

RECONSULTATION
- Conservation and Design Comments -

Code: DER/03/09/00332/PRI and DER/03/090331/PRI
Proposal: Partial demolition of the Hippodrome and formation of multi-storey car park, erection of retail unit, retail kiosk, offices and 4 apartments
Location: The Hippodrome, Green Lane, Derby
Case Officer: Paul Clarke

We have been asked to comment further on the planning and listed building consent application for formation of a multi-storey car park, retain unit, retail kiosk, offices and four apartments following publication of Planning Policy Statement 5: Planning for the Historic Environment. This PPS was recently published and cancels both PPG15: Planning and the Historic Environment, and PPG16: Archaeology and Planning. In our initial consultation a table was created with a summary of the PPG15 requirements for submission with an application for substantial demolition of a listed building. Sections 3.16 to 3.19 in PPG15 relating to these requirements are restated in Policy HE7.6 and Policy HE9 of PPS15, with amended terminology. In the table below the new criteria is compared with the old, and notes on previous comments have been added in italics to address the change in phrasing.

PPS Policy HE9.1, superseding section 3.16 of PPG15: 'There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.'

To summarise, we still consider that the proposal would result in substantial harm to the grade II listed building itself, and its setting, and do not believe that a clear and convincing justification has been submitted.

TABLE SUMMARY OF SUPERSEDED PPG15/NEW PPS5 REQUIREMENTS (substantial demolition of a listed building/substantial harm or loss of a listed building)

PPG15 CRITERION	COMMENTS	PPS5 POLICY	COMMENTS
<p>3.19(i). <i>The condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use. Any such assessment should be based on consistent and long-term assumptions. Less favourable levels of rents and yields cannot automatically be assumed for historic buildings. Also, they may offer proven technical performance, physical attractiveness and functional spaces that, in an age of rapid change, may outlast the short-lived and inflexible technical specifications that have sometimes shaped new developments. Any assessment should also take account of the possibility of tax allowances and exemptions and of grants from public or charitable sources. In the rare cases where it is clear that a building has been deliberately neglected in the hope of obtaining consent for demolition, less weight should be given to the costs of repair.</i></p>	<p>The reports submitted regarding the condition of the building, subsequent costs of maintaining it and assumptions regarding the value of its continued use are considered to be incorrect, as advice was given by professionals after the collapse of the roof that the building could be safely refurbished without the requirement for further significant demolition.</p>	<p><i>HE9.2(ii) 'Where the application will lead to the substantial harm to or total loss of significance local planning authorities should refuse consent unless it can be demonstrated that a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term that will enable its conservation.'</i></p>	<p>The changes to the wording within this policy are significant: rather than stating that the Secretary of State expects the local authority to consider these criteria, it states that planning authorities should refuse consent unless the criteria have been demonstrated. In relation to a viable use to be found that would enable its conservation, further marketing reports have been submitted and commented on in our response of 25 February 2010 referring to placing the building on the open market, and discussions with prospective purchasers – it is noted that English Heritage sought specialist advice from its Development Economics Director, who will has the relevant experience nationally to advise, and we would</p>

	<p>The possibility of funding to cover the conservation deficit, including a full exploration of opportunities for potential owners with charitable status, has not been fully explored.</p>	<p><i>Policy HE9.2(ii)(c) requires a demonstration within the application that conservation through grant-funding or some other form of charitable or public ownership is not possible.</i></p>	<p>therefore support the most recent consultation response regarding this from English Heritage. Previous comments remain valid in reference to this new policy, having regard to professional advice in response to the applicant's engineering and other specialist reports.</p>
	<p>We consider this to be one of the rare cases where it</p>	<p><i>Policy HE7.6 states that 'where there is evidence</i></p>	<p>The additional marketing report submitted in December 2009 and commented on by us in February 2010 does discuss approaches by groups who may be able to access this type of funding, which the report states has not been successful, but as before, our comments remain valid that it has not been fully demonstrated that grant funding or some other form of charitable or public ownership is not possible.</p> <p>Our view remains that the state of the building arises</p>

