

Matter 12 – Design Standards and the Historic Environment

Issue 1 – High Quality Design – Policies SP12 and DES1 – DES8

Q1 Are Policies SP12 and DES1-DES8 positively prepared, justified, effective and consistent with national planning policy?

1.1 Yes, it is considered that Policies SP12 and DES1-DES8 are positively prepared, justified, effective and consistent with national planning policy.

1.2 The NPPF in paragraph 35 'Examining plans' sets out:

35. Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are 'sound' if they are:

- a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs¹⁹; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*
- b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*
- c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*
- d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.*

¹⁹ Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 61 of this Framework

1.3 Policies SP12 and DES1-DES8 seek to address the stated Objective for Chapter 12 to: *"Achieve high quality, innovative, well designed and locally distinctive developments in existing and new places."*

1.4 The introductory paragraphs 12.1 to 12.4 set out the reasoned justification for Strategic Policy SP12, and the overall context for Chapter 12 as a whole.

1.5 There is reference throughout the 2023 NPPF in relation to securing high quality design, particularly in Chapter 12 'Achieving well-designed and beautiful places', which is considered to be of most direct relevance to the 'High Quality Design' policies SP12 and DES1-DES8.

1.6 Strategic Policy SP12 – High Quality Design sets out the high-level strategic objectives in relation to high quality design in new development, to be achieved through the application of the policies of the Plan. It is considered to be justified and effective in this regard.

- 1.7 Policy DES1 – Design of New Development sets out 9 criteria that all new development should meet and Policy DES2 – Public Space sets out 12 criteria that proposals that create or affect public space should meet. As such, Policies DES1 and DES2 set out the general requirements in relation to achieving high quality design.
- 1.8 It is considered that Policies SP12, DES1 and DES2 apply the parts of NPPF Chapter 12 which set out the general aims of national policy with regards achieving well-designed and beautiful places, in a local context, in particular paragraphs 131, 132 and 135.
- 1.9 Policies DES3 – DES8 seek to achieve high quality design in more specific topic areas, applying national policy in a local context as set out in summary below:
- DES3 – Efficient Use of Land: includes the application of paragraph 135 e) and the aims of Chapter 11 ‘Making effective use of land’ of the NPPF in a local context (see further in answer to Q3 below);
 - DES4 – Extensions to Existing Buildings and DES5 – Residential Amenity Standards: include the application of paragraph 135 f) of the NPPF in a local context;
 - DES6 – Building Heights: includes the application of general aims of NPPF Chapters 12 ‘Achieving well-designed and beautiful places’ and 16 ‘Conserving and enhancing the historic environment’ in a local context;
 - DES7 – Servicing of Development: includes the application of general aims of NPPF Chapter 12 ‘Achieving well-designed and beautiful places’ in a local context; and
 - DES8 – Shopfronts and Advertisements: includes the application of paragraph 141 of the NPPF in a local context.
- 1.10 Furthermore, each policy is preceded by introductory paragraphs which concisely set out the context and reasoned justification for the policy, including with reference to national policy and guidance as appropriate.
- 1.11 It should be noted that, in creating and updating the Policies in Chapter 12 (Policies SP12 and DES1-DES8), there was significant input from the Council’s Design and Conservation officers, as well as input from feedback from relevant external consultees.
- 1.12 It is considered that the policies in Chapter 12 set out positively and clearly the applicable requirements which development proposals should meet; to clarify to applicants and others how development proposals would be considered.
- 1.13 Taking the above into account it is considered that Policies SP12 and DES1-DES8 present an appropriate strategy to delivering High Quality Design, based on proportionate evidence, that is effective and consistent with national policy. As such, Policies SP12 and DES1-DES8 are considered to be positively prepared, justified, effective and consistent with national planning policy.

Q2 Are Policies DES1/DES4 effective in setting a prescriptive requirement for all development to be set a minimum of 1m away from the neighbouring property / boundary above ground level?

2.1 Yes, it is considered that Policies DES1/DES4 are effective in setting a prescriptive requirement for all development to be set a minimum of 1m away from the neighbouring property / boundary above ground level.

2.2 The relevant parts of Policies DES1 and DES4 are as follows:

DES1 – Design of New Development

New development should:

...

i) Be set a minimum of 1m from the property / party boundary above ground floor level, where it would otherwise result in an undesirable terracing effect.

...

DES4 – Extensions to Existing Buildings

Proposals for extensions to existing buildings should conform to the requirements below:

...

d) Terracing effect - Side extensions and other development where the cumulative effect would result in an undesirable terracing effect must be a minimum of 1m from the property / party boundary above ground floor level;...

2.3 These requirements, along with other amenity related requirements, apply paragraph 135 f) of the NPPF in a local context:

135. Planning policies and decisions should ensure that developments:

...

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users;...

2.4 These reflect and update to some degree the equivalent requirement in Policy 72 'Extensions in Residential Areas' of the District Local Plan Review 1994 (LPCD.15.01), which sets out:

Policy 72 Extensions in Residential Areas

Planning applications for extensions to dwellings and other buildings in residential areas shall conform to the policies and principles below:

...

(vii) Side extensions - where the cumulative effect would lead to terracing of detached or semi-detached houses, extensions other than at ground floor level shall normally be a minimum of 1 metre from the party boundary;...

- 2.5 The performance of Policy 72 (vii) (along with the other subsections of Policy 72, and a number of other policies) was monitored between 2007 and 2017 in the Council's Authority Monitoring Reports (AMRs). The AMR 2017¹ set out at Appendix 1 (from page 68):

Appendix 1

District Plan Review Policies: Success and Failure Data

The schedule below shows which policies from the St Albans District Local Plan Review 1994 were used in appeal decisions made during 2007-2017 and how successful these policies were. The policies are as referred to in the Council's decision notices, which specify which sub-section applies. However, Inspectors' decisions often refer only to whole policies.

