



4 May 2020

HOOOH's response to Historic England's representation (16th April 2020) to planning application 20/01033/EIA for 91 houses in the setting of Old Oswestry Hillfort

Note: Where appropriate, comments are related to the relevant part of 'Appendix 3: Statement of Significance of Old Oswestry Hillfort and Design Principles for site OSW004' and 'Appendix 4: Modifications to the development guidelines for site OSW004' contained in the Statement of Common Ground (SoCG) 2014.

Introduction:

We welcome HE's following comments contained in its response:

'We agree with the Landscape and Visual Impact Assessment by Pegasus Group that the view from Whittington Road towards the hillfort would be substantially changed by development that will introduce new built form, albeit set back from the road, and that the proportion of the view affected would be relatively extensive.'

We do not agree that the impact in every aspect would be 'relatively minor' (Planning Statement 5.22) In particular, views towards the hillfort from those parts of Whittington Road adjacent to the new development would be impacted to a greater than 'relatively minor' degree, and we do not support the inclusion of an agricultural access into the adjoining field in the north east corner of the design In our view the road layout should exclude, as far as practicably possible, the potential to extend the road network in the future to adjacent areas.

In coming to its decision overall the Council should fully consider the potential impacts as set out in NPPF paragraphs 193 and 194, and apply the tests of NPPF paragraph 196.'

However, other aspects appear inconsistent with their requirements within the Statement of Common Ground (Appendices 3 & 4) and SAMDev Oswestry S14.1a policy, as detailed below.

1) Statement of Significance, paragraph 3: Concerning the qualities of Old Oswestry's setting and their preservation

This identifies one of the key contributions that setting makes to Old Oswestry's heritage significance, with para 3 stating that: *'The setting of the Hillfort is essentially rural with prominent views to the east, west and north which are not appreciably affected by modern development. Maintaining this rural setting is important in allowing the significance of the site to be better understood. The urban area does not, apart from near Jasmine Gardens, extend northwards from the town onto higher ground in the view of the Hillfort, which enables a separateness to be maintained between them.'*

In accordance with the above statement, Historic England (HE) responses have previously only made qualitative statements about the hillfort's setting in relation to the proposed development and the assessment of harm. In its 16 April 2020 response, however, it is

now parroting statements in the applicant's Environmental Impact Assessment (EIA) by referring to quantitative measurements of the distance of the proposed housing from the hillfort. This goes against HE's advice, guidance and spirit of heritage protection regarding heritage setting, and against the principles for evaluating harm to heritage assets and their setting within the NPPF (National Planning Policy Framework). In addition, HE provides no explanation as to why these distances, which notably are absent from the Statement of Common Ground (SoCG), are significant and carry weight for accepting development.

We believe this emphasis on measured distances within heritage setting is inappropriate, ill-advised and outside the terms and spirit of both HE and NPPF guidance, especially for a site of such national significance. The adverse indirect visual effects on our ability to experience the hillfort in its landscape setting from one of the ancient roads and gateways into Oswestry clearly results in substantial harm.

2) **Statement of Significance, paragraph 7: On limit of building edge and the avoidance of block design**

- i) On the northern limit of development, para 7 states that: *'The layout should ensure that new development does not protrude to the north of the existing built development, to the west of the allocation, and to include that area which is in closest proximity to the Hillfort in the landscaping proposals.'*

In comments dated 10 July 2019 to the previous planning application, HE stressed its serious concern that proposals breached the northern limit set by the adjacent factory. It said: *'The proposed built form does protrude north of the existing built form which is an issue we have always had concerns with and something that we agreed would not happen through the signed Statement of Common Ground (SoCG), October 2014.'*

In its response to the SAMDev soundness consultation (April 2014), HE (then known as English Heritage) signalled strong concerns that any development on OSW004 must respect limits set by existing built form, saying: *'We stated previously that it may be possible for some development to be allocated in this area subject to 'design quality and its landscaping' taking into account 'local topography and the existing built form'.*

But in its 16 April 2020 response, HE has reneged on this northern limit, saying: *'The proposed built boundary is now south of the adjacent industrial land's northern boundary, although it remains north of the factory building itself.'*

Why is Historic England not insisting the design complies with its clear development threshold set in 2014 and reiterated in July 2019?

