

The importance of considering ‘setting’ in a heritage context

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The National Planning Policy Framework (“NPPF”) provides guidance on when a planning proposal might cause harm to the significance of a heritage asset. The NPPF and recent case law has reinforced that the significance of any harm derives not only from the heritage asset but also from its setting.

Why is setting important?

‘Setting’ is broadly defined in NPPF’s glossary 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. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

The importance of considering the surroundings of an application site and not only the site itself was recently highlighted in the case of *James Hall v Bradford MDC* [2019] EWHC 2899 (Admin) dated 1 November 2019 where the court quashed a planning permission on the basis that the Council had failed to consider the impact of development on the setting of a heritage asset. In this case the Council had granted consent to demolish an old fire station and construct a food retail unit with parking. The site was adjacent to, but not within a conservation area. The court found that the development would affect the setting of a heritage asset. NPPF paragraph 189 requires planning authorities to describe the significance of affected heritage assets and consult the relevant Historic Environment Record if the harm is less than substantial. Where the harm is less than substantial, the public benefits of the proposal are weighed against the potential harm (see paragraphs 13-14 of the judgment).

What constitutes harm?

When assessing what constitutes ‘harm’ to a heritage asset the NPPF (paragraphs 193 - 202) categorises harm into three areas: substantial harm; less than substantial harm; and no harm.

Substantial harm is any impact which could cause harm to or loss of the significance of a heritage asset. This is typically attributed to listed buildings, those of historic importance, registered parks and gardens, and World Heritage Sites. This harm could result from its alteration or destruction, or from development within its setting. When it is considered that there will be less than substantial harm the public benefits of the proposal including, where appropriate, securing its optimum viable use will be considered.

What you need to know

At the early stages of a planning application it is advisable to consider the surrounding area and any heritage assets of significance. If there are heritage assets of significance, you should inform the design of the proposed development with reference to those assets and aim to minimise or avoid any potential harm. The Government’s Planning Practice Guidance on the Historic Environment recommends that developers conduct early appraisals which may inform a conservation plan or targeted specialist investigation to identify constraints and opportunities arising from the heritage asset.

The planning team at DAC Beachcroft have a strong track record handling heritage issues. If you have a planning proposal which may impact on the significance of a heritage asset and would like some advice on issues which may arise please let us know.

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