Policy Usage at Appeals 2007-2017

	= Subtotal
	= total of sub-divisions
	= not sub-divided

Policy Number	Times Used	Failed	Upheld	% Upheld
...				
72 vii	19	5	14	74

- 2.6 It is considered that the overall success at Appeal of this part of Policy 72 in the period 2007-2017, with it being upheld in 74% of cases, indicates the effectiveness of this approach. (No explicit references to this part of Policy 72 were found in appeal decisions which were determined against the 2023 NPPF.) This 10 year period includes roughly 5 years after publication of the original NPPF in March 2012, which set out an approach to amenity that is comparable to that at paragraph 135 f) of the 2023 NPPF; where the 2012 NPPF states in paragraph 17 'Core planning principles' that *"planning should: ... always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;..."*.
- 2.7 This is considered to demonstrate the ongoing consistency with national policy of the existing equivalent 1m separation distance requirement where above ground floor level. It is therefore considered justified to continue with a comparable approach, albeit with relatively modest amendment as summarised below.
- 2.8 Following the successful approach in the current Policy as set out above, modest updates are included in Policies DES1 and DES4 to the current Local Plan's 1m separation distance requirement where above ground floor level which, in summary, seek to:

¹ SADC Authority Monitoring Report 2017 available via:

<https://www.stalbans.gov.uk/sites/default/files/attachments/AMR%20002%20Authority%27s%20Monitoring%20Report%20%202017.pdf>

- Provide additional clarity and effectiveness to applicants and other users of the policy through explicitly requiring the set away for new development in general as well as to extensions to existing buildings. This is why the requirement is included within both DES1 (which applies to new development in general) as well as DES4 (which applies to extensions to existing buildings and seeks to provide a comprehensive policy context within which to consider such applications).

- 2.9 It should also be noted that the inclusion of the wording in DES1 “...where it would otherwise result in an undesirable terracing effect...” and in DES4 “...where the cumulative effect would result in an undesirable terracing effect...” means that account would be taken of the specific context of a development proposal, and where an undesirable terracing effect would not result, the requirement is not applicable. This also reflects the use of the phrase “...where the cumulative effect would lead to terracing of detached or semi-detached houses...” in the existing equivalent Policy 72 requirement; which sets out the case-specific and site context specific application of the policy.
- 2.10 Taking the above into account, it is considered that Policies DES1/DES4 are effective in setting a prescriptive requirement for all development to be set a minimum of 1m away from the neighbouring property / boundary above ground level.

Q3 What is the density requirement in Policy DES3 based on? Is it justified and will it be effective in St Albans?

What is the density requirement in Policy DES3 based on?

- 3.1 Policy DES3 reads as follows:

DES3 – Efficient Use of Land

Development proposals should make efficient use of land. Development should:

- a) Where additional residential units are proposed, achieve at least the density of the existing site context or 40 net dwellings per hectare, whichever is higher; and*
- b) Optimise site capacity within city and town centres and other locations that are well served by public transport. This requires development to be of the most appropriate form and land use for the site, having regard to site context and constraints.*

Development proposals that do not make efficient use of land will be refused.

- 3.2 In relation to using 40 net dph as the ‘standard’ minimum density, and as set out in reasoned justification paragraph 12.15: ‘In accordance with previous Council density studies, current best practice and the need to make efficient use of land; it is considered that 40 net dph is a minimum density that can generally be readily achieved throughout the District.’

3.3 Furthermore, as set out in the Housing Land Supply, Windfall and Housing Capacity Evidence Paper 2024 (HOU 01.02):

7.4 For the Green Belt sites, justification for the assumption of 40 dwellings per hectare (dph) density is set out in the HELAA report (paragraph 3.30), with reference to the Council's previous Residential Density Report 2014. The 40dph is consistent and does not change to account for different density of adjacent development, in order to ensure efficient use of land and to minimise the amount of Green Belt land that is released. This is in line with the approach in the NPPF 2023 which sets out that, where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.

3.4 The Housing and Economic Land Availability Assessment (HELAA) Report 2021 (HELAA 01.01) referred to above further sets out:

Housing sites will use the 40 dwellings per hectare (dph), in accordance with the Councils previous Residential Density Report 2014¹. It is considered that 40dph is a relatively 'safe', robust assumption which can be readily achieved in suburban location housing developments in the District

3.5 The 'Councils previous Residential Density Report 2014' referred to above is HOU 08.02, which states that: *"The purpose of this Note is to illustrate housing density on some well known sites across St Albans City and District and thus to give a range of comparators for typical residential layouts / designs"*; and includes net density calculations for a total of 20 relatively recent housing developments in the District. It finds a wide range of densities present, between 15 net dph and 117 net dph. Of those relatively recent developments which were assessed that were built on former Green Belt land, they were all below 40 net dph (roughly an average of 27 net dph), and as such the proposed 'general' minimum of 40 net dph can be seen to represent an uplift.

Is it justified and will it be effective in St Albans?

3.6 Yes, it is considered to be justified and yes it is considered that it will be effective in St Albans. The requirement is justified primarily with the desire to make efficient use of land and minimise the amount of Green Belt release that is required. This is in accordance with the aims of the NPPF when read as a whole, particularly at paragraph 146 b) and Chapter 11 'Making effective use of land'.

3.7 Paragraph 146 b) sets out:

146. Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to

demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:

...

- b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport*

...

