be made for the allocation and management of non-designated heritage assets through a local list. The Council can advise that it is in the early stages of preparing a ‘local list’ and that Essex Place Services have been commissioned to appraise the existing conservation areas which will inform the list of non-designated Heritage Assets.

In response to the points raised by HE, the parties agree that the following wording could be inserted into the supporting text of the Local Plan as a potential modification:

- 7.7.8 Within Tendring District there is a wealth of historic structures, landscapes and other features which are not formally designated as heritage assets on the national list prepared by Historic England. The Council does however recognise their local historic significance. These kinds of ‘non-designated’ heritage assets can be ‘locally listed’ by the Council. The Council has therefore commenced work on a ‘local list’ which will identify and protect these assets of local importance. The Council will work with community groups, landowners and Historic England to prepare a local list for the District.

- 4.4 The parties agree with the above suggested change.

5. **The Avenues Area of Special Character, Frinton-on-Sea (PPL11),  
The Gardens Area of Special Character, Clacton-on-Sea (PPL12)**

5.1 The concerns raised by Historic England regarding policy PPL12 (the Gardens) have been addressed in The Council's Hearing Statement (Matter 8). Whilst the current evidence for The Gardens has been noted for its age (being more than 30 years old) by Historic England, the Council consider this to be robust evidence, despite its age, as the character of the area still remains broadly unchanged. This being said, the Council would be willing to prepare an updated appraisal of the area, should the Inspector wish.

5.2 With regard to policy PPL11 (The Avenues), the Council has commissioned Place Services to undertake a series of Conservation Area Appraisals including Frinton-on-Sea. Whilst at a very early stage of preparation, this appraisal will include the character and appearance of The Avenues. Moreover, at Paragraph 8.3.8 of the Council's Hearing Statement states:

The wording of Policy PPL11 is considered to be sound and is supported by paragraphs 5.5, 5.7, and 6.3 of the 2007 Frinton Conservation Area Management Plan (EB7.4.6). This being said, there have continued to be local concerns about some developments being granted planning permission by the Council or on appeal which do not fully respect the special character and appearance of the area.

Some subtle amendments to strengthen the policy by re-introducing elements of the current adopted policy are suggested, below;

**Policy PPL 11**

**THE AVENUES AREA OF SPECIAL CHARACTER, FRINTON-ON-SEA**

Within 'The Avenues' area of Frinton-on-Sea, new development must have particular regard to, and must preserve or enhance the special character and appearance of the area, including the scale, aspect and design of adjoining buildings and the density of existing development.

To ensure that this special character is safeguarded new development must:

- a. conform to the existing density of development and not appear cramped or incongruous in the street scene;
- b. not include any flats; and
- c. not include any uses other than Use Class C3 'Dwelling Houses'.

### **Heritage at Risk**

5.3 With regard to heritage at risk, HE have suggested the inclusion of a bespoke policy to cover this matter as there are a number of Conservation Areas and structures at risk within the District. The Council does submit details of at risk structures and conservation areas to Historic England each year (with the exception of 2020 due to the pandemic). The Council does not consider a dedicated policy is required for this matter but has agreed policy wording in relation to heritage at risk in each of the policies above (see paragraphs 2.5, 3.3 and 4.1).

### **Registered Parks and Gardens**

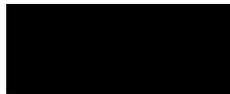
5.4 Similarly with registered parks and gardens, the Council has made changes to the supporting text paragraph 7.7.7 (see above) and also to policy PPL8 to more fully reference Registered Parks and Gardens.

## **6.0 Signatories**

6.1 Both parties agree that this statement is an accurate representation of matters discussed and issues agreed upon.

6.3 The Statement of Common Ground is signed by:

Signed:



Name: Debbie Mack

Position: Historic Environment  
Planning Adviser  
Historic England

Date: 2<sup>nd</sup> March 2021

Signed:



Name: Gary Guiver

Position: Assistant Director –  
Strategic Planning & Place  
Tendring District Council

Date: 2<sup>nd</sup> March 2021