

Report To Environment Overview Committee	29 April 2009
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Subject:	Highclere Castle Estate Enabling Development Draft Council Policy
Status:	Open
Report Ref:	
Ward(s):	Burghclere, Highclere and St Mary Bourne, East Woodhay
Key Decision:	
Key Decision Ref:	
Report Of:	Head of Neighbourhood Development
Contact:	Marion Brinton, Built and Natural Environment Manager (tel:01256 845472, ext 2472; email: marion.brinton@basingstoke.gov.uk)
Appendices:	<p>1. Highclere Castle Estate Enabling Development Policy (amended draft).</p> <p>2. Schedule of consultation responses from Public Bodies (available in group rooms or on website: http://www.basingstoke.gov.uk/regeneration/historic/highclerecastle.htm)</p> <p>3. Schedule of consultation responses from members of the Public (available in group rooms or on http://www.basingstoke.gov.uk/regeneration/historic/highclerecastle.htm)</p> <p>4. English Heritage Enabling Development Criteria.</p> <p>5. Schedule of consultation responses from members of the Public re increasing public access to Highclere Castle Estate (available in group rooms or on http://www.basingstoke.gov.uk/regeneration/historic/highclerecastle.htm)</p>
Papers relied on to produce this report	

SUMMARY

1 This Report

- 1.1 This report examines results of the public consultation undertaken in relation to the proposal from the Highclere Castle Estate to fund repairs to the heritage assets on the estate through enabling development. It is proposed that the Highclere Castle Estate Enabling Development Policy be adopted to provide the policy framework for considering any future planning applications for the enabling development. The first draft of the policy document was considered by the Environment Overview Committee on 11 September 2008. At that meeting the committee also agreed the scheme of public consultation. This report gives full feedback following the consultation and also sets out the amendments to the draft policy which respond to some of the issues raised.

- 1.2 By adopting the policy the Borough Council would be accepting that the **principle** of enabling development is applicable to the Highclere Castle Estate (based on the evidence received); and that the **need** for enabling development would be agreed. However, the Borough Council would not be bound to any future agreement on how the enabling development is to be delivered, or indeed to approve any development. The form of the enabling development would be considered in detail through the normal planning process.
- 1.3 The amended draft policy is attached at Appendix 1. It is proposed that following the consideration by the Overview Committee the committee's comments are reported to Cabinet on 23 June 2009 when the decision will be made as to whether to adopt the policy.

2 Recommendation

It is recommended that:

- The responses from the public consultation are considered
- The amended draft Highclere Castle Estate Enabling Development Council Policy document at Appendix 1 is considered; comments by the Committee will be reported to Cabinet in the usual way
- The Environment Overview Committee endorses the adoption of the amended policy.
- In the event that a response is not received from English Heritage (paragraph 16.4) before or at the Committee meeting, the Portfolio Holder be asked to secure a response, to circulate it to Committee members for comment, and report this when presenting the proposed policy to Cabinet.

PRIORITIES, IMPACTS AND RISKS

Contribution To Council Priorities

This report accords with the Council's Budget and Policy Framework

Council Plan 2009-2012	A10
3-Year Action Plan :	ND B7
Other References:	

Contribution To Community Strategy

Community Strategy 2006-16 :	E1, E2, E6
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Impacts

	Type	No significant impacts	Some impacts	Significant impacts
Impacts for BDBC	Financial		✓	
	Personnel	✓		
	Legal		✓	
Impacts on Wellbeing	Equality and Diversity	✓		
	Rural/Urban		✓	
	Crime and Disorder	✓		
	Health	✓		
	Environment and Climate Change			✓
	Economic	✓		
Involving Others	Communication/Consultation		✓	
	Partners		✓	

Risk Assessment

Number of risks identified:		2	
Number of risks considered HIGH or Medium:			
Strategic:	Already identified on Corporate Risk Register?	Yes	
		No	✓
Operational:	Already identified in Service Plans?	Yes	
		No	✓

GLOSSARY OF TERMS

Term (acronyms/abbreviations)	Definition
HLF	Heritage Lottery Fund
EH	English Heritage
ED	Enabling development
NWDPS	North Wessex Downs Preservation Society
AONB	Area of Outstanding Natural Beauty
CPRE	Campaign for the Protection of Rural England