On 17 February 2015, proposed development by Old Oswestry was the focus of a BBC Radio 4 'Making History' episode with eminent archaeologist, Professor Sir Barry Cunliffe, MP Tim Loughton, a member of APPAG (All Party Parliamentary Archaeology Group), and prehistory expert and archaeologist, Dr Rachel Pope, discussing issues of heritage setting.

In an interview piece as part of the programme, Bill Klemperer, West Midlands principal inspector for English Heritage (now Historic England), said of OSW004: *"It is a very small part of what we had originally been asked to consider. It does not mean to say, however, that we will simply agree to any sort of development there. It's still a sensitive area."* He

went on to say that if the land were allocated and a planning application made, the heritage consultee would still have the option to recommend refusal if they felt it was not justified in terms of the design guidelines discussed with the local authority.

It is therefore difficult to understand HE's response to the current application, as the design does not comply with its criteria; if HE were consistent with its previously maintained position, then it should not accept the lack of compliance within the current application.

Non-compliance with the northern limit and with other aspects of the design guidelines as raised in this document provide very good grounds to recommend refusal.

- ii) On the avoidance of block development, para 7 also states: *'...ensuring the massing and form of the development carefully prevent block development which could create an over dominance of built form in that part of the landscape.'*

Housing numbers have been only slightly reduced (by 9) from the previous application, with the proposed 91 houses still largely forming a block arrangement and significant massing - as evidenced by the applicant's photomontage (Fig 1) and the masterplan housing layout (Fig 2). But there is no comment on this from HE in its letter of 16 April 2020.

In addition, in an email communication to Shropshire Council (dated 31 January 2014) to clarify its stance over OSW004, HE (then known as English Heritage) wrote:

Site OSW004. We opposed the allocation of this site off Whittington Road in the Preferred Options Consultation 2012. This was for 125 houses within a site of 8.8ha. The revised allocation of 2013 is 117 houses within a much smaller area –perhaps half that proposed in 2012, although it appears that the revised area for OSW004 is not quantified within the Revised SAMDev report. The reduced spatial size is acceptable to English Heritage although we have concerns over the design and master-planning of this area as set out in our revised Preferred Options Consultation response of August 2013. In our view development is better considered in the south west portion of the site, subject to appropriate archaeological assessment, within the triangle of land between Whittington Road and the existing industrial units. The northern and eastern parts of the allocation should include a designed urban edge including public open space as a buffer between houses and agricultural land, and to ensure minimal disruption of views of the hillfort from Whittington Road. We remain concerned that the overall reduction (between Preferred Options and Revised Preferred Options) in housing numbers (125 to 117) does not reflect the reduction in spatial area (approximately 50%). Because of our concerns overall it should not be assumed that English Heritage will not object to any development proposals within OSW004.

This reveals that HE was very concerned that an approx. 50% reduction in the area of allocation for OSW004 saw only a very small reduction in housing (from 125 to 117), creating a significant issue of density. We query why this does not remain a major concern in terms of the 91 houses proposed, taking into consideration the area of land taken up by the landscape buffers north and south of the development.



Fig 1: Applicant's photomontage of the proposed development



Fig 2: Applicant's masterplan layout of the proposed development

3) Statement of Significance, paragraph 6 & Appendix 4, item 2: Concerning disruption/conserving of views

On the issue of permeability and loss of views, para 6 says: *'The proximity of OSW004 to the Hillfort requires additional consideration in order to minimise the impact upon the significance of the Hillfort resulting from development within its setting. Disruption of views to and from the Hillfort should be minimised as they contribute to its aesthetic value. The development also needs to create an open, layout ensuring visual permeability through the site so that views and glimpses of the Hillfort can be seen from a variety of viewpoints within the site.'*

Also, item 2 of Appendix 4 stipulates: *'Ensuring long distance views to and from the Hillfort within its wider setting are conserved'*.