- 3.8 In Chapter 11 'Making effective use of land' under the subheading 'Achieving appropriate densities' paragraphs 128-130 set out the following:

128. Planning policies and decisions should support development that makes efficient use of land, taking into account:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) local market conditions and viability;*
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) the importance of securing well-designed and beautiful, attractive and healthy places*

129. Area-based character assessments, design guides and codes and masterplans can be used to help ensure that land is used efficiently while also creating beautiful and sustainable places. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances:

- a) plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. This will be tested robustly at examination, and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate;*
- b) the use of minimum density standards should also be considered for other parts of the plan area. It may be appropriate to set out a range of densities that reflect the accessibility and potential of different areas, rather than one broad density range; and*
- c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).*

130. In applying paragraphs 129a and b above to existing urban areas, significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area. Such circumstances should be evidenced through an authority-wide design code which is adopted or will be adopted as part of the development plan.

- 3.9 It is considered that Policy DES3 is in accordance with the aims of the NPPF paras 128-130 and para 146(b). In addition, it is considered that the general minimum density standard of 40 net dph enables the efficient use of land across the District while also taking account of all of the criteria in NPPF paragraph 128 a)-e) and the aims of NPPF paragraph 129 b).
- 3.10 Furthermore, in existing higher density areas, the DES3 a) requirement to achieve at least the density of the existing site context seeks to ensure no drop in density, which is in line with the aims of national policy; and the DES3 b) requirement to optimise site capacity within city and town centres and other locations that are well served by public transport seeks to achieve a *'significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate'*, in accordance with NPPF paragraph 129 a). Where DES3 states: *"Development proposals that do not make efficient use of land will be refused."* this reflects the aims of NPPF paragraph 129 c).
- 3.11 It is acknowledged that in some parts of the District the general 'standard' minimum density of 40 net dph would lead to development of higher density than the site's context; and that in certain 'lower density' or potentially sensitive areas there could potentially be a perceived tension between higher density development and, for example, maintaining an area's prevailing character and setting (NPPF paragraph 128d). However, the policies in other parts of the Plan, particularly in Chapter 11 - Historic Environment and Chapter 12 – High Quality Design, would help ensure that development is acceptable in these regards.
- 3.12 Attention is also drawn to the approach taken for Part B allocation site M22 - Wood End, Hatching Green, Harpenden, AL5 2JT where it states in a Key development requirement:
- 4. The site lies partially within Harpenden Conservation Area. Development proposals should minimise any harm to the character and appearance of Harpenden Conservation Area and its setting, and minimise any harm to the setting of the Locally Listed Wood End. This may include buildings which are of a comparable scale to nearby detached dwellings but which contain within them multiple dwelling units, so as to ensure efficient use of land while remaining sympathetic to adjacent character.*
- 3.13 This potential approach of including *'buildings which are of a comparable scale to nearby detached dwellings but which contain within them multiple dwelling units, so as to ensure efficient use of land while remaining sympathetic to adjacent character'* was recommended in a Heritage Impact Assessment for this site and another comparable site (which was not ultimately put forward, for access-related reasons)

undertaken for the Council by consultants Essex Place Services. It is considered that this approach at other 'lower density' or potentially sensitive areas could potentially be used, in order to similarly ensure efficient use of land while remaining sympathetic to adjacent character.

3.14 In addition, it should be noted that a density of 40 net dph has become accepted by the developer community as the 'standard' approach taken forward in the large majority of new and emerging (pre-application) applications for larger scale development. For example:

- Significant development proposals that have recently gained planning permission or a Committee resolution to grant permission subject to a s106, expected to deliver 40 net dph along with high quality design, include the following sites:
 - B7 - North West Harpenden (Application 5/2023/0327 resolved by Committee to grant subject to agreement of a s106)
 - M13 – North of Boissy Close (Application 5/2022/2557)
 - M24 - South of Codicote Road, Wheathampstead, AL4 8GD (Application 5/2023/0327 resolved by Committee to grant subject to agreement of a s106)N.B. This site is proposed to be added to Part B in a Main Modification as set out at SADC ED85B and SADC/ED85C)
- Proposals that are currently at pre-application stage for strategic and large-scale development at draft allocation sites H1, H2-H4, B1, B4, L1 and L3 are proposed and expected to deliver 40 net dph along with high quality design.

3.15 Taking the above into account it is considered that the density requirement in Policy DES3 is justified and will be effective in St Albans.

Q4 What is the justification for referring to single storey extensions 'not normally' extending more than 3m along a party boundary. How does this take into account the context each site and the relationship between neighbouring properties? Is the policy effective?

4.1 This requirement is set out at Policy DES4 'Extensions to existing buildings' as follows:

Proposals for extensions to existing buildings should conform to the requirements below:

...

g) Single storey extensions - Single storey extensions, whether at ground floor level or above, should not normally extend more than 3 metres along a party boundary;

- 4.2 The requirement reflects an existing requirement in the current District Local Plan Review 1994 (LPCD 15.01) where it states at saved Policy 72 'Extensions in Residential Areas':

Planning applications for extensions to dwellings and other buildings in residential areas shall conform to the policies and principles below:

...

(viii) Single storey rear extensions - shall not normally extend more than 3 metres rearward along a party boundary;

- 4.3 These requirements, along with other amenity related requirements, apply paragraph 135 f) of the NPPF in a local context:

135. Planning policies and decisions should ensure that developments:

...

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users;...

- 4.4 The performance of Policy 72 (viii) (along with the other subsections of Policy 72, and a number of other policies) was monitored between 2007 and 2017 in the Council's Authority Monitoring Reports (AMRs). The AMR 2017² set out at Appendix 1 (from page 68):

Appendix 1

District Plan Review Policies: Success and Failure Data

The schedule below shows which policies from the St Albans District Local Plan Review 1994 were used in appeal decisions made during 2007-2017 and how successful these policies were. The policies are as referred to in the Council's decision notices, which specify which sub-section applies. However, Inspectors' decisions often refer only to whole policies.

Policy Usage at Appeals 2007-2017

	= Subtotal
	= total of sub-divisions
	= not sub-divided

Policy Number	Times Used	Failed	Upheld	% Upheld
...				
72 viii	33	12	21	64
...				