DETAIL/MAIN CONSIDERATIONS

3 Background

- 3.1 The Borough Council has been approached by the Highclere Castle Estate which has proposed an enabling development project with a view to funding repairs to the historic assets on the estate. The Estate is to the south of Newbury, within the Area of Outstanding Natural Beauty, and comprises some 2,025 hectares containing a grade I registered historic park and a collection of historic buildings of outstanding national importance. Briefly, enabling development is development that would normally be unacceptable in planning terms but for the fact that it would bring public benefits (in this instance the repair and future maintenance of heritage assets) sufficient to justify it being undertaken, and which could not otherwise be achieved.
- 3.2 Since the initial approach from the Estate, officers liaised with the Estate's owners and advisors to ensure that their case was properly evidenced within the terms of enabling development. This case was presented to the Committee in September 2008 along with the reports commissioned by the Council which assessed the specialist areas of the Estate's case. In particular a report was commissioned from Saffery Champness, accountants specialising in country house estates, to examine the running of the Estate as a business. Their representative attended the last meeting to answer the committee's questions on that matter.
- 3.3 It was the officers' view that a sound and justified case had been made which established the need for enabling development and this conclusion was reported to Environment Overview Committee in September 2008. The next step, as agreed by this committee, was to undertake the consultation. Any future adoption of this policy document following public consultation would indicate acceptance, based on the evidence submitted and following rigorous examination, that there is a justified need for enabling development. This policy would not, however, commit the Borough Council to approving proposals for delivering the required enabling development. Future proposals would be examined in detail through the normal planning process.

4 The Public Consultation

- 4.1 The public consultation was undertaken in the autumn of 2008. The details of the consultation are set out in Annex 4 of the amended draft policy which is attached at Appendix 1 to this report.
- 4.2 There were 122 consultation responses received and these are summarised in appendix 2 and 3 along with the officer responses to the individual comments made. Appendix 5 sets out the comments received with regard to increasing public access to the Estate.
- 4.3 The paragraphs below set out the key relevant issues raised through the consultation.

5 The Purpose of the Policy

- 5.1 In this instance both the need for enabling development and the likely nature of potential development applications are relatively complex. There are several small plots of land which may be suitable for development and there are a number of historic buildings on the Estate which require repair. The

Estate proposes to undertake the repairs and the associated developments in phases over 5 or so years. A 'normal' enabling development scheme is relatively straight forward as a process (for example a country house is restored through funding raised by extending the house and converting it to an hotel, or by building new dwellings in the grounds). Such a proposal can usually be handled within a single development scheme. The advantage of establishing an agreement to the principle of enabling development through an overarching framework, is that each individual planning application would not be considered in isolation but with reference to the broader context. As a consequence it is recommended that a framework should be established within which the subsequent planning applications can be considered. The purpose of the Council Policy is to provide that framework.

5.2 The public consultation has highlighted several fundamental misunderstandings with regard to the role of the proposed policy. There is the belief that if the policy is not adopted then no enabling development will go ahead. This is not necessarily the case. Whether or not the policy is adopted the Estate is at liberty to, and is likely to, make planning applications on the grounds of enabling development and these will have to be considered on their merits by the Council's Development Control Committee. Provided that all relevant considerations are satisfied planning permission may be granted. Alternatively the planning applications may be refused but they could be allowed on appeal. If the council decides not to adopt the policy there is no guarantee that there will be no enabling development.

5.3 There is also the misunderstanding among some that if the policy is adopted then permission for enabling development will necessarily follow, or indeed that the adoption of the policy is, in effect, the granting of permission for development, or has the effect of recommending development. This is not the case. If the policy is adopted the *need* for enabling development will be acknowledged and accepted. There would be no commitment to agreeing how or how much enabling development will be delivered or that any development would necessarily be delivered; that decision could only be made on determining a planning application. Adoption of the policy will not obviate the requirement to go through the planning application stage; at that point there would be another opportunity for residents to comment, as with all planning applications. This is clear in the draft policy at Appendix 1 (see paragraph 1.3).

6 The Impact of the enabling development

6.1 Although it is clear in the draft policy document that at this stage the issue is the establishment of the *need* for the enabling development and not how the development might be delivered (how much and where and in what form), many of the responses were focussed around concerns in relation to the impact of development, particularly on the North Wessex Downs Area of Outstanding Natural Beauty (the AONB).

6.2 There have been no detailed discussions between the Council and the Estate in relation to specific sites for development. To date the attention has been centred on establishing the need for the enabling development.

6.3 More importantly, however, it must be remembered that the policy purposely does not indicate sites for development as this would be tantamount to

allocating land for development while circumventing the proper procedures through the planning process.