We believe that HE's comments in its 16 April 2020 response regarding the impacts on views - from and to the hillfort and within the development - are not fully consistent with the above criteria for the following reasons:

- i) In its 16 April 2020 response, HE claims that the reduction in houses, from 100 to 91 (notwithstanding that the indicative housing no. was 117), will *'allow the development to be visually more permeable'*.

We challenge this as our own photomontage (Fig 3a/3b) shows that the housing would entirely block out the existing views and ability to experience the hillfort in its setting at an important gateway into Oswestry, along Whittington Road (B4580). The views to the north, east and west from the top of the hillfort are open, so are views to the south-east where the proposed development will take place.



Fig 3a: Existing view of Old Oswestry from Whittington Road



Fig 3b: Photomontage of housing completely blocking views to the hillfort. Note: this image takes into consideration any buffer zone that may be added between the road and the development.

- ii) HE also claims that the development is to the ‘south’ – it is not, as it could equally be argued it is to the east, where views of and from the hillfort comprise an important contribution to its heritage significance. The existing Whittington Road (B4580) makes a clear boundary between the rural landscape and the urban edge and neatly divides that landscape between south and east of the hillfort. Therefore, HE is inaccurate in its description. Contrary to this, the latest proposal would still significantly reduce the ability to experience existing views to the hillfort from Whittington Road, which is partially acknowledged by HE in its statement: *‘We do not agree that the impact in every aspect would be ‘relatively minor’ (Planning Statement 5.22). In particular, views towards the hillfort from those parts of Whittington Road adjacent to the new development would be impacted to a greater than ‘relatively minor’ degree.’* This should have provided HE with enough proof of the unacceptable level of harm to an asset of the highest significance, if it had applied the NPPF requirements appropriately in this instance.
- iii) HE’s 16 April 2020 response says: *‘We agree with the Heritage Impact Assessment by Archaeology Warwickshire that views from the hillfort towards the east, west and north contribute more greatly to its significance than those to the south which are into the nearby urban edge of Oswestry.’* Whittington Road forms the boundary between south and east of the hillfort’s setting, and so, contrary to HE’s statement, the new development would intrude into one of the key areas of setting that it has identified. HE’s acceptance of the applicant’s statement, which downgrades the significance of this south-eastern setting, contradicts previous statements by HE and in the SoCG, which emphasise the importance of maintaining the rural setting and hillfort’s separation from the town.
- iv) HE also refers to wanting more photomontages of the development; of the few available, there is nothing from Whittington Road to the hillfort and across the hinterland landscape in this area where one of the greatest visual impacts would be.

- v) HE's reaction to the photomontage of the development viewed from the hillfort is surprising. Rather than commenting on the obvious impacts on the setting and open views from the hillfort, HE focuses solely on the appearance of the proposed roofing materials, saying: *'We support the use of recessive colours for the roofs.'* However, the basis for making this call is unclear, given that the 'misty' quality of the photomontage has a recessive effect on the appearance of the whole development, and, more importantly, the photomontage shows how prominent the new housing development would become within this view.

HE also makes no judgement on the clear effect that the development would have of visually drawing the presence and impression of the town's mass, currently held in abeyance behind Whittington Road, right through to the farm buildings just 60 metres from the ramparts.