² SADC Authority Monitoring Report 2017 available via:

<https://www.stalbans.gov.uk/sites/default/files/attachments/AMR%20002%20Authority%27s%20Monitoring%20Report%20%202017.pdf>

- 4.5 It is considered that the overall success at Appeal of this part of Policy 72 in the period 2007-2017, with it being upheld in 64% of cases, indicates the effectiveness of this approach.
- 4.6 The ongoing effectiveness and consistency with national policy of the existing equivalent general 3m limit for single storey rear extensions along a party boundary is demonstrated by the weight given to this policy when considered in recent appeal decisions which were determined against the NPPF 2023. Relevant quotes from appeal decisions which were determined against the NPPF 2023 include the following:
- Appeal decision APP/B1930/D/23/3334757 dated 06/03/2024 stated, in relation to a proposal for a house extension:

4. The appeal property is a 2-storey detached dwelling situated within a primarily residential area. The proposed development includes a single storey extension to the rear of the property, together with a roof extension to increase the ridge height and the creation of a gable projection within the enlarged rooflope. The single storey extension would have a depth of about 4.1 metres which exceeds the 3 metres cited in Policy 72 of the St Albans District Local Plan Review (LP) as the normal maximum for such additions...
 - Appeal decision APP/B1930/D/24/3342870 dated 08/07/2024 stated, in relation to a proposal for a house extension:

12. LP Policy 72, stated within the refusal reason, outlines that single storey extensions shall not normally extend more than 3 metres rearward along a party boundary. Whilst the proposal would be contrary to the 3 metres stated, the wording within LP Policy 72 does infer some element of flexibility, to be assessed on each case, with the inclusion of the word normally...
- 4.7 The above quotes from appeal decisions which were determined against the NPPF 2023 demonstrate the ongoing effectiveness and consistency with national policy of the existing equivalent general 3m limit for single storey rear extensions along a party boundary, along with endorsement of the approach to flexibility to allow for account to be taken of the context of each site (discussed below). It is therefore considered justified to continue with a comparable approach.
- 4.8 The referral to single storey extensions ‘not normally’ extending more than 3m along a party boundary enables account to be taken of the context of each site and the relationship between neighbouring properties, through the use of the phrase ‘not normally’. This phrase allows for consideration of site specific factors which may legitimately mean that the ‘normal’ 3m limit would not apply. Such site-specific factors may include (but would not be limited to) the presence of an extension at the neighbouring property, relative ground levels, positioning of windows etc.

- 4.9 It should also be noted that the “...not normally...” phrasing mirrors that used in the existing policy, and that the policy has proved robust at appeal including appeals determined against the NPPF 2023.
- 4.10 Taking the above into account, it is considered that the requirement that single storey extensions ‘not normally’ extend more than 3m along a party boundary is justified, that it appropriately allows for account to be taken of the context each site and the relationship between neighbouring properties; and that the policy is effective.

Q5 What is the justification for the specific separation distances and sizes in Policy DES5? Does the policy include adequate flexibility to account for site specific factors where alternative arrangements may also be acceptable? Is the policy effective?

What is the justification for the specific separation distances and sizes in Policy DES5?

- 5.1 The specific separation distances and sizes in Policy DES5 are as follows:

“a) Privacy and separation...

The following standards and separation distances should normally be achieved:

- i. New balconies or upper-floor windows serving habitable rooms should not lead to a harmful degree of overlooking for existing and future users of both the new development and neighbouring sites;*
- ii. A minimum distance of 22m between upper floor rear windows of habitable rooms and facing windows of habitable rooms; and*
- iii. A minimum distance of 11m between new upper floor rear windows and the rear boundary.*

...

d) Private amenity space - New residential development must provide sufficient private amenity space for future occupants, and should normally achieve the following amenity space provision⁴⁰:

- i. Studios – 15m² for each room e.g. 75m² for a block of 5 x 1 bed studios;*
- ii. Flats – 20m² for the first bedroom of each flat and 10m² for each additional bedroom e.g. 180m² for a block of 6 x 2 bed flats. Communal amenity space should be provided for flatted developments, although ground floor flats may be able to benefit from private space immediately adjacent to the residential unit;*
- iii. Houses – 40m² for the first bedroom and 20m² for each additional bedroom e.g. 80m² for a 3 bedroom house. Private gardens should be provided for houses.*

Footnote 40: Only useable areas of amenity space, such as gardens, balconies and roof terraces, will be counted as contributing to the required provision. Unusable areas will be excluded, for example car parking, narrow landscaping strips, or strips of land less than 1m wide, and areas under tree canopies. Older person's housing schemes must provide high quality amenity space suitable for older people on site, but a lower overall quantum may be acceptable.”

- 5.2 These requirements, along with other amenity related requirements, apply paragraph 135 f) of the NPPF in a local context:

135. Planning policies and decisions should ensure that developments:

...

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users;...

- 5.3 The specific separation distances and sizes reflect and to some degree update existing requirements set out in Policy 70 of the District Local Plan Review 1994 (LPCD 15.01), and the Supplementary Planning Guidance (SPG) Design Advice Leaflet No. 1 December 1998.

- 5.4 Policy 70 Design and Layout of New Housing sets out:

The design of new housing development should have regard to its setting and the character of its surroundings and meet the objectives set out in (i) to (xii) below:

...

(vi) Privacy between dwellings - a tolerable level of visual privacy in habitable rooms and, to a lesser extent in private gardens, should be provided. This objective will normally be deemed to have been achieved if the following distances between facing windows to the rear of the dwellings have been achieved:

*Window to window distance⁽²⁾
27 metres*

*Permanent rear boundary screen
1.8 metres high*

A reduced window to window distance of 18 metres may be permitted if the proposed dwelling has no overlooking rear windows on upper floors and will not be overlooked by neighbouring dwellings with such windows.