- 6.4 The residents of Highclere and Burghclere are very concerned about the potential impact of any future development, particularly in the knowledge that most of the Estate's land is within the AONB. For some the prospect of any development is unacceptable. Clearly the council has a role in protecting the AONB as it also has a role in promoting the historic environment and one consideration would not take automatic precedence over the other. It is likely that the AONB can absorb some new development without there being significant adverse impact (for example the re-use of redundant farm buildings) and therefore the prospect of new development within the AONB, or the countryside in general, should not be the basis for an in principle objection to enabling development.
- 6.5 Officers are mindful of the requirement to protect the character of the AONB and although this is clear in the original wording of the draft policy this has been emphasised further (see paragraph 14.1.2 of Appendix 1). When assessing the acceptability of a development proposal the benefits for the historic environment will need to be balanced against the impact on the countryside. However, these critical judgements can only be made once a specific proposal has been submitted. In addition any proposal for enabling development must also satisfy the criteria set out in the English Heritage Guidance (*Enabling Development and the Conservation of Significant Places*, 2008), and included in appendix 4, whereby the form of the enabling development 'minimises the harm to other public interests' and that 'the public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies' (criteria f and g). These requirements are embedded within the draft policy and would be a key consideration for the council's Development Control Committee. The repair of the historic buildings on the Highclere Estate would not, therefore, justify unacceptable harm to the AONB.
- 6.6 The AONB Council of Partners (of which the borough council is a member) has commented on the proposed draft policy. While highlighting the difficulties of comparing heritage assets with landscape assets and that the necessity to repair listed buildings should not take place at the expense of their surrounding landscape, it has not raised an objection to the policy in principle.
- 6.7 Among some residents there is a misunderstanding that the designation of the countryside around Highclere and Burghclere as an AONB means that no development whatsoever can take place there. The AONB status does afford a high level of protection to the area - comparable with that applying in a National Park - but it certainly does not serve to prohibit all forms of development.
- 6.8 The approach to be taken towards development in AONB's is set out in Government guidance, namely Planning Policy Statement 7 (PPS7) 'Sustainable Development in Rural Areas' (2004). This states that "*planning policies in LDD's [Local Development Documents] ... should also support suitably located and designed development necessary to facilitate the economic and social well-being of the designated areas [AONB's included] and their communities, including the provision of adequate housing to meet identified local needs*" (para. 27). It is thus recognised that some

development will necessarily take place in these areas to ensure that they remain viable economically and socially; to proscribe development would result in their stagnation.

- 6.9 Basingstoke and Deane Borough Council has not yet adopted any Local Development Documents. However, policy E6 (page 41) of the Borough Council's adopted Local Plan makes clear that, in the area of the AONB, "*In addition to the other requirements of this Policy, applications for development in the AONB will be determined in accordance with the policy in PPS7*". The complete policy is attached at Annex 5 of the amended draft policy at appendix 1 for reference, though it may be worth noting here that the first part of the policy reads "*Planning permission will only be granted where it is demonstrated that the proposals will be sympathetic to the landscape character and quality of the area concerned*".
- 6.10 Some local residents, concerned over the adverse impact of development have formed the 'North Wessex Downs Preservation Society' with the 'expressed objective of protecting the North Wessex Downs Area of Outstanding Natural Beauty from the sort of development now envisaged by the Highclere Estate'. The society is opposed to the granting of enabling development within the AONB for a range of reasons (see Appendix 2 for the summary of comments). One of their principal concerns is the scale of development required. While we do not know at this stage the form or siting of the development, if the full value required to fund the repairs to the historic assets (c. £11 million) is to be realised, it can be assumed that this is a significant amount of development and therefore their concern is understandable. However, this is not an 'all or nothing' situation. There are a number of small parcels of land within ownership of the Estate which may have potential for development (if permission for development is granted the sale of these sites would fund the repairs to the historic buildings). It is proposed that the enabling development would be brought forward in small packages over a period of say five years. Each proposal for development would be considered on its merits and while there may be the opportunities for developing some sites without an adverse impact on the AONB etc other sites may be unacceptable. It may transpire that there is potential for raising some of the c. £11 million but not all, or indeed that only a limited number of sites may be needed. Until specific proposals are made it is impossible to make that judgement. In each and every case if the proposal for enabling development is to be successful the benefit of repairing the historic buildings must outweigh the disbenefits of departing from other policies.
- 6.11 If the policy is adopted the *need* for enabling development would be acknowledged. However, how any or all of the required development might be delivered is a matter for the next stage and will require very careful and detailed consideration through the normal planning application process. By adopting the policy the Council would not be obliged in any way to grant consent for development.

7 Heritage Lottery Funding

- 7.1 Enabling development, as a form of public subsidy, must be seen as a last resort as, by definition, it requires setting aside other public policies. The Council, therefore, must be satisfied that other avenues of funding have been explored (in accordance with the English Heritage guidance that 'sufficient subsidy is not available from any other source').

