

**Note - This Annex sets out changes to the Historic Environment Policy HE 2, 4, 8 & 9**

**HE 2a Archaeological Assessment and Evaluation**

**Planning Permission will not be granted where the impact of a development on important archaeological remains are unclear, or the relative importance of the remains is uncertain. The Council will require developers to provide further information in the form of an archaeological assessment or an archaeological evaluation. Where such information is requested but not provided, a precautionary approach will be adopted and Planning Permission will be refused.**

**Justification and Amplification**

- 23.18 Developers need to take into account archaeological considerations and should deal with them from the beginning of the development management process. The needs of archaeology and development can often be reconciled, and potential conflict avoided or much reduced, if developers discuss their proposals with the Council and HED at an early stage.
- 23.19 It is therefore in the developers own interest to establish whether a site is known or likely to contain archaeological remains as part of their own assessment. The first step is to consult the Historic Environment Record of Northern Ireland which contains database information on all recorded heritage assets which is maintained by DfC. Informal discussion with HED will also help provide advice in relation to the archaeological sensitivity of a site.
- 23.20 In certain case, the Council may use its powers under the Planning Act (Northern Ireland) 2011 to request further information in the form of an archaeological assessment or evaluation. These can help determine the importance, character and extent of any archaeological remains that may exist in the area of a proposed development and indicate the weight which should be attached to their preservation. They will also provide information that may be useful in developing options for minimising or avoiding damage. Such information will enable the Council to make an informed and reasonable Planning decision.

## **HE 2b Archaeological Mitigation**

**Where Planning Permission is granted for development which will affect sites known or likely to contain archaeological remains, the Council will impose conditions to ensure preservation in situ, **or licensed excavation, recording and archiving of the archaeology before development commences.****

### Justification and Amplification

23.21 The preferred approach to archaeological remains affected by development is:

- i) Preservation of remains in situ;
- ii) Licensed excavation<sup>1</sup> and recording examination and archiving of the archaeology before development commences.

23.22 In some circumstances, it will be possible to permit development proposals which affect archaeological remains to proceed provided that appropriate archaeological mitigation measures are in place which preserve the remains in the final development or ensure excavation recording prior to destruction.

23.23 Mitigation may require design alterations to development schemes which avoid disturbing the remains altogether or minimise the potential damage through measures such as careful siting of landscaped and open space areas. There are techniques available for sealing archaeological remains underneath buildings or landscaping, thus securing their preservation for the future, even though they remain inaccessible for the time being.

23.24 The excavation recording of remains is regarded as a second best option to their physical preservation. The science of archaeology is developing rapidly and excavation means the total destruction of evidence (apart from removable objects) from which future techniques could almost certainly extract more information than is currently possible. Excavation is also expensive and time-consuming, and discoveries may have to be evaluated in a hurry against an inadequate research framework. The preservation in-situ of important archaeological remains is always the preferred course of action.

23.25 There will be occasions where archaeological remains are of lesser importance, where the value of the remains is not sufficient when weighed against all other material considerations, including the importance of the development, to justify preservation in situ. In these cases, developers will be required to prepare and carry out a programme of archaeological works, working to a brief detailed in HED statutory consultation responses and advice.

23.26 Offers of facilitation of excavation by developers will not justify a grant of planning permission for a development which would damage or destroy archaeological remains whose physical preservation is desirable, because of their importance, and feasible.

### Areas of Archaeological Potential

23.27 Areas of Archaeological Potential (APP) are those areas within settlements where on the basis of current knowledge, it is likely that archaeology remains will be encountered in the course of continuing development and change.

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<sup>1</sup> Excavations are licensed by Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995

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Currently, the entirety of the Historic City Conservation Area, which includes the Walled City, and certain lands outside but immediately adjacent to the south and east of the Conservation Area boundary, are recognised as being an APP. Further AAPs will be identified in the Local Policies Plan. (see also paras, 23.10 and 23.61)

### **Discovery of Previously Unknown Archaeological Remains**

- 23.28 Discovery of previously unknown archaeological remains can result in a material change which could affect the nature of the development permitted. Occasionally archaeological remains are only discovered once development commences. In such circumstances it is a statutory requirement that these are reported to HED.
- 23.29 On rare occasions the importance of such remains may merit scheduling, in which case the developer would need to seek separate scheduled monument consent before they continue work. In most cases it should prove possible for differences to be resolved through voluntary discussion toward agreement of a migration strategy for a satisfactory compromise to be reached. Applicants should consider the potential need for a contingency plan to deal with unexpected archaeological discoveries.

