



## Planning Bulletin: September 2018

*This monthly note highlights some of the recent and forthcoming developments in the world of planning from a heritage perspective. For further information about any of the items, please follow the links provided or use the contact information on the last page. Please note that this is not necessarily a complete review of matters and is not intended to provide any legal advice on the issues raised. Unless otherwise stated, it does not comprise the formal position of Historic England on these matters.*

### Job Opportunity

Historic England's Government Advice Team has the following planning-related vacancy (closing date 16 September):

- Senior National Planning Adviser (permanent post, closing date 16 September): an opportunity to influence national planning policy, guidance and advice. An interest in heritage is essential, but not necessarily direct experience of working in historic environment conservation.

### Legislation and Matters Arising

#### *Emerging Legislation*

#### *Government Bills*

- High Speed Rail (West Midlands - Crewe) Bill: the hybrid Bill makes provision for a railway between a junction with Phase One of High Speed 2, near Fradley Wood in Staffordshire, and a junction with the West Coast Main Line near Crewe in Cheshire. Second reading took place on 30 January; a date for committee stage has not yet been scheduled. Explanatory notes are available [here](#).
- Another Bill mentioned in the Queen's Speech which is of potential interest is the Agriculture Bill (to support UK farmers and protect the natural environment). The Bill will allow the delivery of many of the reforms set out in Defra's consultation on proposals for future agricultural policy in England (*Health and Harmony: the Future for Food, Farming and the Environment in a Green Brexit*).
- Defra has consulted on the development of an *Environmental Principles and Governance Bill*. The Bill will mark the creation of a new statutory and independent environmental watchdog to hold government to account on environmental ambitions and obligations once the UK has left the EU.

#### *Private Members' Bills*

- Bat Habitats Regulation Bill: the Bill makes provision to enhance the protection available for bat habitats in the vicinity of a building site, and to limit the protection for bat habitats in buildings used for public worship. Second reading took place on 27 April; committee stage has yet to be scheduled. A briefing is available [here](#).
- Bat Habitats Regulation (No. 2) Bill: the Bill makes provision to enhance the protection available for bat habitats in the non-built environment and to limit the protection for bat habitats in the built environment where the presence of bats has a significant adverse

impact upon the users of buildings. The Bill was presented to Parliament on 5 September 2017; second reading is expected on 26 October.

- *Equality Act 2010 (Amendment) (Disabled Access) Bill*: the Bill amends the *Equality Act 2010* to improve access to public buildings by introducing six- and twelve-inch rules for step-free access. Second reading took place on 24 November 2017, and Committee stage has yet to be scheduled.
- *Kew Gardens (Leases) Bill*: the Bill provides that the Secretary of State's powers in relation to the management of the Royal Botanic Gardens, Kew, include the power to grant a lease in respect of land for a period of up to 150 years. First reading took place on 13 July 2017, and second reading has yet to be scheduled. Explanatory notes are available [here](#).
- *Planning (Agent of Change) Bill*: the Bill requires specified planning controls in relation to developments likely to be affected by existing noise sources. It was introduced on 10 January, and is expected to have its second reading on 26 October.
- *Green Belt (Protection) Bill*: the Bill provides for the establishment of a national register of Green Belt land in England, the restriction of the ability of local authorities to de-designate Green Belt land, and provision about future development of de-designated Green Belt land. First reading took place on 5 September 2017; second reading is scheduled for 23 November.
- *Clean Air Bill*: the Bill requires the Secretary of State to set, measure, enforce and report on air quality targets; to make provision about mitigating air pollution; to make provision about vehicle emissions testing; and to restrict the approval and sale of vehicles with certain engine types. First reading took place on 22 November 2017; second reading is scheduled for 26 October.

### *Secondary Legislation*

- *The Ecclesiastical Jurisdiction and Care of Churches Measure 2018*: the Measure does not provide new rules, or change the faculty rules, but consolidates a number of enactments relating to ecclesiastical jurisdiction and the care of churches and other places of worship, with corrections and minor improvements. As the Measure includes amendments to the *Faculty Jurisdiction Rules 2015*, the Legal Office has published a [working edition of the Rules](#) incorporating the amendments. The amendments, which are in square brackets, are all references to new numbering that results from the consolidation measure.

### *Heritage Planning Case Database*

- Historic England maintains a [searchable online database of appeal and call-in decisions](#) relating to planning permission (that affects a heritage asset) and listed building consent. Cases have been summarised using a [standard list of search terms](#), for ease of use; searches can also be carried out by address, date or decision reference.