- 7.2 The Heritage Lottery Fund (HLF) is an obvious source for potential funding for historic building projects. In the past the HLF has not been able to grant aid private owners and this was the case when the Highclere Estate first set out its case earlier last year. However, it has come to light during the public consultation that HLF policy has recently changed as part of its new strategy '*Valuing Our Heritage- Investing in our Future, Our Strategy 2008-2013*'. Under the new criteria private owners are now entitled to apply for grant aid provided that the public benefit outweighs the private gain. As the repairs needed on the Highclere Estate relate only to the buildings of restricted or little economic use (follies, garden buildings, The Castle and stables etc) and also as there is clear intention to improve public access over and above that which already exists it is possible that this would be a potential source of grant aid. However, officer discussions with the HLF have indicated that while private owners are able to apply for grant aid in reality they would be relatively low down on the list of priorities and unlikely to receive support.
- 7.3 In recognition of the HLF's change in approach the Estate has formally sought pre application advice from the HLF (in accordance with their normal procedure) and the response has been very discouraging but not absolutely negative. The HLF's focus has shifted towards educational projects and to be eligible a scheme must '*Help people learn about their own and other people's heritage*'. As currently scoped the proposed works at Highclere relate to the repairs to listed buildings and although the intention is to increase public access and passive enjoyment of the Estate there are no proposals for an enhanced 'active' educational programme or facility (i.e. more than interpretation panels, leaflets etc). School visits are already an important part of the Castle activities and the existing Egyptology exhibition is currently being extended and improved. But these are either existing or well underway and would not attract HLF funding.
- 7.4 The priority in respect of the Estate is to secure the repair and future maintenance of listed buildings and any further funding invested in education would be diverting monies away from this priority. However, if by developing the educational side of the project grant aid potential is opened up then this must be worthy of consideration (provided the level of grant aid was in excess to the investment in education). However, as currently scoped the HLF cannot support the repair of the historic buildings alone, i.e. without the educational aspect.
- 7.5 The level of funding required for the repair to the listed buildings on the Estate would be considered a 'major grant' by the HLF. The total budget for major grants is £20 million per annum for the UK so it is a highly competitive situation and the funding programme is over subscribed.
- 7.6 While private owners are now able to apply for grant aid from the HLF priority is given to not-for-profit organisations and partnerships. The response to the Estate acknowledges that as most of the applications are from not-for-profit organisations and that as their grant programmes are heavily over-subscribed an application from a private owner would be a low priority. Grant applications are received once a year in September so if the Estate was to apply in September 2009 a decision would not be given until 2011 or even 2012.
- 7.7 While it would appear that HLF support is unlikely in the short term this underlines the importance of keeping up to date with the policies of grant aiding bodies. While Members can be satisfied that at this stage with all the

known circumstances enabling development is indeed the last resort this may not be the case in the future, particularly after the Olympics in 2012 when more funding may be redirected back to the heritage sector. The proposed policy therefore allows for re-checking the availability of grants and other potential sources of funding as at every application stage the criteria set out by English Heritage (including the requirement that the enabling development is the last resort) must be satisfied. It is unlikely that any grant aiding body will fund the full c. £11 million or even a substantial part of it. However, any contribution would be taken into account and would reduce scale of the need for enabling development.

8 The Sale of Estate Assets

8.1 In the last report the concept of 'entity' was explained:

“An historic entity is an outstanding ensemble of historically-associated buildings, often land (which may include archaeological remains) and normally contents, whose significance would be inevitably and materially harmed by break-up and sale.” (*Enabling Development and the Conservation of Significant Places*, English Heritage, p.30).

8.2 For the Highclere Castle Estate the application of the concept of 'entity' and the need to protect it is already established by central Government through an agreement with the Capital Taxes Office in relation to Inheritance Tax conditional exemption (through the heritage provisions of the Inheritance Tax Act, 1984). It has been recognised that inheritance tax could only be paid through the selling of assets, thereby fragmenting the entity. This damaging of the ensemble should be avoided and therefore tax exemption is agreed upon the condition that the entity remains intact and is publicly accessible according to established guidelines. Thus the Estate does not have the option of selling off a significant parcel of land (within the historic entity) or a painting or piece of furniture etc to fund repair.

8.3 It was understood that no land within the boundary of the historic entity could be sold off without breaking the tax agreement. Further discussions have taken place with HM Revenue and Customs and further clarity has been given. It may be possible to sell land which is currently within the entity provided that any development upon that land did not have an adverse impact on the listed buildings, their setting or the quality of the landscape. All the land currently within the boundary of the entity was assessed by either English Heritage or Natural England as having historic or landscape significance so development potential is likely to be very limited. However, this does open up the opportunity to explore whether there are small areas that might be suitable for development within the boundary; whereas before it was thought that this was impossible without breaking the tax agreement. The Highclere Estate is currently undertaking a landscape impact assessment of the whole estate which will form a rationale for selecting sites suitable for consideration for enabling development.