**To note - Paragraph numbers in Policy HE 3 onwards will need to be renumbered.**

**HE4 Listed Building and their Settings**

**All proposals affecting a listed building must ensure the works protect, conserve and where possible, enhance the heritage asset. All proposals must be based on a clear understanding of the importance of the heritage asset and should support the best viable use that is compatible with the fabric, setting and essential character of the building.**

- (a) Change of Use of a Listed Building**  
Planning Permission will be granted, in consultation with the relevant statutory authority, where the change of use secures its upkeep and survival, and the essential character and special architectural or historic interest of the building.
- (b) Extensions and Alterations to a Listed Building**  
Planning permission will only be granted, in consultation with the relevant statutory authority for development proposals, for the extension and alteration of a listed building where the following criteria are met: - The essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired; - The works proposed make use of traditional and / or sympathetic building materials and techniques which match or are in keeping with those found on the building; and - The architectural details (e.g. doors, gutters, windows) match or are in keeping with the building.
- (c) The Control of Advertisements on a Listed Building**  
Advertisement Consent will only be granted, in consultation with the relevant statutory authority, for advertisements and signs on a listed building where they are carefully designed and located to respect the architectural form and detailing of the building and meets the requirements of the strategic policy in the Signage & Outdoor Advertising chapter.
- (d) Demolition of a Listed Building**  
There will be a presumption in favour of retaining Listed Buildings. The Council, in consultation with the relevant statutory authority, will not permit the total demolition or any significant part of a listed building unless there are exceptional reasons why the building cannot be retained in its original or a reasonably modified form. Where, exceptionally, Listed Building Consent is granted for demolition, this will normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording before its demolition.
- e) Development Affecting the Setting of a Listed Building**  
Planning permission will only be granted for a development proposal which would not adversely affect the setting of a listed building, assessed in consultation with the relevant statutory authority. Development proposals will normally only be considered appropriate where all the following criteria is met:  
- The detailed design respects the listed building in terms of scale, height, massing and alignment.  
- The works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and  
- The nature of the use proposed respects the character of the setting of the building.

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### Justification and Amplification

- 23.31 The District contains a wealth of listed buildings; the greatest concentration being within Derry's historic core within the vicinity of the City Walls. These buildings add to the quality of our lives and contribute to the local distinctiveness, character and appearance of the District's city, towns, villages and countryside. It is therefore important to conserve, protect and enhance these buildings, in accordance with the Historic Environment policy suite and GDP 8.
- 23.32 Listed buildings are designated by the Department for Communities, as being of 'special architectural or historic interest' under Section 80 of the Planning Act (NI) 2011. They are key elements of our historic environment and are often important for their intrinsic value and for their contribution to the character and quality of settlements and the countryside. It is important therefore that development proposals impacting upon such buildings and their settings are based on a clear understanding of the importance of the building, as well as the rarity of the type of structure and any other features of special architectural or historic interest which it possesses.
- 23.33 The Council will consult with the relevant statutory authority when determining Listed Building Consent and planning applications which impact on a listed building and/or its setting, in accordance with legislative requirements.<sup>2</sup>
- (a) Change of Use of a Listed Building
- 23.34 The key to survival and upkeep of listed buildings is to keep them in active use and accessible to all, while the most appropriate use of an historic building will often be that for which it was designed. It is widely accepted that new compatible uses should be found for historic buildings where they can no longer reasonably be expected to serve their original use and where the integrity of their built fabric is under threat. Proposals for the conversion of a listed building to a new use should be based on a clear understanding of the special interest of the building, its historic fabric, setting and essential character. It should also be noted that this may not necessarily be the most profitable use. It is important to acknowledge that at times a building is so sensitive that it cannot sustain any alterations to keep it in viable economic use, but its future may nevertheless be secured by charitable or community ownership.
- (b) Extensions and Alterations to a Listed Building
- 23.35 Many listed buildings can tolerate some degree of thoughtful alteration or extension to accommodate continuing or new uses. Extensions should be of a high quality design, subservient to, and in keeping with, the essential character of the listed building and its setting. Successive applications for alteration or extension, or minor works of indifferent quality, should be carefully considered, as such works can cumulatively reduce a listed buildings special interest.
- 23.36 In assessing the effect of any alteration or extension, including applications to provide inclusive access under DDA requirements, consideration will be given to