- vi) Despite HE's consistent comments on the lack of photomontages from crucial viewpoints for the 2019 applications, a single photomontage was made available for public consultation very late on: it only appeared on the planning portal two days before the original deadline for the standard public consultation. Was this a deliberate attempt by the planning agent to delay publishing key evidence of impacts of the proposed development? Why has HE not continued to insist on an adequate range of photomontages so that the harm from the proposed development can be properly visualised?
- vii) HE states that: *'We do not agree that the impact in every aspect would be 'relatively minor''*, without providing any further qualification. HE continues by saying that views towards the hillfort from the Whittington Road would be impacted to a greater than 'relatively minor' degree, as assessed by the applicant. But without qualifying these statements or asking for an independent appraisal of the HIA, HE has backed down from their previous serious concerns on heritage grounds.
- viii) HE concludes that the proposed development would constitute 'less-than-substantial' harm to the nationally protected scheduled monument of Old Oswestry. Again, no detail is given to justify this position, which appears to be reliant on the applicant's heritage impact assessments. Based on the only available photomontage of the view towards the hillfort from Whittington Road (provided by HOOOH – see Fig 3b), and those previously provided in the HOOOH campaign's Heritage Statement (during the SAMDev consultation), the impact is clearly more than 'less-than-substantial'; indeed, from Whittington Road there would be substantial harm. Based on this 'less-than-substantial' verdict, what evidence is there that HE has taken the steps identified in its own guidance (GPA3 The Setting of Heritage Assets) in arriving at this conclusion, such as an independent assessment of the impacts, rather than simply agreeing with the applicant's opinion, which we assert plays down the heritage?

4) Statement of Significance, paragraph 5 & Appendix 4, item 1: Concerning archaeological assessments

Para 5 states: *'The Local Authority would need to satisfy itself that the appropriate information was available through a Heritage Statement accompanying the development proposals. Given the proximity of the site to Old Oswestry Hillfort we would expect a full archaeological assessment to be undertaken to assess archaeological potential, mitigation measures and to inform the layout of the site.'*

Also, item 1 of Appendix 4 stipulates: *'To inform the layout of the site, full archaeological assessment will be required to enhance the understanding and interpretation of the significance of the Hillfort and its wider setting.'*

In its 16 April 2020 response, HE makes no challenge about the sufficiency and quality of supporting heritage and archaeological assessments. We believe HE is accepting assessments that are flawed and still do not meet its criteria; they are certainly not robust enough for decision-making by HE (or the LPA) relating to one of England's premiere hillfort sites, for the following reasons:

- i) In HE's response dated 10 July 2019 to the original development proposals submitted June 2019, it stated: *'The Heritage Statement does not make a full assessment of the impact upon the hillfort, including development within its setting.'*

HE went onto accept virtually the same Heritage Impact Assessment (HIA) *with little change* for the revised planning application of September 2019. It appears that just two paragraphs were changed between the original HIA (dated February 2019) and 'revised' version (August 2019).

Tim Malim, an archaeologist and heritage planning expert with 40 years' experience and a Fellow of the Society of Antiquaries of London, provided specific detail about the barely revised HIA (in his objection letter of October 2019), as follows:

'Heritage Impact Assessment (HIA) August 2019: any meaningful revision would have removed reference to use of Warwickshire's Historic Environment Record (section 3.2) and would have ensured inclusion of reference to the essential requirements within Historic England and Shropshire Council's Statement of Common Ground (signed by both parties October 2014) and also Step 4 of *Historic England's Good Practice Advice in Planning Note 3 The Setting of Heritage Assets*, which the assessment has again ignored. The **revised assessment, therefore, provides no improvement** to the one which I objected to in my July letter replicated below. It remains the same as the one submitted previously except for two additional paragraphs (*Design Proposals* section 4.17, and the first paragraph (4.18) in *Impacts of the Significance of Designated and Undesignated Heritage Assets*). The first new paragraph merely outlines in brief both phases of development, and the second paraphrases' the definition of setting from the NPPF glossary (page 71).'

Therefore, we ask why HE is accepting the August 2019 HIA - with no further changes or full assessment of the impacts - for the current March 2020 planning application?