8.4 The question has been raised through the consultation as to why land outside the immediate historic parkland of the Castle might not be sold off (for example Manor Farm at Old Burghclere). As the Estate has made clear (and as confirmed by independent assessment) any sale of assets which would diminish revenue income would impact on the long term sustainability of the

Estate and although it would generate a cash receipt in the short term would reduce income over time and would not solve the problem of future maintenance. The objective of the enabling development is not only to address the backlog of capital repair but also to increase the revenue income of the Estate so as to fund the proper repair and maintenance of the historic buildings over time. In any case the sale of a substantial proportion of the landholding such as Manor Farm would inevitably break the tax agreement as it would be considered fragmentation of the entity.

- 8.5 The public value of the tax agreement is that while it remains the heritage entity cannot be sold off or broken up. Such agreements are rare and have been granted to only 120 Estates across England, justified by the collection or entity being 'outstanding' in its importance in the national context. Thus keeping the Estate together (including land or paintings or furniture) is a legitimate objective of enabling development.
- 8.6 The view that the Estate has already been broken up has emerged through the consultation, and therefore why should enabling development be granted to protect something that has effectively been lost (the 'entity'). Reference is made, in particular, to Milford Lake House and The Stud which are in the ownership of another member of the Carnarvon family. However, the whole area within the boundary of 'conditionally exempt land' for inheritance tax purposes at Highclere is subject to the emerging draft Heritage Management Plan for the Estate (a condition of the exemption agreement), which includes all the key restraints and obligations which flow from conditional exemption, including the requirement for condition surveys of all the historic buildings and structures within it by specialist conservation architects. All the legal owners concerned have signed the undertakings required by HM Revenue and Customs. The Highclere Park Landscape and Conservation Management Plan in consequence covers the whole of the English Heritage Registered Park and Garden of special historic interest.
- 8.7 These are the means by which the heritage values of the registered landscape, and the wider area of conditionally-exempt land, are required to be managed in an integrated and coherent way, notwithstanding the different family interests within them. It is not unusual for estates to be in different legal ownerships within the same family, and this has been the position at Highclere for many decades.
- 8.8 Lord Carnarvon is however the owner of the greater majority (over 80%) of the designated park & landscape with all the associated buildings and follies. Although not the freehold owner of the Castle, with his wife he is the tenant of the Castle & Gardens business and is responsible for the maintenance and upkeep of the Castle and its surrounding buildings and gardens.
- 8.9 The land at Milford Lake House and Highclere Stud is not included in the scope of the enabling development policy. The former includes the Grade I listed Milford Lake House together with its ornamental landscape with lakes and dams, and the latter the working stud farm. The owners are therefore responsible for the upkeep and maintenance of these parts of the entity.
- 8.10 The enabling development proposals relate only to land owned by Lord Carnarvon, the Carnarvon Will Trust and the Carnarvon Farmland Trust (family trusts effectively controlled by Lord Carnarvon). Any income from enabling development on land within these ownerships will be put towards

either the repair of the heritage buildings or to the development of the rental property conversions to make the part of the Estate in Lord Carnarvon's control, which includes all the structures with limited or no economic use, sustainable in revenue terms.

- 8.11 The consultation has also raised the question as to why the Estate cannot be sold off to someone wealthy enough to maintain all the buildings. With the sale of the Estate would come the risk that it would be broken up to a lesser or greater extent and that the 'outstanding' collection would be lost, probably for ever. Even if the Estate was sold in its entirety to another this would not solve the problem that the Estate cannot sustain itself and therefore the prospect of enabling development may well remain.
- 8.12 Normally when considering enabling development the first question asked is whether the property has been put on the market to find a suitable purchaser. The question has been raised as to why the Highclere Castle Estate has not been put up for sale. However, as explained above, because of the special circumstances in this instance (the 'entity') it would not be appropriate to sell the Estate (because of the risk of fragmentation) and the enabling development should address the issues of viability in the medium to long term. This complies with the English Heritage guidance.

9 The National Trust

- 9.1 A comment made in the consultation responses is that the Highclere Estate should be offered to the National Trust, the assumption being that this would result in the Estate being well managed, with full public access and without recourse to enabling development. However, the National Trust would be very wary of taking on an estate which is not self sustaining. The Saffery Champness report on the current business performance of the Estate concluded that the Estate was currently well run and performing well and yet cannot afford to fund the repair and maintenance of key uneconomic historic structures. This may well be the case if the Estate was being managed by the National Trust and therefore that body too may seek some enabling development. The National Trust has explored potential for enabling development on some of its estates in the past. Currently four out of five of the National Trust's sites operate at a loss and while as an organisation it is substantially supported by membership subscriptions and bequests it is understandable that it should seek to make each of its properties self-supporting where possible. When considering taking on a property the National Trust's national acquisitions strategy requires the following:
- The property must be of national importance because it is outstanding for its natural beauty or natural historic interest.
 - Ownership by the Trust should increase benefit to the nation.
 - The property should normally be under threat.
 - The property will not be acquired unless the Trust is the most appropriate owner.
 - The property may be acquired to protect an existing property of inalienable standard.

