

## Ealing Council Examination of Development Sites and Development Management Development Plan Documents

### Matter 5 – Development Management DPD

Examination Document ED1 – Statement of Common Ground between the London Borough of Ealing and English Heritage, dated 15 February 2013, and other matters raised by English Heritage in relation to the Development Management DPD

Representation submitted by Anthony Lewis  
(Representor number PM18)

on behalf of the Ealing Cricket Ground Conservation Area Panel  
and Ealing Civic Society (Representor number DM18)

### Introduction

In principle, we welcome the Statement of Common Ground dated 15 February 2013 (ED1) and consider that it represents a marked improvement on the original Policy 7C which was set out in Submission Document EDM1. However, we believe that further amendments are still required both to Policy 7C and in respect of the other aspects of the Development Management DPD raised by English Heritage.

We have considered the eight landscape-format pages of representations included in ED1 (immediately following Sections 1, 2 and 3, and preceding Section 5) which were submitted by English Heritage in relation to Ealing Council's Development Management DPD (June 2012) and Further Alterations (October 2012), together with Ealing Council's responses, Ealing Council's proposed action, and English Heritage's responses.

Our representation focuses on areas which we consider not to be **sound** because they are either not **justified**, not **effective**, or not **consistent with national policy**. We use these terms as defined in NPPF paragraph 182, and as further explained in Section 3 (Soundness) of the Annex to "Local Development Frameworks - Examining Development Plan Documents: Procedure Guidance".

Our representation also focuses on areas highlighted by the Inspector in her draft Schedule of Matters and Issues under Matter 5, namely whether the policies are **clearly worded** and **easily understood** or need more **explanatory text** (5.1), and whether they are **justified** (5.2), or **reliant on** standards or requirements set out in **untested documents** (5.3).

The references in this representation are to Submission Document EDM2, which incorporates changes made by Ealing Council to Submission Document EDM1 in response to English Heritage's representations.

We consider the issues in the order in which they appear on the eight unnumbered landscape-format pages, which we call **unnumbered pages 1 to 8**, in ED1.

## Unnumbered Page 1

**General (1):** The meaning of the term “Planning Decisions”, which has been inserted below each policy heading in the DPD, is **unclear** in isolation. There is no explanation or definition so this is **not clearly worded**, and **explanatory text** is needed to assist applicants. A cross-reference to London Plan paragraphs 1.59 and 1.60 would be helpful, to indicate that “Planning Decisions” refers to the London Plan hierarchy of policies, which includes strategic statements, planning decisions and LDF preparation.

**General (2):** The term “good development” as used in Policies 7.4 (Local Character) and 7B (Design Amenity) is **unclear**, as it is too subjective and vague a term. The term “good development” is not used in the NPPF, and therefore **not consistent** with national policy. **Explanatory text** is needed to define “good development”.

**General (3):** The reference in Policy 7B (in the supporting text paragraph starting “Positive visual impact ...”) to “using existing evidence such as character appraisals and conservation documents where these exist” is too general. The documents need to be specified, particularly in relation to applications outside Conservation Areas. As it stands, this reference is **not justified** because it does not refer specifically to the evidence base or explain what else may be covered by “existing evidence”.

In this connection, please also see our comments below (relating to **unnumbered page 3**) which refer to the need for a Borough-wide characterisation study.

We also consider that there should be a specific reference to the requirement for a Design and Access statement. This would be **consistent** with NPPF paragraph 56. We consider that the wording of this sentence (in the paragraph starting “Positive visual impact ...”) should read as follows:

“Development proposals should include a Design and Access Statement, where required, and identify the positive aspects of the site and the surroundings from the outset, using existing evidence such as Conservation Area Character Appraisals and Management Plans.”

**Policy 1A:** We consider that Policy 1A should be retained so that applicants understand from the outset what documentation they need to provide, particularly in relation to the significance of any heritage assets that may be affected by development proposals, as noted by English Heritage. If this policy is omitted, the Development Management DPD will **not** be **effective** and **not easily understood**.