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<sup>2</sup> Schedule 3 of The Planning (General Development Procedure) Order (Northern Ireland) 2015 as amended 2016 and Regulation 6 (1) of The Planning (Listed Buildings) Regulations (Northern Ireland) 2015 as amended 2016.

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the elements that make up the special interest of the listed building in question<sup>3</sup>. They may comprise not only of the obvious visual features such as decorative facades and its setting or, internally, staircases or decorative plaster ceilings but also the spatial layout of the building, the archaeological or technological interest of the surviving structure and the use of materials. Any intervention should also be based on a clear understanding of the structure of the listed building, because it is vitally important that new work does not weaken the structural integrity of the building. Applicants should justify their proposals, in an accompanying Design and Access Statement, demonstrating how decisions have been made and why the proposed change is desirable or necessary. All proposals should seek to conserve the maximum amount of historic fabric with minimum intervention. While British Standards are not statutory, the Council would commend the advice and guidance set out in BS 7913: 2013 'Guide to the conservation of historic buildings' when considering works of alteration or extension.

23.37 Where a building forms part of an architectural group, for example as part of a terrace, then it may not be possible to make even minor external alterations without disrupting the architectural unity of the group. Even painting or stone cleaning of one unit in a terrace can have this effect.

### (c) The Control of Advertisement on a Listed Building

23.38 Many heritage assets are in commercial use and already display signs or advertisements of some sort. These in themselves may be of historic interest or of some artistic quality, and where this is the case, the council will not normally permit their removal or significant alteration. New signs and advertisements can have a major impact on the appearance and character of a listed building and its setting. The cumulative impact of new advertisements should not clutter or adversely impact on existing historic advertisements, and should enhance the listed building and its setting.

23.39 Where a proposal to display signs on a listed building is considered to be acceptable in principle, they should be of a high design standard and complement the age and architectural style of the building, carefully located not to obscure, overlap or cut into any architectural detailing or structural divisions. These considerations will to a large extent dictate the scale, size, proportions and position of any signage. Illuminated signs and advertisements will not normally be acceptable. Materials, detailing and finishes should also respect the essential character of the listed building and its setting contributing to a quality environment. Applications for the display of advertisements will be assessed against this policy and the policy requirements of Chapter 14: Signs and Outdoor Advertising.

### (d) Demolition of a Listed Building

23.40 The demolition of a listed building should be wholly exceptional and will require the strongest justification. Consent will not be given for the total or substantial demolition of any listed building without clear and convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses, and where these efforts have failed; that preservation in some form of charitable or community ownership is not possible or suitable; or that

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<sup>3</sup> The published listing criteria can provide further amplification on the listing: - <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-hed-scheduling-of-historic-buildings.PDF>

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redevelopment would produce substantial regional benefits which would decisively outweigh the loss resulting from demolition. While it is acknowledged that very occasionally demolition of a listed building will be unavoidable, Consent will not be given simply because redevelopment is economically more attractive to the developer. Where proposed works would result in total demolition of a listed building, or any significant part of it, consideration will be given to:

- (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;
- (ii) the adequacy of efforts made to retain the building in use;
- (iii) the merits for alternative proposals for the site.

23.41 The onus will be on the applicant to demonstrate and justify the need for demolition. Evidence will be required to indicate alternative options for stabilisation of the existing structure have been considered in efforts to retain the listed building. Reports submitted for consideration on the integrity of the building, including structural integrity, must be submitted by suitably conservation experienced engineers, architects, building surveyors and so on. Structural issues will not be given substantive weight when making a case of demolition where these have arisen due to neglect of a listed building through lack of maintenance or failure to secure by current or previous owners. 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 will be given to the costs of repair.