- The property should be, and should be expected to remain, financially self-supporting.

9.2 The National Trust would be mindful of the fact that the current owners are willing to retain the ownership and stewardship of the Estate; that the Estate is already publicly accessible; that there is a mechanism in place for preventing the fragmentation of the Estate; that the Estate is currently well managed and yet is not self-sustaining. Taking these considerations into account it is unlikely that the Highclere Castle Estate would be a high priority for the National Trust.

10 Enhancement Costs

10.1 The amount of enabling development must be the minimum needed to secure the future of the place and therefore should be tied to essential repair and conversion costs. Through the consultation it has been highlighted that a sum of £400,000 has been included for the removal and re-siting of modern farm buildings which are currently attached to and surround the grade I barn at Manor Farm, Old Burghclere. Although the removal of such buildings is generally welcomed as the setting and appreciation of one of the most important barns in the County would be significantly improved, and would therefore be a public benefit, in the terms of enabling development such work is difficult to justify. It is proposed therefore to omit this cost from the total repair cost. If, when the repairs of the barn are examined in greater detail, it is found that to facilitate the proper repair of the barn it is necessary to remove these modern buildings (or that it is cheaper to do so), the cost may have to be factored back in. Alternatively should the Manor Farm site be found to be suitable for some enabling development, and that the removal of the unsightly modern farm buildings would improve the amenity of the site and therefore its value, then the removal cost could be included.

10.2 As a consequence of omitting this cost from the project the overall figure for the repairs etc to the listed buildings has been amended to 'c. £11 million' in the amended draft policy.

11 Precedent

11.1 At the meeting of this committee last September when the Highclere Castle Enabling Development Draft Policy was first considered there was some discussion over the concern of setting a precedent. Enabling development is a legitimate planning tool established in 1988. Since then English Heritage has issued guidance on enabling development, most recently in *Enabling Development and the Conservation of Significant Places*, 2008. That document is a material planning consideration.

11.2 The above document clearly sets 7 criteria which must be satisfied if an enabling development proposal is to be successful. These are included in the draft policy for Highclere and are also set out in appendix 4 of this report.

11.3 The draft policy currently being considered relates *specifically* to the Highclere Castle Estate and reflects the proposal from the Estate, the evidence presented in support of their case, and the Council's assessment of that evidence. Although any other owner of an historic asset in the Borough may wish to propose enabling development to fund necessary repairs they would need to demonstrate that the 7 English Heritage criteria could be satisfied and

this would relate to the very particular circumstances of that individual case. The circumstances set out at Highclere would be of no relevance. To conclude, any case for enabling development has to be very site-specific and each case would be taken on its merits. The draft policy for the Highclere Castle Estate can only be of relevance to that Estate. Other considerations of a more general nature, which are included in the policy, would be established in the English Heritage guidance in any case. The proposed policy cannot be used as a reference point to justify enabling development at any other location.

12 Public Engagement

- 12.1 Enabling development is a form of public subsidy and therefore it is of prime importance that the public is fully engaged with the decision making processes. Public consultation to date has identified concerns about the openness and transparency of both this and future decision making processes. Much of the worry to date stems from the unknown i.e. that currently we do not know where the development sites might be, and a lack of openness is suspected. This is understandable, but unfounded (see above in paragraph 6.3 which explains why specific sites have not been identified in the draft policy). All decisions will be made in accordance with the council's role as planning authority and relevant democratic processes. However, it is considered that enhanced levels of community engagement will assist with this process by providing good communication and helping to clarify queries at subsequent stages in the process. This can only add value to the decision making and therefore the project as a whole.
- 12.2 It is proposed that the draft policy is amended so that increased community engagement is undertaken (see section 15 of the policy at appendix 1). Extensive public consultation at the pre planning application stage is encouraged through our Statement of Community Involvement. However, as the Local Planning Authority the council cannot insist on pre application consultation. Because of the special circumstances of enabling development it is proposed to take the opportunity of securing the appropriate levels of engagement through the policy. A community panel is proposed and the local parish councils, as the elected representatives of their communities, would be key members of that group along with other representatives of key stakeholders. The general principle is set out in the policy leaving the exact arrangements to be finalised if the policy is adopted.
- 12.3 The parish councils of Highclere and Burghclere have been approached and have agreed to the principle of the community panel. The Highclere Castle Estate has also been consulted on this matter and also agrees with the principle of the panel (this has been confirmed in writing). It is proposed that engagement commences at an early stage so that there is community input into the selection of sites suitable for consideration for development (using the landscape impact assessment as a basis).
- 12.4 There is the opportunity to secure the role of the community panel through the proposed policy. Should the policy not be adopted the Highclere Castle Estate would be encouraged to undertake extensive pre application discussions within the local communities in relation to any planning applications. However, in the absence of a policy this cannot be insisted upon.