We also consider that a specific reference to NPPF paragraphs 128 and 192 should be added. Currently, applications often lack essential documents. This is not always identified at the planning application validation stage, which indicates that current guidance is unclear or insufficient. The requirement for a Design and Access Statement (where appropriate), as recommended by English Heritage, should be included in Policy 1A. These additions will help to make the policy **easily understood**.

## Unnumbered Page 2

**Policy 2.18:** The language of Section H is opaque and **not clear or easily understood**. We also consider that “heritage conservation” should be replaced by “conservation of heritage assets” and that “recreation” should be replaced by “recreational activities”. We therefore consider that the first sentence should be amended to read:

“The coherence of green and open spaces and their ability to fulfil the functions of nature conservation, the conservation of heritage assets and recreational activities remain the overriding principles ...”

In the second sentence, “ancillary development” needs to be defined. As it stands, the term is too vague and **not clear**, and therefore **not effective**.

**Policy 4C (not 4.7):** The reference to “resorting to pastiche” is too specific, as it refers to only one particular architectural style. We consider that the words “without resorting to pastiche” should be omitted from the final sentence of Section C. Omitting these words would ensure greater **consistency** with the provisions of NPPF paragraph 58, which requires that “planning policies and decisions should aim to ensure that developments ... respond to local character and history...”.

**Policy 5.11:** The second sentence of Section C is **not clearly worded**. We assume that the word “compromising” should be replaced by “comprising”. Additionally, the wording “... development that falls within 100 metres of a green buffer zone compromising [sic - ?comprising] the following designations ...” is **not clear** and thus **not easily understood**.

It is **not clear** whether the buffer zones are outside the designated areas or part of them.

Should this sentence read “... development that falls up to 100 metres outside a green buffer zone adjacent to the following designated areas ...”?

Or should the sentence read “... development that falls within a green buffer zone up to 100 metres from the following designated areas ...”?

The use of the term “the first” in the third sentence is **not clear**. Does it refer to “improving biodiversity” on its own, or does it refer to “improving biodiversity and environmental quality”?

### Unnumbered Page 3

**Policy 7.4:** As mentioned in our comments above (relating to **unnumbered page 1**), we find the term “good development” unclear, as it is subjective and vague. The term is not used in the NPPF, and therefore **not consistent** with national policy. **Explanatory text** is needed to define “good development”.

English Heritage recommends that Ealing Council carries out a “borough-wide characterisation study that highlights the main local characteristics of Ealing and its component parts. ...” because the information gathered would help with the implementation of this policy. Carrying out such a study would be **consistent** with NPPF paragraph 169 which requires LPAs to “have **up-to-date** evidence about the historic environment in their area and use it to assess the significance of heritage assets and the contribution they make to their environment”.

London Plan Policy 7.4C says that “boroughs should consider the different characters of their areas to identify landscapes, buildings and places ... where that character should be sustained, protected and enhanced ...” and adds that “characterisation studies can help in this process”. In the light of this policy, we support English Heritage’s recommendation and consider that a characterisation study should be undertaken to ensure that Ealing Council’s policy is fully **compliant** and **consistent** with the London Plan.

It is important that Ealing Council identifies the character of local areas as soon as possible so that applicants are aware of what should be “sustained, protected and enhanced”. In the absence of such characterisation studies, there is the risk that the Council will rely on applicants’ own assessments, which are unlikely to be objective.

Without a timely borough-wide characterisation study, this policy will **not be justified** as it will **not be based on** a robust **evidence base** involving research and fact-finding.

As mentioned above, in our comments on Policy 4C, we consider that the reference in the sentence on “Detailing” to “resorting to pastiche” should be omitted, thus ensuring greater **consistency** with the provisions of NPPF paragraph 58.

**Policy 7.7:** We agree with English Heritage that the words “and historic” should be inserted into the supporting text in the second sentence below Section H, so that the sentence refers to “the urban and historic environment”. This sentence would then read “... the primary consideration for any scheme is therefore that it makes a positive contributions to the urban and historic environment”. The addition of these words will make the policy more specific and more **effective**.