Alternative methods of achieving a tolerable level of visual privacy, through such factors as screening and the disposition of land uses, will normally be acceptable. Suitably increased distances will be required where:

- a) a feature of the character of the area is greater space between buildings;*
- b) dwellings contain living rooms rather than bedrooms at second storey or above (e.g. blocks of flats);*
- c) relative levels would increase the extent of overlooking.*

Balconies and first floor conservatories shall not be permitted if privacy of existing adjoining dwellings and private gardens would be prejudiced.

Where dwellings are permitted, a condition removing permitted development rights for extensions or for the insertion of new windows will be imposed in locations where overlooking problems might occur;

(vii) Privacy between dwelling and rear boundary - so that further development of adjoining land is not compromised if the application site abuts existing residential

land or land with potential for residential development, a minimum of half the above distances in (vi) shall normally be attained. Account should be taken of (vi), items a), b) and c) and the fact that there may be alternative methods of achieving privacy objectives;

...

Footnote 2: Windows of habitable rooms including kitchens.

5.5 The SPG Design Advice Leaflet No. 1³ sets out on page 20:

...Therefore, this Council feels that the following provision for amenity space should preferably be met:

- i) houses/bungalows - private gardens - 40m² for the first bedroom and 20m² for other bedrooms. e.g. 80m² for a 3 bedroom house.
- ii) flats - amenity space - 20m² for the first bedroom of each flat and 10m² for additional bedrooms e.g. 180m² for a block of 6 x 2 bedroom flats.
- iii) bed-sitting rooms - amenity space - 15m² for each room e.g. 75m² for a block of 5 x 1 bedsitting room flats.

5.6 The performance of Policy 70 (vi) and (vii) (along with a number of other policies) was monitored between 2007 and 2017 in the Council's Authority Monitoring Reports (AMRs). The AMR 2017⁴ set out at Appendix 1 (from page 68):

Appendix 1

District Plan Review Policies: Success and Failure Data

The schedule below shows which policies from the St Albans District Local Plan Review 1994 were used in appeal decisions made during 2007-2017 and how successful these policies were. The policies are as referred to in the Council's decision notices, which specify which sub-section applies. However, Inspectors' decisions often refer only to whole policies.

Policy Usage at Appeals 2007-2017

	= Subtotal
	= total of sub-divisions
	= not sub-divided

Policy Number	Times Used	Failed	Upheld	% Upheld
...				
70 vi	52	11	41	79
70 vii	20	4	16	80

³ SPG available via: <https://www.stalbans.gov.uk/sites/default/files/documents/publications/planning-building-control/planning-policy/Design%20Advice%20Leaflet%20No%201.%20-%20Design%20and%20Layout%20of%20New%20Housing.pdf>

⁴ SADC Authority Monitoring Report 2017 available via: <https://www.stalbans.gov.uk/sites/default/files/attachments/AMR%20002%20Authority%27s%20Monitoring%20Report%20%202017.pdf>

...

5.7 It is considered that the overall success at Appeal of these parts of Policy 70 in the period 2007-2017, being upheld in 79% / 80% of cases, indicates their effectiveness.

5.8 The ongoing effectiveness and consistency with national policy of the existing equivalent specific separation distances and sizes is demonstrated by the weight given to this policy when considered in recent appeal decisions which were determined against the NPPF 2023. Relevant quotes from appeal decisions which were determined against the NPPF 2023 include the following:

- Appeal decision APP/B1930/W/23/3331288 dated 16/07/2024 stated, in relation to a proposal for erection of 4no. flats:

6. Both parties agree that the size of the rear gardens would exceed the area required in Design Advice Leaflet No. 1, as referenced in Policy 70 of the 1994 Local Plan (LP). Policy 70 also recognises that flats will normally be provided with communal amenity space, and that gardens may be smaller where there is public open space nearby. The upper flats would each have a private balcony, and there is a recreation ground within easy walking distance, providing space for active recreation. Taking these factors into consideration, the proposal would provide a reasonable amount of outdoor amenity space, proportionate to the limited scale of the development.

- Appeal decision APP/B1930/W/23/3318554 dated 14/03/2024 stated, in relation to a proposal for a semi-detached pair of three bedroom dwelling houses:

13. With this and the above in mind, the proposal would fail to provide an acceptable level or quality of private garden space for future occupiers and cause an unacceptable reduction in the privacy for the occupiers of 7 and 9 Edward Close. As such, it would be contrary to DP Policy 70 which requires, amongst other things, the size of a private garden to reflect the number of persons for which the dwelling has been designed and their likely range of activities and to ensure privacy between dwellings is protected.

- Appeal decision APP/B1930/W/24/3344279 dated 11/12/2024 stated, in relation to a proposal for a 3 bedroom dwelling:

8. This rear garden area is well below the 80 square metres which is advocated by the DAL for this size of home. Despite the age of this document, it is not an unreasonable benchmark, and, as has been shown in other decisions by the Council, does not need to be adhered to slavishly. Nevertheless, the provision of a mere 24 square metres is considerably below the mandated area and is inadequate for three-bedroom family accommodation. It would provide little to no opportunity for sitting out or for children to play.

9. The proximity to public open space does offset this to a certain extent however it cannot make-up for this significant shortfall in outdoor amenity space...

10. I conclude that the size of the rear garden would provide substandard living conditions for the future occupants. The proposal therefore fails to comply with policies 69 and 70 of the StADP, design expectations of the DAL and provisions of the Framework insofar as the garden area does not reflect the number of persons for which the dwelling is designed.