13 Public Access

- 13.1 The September 2008 report discussed the matter of public benefit in relation to the Highclere Castle Estate. It is important to remember that at the very heart of enabling development is the intention to secure a public benefit. As already stated in the September 2008 report Highclere Castle and the associated buildings and landscape are of national importance. The statutory listing status imposes a presumption in favour of preservation and underlines the importance of such sites in our national culture and heritage. Thus the key public benefit is the preservation of the historic buildings and landscape for their own sake. Other public benefits include:
- public access to the estate and Castle
 - retention of the unique 'entity'
 - the estate as a whole is used and managed with respect for the heritage assets, the landscape and biodiversity
 - provision of education resource
 - tourist attraction
 - facility for corporate events, weddings etc
 - facility for charitable events
 - place of employment
 - provision of an attraction and facility which has positive impact on the image of the Borough
- 13.2 By ensuring that the Estate is self-sustaining in the medium to long term the public benefits as set out above would be secured. However, the intention is to secure enhanced levels of public access to further increase the public benefit derived from any enabling development.
- 13.3 The recent public consultation exercise specifically asked the local communities about public access to the Estate; the comments are set out in Appendix 5.
- 13.4 The responses are very varied. Some would welcome increased access to the parkland etc while others feel that the benefit of additional footpaths etc would not outweigh the harm they envisage to the countryside through the enabling development. While Members will have regard to local opinion it is important to acknowledge the importance of the Estate within the borough and national context. If enabling development can be achieved without unacceptable harm to the surrounding countryside then it will be important to secure increased access to the Estate. The comments made through the consultation would inform any future negotiations in relation to access and local requirements.
- 13.5 The draft policy states that should enabling development be implemented then the public benefits will be secured through a Section 106 legal agreement. That a 'scheme for enhanced public access to the heritage asset is implemented' is stated (see paragraph 16.2 of the amended draft policy). At this stage we do not know whether any enabling development is feasible and therefore it would be premature to negotiate the specific detail of increasing public access. However, the Estate representatives have been shown the comments raised and agree to the principle of improving public access.

Confirmation of this has been received in writing. While officers would seek to negotiate maximising public access the need to operate the various businesses within the Estate, which may restrict access to some areas at certain times, and the need to protect the heritage significance of the landscape and the buildings, will also be taken into account. The suitable level of access would have to be considered at the stage of determining a planning application for enabling development as this would constitute part of the public benefit (the public benefit must decisively outweigh the disbenefits of breaching other public policy). Further discussion of this with the local community would be part of the pre-application processes outlined above.

14 The Current Economic Climate

- 14.1 The economic climate has changed radically since this proposal was first discussed. Of most relevance is the drop in property values. If any enabling development is to go ahead it will be important to ensure that the impact upon the landscape is minimised. To ensure this the value of each plot must, insofar as appropriate, be optimised. The consultation highlights concern over taking such a project as this forward while property prices and land values are relatively low and probably still falling. It can be in nobody's interest to secure any enabling development at this time as more land would be needed to provide the necessary value and the impact in the countryside would therefore be greater. If the policy is adopted it will be some time before the Estate is in a position to make a planning application and by that time property values may be improving. However, to assuage concerns the Estate has confirmed in writing to the Council that it will not pursue the sale of land until the property market is more favourable. In the meantime the listed buildings will be maintained in a wind and weather-tight condition.

15 The Planning Policy Context

- 15.1 In the consultation the relative weight given to other key planning policies (such as affordable housing) has been raised as an issue. For some it is seen as important that affordable housing, for example, is secured should permission be granted for some enabling development. Others seek reassurance that policies which may conflict with the aims of the enabling development (such as density which could increase the impact on the landscape) will be set aside.
- 15.2 A planning application for development normally needs to comply with relevant policies in the adopted Borough Local Plan if permission is to be granted. In the case of an application for residential development, for example, the following are among the policies against which the proposal would have to be judged: C1 Section 106 contributions; C2 Affordable Housing; and C3 Housing Mix. These policies are in place to ensure that new development is suitably sustainable and meets community needs.
- 15.2.1 Where enabling development is concerned, a different approach is called for. As enabling development is by definition contrary to policy, the aim should be to seek to limit this conflict by permitting no more development than is necessary. Requiring proposals to comply with policies that impose demands in terms of providing infrastructure and community facilities, affordable housing, and a mix of housing sizes and densities, could well lead to an increase in the amount of enabling development needed. Where appropriate such policies will be set aside when a planning application for enabling

development comes to be considered, in order to minimise the overall impact of that development while optimising the value delivered. The sites would be considered on a case by case basis. However, it is important to note that other planning policies would still be material – in particular those relating to the historic environment (Policy E2) and the landscape (Policy E6).