23.42 Proposals for the demolition of a listed building will not be considered in isolation from proposals for subsequent redevelopment. Detailed drawings illustrating the proposed redevelopment of the site should therefore accompany a Listed Building Consent application for full or partial demolition. Where exceptionally, Consent is granted for the demolition of a listed building, conditions should normally include:

- A Section 76 Planning Agreement to ensure the site is subsequently redeveloped for the purpose granted and
- Appropriate recording of the building prior to its demolition, typically consisting of a drawn, photographic and written record

### (e) Development Affecting the Setting of a Listed Building

23.43 The setting of a listed building is often an essential part of the building's character, as it enables the heritage asset to be understood, seen, experienced and enjoyed within its context. Any proposal for development, which by its character or location may have an adverse impact on the setting of a listed building, will require very careful consideration. The design of new buildings planned to stand alongside historic buildings must be of a high quality, designed to respect their settings and follow fundamental principles of scale, height, massing, proportion and alignment, with use of appropriate sustainable materials.

23.44 The extent to which proposals will be required to comply with the criteria will be influenced by a variety of factors: the character and quality of the listed building; the proximity of the proposal to it; the character and quality of the setting; and

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the extent to which the proposed development and the listed building will be experienced in juxtaposition.

23.45 Development proposals some distance from the site of a listed building can sometimes have an adverse effect on its setting e.g. where it would affect views of an historic skyline. Applications that may affect the setting of a listed building will therefore normally require the submission of detailed contextual drawings and visuals which illustrate the relationship between the proposal and the listed building and demonstrate how they will be seen in juxtaposition. In determining applications for development affecting the setting of a listed building, the Council will have regard to HED publication 'Guidance on Setting and the Historic Environment'.

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### **HE 8 Conversion and Re-Use of Non-Designated Heritage Assets**

**The Council will permit the sympathetic conversion and re-use of non-designated heritage assets (NDHAs), such as an unlisted vernacular building or historic building of local importance to other appropriate uses, where this would secure their upkeep and retention, while ensuring no harm or loss to the significance of the heritage asset.**

**Proposals for conversion will normally be required to meet all the following criteria:**

- a) The building is of permanent construction, structurally sound and capable of conversion;**
- b) The scheme of conversion will not have an adverse effect on the character or appearance of the locality and maintains or enhances the form, character and architectural features, design, materials and setting of the existing building. This will involve retention of existing door and window openings and minimising the number of new openings. Details such as door and window design, external surfaces, rainwater goods and means of enclosure should be of a traditional or sympathetic design and materials;**
- c) The new use would not cause unacceptable adverse effects on the amenities of nearby residents or other land uses;**
- d) Any new extensions are modest in size relative to the existing building, is visually subservient to it, does not harm the character or appearance of that building and uses sympathetic high quality design, details and materials; and**
- e) Access and other necessary services are provided without adverse impact on the character of the locality.**

**Exceptionally, consideration may be given to the sympathetic conversion of a traditional non residential building to provide more than one dwelling where the building is of sufficient size; the scheme of conversion involves minimal intervention; and the overall scale of the proposal and intensity of use is considered appropriate to the locality.**

#### **Green Belt Policy Area.**

**Within the Green Belt, Planning permission will be granted for proposals seeking the conversion / reuse of other rural buildings, subject to the above criteria. In particular, criteria d (scale of new extensions) will be strictly applied.**

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### Justification and Amplification

23.49 Changing patterns of life mean that some traditional vernacular or historic locally important buildings are no longer needed for their original use. These heritage assets can include former mill complexes, school houses, churches, former dwellings and traditional barns or outbuildings. Their vacancy puts them at risk of eventual dereliction. Such buildings represent a valuable historic resource which contributes to local distinctiveness and sense of place. Their appropriate re-use would contribute to sustainable development and may encourage the social and economic regeneration of particular areas.