- Appeal decision APP/B1930/W/23/3322279 dated 19/01/2024 stated, in relation to a proposal for six terraced houses, two semi-detached houses and one detached house:

31. Policy 70 of the LPR relates to the design and layout of new housing and part (vi) of the policy states that a tolerable level of visual privacy in habitable rooms and, to a lesser extent in private gardens, should be provided. The policy states that this objective will normally be deemed to have been achieved where a window to window distance of 27 metres is provided between habitable rooms. Part (vii) of the policy in relation to privacy between dwellings and rear boundaries states that a minimum of half the distance in part (vi) should normally be attained, that is 13.5 metres.

...

32. The distance between units 8 & 9 and the rear garden boundaries of nearby properties falls well below the 13.5 metre guideline...

...

35. Taking the above matters into consideration, the proposal would result in a material adverse effect on the living conditions of the occupiers of 33 & 53 North Cottages having regard to privacy. It is therefore contrary to Policy 70 of the LPR and relevant paragraphs of the Framework. These policies seek, amongst other things, to ensure that new dwellings provide a tolerable level of privacy to existing residential occupiers including in private gardens.

- 5.9 The above quotes from appeal decisions which were determined against the NPPF 2023 demonstrate the ongoing effectiveness and consistency with national policy of the existing equivalent specific separation distances and sizes. It is therefore considered justified to continue with a comparable approach.
- 5.10 The changes proposed to the existing equivalent specific separation distances and sizes in Draft Policy DES5 are relatively modest in practice. The proposed changes, in summary, seek to:
- Reduce the 'standard' minimum window to window separation distance from 27m to 22m; and
 - Reduce the 'standard' minimum distance to the rear boundary from 13.5m to 11m.
- 5.11 These changes reflect the national policy aims to make effective use of land and achieve appropriate densities and optimise development (as expanded upon in answer to Q3 above).

- 5.12 Furthermore, it should be noted that the Council reviewed the separation distances and sizes of comparable authorities in setting the DES5 standards and sizes. The DES5 standards and sizes were within the ranges identified for other authorities, where there were comparable standards; albeit it was found that authorities generally had a bespoke approach tailored to a particular Plan area, with no standard approach.

Does the policy include adequate flexibility to account for site specific factors where alternative arrangements may also be acceptable? Is the policy effective?

- 5.13 It is considered that the policy does include adequate flexibility to account for site specific factors where alternative arrangements may also be acceptable. The inclusion of the wording in DES5 a) *“The following standards and separation distances should normally be achieved...”* and in DES5 d) *“...should normally achieve the following amenity space provision ...”* enables this flexibility. The referral to ‘normally’ achieving the standards allows for consideration of site specific factors which may legitimately mean that the ‘normal’ standards would not be applicable. Such site-specific factors may include (but would not be limited to) the presence of a physical obstacle to limit a view; lack of sensitivity of rearward views; proximity of public open space etc.
- 5.14 It should also be noted that the *“...normally...”* phrasing mirrors that used in the existing policy, and that the policy has proved robust at appeal including appeals determined against the NPPF 2023.
- 5.15 Taking the above into account, it is considered that the policy does include adequate flexibility to account for site specific factors where alternative arrangements may also be acceptable, and that the policy is effective.
- 5.16 In answering this question the Council has reflected upon the effectiveness of the first two sentences of Policy DES5 and the Policy title. It considers that Main Modifications as set out below will ensure that all relevant aspects of amenity will be considered under DES5 and not just the specific standards directly addressed at criteria a) to d). This approach is considered to more fully reflect national policy and the wording already in DES4 at f) (which would apply to extensions to existing buildings):

~~DES5 – Residential~~ Amenity Standards

All development must achieve a high standard of amenity for existing and future occupants of both the new development and neighbouring buildings. Development proposals will be assessed in relation to all types of amenity impacts including the following considerations and standards:...

Q6 What is the justification for the Building Height Control Area in Policy DES6? Is it based on appropriate, available evidence and are the requirements clear, effective and justified?

What is the justification for the Building Height Control Area in Policy DES6?

- 6.1 The Building Height Control Area (BHCA) is justified in the introductory text to Policy DES6 as follows:

12.21 St Albans city centre sits on a hill adjacent to the Ver valley which allows for long distance views of the historic city and its skyline. While the St Albans Cathedral dominates, there are other landmarks which punctuate the skyline, and the traditional clay and slate pitched roofs create a varied and interesting roofscape. St Albans has a Building Height Control Area (BHCA) that protects these important characteristics of the city, which also contribute to the significance of the St Albans Conservation Area, St Albans Abbey and the other identified heritage assets. The potential impact that a building that is taller than the surrounding built form has on the significance of these assets will be a critical factor in the consideration of the proposal. Zones of Visibility from middle distance public viewpoints have been defined to protect important views of the BHCA. The BHCA was subject of a comparable policy in the 1994 Local Plan, and it has been reviewed and amended to take account of recent development. The extent of the BHCA is shown in Figure 12.1.

- 6.2 The BHCA includes the application of the general aims of NPPF Chapters 12 'Achieving well-designed and beautiful places' and 16 'Conserving and enhancing the historic environment' in a local context.
- 6.3 Evidence Paper EDH 04.09 titled 'Current Local Plan Policy 114 St Albans City Centre, Building Height, Roofscape and Skyline (1994) September 2024' set out justification for the BHCA, including a summary review of 'Current National Guidance and Other LPA Approaches' as follows:

Current National Guidance and Other LPA Approaches

4. A review of current national guidance and the approach of comparable Local Planning Authorities (LPAs) has been undertaken, in order to assess the way forward for St Albans' new Local Plan

5. The National Design Guide 2021² (NDG) sets out that proposals for tall buildings (and other buildings with a significantly larger scale or bulk than their surroundings) require special consideration; including in relation to their location and siting, relationship to context, impact on local character, views and sight lines. Historic England's 2022 Advice Note 4 on Tall Buildings³ sets out guidance in relation to tall buildings, including their impacts on views and skyline; and states that a tall building policy should address a development's impact on local character, views and sight lines.