16 The Financial Assessment

- 16.1 A fundamental tenet of the proposed policy is that enabling development is required to fund the necessary repairs and future maintenance of the various historic assets on the Estate because the Estate itself cannot otherwise raise the necessary funds. This is based on the assertion by the Estate, and confirmed by the council's consultant, that the businesses are run efficiently but cannot generate sufficient income to fund repairs and maintenance.
- 16.2 Various comments have been made about the financial analysis, some very detailed, as part of the consultation. To answer these issues accurately Saffery Champness were asked to respond and their comments are set out in Appendices 2 and 3 alongside the relevant concerns. The comments raised in the consultation ranged from questioning the adequacy of the brief set by the council through to levels of reinvestment. All the detail can be found in the appendices. However, in conclusion, the consultation comments have been taken into consideration but have not undermined the assessment made by Saffery Champness and they stand by their original report and its conclusions. Hence there have been no changes to the draft policy in this regard.
- 16.3 The Saffery Champness assessment is focussed on the Highclere Estate businesses. There are concerns among some that Lord Carnarvon may have other assets (other than the Estate) that could be sold to fund the necessary repairs and therefore negate or reduce the need for enabling development. Having studied tax returns Saffery Champness can confirm that Lord Carnarvon does not own other income generating assets. It has been confirmed in writing by Lord Carnarvon that he owns no other assets and officers have no reason to doubt that this is the case. This confirmation is therefore considered adequate for the purposes of this project.
- 16.4 Following the comments raised about the adequacy of the brief set by the Council for the financial assessment and also with regard to the thoroughness of the Saffery Champness report English Heritage was asked to review this aspect of the work. The English Heritage view has not been received in time for the drafting of this report and will be tabled at the Overview Committee meeting.
- 16.5 It is important to note that the assessment of Saffery Champness in the summer of 2008 effectively sets a benchmark. When considering any future planning application for enabling development the business performance of the Estate would have to be updated with further accounting and tax information to ensure that the key justification for enabling development (that the Estate is efficiently run and yet cannot fund the necessary repairs) still holds true. With each and every planning application compliance with the seven English Heritage criteria would remain a requirement (including that sufficient subsidy is not available from any other source).

17 Financial Implications

17.1 It was explained in the last report that the council has an obligation to properly assess the evidence presented by the Highclere Estate in support of its case for enabling development. This has required additional professional advice from external consultants. It has been agreed with the Estate that should any enabling development go ahead the consultants' costs incurred by the council can be recouped from the proceeds. Alternatively there will be a charge on the land.

18 Conclusion

18.1 All comments arising from the public consultation have been taken into account and are responded to in detail (see appendices 2 and 3). The comments have resulted in the following amendments to the draft policy:

- Strengthening of the wording in relation to protection of the AONB (see paragraph 14.1.2)
- The adjustment of the value of the required enabling development from £11.75m to c. £11m following the omission of the sum for removal of modern farm buildings at Manor Farm, Old Burghclere.
- Addition of wording to indicate that normal planning requirements in relation to providing infrastructure and community facilities, affordable housing, and a mix of housing sizes and densities are likely to be set aside (see paragraph 14.1.4).
- The addition of a new section which sets out the requirement for an enhanced level of community engagement at pre application stage to foster openness, understanding trust and good communication. See section 15 of the amended draft policy.
- Addition of Annex 4 (Overview of public consultation).
- Addition of Annex 5 (Policy E6 on Landscape Character, extract from adopted Basingstoke and Deane Borough Local Plan 2006).

18.2 It is considered that none of the comments raised through the consultation have undermined the justification or need for the policy. The committee is asked to consider the amended draft policy and endorse its adoption.

APPENDIX 4

The Criteria for Enabling Development

Enabling development that would secure the future of a significant place, but contravene other planning policy objectives, should be unacceptable unless:

- a. it will not materially harm the heritage values of the place or its setting
- b. it avoids detrimental fragmentation of management of the place
- c. it will secure the long term future of the place and, where applicable, its continued use for a sympathetic purpose
- d. it is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid
- e. sufficient subsidy is not available from any other source
- f. it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests
- g. the public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies.

(Enabling development and the Conservation of Significant Places, English Heritage, 2008.)