To reflect our comments above, we also consider that the wording of Policy sub-section G.c should be strengthened by omitting the **unclear** word “appropriate” and by including a reference to the urban and historic environment in the policy, and not just in the supporting text.

We suggest the following wording for Policy sub-section G.c:

“... make a positive contribution to the urban and historic environment and to the local context and the broader area on which they impact”.

This amendment will make the policy more specific and thus more **effective**.

## Unnumbered Page 4

**Policy 7C:** In their comments (“Council’s Response”) on this policy, Ealing Council refers to “planning documents such as SPDs”. There is no indication of when SPDs will be agreed or how they will fit into the overall LDF and DPD policies. We are very concerned that unless SPDs are updated and incorporated into the new policies, planning officers and applicants will have **no** day-to-day detailed guidance on the interpretation of LDF and DPD policies. The added **explanatory text** in SPDs is essential. Without SPDs the policy is **not effective** because it is **not deliverable**.

We consider that the wording of Policy 7C can be further improved by making the following two amendments:

1. Policy sub-sections B.a and B.b can be strengthened by using the word “conserve” instead of “retain”, so that these sub-sections read “conserve and enhance characteristic features ...” and “conserve elements identified as contributing positively ...”, respectively.

We consider that the word “retain” implies keeping an asset rather than looking after it, whereas the word “conserve” indicates a responsibility to look after the asset. Replacing “retain” with “conserve” will make these sub-sections more **easily understood**, and will be **consistent** with NPPF paragraph 126 which requires LPAs to “conserve [heritage assets]...”.

2. Policy sub-section B.b can be made more specific and be more **clearly worded** by adding a reference to character and appearance, so that it reads “[retain] conserve elements identified as contributing positively, and seek to improve or replace elements identified as detracting from the character and appearance of the Conservation Area”.

We have seven further comments on the wording of Policy 7C which are mentioned in our comments on page 8 of this representation.

In the continuation on **unnumbered page 5** of the Council’s Response to English Heritage’s comments on Policy 7C, Ealing Council says that it “is happy to revise the supporting text to ensure that this principle [protecting buildings and spaces that contribute to the significance of Conservation Areas] is clearly linked to Conservation Areas”.

Ealing Council also says that it “is happy to insert a reference in the supporting text to highlight that heritage context can be particularly informative to the design of a scheme and should be considered right from the beginning”.

We welcome these two revisions of the supporting text, but have been unable to find them in Submission Document EDM2. As they stand, Ealing Council’s statements are **not clear**.

Ealing Council also refers to “supplementary guidance” for matters that cannot be dealt with “usefully in the space of a development policy”. We should like to know where we can find this supplementary guidance, what its status is, and what force it has. For example, is supplementary guidance regarded as a material consideration or does it have greater force?

Without further detailed information about the supplementary guidance, the policy is **not effective** because it is **not deliverable**.

## Unnumbered Pages 4 & 5 (continued)

We consider it is important that the “framework for identifying and appropriately protecting Locally Listed Buildings” is specifically included as a policy - within Policy 7C (Heritage) - in the Development Management DPD, as recommended by English Heritage. Without this framework, the policy is **not justified** because it is **not based on robust evidence**.

We note that while Core Strategy Policy 1.2 (g) says that Ealing Council will “review and update our Local List of heritage assets”, it gives no indication of the frequency of such reviews. We consider that it would be helpful to include the frequency of reviews in the Development Management DPD. This would ensure that the policy is **based on up-to-date evidence**.

For example, Conservation Area Character Appraisals and Management Plans are reviewed on a five-yearly cycle. We consider that this would also be appropriate for updating the list of Locally Listed Buildings which could otherwise be neglected.

We suggest that the frequency of review (eg every five years) of both sets of documents be set out in the Development Management DPD. This would provide reassurance that the policy is **based on up-to-date evidence** and thus **justified**.

For the sake of **clarity** and **consistency**, the description of designated heritage assets in the supporting text below Policy 7C should refer to “Conservation Area Character Appraisals” rather than “Conservation Area Appraisals”, to reflect Ealing Council’s own terminology.