² National Design Guide 2021:

https://assets.publishing.service.gov.uk/media/602cef1d8fa8f5038595091b/National_design_guide.pdf

³ Historic England 2022 Tall Buildings: Historic England Advice Note 4:
<https://historicengland.org.uk/images-books/publications/tall-buildings-advice-note4/heag037-tall-buildings-v2/>

...

[Paragraphs 6, 7 and 8 of EDH 04.09 summarise the approaches of comparable policies of Cambridge City Council, Oxford City Council and York City Council respectively]

- 6.4 EDH 04.09 goes on to justify the approach to the BHCA in St Albans in the new Local Plan as follows:

Approach for St Albans new Local Plan

9. Following a review of current Local Plan Policy, current National Guidance and other LPA approaches, as summarised above, the Council considers that the general approach to protecting the skyline of central St Albans under the current Local Plan policy is robust. The current approach in St Albans with the identified BHCA, viewpoints and the zones of visibility; is comparable to the approach taken by Oxford City Council with its identified 'Historic Core Area' and 'View Cones', which is cited as best practice in the Historic England guidance. However, there is a need to review and amend the viewpoints and zones of visibility to take account of development in the intervening period. This 'Viewpoint Review' provides such a review and recommends how the viewpoints should be amended for the new Local Plan.

10. There may, in future, be a combination of policy plus guidance on how to use the Local Plan policy, including information on what is required for an adequate visual impact assessment and links to national guidance. This would allow the skyline to be protected under policy, whilst supported by guidance which can be updated more easily and regularly than policy. This flexibility would allow the document to respond to development pressures, changes in technology, and national policy and guidance. However, such guidance would follow adoption of the new Local Plan.

- 6.5 It should be noted that the Council has engaged in some detail with Historic England (HE) who are fundamentally very supportive of the approach taken in Policy DES6.
- 6.6 The fact that HE suggested that a number of other listed views should also be considered demonstrates the value they place on the BHCA, and the importance of selecting the appropriate viewpoints (please see answer to Q7 below for additional discussion in this regard).
- 6.7 It is noted from their Regulation 19 response and from the Statement of Common Ground between SADC and Historic England October 2025 (M12I1Q7 - Appendix 2 - SoCG SADC and HE October 2025) that they support the BHCA with the updated proposed set of Viewpoints, along with the related policy in DES6, and the evidence supporting it.

Is it based on appropriate, available evidence and are the requirements clear, effective and justified?

- 6.8 Yes, it is considered that the BHCA is based on appropriate, available evidence and that the requirements are clear, effective and justified.
- 6.9 It is considered that the above discussion demonstrates that the BHCA is based on appropriate, available evidence, and goes some way to demonstrating that the related requirements in DES6 are clear, effective and justified.
- 6.10 The requirements relating to the BHCA are set out in Policy DES6 b) and c) as follows:

b) Proposals within the Building Height Control Area must:

- i. Not break the skyline;*
- ii. Not create large and / or bulky monotonous building forms;*
- iii. Appropriately respond to the topography of the area;*
- iv. Not have a negative impact from the viewpoints shown in Figure 12.1; and*
- v. Not mask or diminish the historic features of:*
 - St Albans Cathedral*
 - Clock Tower*
 - Upper Dagnall Street Baptist Church*
 - Town Hall*
 - Christ Church*
 - St Peter's Church*
 - St Alban and St Stephen Catholic Church*
 - Trinity United Reformed Church*

c) Within the Zones of Visibility as shown in Figure 12.1, proposals should not obscure or detract from views of the historic roofscape of the Building Height Control Area.

- 6.11 It should be noted that these requirements reflect and to some degree update existing requirements set out in Policy 114 'St. Albans City Centre, Building Height, Roofscape and Skyline' of the District Local Plan Review 1994 (LPCD 15.01). This sets out the following:

Policy 114 St. Albans City Centre, Building Height, Roofscape and Skyline

Applications to exceed existing eaves, parapet or ridge heights will generally be permitted only if the scale of the proposed building is appropriate to the street scene. Water tanks, plant rooms, ventilation equipment etc. shall be within the building envelope and will not be acceptable if they impair the roofscape or exceed the height limitations.

Within the Building Height Control Area shown on the Inset Map, proposals shall be compatible with the local roofscape and not break the skyline or mask the skyline features shown on Figure 16.

Within the Zones of Visibility as shown on the Proposals Map (Sheets 3 and 4, St. Albans City Centre Inset Map and Fleetville Inset Map) and Figure 16, proposals shall not obscure or detract from views of the historic roofscape of the Building Height Control Area.

6.12 It is noted that this existing equivalent policy is consistently given weight at appeal, including when considered against the 2023 NPPF. Relevant quotes from appeal decisions which were determined against the NPPF 2023 include the following:

- Appeal decision APP/B1930/W/23/3331288 dated 16/07/2024 stated, in relation to a proposal for erection of 4no. flats:

17. LP Policy 114 was saved in 2007 and the CA and built form in the area has undoubtedly evolved since then. The Council confirm this policy relates to height and roofscape. I find that the proposal is consistent with paragraph 1 of LP Policy 114 which states that applications to exceed existing eaves, parapet or ridge heights will generally be permitted only if the scale of the proposed building is appropriate to the street scene. Based on my assessment of the proposal I have found the scheme to be appropriate to the street scene and that the policy allows room for assessment as to appropriateness within the context of the site.

...

19. The proposal would be consistent with...LP Policy 114 which seeks to ensure that the scale of proposed buildings is appropriate to the street scene and are compatible with the local roofscape.