## **Committees**

### *The House of Lords Select Committee on Regenerating Seaside Towns and Communities*

- The [House of Lords Select Committee on Regenerating Seaside Towns and Communities](#) has issued a call for evidence, seeking [written submissions](#) by 1pm on 9 October. Areas of interest include the regeneration of the physical environment of seaside towns.

## Policy

### *National Planning Policy Framework*

- Further to the issue of the revised National Planning Policy Framework (NPPF) on 24 July, Historic England has produced a number of resources outlining the main changes and their implications for heritage:
  - A briefing note, which outlines some of the main changes between the 2012 and 2018 documents
  - Two online presentations:
    - A presentation on the changes to heritage policy between the 2012 and 2018 NPPFs
    - A presentation on the heritage policy in the NPPF that lies outside the historic environment chapter.

### *National Policy Statement for Water Resources: Infrastructure Types and Sizes*

- In April, Defra launched a consultation on proposals for the types and sizes of infrastructure which should be considered as 'nationally significant' infrastructure projects, to inform amendments to the *Planning Act 2008* infrastructure thresholds.
- Defra has now issued a Summary of Responses and Government Response. This confirms the amendments proposed to the definitions of nationally significant water resources infrastructure projects, and the inclusion of desalination as an infrastructure type.
- Consultation on a draft *National Policy Statement for Water Resources* (providing the detailed planning policy guidance specific to the infrastructure types) will take place later in the year.

## Advice

### *Historic England Advice*

- Good Practice Advice notes (GPAs) and Historic England Advice notes (HEANs) are all available on the Historic England website, and listed in Appendix I to this Bulletin, for ease of reference.

### *Forthcoming Historic England Advice*

- Following earlier public consultation, a HEAN on neighbourhood planning and the historic environment will be published in coming weeks, as will a revised edition of *HEAN 1: Conservation Areas: Designation, Appraisal and Review*.
- A draft of a new HEAN on World Heritage will also be published shortly for consultation.

## Training

- Historic England provides training and guidance to help local authorities, heritage professionals, owners and voluntary organisations look after England's heritage. Training currently available covers a wide range of topics, many directly linked to planning matters and Historic England advice:
  - Historic Environment Local Management (HELM): training on managing the historic environment for local authorities, regional agencies and national organisations. The

new training programme for the Autumn/Winter of 2018 has now been published. Visit the [webpages](#) for details of courses on:

- Farm Buildings: Policy & Practice
  - Understanding & Managing World Heritage Sites
  - Unlocking Traditional Buildings
  - Managing Local Authority Heritage Assets
  - Coastal Development Projects and the Historic Environment
  - NPPF Decoded: Plan Making (booking now open)
  - NPPF Decoded: Development Management and Archaeology (dates to be published soon)
- **Heritage Practice:** training courses for heritage specialists in technical subjects and techniques. The only course currently available for booking is *Introduction to Landscape Archaeology*, but new courses on *Curating the Palaeolithic* and *Understanding Setting* will be available soon.
- **Online training:** webinars and other resources to help supplement the short course training opportunities and make them more widely available. The online training includes recordings of webinars and other, longer courses to work through.
- **Essentials training:** this programme, delivered in partnership with Locus Consulting, covers the building blocks of historic environment management and explores key concepts, methodologies, legislation and policies that govern how the historic environment is understood, protected and managed through the planning system. It is aimed mainly at planners within local authorities.
- Booking is currently open for a webinar on **Building Preservation Notices** (24 September). Local planning authorities may serve a Building Preservation Notice (BPN) on the owner and occupier of a building which is not listed, but which they consider is of special architectural or historic interest and is in danger of demolition or of damaging alteration. A BPN protects the building for a maximum of 6 months, and, whilst it is in force, the building is subject to the same protection as a listed building. Historic England is about to produce an updated Advice Note on the use of BPNs, and is working on related initiatives to try and reduce the unnecessary loss of buildings.

## Historic England Planning Research

### *Increasing Residential Density in Historic Environments*

- Historic England has published a [study](#), commissioned from Arup, exploring the factors which can contribute to successfully delivering higher density residential developments in historic environments. The study uses a combination of [literature review](#) and case studies to provide a series of recommendations to support decision making.

## Other Initiatives

### *Archaeology and Planning Case Studies Project*

- ClfA (with project partners CBA, ALGAO and FAME) has launched a Historic England-funded [project](#) which will collect archaeology-related case studies from the planning system, and make them available on-line to support advocacy. The resource is being created to show how archaeology is managed, enabled, or restricted by current and future policy provisions.