23.50 The SPPS describes vernacular buildings as those which reflect the local 'folk tradition' and are typical of a common type of building in a particular locality, generally pre 1925. 'Building on Tradition' - A Sustainable Design Guide for the NI Countryside) published as Supplementary Planning Guidance to PPS 21 in 2012 states that the term vernacular architecture applies to building design that was not formalized but its form, plan and method of construction expresses local and regional traditions. Vernacular dwellings can largely be identified by:

- A simplicity of form;
- The linear plan, usually single room deep between the front and the rear walls;
- Linear extension or extensions with an extra storey;
- Hearths and chimneys expressed along the ridge lines;
- The use of local materials;
- Siting either fronting or gable end to the road.

A sense of loss - The survival of rural traditional buildings in Northern Ireland,' Chapter 2, provides a definition and complete list of the characteristics of rural vernacular dwellings.

23.51 A Historic Building of Local Importance is '...a building, structure or feature, whilst not statutory listed, has been identified by the council as an important part of their heritage, due to its local architectural or historic significance.' (SPPS 6.24). Such buildings can include more formally designed, churches, schools, community halls, etc.<sup>8</sup> As stated in paragraph 3.11, the Council has decided not to undertake a 'local list' at this time, of notable unlisted vernacular buildings or other historic buildings of local importance. Nevertheless, the Council will provide protection for these heritage assets through this Local Development Plan policy, enabling assessment of the asset on a case-by-case basis as it arises through a planning application.

23.52 The Council will encourage the re-use of such non-designated heritage assets by sympathetic renovation or conversion for a range of appropriate uses. This may include proposals for tourism or recreation use, small-scale employment uses or new rural enterprises. All development proposals for the conversion of

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a vernacular building or historic building of local importance should involve a minimum of work and should maintain or enhance the existing character of the building and its setting. Any such proposed uses should also comply with the requirements of their relevant subject policies in this LDP, particularly TOU 4, AGR 3, HOU 20 & HOU 21.

- 23.53 Approval will not normally be given to a scheme involving substantial demolition or dominant extensions which significantly alter the appearance or character of the building. Design therefore is particularly important and where extensions or external alterations are proposed, these must reflect the scale, massing, materials and detailing of the existing property. All proposals will therefore be critically assessed as to their contribution to the conservation of the building to be converted.
- 23.54 Reports to demonstrate that the building is structurally sound and capable of conversion must be submitted by suitably experienced conservation engineers, architects, building surveyors, etc. Where structural issues have been identified, such reports should provide sympathetic alternative options for stabilisation of the existing structure, to facilitate its retention and reuse.
- 23.55 In some instances, there will be archaeological interests with regard to a historic structure proposed for conversion and re-use and in these instances the relevant Historic Environment policies will apply.
- 23.56 **For proposals related to residential use**, this policy should be read in conjunction to LDP Policy HOU 21: The Conversion and Re-use of other Rural Buildings. Great care will be necessary in assessing proposals for conversion to residential use as this can be particularly detrimental to the fabric and character of certain buildings. In the countryside, and particularly in Green Belts and Areas of High Landscape Importance (AHLIs), the Council will normally only consider a relaxation of its normal planning policies for residential development, where:
- residential use is compatible with the conservation of a vernacular or historic building of local importance which comprises an important element of the landscape;
  - the conversion scheme involves minimal alteration or extension; and
  - the overall scale of the proposal and intensity of use is appropriate to the locality and would not prejudice the objectives behind Green Belt and AHLI designation.

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### HE 9 Enabling Development

The Council will only permit proposals involving enabling development relating to the re-use, restoration or refurbishment of significant historic places where it is demonstrated by the applicant in a submitted Statement of Justification to accompany an application for Planning Permission, that all of the following criteria are met:

- a. the significant historic place to be subsidised by the proposed enabling development will bring significant long-term benefits according to its scale and location;
- b. the conservation of the significant historic place would otherwise be either operationally or financially unviable;
- c. the impact of the enabling development is precisely defined at the outset;
- d. the scale of the proposed enabling development does not exceed what is necessary to support the conservation of the significant historic place. The setting and any potential visual impact of the proposed enabling development will be important considerations;
- e. sufficient subsidy is not available from any other source; and f. the public benefit decisively outweighs the dis-benefits of setting aside other Planning policy.
- g. it will not materially harm the heritage interests of the significant historic place or its setting;
- h. it avoids detrimental fragmentation of the management of the significant historic place;
- i. it will secure the long term future of the significant historic place and, where applicable, through sympathetic schemes for their appropriate re-use; and
- j. it is necessary to resolve problems arising from the inherent needs of the heritage asset, rather than circumstances of the present owner, or the purchase price paid.