6.13 The Council has undertaken a comprehensive exercise to establish the range of viewpoints based on up to date evidence including site assessments both before Regulation 19 stage and afterwards in liaison with Historic England. The assessment exercise is set out at EDH 04.09 and M12I1Q7 - Appendix 1 - Additional Viewpoints October 2025 (see additional discussion in answer to Q7 below).

6.14 Taking the above into account, including the support of Historic England for the BHCA approach and related policy, it is considered that the BHCA is based on appropriate, available evidence; and that the requirements relating to the BHCA are clear, effective and justified.

Q7 Have an appropriate range of viewpoints been used to support Figure 12.1 and will be effective in managing development in the City Centre?

7.1 Yes, it is considered that an appropriate range of viewpoints have been used to support Figure 12.1 and that they will be effective in managing development in the City Centre.

7.2 A systematic review of the existing Policy 114 viewpoints was undertaken in preparation for the new Local Plan. Historic England (HE), in response to the

Regulation 19 Local Plan, suggested that a number of other listed views should also be considered.

7.3 In ongoing liaison with HE, the suggested additional viewpoints were all considered and then either scoped out or subject to detailed assessment using the same methodology as the other viewpoints considered in EDH 04.09. The appended Additional Viewpoints Assessment document (M12I1Q7 - Appendix 1 - Additional Viewpoints October 2025) sets out the assessment of the 3 additional viewpoints which were agreed with HE to require further assessment on site: Sopwell Nunnery, Bacon's Mound and Gorhambury Estate Drive.

7.4 The 'HE Reg 19 Comments and Proposed Plan Mods' October 2025 (M12I1Q7 - Appendix 3) sets out the way forward in this regard as agreed with HE as follows:

Agreed Modification

Way forward agreed – inclusion of Sopwell Priory (Sopwell Nunnery), Bacons Mound and Gorhambury Estate Drive viewpoints.

Agreed that it is not necessary to add the suggested additional viewpoint at The Roman Theatre in the Gorhambury Estate, due to issues in gaining access and noting that the Gorhambury Estate Drive viewpoint is adjacent and would provide similar views.

Having checked on site the other suggested viewpoints (Wheathampstead and amended viewpoint E), agreement no change required.

7.5 The appended Statement of Common Ground between SADC and Historic England October 2025 (M12I1Q7 - Appendix 2 - SoCG SADC and HE October 2025) confirms HE agreement to the above position as follows:

2.2 *Both parties agree that the 'HE Reg 19 Comments and Proposed Plan Mods' document appended to this SoCG represents an accurate representation of: the amendments to the Plan recommended by HE in their Regulation 19 response; and the result of discussions between SADC and HE in relation to those recommended amendments.*

2.3 *SADC will propose Main Modifications in due course to the draft St Albans Local Plan Examination in regard to the matters raised in this SoCG. As of October 2025, SADC have prepared suggested Main Modifications. These are appended in Appendix A and will be subject to further iteration through the Local Plan Examination process.*

7.6 The resultant proposed Main Modifications are for Figure 12.1: St Albans Building Height Control Area to be updated to include Viewpoint O: Sopwell Nunnery, Viewpoint P: Bacons Mound, and Viewpoint Q: Gorhambury Drive. These proposed Modifications are set out at SADC/ED85A and SADC/ED85C.

7.7 As set out in answer to Q6 above, the Policy reflects and updates the approach in current 1994 Local Plan Policy 114, and this Policy has proven effective in managing development in the City Centre. As also set out in answer to Q6 above, it is noted

that the existing equivalent policy is consistently given weight at appeal, including when considered against the 2023 NPPF.

- 7.8 Taking the above into account, it is considered that an appropriate range of viewpoints have been used to support Figure 12.1 and that they will be effective in managing development in the City Centre.

Q8 What is the justification for requiring accordance with ‘current local and County Council guidance’ in Policy DES7, which do not form part of the development plan?

- 8.1 On reflection, the Council recognises that it would be more appropriate to use ‘should have regard to’ policy wording instead of requiring accordance with ‘current local and County Council guidance’ in Policy DES7, which do not form part of the development plan. This is reflected in the proposed Main Modifications below:

DES7 – Servicing of Development

The servicing needs of development should be considered at an early stage in the design process to ensure a high level of integration with the development and to ensure overall design quality is not compromised. Proposals must demonstrate compliance with the following requirements, as appropriate to the scale and complexity of the development:

- a. Refuse Storage - Refuse and recycling storage must be accessible and should ~~be in accordance with~~ have regard to current local and County Council guidance unless it can be demonstrated that suitable alternative arrangements will be made...
- 8.2 It is considered that current local and County Council guidance would generally be likely to constitute a material planning consideration in the assessment of a development proposal that included refuse storage. This is due to the general desirability for refuse storage to follow such guidance (unless it can be demonstrated that suitable alternative arrangements will be made). Development proposals which do not accord with this guidance (or make suitable alternative arrangements) may potentially lead to undesirable consequences. Such potential undesirable consequences may include, for example: unsightly overflowing refuse storage areas, a necessity for bins to be moved an excessive distance on collection day, collection day inefficiency leading to highway obstruction, or a necessity for private collection arrangements to be made.
- 8.3 Although this guidance does not form part of the development plan, the desirability of having regard to current local and County Council guidance is considered to represent a significant material planning consideration, and the inclusion of the reference in DES7, as proposed to be modified as set out above, is intended to avoid undesirable consequences including those listed in the paragraph above.

- 8.4 Furthermore, as the local and County Council guidance is liable to change over the Plan period, it is not considered justified or effective to explicitly include current guidance in the Policy wording.
- 8.5 Taking the above into account, on reflection the Council recognises that it would be more appropriate to use 'should have regard to' policy wording instead of requiring accordance with 'current local and County Council guidance' in Policy DES7, which do not form part of the development plan; and a Main Modification is proposed in this regard.