	<p>appears that the building has been deliberately neglected, and suggest therefore that less weight should be given to the costs of repair.</p>	<p><i>of deliberate neglect of or damage to a heritage asset in the hope of gaining consent, the resultant deteriorated state of the heritage asset should be a factor taken into account in any decision.</i></p>	<p>from deliberate neglect and from the actions of the owner which at the very least were negligent. My previous comments as provided in August 2009 remain unchanged save to point out that in relation to the prosecution the owner has now pleaded guilty to damaging the building by carrying out works in a negligent manner, although he is yet to be sentenced.</p> <p>I would also reiterate my support to English Heritage's comments in their letter of 12 February 2010 regarding the need to have regard to all planning options including the fact that the works and damage to the building for which enforcement action as previously approved by the Planning Control Committee was unauthorised.</p>
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<p>3.19(ii). <i>The adequacy of efforts made to retain the building in use. The Secretaries of State would not expect listed building consent to be granted for demolition unless the authority (or where appropriate the Secretary of State himself) is satisfied that real efforts have been made without success to continue the present use or to find compatible alternative uses for the building. This should include the offer of the unrestricted freehold of the building on the open market at a realistic price reflecting the building's condition (the offer of a lease only, or the imposition of restrictive covenants, would normally reduce the chances of finding a new use for the building).</i></p>	<p>The building has not been offered on the open market, and therefore fails to meet this criterion. If the applicant considers that this is a circumstance where this should not be strictly applied, insufficient evidence has been given to suggest this. As above, no real evidence has been given that purchase of the building at a realistic price by a group with a charitable status has been fully explored.</p>	<p><i>Policy HE9.3 states that 'to be confident that no appropriate and viable use of the heritage asset can be found under Policy HE.2(ii) local planning authorities should require the applicant to provide evidence that other potential owners or users of the site have been sought through appropriate marketing and that reasonable endeavours have been made to seek grant funding for the heritage asset's conservation and to find charitable or public authorities willing to take on the heritage asset.</i></p>	<p>This clearly states that, in the first instance, all uses that would enable the asset's conservation should be fully explored, including charitable ownership, and then appropriate marketing undertaken to provide evidence that other potential users of the site have been sought. We recognise that attempts have been made to address the topic in this policy, but our comments regarding the marketing are stated in the first paragraph of the first section in this column above and remain the same, as per the most recent consultation responses on the addendum marketing report.</p>
<p>3.19(iii). <i>The merits of alternative proposals for the site. Whilst these are a material consideration, the Secretaries</i></p>	<p>The proposal involves further work to the building itself, and within the setting of the building, which would have a</p>	<p>HE9.2 (i) Where an application will lead to substantial harm... local authorities should refuse</p>	<p>No further information has been submitted in terms of any substantial public benefits that would</p>

<p><i>of State take the view that subjective claims for the architectural merits of proposed replacement buildings should not in themselves be held to justify the demolition of any listed building. There may very exceptionally be cases where the proposed works would bring substantial benefits for the community which have to be weighed against the arguments in favour of preservation. Even here, it will often be feasible to incorporate listed buildings within new development, and this option should be carefully considered: the challenge presented by retaining listed buildings can be a stimulus to imaginative new design to accommodate them.</i></p>	<p>harmful effect on its character, both by loss of historic features, severance of the historic layout of the building, and development on the adjacent site which would have an overbearing impact on the listed building, resulting in further loss of historic character.</p>	<p>consent unless it be demonstrated that: (i) the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh harm or loss.</p> <p>HE9.2(ii)(d) it needs to be demonstrated that the harm to or loss of the heritage asset is outweighed by bringing the site back into use.</p>	<p>outweigh the loss described in previous comments, and other options that may be less harmful have not been fully explored.</p>
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