In considering enabling development proposals, developers are encouraged to enter into preapplication discussions with the Council. The public benefit to be derived from the principal proposal will be secured either by conditional grant of Planning Permission or conditional grant accompanied by a Planning Agreement.

#### Justification and Amplification

23.56 'Enabling development' is a development proposal that is contrary to established planning policy and in its own right would not be permitted. Such a proposal may however be allowed where it will secure a proposal for the long

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term future of a significant historic place. For the purposes of this policy, a significant historic place means any part of the historic environment that has heritage value including scheduled monuments, archaeological remains, historic buildings (both statutorily listed or of more local significance) together with any historically related contents, industrial heritage, conservation areas or a historic park, garden or demesne.

- 23.57 It is intended that this policy will only be used where the long-term public benefit of securing a place of heritage significance decisively outweighs the disadvantages of setting aside normal policy presumptions. It allows for assessment of these proposals as a preliminary requirement and is not to be implemented if the Council is not convinced that the public benefit will be gained.
- 23.58 Enabling development will often be located close to the significant historic place. In some instances however it may be more appropriate for the enabling development to be located elsewhere in the locality or wider Council District, as long as cross-funding measures are secured by way of a Planning Agreement.
- 23.59 To fully address the requirement to provide a Statement of Justification as required by Policy HE 9, the Council will expect the developer to:
- be fully aware, through commissioning the necessary expert advice and an adequate assessment of the place, of the heritage value of the principal proposal in its context, and thus the opportunities and constraints of that particular heritage asset;
  - for significant historic places, explore a range of alternative options for its use;
  - set a realistic timescale for the proposed development, especially for preparing and submitting applications;
  - seek early, pre-application consultation with all who are likely to have a significant interest;
  - provide the Council with clear, comprehensive proposals, including sufficient detailed financial information supported by further relevant and adequate information on the likely impact of the proposal;
  - demonstrate where possible that the policy requirements have been met;
  - propose an appropriate mitigation strategy to address any unavoidable harm; and
  - be prepared to enter into any related legal agreements, such as an Section 76 agreement, necessary to tie the implementation of the proposals to securing the future of the place. Assessing Enabling Development' (published by Central Government - DOE April 2014) is the relevant Best Practice Guidance to Enabling Development.

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The information provided on the enabling development component should be sufficiently detailed to allow the Council to validate the need for, and assess the scale of the enabling development; and consider the impact on private concerns where this coincides with the public interest.

- 23.60 The information supplied by the developer should cover all the financial aspects of the proposed enabling development, in a sufficient degree of detail to enable scrutiny and validation by the Council. This applies both to the assessment of need and the assessment of the scale of the enabling development necessary to meet that need. The onus is on the developer to demonstrate that sufficient funds are not available from any other source, such as grant aid.
- 23.61 ‘Assessing Enabling Development’ (published by Central Government - DOE April 2014) is the relevant Best Practice Guidance to Enabling Development, and will be applied by the Council when determining enabling development applications, related to significant historic places.

### Pre-application Discussions

- 23.62 Developers are encouraged to enter into pre-application discussions with the Council to assess the impact of the enabling element of the proposed development; to establish the level of detail required; to discuss the need to submit a ‘full’ as opposed to ‘outline’ planning application; and to avoid unrealistic expectations.
- 23.63 In some instances, planning conditions attached to a permission will be sufficient to ensure that the public benefits are delivered. In other, more-complex cases, and where there is a need to secure the long-term management arrangements, a Planning Agreement will be required under Section 76 of the Planning Act (NI) 2011.