## Unnumbered Page 5

**Policy 2.18:** The first sentence of Section I refers to “open and green spaces” and to “views within and across these areas”. However, the second sentence refers only to “views to and from open and green spaces”.

For the sake of **clarity** and **consistency**, we consider that the word “within” should be added to the second sentence so that it refers to “views to and from and within open and green spaces”.

Alternatively, the second sentence could simply be rewritten as follows:  
“The impact of development upon such views is a material consideration”.

## Unnumbered Page 6

**Policy 7.12:** London Plan policy states that “development in the foreground and middle ground of a designated view should not be overly intrusive, unsightly or prominent to the detriment of the view”, that “development proposals in the background of a view should give context to landmarks and not harm the composition of the view as a whole”, and that “boroughs should reflect the principles of this policy ...”.

We consider that the London Plan policy can be applied directly to the views of the 15 designated landmarks in Ealing. We therefore support English Heritage’s position that London View Management Framework (LVMF) principles should be applied to landmarks and viewpoints in Ealing, so that Ealing’s designated views are conserved and enhanced. This would ensure that the policy is **based on up-to-date evidence** and thus **justified**.

We are not aware that there was any consultation on the list of 15 landmark views set out in Policy 7.12, nor can we find any reference to local and strategic viewpoints (which are set out in the UDP), such as the strategic viewpoint of Horsenden Hill.

The policy, as it stands, is **not justified** because it is **not based on** participation by the local community or on a robust **evidence base** involving research and fact-finding.

We disagree with Ealing Council’s assertion that “Ealing’s views are not suitable for protection using the criteria of the LVMF”. We consider that this statement is subjective and **not based on evidence**, and therefore **not justified**.

We consider that English Heritage’s statement that “the principles of the LVMF should be applied to listed designated Views and Landmarks with an emphasis upon conserving and enhancing their existing qualities through development opportunities” should be added as the second sentence in Section K of Policy 7.12.

## Unnumbered Pages 7 and 8

As mentioned in our comments on page 5 of this representation, we have seven further comments on the wording of Policy 7C in the interests of **clarity** and, therefore, **effectiveness**:

1. We consider that in Section A of this policy, the word “of” should be replaced by “affecting”, so that it reads “Development affecting heritage assets ...”.
2. We consider that Section B.a of this policy should refer to the quality as well as the significance of the Conservation Area, and that the wording should be amended to read: “... that undermine the quality and significance of the Conservation Area”.
3. We consider that Section B.b of this policy should refer specifically to the character and significance of the Conservation Area, and that the wording should be amended to read: “... elements identified as detracting from the character and significance of the Conservation Area”.
4. We consider that the word “avoided” in the first sentence of Section D of this policy is weak and should be strengthened, in line with the provisions of NPPF paragraph 132. We suggest the use of the word “prevented”, so that the sentence reads: “Harm to any heritage asset should be prevented.”
5. In the first paragraph of the supporting text relating to designated heritage assets, we consider that reference should be made to statutorily listed buildings as well as Conservation Areas. We consider that the first sentence should read: “Designated heritage assets are defined in the glossary of the NPPF and include statutorily listed buildings and Conservation Areas as a whole.”
6. In the last sentence of this first paragraph, we consider that the word “Character” should be inserted so that the reference is to Conservation Area Character Appraisals (see our earlier comments on Policy 7C on page 6 of this representation).
7. In the final sentence of the second paragraph of the supporting text relating to designated heritage assets, we consider that the words “or not” should be inserted after the word “whether”, so that the sentence reads: “Ealing will use legal powers to protect assets at risk of harm, whether or not this results from deliberate action or neglect.”

Finally, the first paragraph of the supporting text relating to designated heritage assets says that “all such designations will be recorded as a constraint”. It is **not clear** where these constraints will be recorded, so this statement is **not effective** as it stands.

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**on behalf of the Ealing Cricket Ground Conservation Area Panel**  
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**17 May 2013**