- ii) HE makes no mention of its new guidance 'GPA Advice Note 12 (Oct 2019) Statements of Heritage Significance', which should warrant revision of the applicant's HIA. It should be noted that the current submission documents were issued on 9 March 2020, a good time after the publication of the GPA Advice Note 12. Why is HE not insisting on this, especially following HE's concerns in July 2019 that the heritage assessment had not provided appropriate, full assessment? Given the high profile of this development application and national interest in it, we believe strongly that HE should ensure that the HIA is updated to correctly and ethically apply the requirements of the new HE guidance, as it is deficient without it.
- iii) We believe that the archaeological assessments are woefully inadequate, and we question why HE has not maintained a stronger stance on this in line with the SoCG and reflecting the national significance of the hillfort. We are of the opinion, based on the review of the supporting environmental statements by archaeologists and heritage planning professionals fully versed in industry practice, that Archaeology Warwickshire's HIA is inadequate and partial; they have applied poor methodology without using the relevant Historic England guidance, and their trial trench evaluation was insufficient. We understand that Shropshire Council's historic environment team normally recommend that work is undertaken by a ClfA registered organisation. Our scrutiny of available data shows that Archaeology Warwickshire is not, in fact, ClfA registered, a status which assures that an organisation follows good practice. We question why HE and the LPA are confident that due diligence and compliance has been met regarding the applicant's chosen archaeology and heritage consultants, when a simple comparison of the HIA with HE guidance shows that it has not applied the stipulated HE methodology.
- iv) We, as well as other heritage professionals and archaeologists, believe that the applicant's HIA significantly plays down the heritage value of setting for the hillfort and other designated and related non-designated heritage assets. Aspects of the assessments of heritage value and impact for development on this site have previously been criticised for being under-estimated and inaccurate.

5) SoCG Appendix 4, item 7: On improving access to the hillfort

HE refers to the adjacent railway as 'currently disused'. This ignores its legal status as an operational railway and the fact that the line is being brought back into service, preventing the proposed development from improving access to and enhancing the experience of the hillfort, as required by Oswestry S14.1a local plan policy and the SoCG.

6) Historic England's concerns on meeting the threshold for acceptability defined by criteria in the SoCG & Policy S14.1a, and application of the NPPF tests for balancing harm against public benefit

- i) HE says overall that the new proposals are 'more compliant' with the SoCG and S14.1a policy, but this reveals that they fail to meet the threshold that HE had set with SC, therefore they should be regarded as unacceptable. Is this a sufficiently robust basis on

which to develop in the immediate landscape setting of one of England's best-preserved and most important Iron Age hillforts? Surely Old Oswestry deserves more effort to 'conserve and enhance' its setting, as provided for under national planning and HE guidance?

- ii) HE maintains its concern over the inclusion of 'agricultural access', stating that *'the road layout should exclude, as far as practicably possible, the potential to extend the road network in the future to adjacent areas'*. This reveals one of the greatest risks of this development: that it could set a precedent for further extensions into the hillfort's setting over time, and that, on a national level, it could provide a planning case to justify development at damaging proximity within the setting of designated heritage assets around the country.
- iii) In HE's response on 5 November 2019, it states: *'The revised Planning Statement includes a section on impact on the historic significance of the setting of Old Oswestry Hillfort. In our letter of 10th July, we disagreed specifically with the assertion that the historic significance of the setting is less than it would be for a more recent site. This remains within the Planning Statement (4.15) and we reiterate our disagreement with that view because we do not agree that the importance of setting necessarily diminishes over time. The development guidelines in S14.1A require that the 'development should demonstrate appropriate regard to the significance and setting of Old Oswestry Hillfort'. This would also be required according to paragraphs 189 and 193 of the NPPF.'*

We believe that HE should be continuing to strongly question the compliance of the current planning application with NPPF paras 189 and 193, as both still provide grounds for the scheme's rejection if HE was consistent in the way it is applying them to its judgements.

- iv) We also believe that HE in its current response should be more robustly marshalling compliance with NPPF 190, which says: *'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.'* This, along with paras 189 and 193, are fundamental and should have been enforced by HE in relation to a designated heritage asset (and its hinterland landscape) such as Old Oswestry.

ENDS