- A survey has been launched (for which the deadline is now 21 September) and those with the relevant knowledge and experience are requested to consider whether they have knowledge or experience of any cases which reveal particular aspects of the current system or provide evidence that could inform future change.
- Information is sought on, amongst other scenarios:
  - An archaeological evaluation which has identified new sites, making a significant contribution to knowledge of a particular period, especially where little was known from that location previously
  - A problematical site where there has been no evaluation and important archaeology has been discovered late in the development project
  - The use of planning conditions e.g. cases where there has been no adequate provision for post-excavation and publication because a planning condition has been discharged prematurely
  - A development which commenced before the completion of archaeological mitigation fieldwork. For example, health and safety issues and/or significant additional resources required for agreeing and implementing complex method statements.

#### *A New Deal for Social Housing: Green Paper*

- MHCLG has issued a green paper which seeks views on the Government's vision for social housing (closing date 6 November). It proposes fundamental reform to ensure social homes provide an essential, safe, and well managed service for all those who need it.
- It makes specific reference to the delivery of high quality buildings and places through the planning system, and confirms that, 'as part of the guidance which will be published later this year', the Government will:
  - Strengthen planning guidance to take into account the principles of *Secured by Design*, to ensure that external spaces, parks, streets and courts are well-lit and well maintained so they are safe from crime and the fear of crime
  - Strengthen guidance to encourage healthy and active communities, building on the NPPF's healthy and safe communities chapter.
- The green paper is accompanied by a consultation on the use of receipts from Right to Buy sales (closing date 9 October).

#### *Civil Society Strategy: Building a Future that Works for Everyone*

- The Government has published a Civil Society Strategy, which sets out how it will work with and for civil society in the long-term to create a country that works for everyone. It consists of five chapters that address the 'five foundations of social value':
  - *People – enabling a lifetime of contribution* focuses on the role of citizens in civil society, with particular reference to the role of young people
  - *Places – empowerment and investment for local communities* presents a vision of 'place', and the role of government in supporting local communities
  - *The social sector – supporting charities and social enterprises* explains the government's approach to the core of civil society i.e. the social sector of charities, voluntary organisations and social enterprises including mutuals

- *The private sector – promoting business, finance and tech for good* outlines the role of business, finance and technology in civil society
- *The public sector – ensuring collaborative commissioning* explains how the government sees the future role of civil society organisations in the delivery of public services. This reflects a long-term vision for the principles of the Social Value Act to be applied to the whole of government spending and decision-making, including planning and community asset transfer, as well as goods, works, and services.

#### *A Review of the Application and Effectiveness of Planning Policy for Sustainable Drainage Systems*

- MHCLG has published a report on the use of sustainable drainage systems in new development after the introduction of new planning policy on such systems in 2014. It examines how national planning policies for sustainable drainage systems are reflected in local plans, and the uptake of these systems across a range of housing and commercial developments in England.
- The review demonstrated that current arrangements for SuDS in planning have been successful in encouraging the take-up of sustainable drainage systems in a cross-section of new developments, and, whilst national planning policy has a clear role to play in facilitating the delivery of SuDS, other factors can also influence the uptake of SuDS in new developments.
- The Government notes that more emphasis on SuDS adoption and maintenance arrangements by applicants is required, and that LPAs need to be satisfied that clear maintenance arrangements are in place for the lifetime of the development.

#### *Garden Communities: Prospectus*

- MHCLG has published a Garden Communities prospectus, which invites bids from local authorities and private sector partners for proposals for new garden communities (closing date 9 November). It sets out how Government can support local areas which want to create new garden communities, and the key qualities that proposals are expected to demonstrate. Proposals should be ambitious and locally supported, delivering significant housing and economic growth.
- The prospectus does not prescribe a single template for a garden community, but does set out defined ‘garden community qualities’. The Government wants to see ‘vibrant, mixed-use, communities where people can live, work, and play for generations to come – communities which view themselves as the conservation areas of the future’.
- Proposals for Garden Towns will be prioritised (more than 10,000 homes), but proposals for Garden Villages will also be considered (1,500-10,000 homes).

#### **Current Consultations**

- *DfT’s call for evidence to inform government’s work on the ‘Future of Mobility Grand Challenge’ (closing date 10 September).*
- The Independent Review of Planning Appeal Inquiries has issued a call for evidence (closing date 18 September).
- The House of Lords Select Committee’s call for evidence on regenerating seaside towns and communities (closing date 9 October).

- MHCLG's consultation on the use of receipts from Right to Buy sales (closing date 9 October).
- DfT's consultation on WebTAG (closing date 15 October).
- BEIS/MHCLG's call for evidence on energy performance certificates for buildings (closing date 19 October).
- MHCLG's consultation on Permitted Development for Shale Gas Exploration (closing date 25 October).
- BEIS's consultation on Inclusion of Shale Gas Production Projects in the Nationally Significant Infrastructure Project (NSIP) Regime (closing date 25 October).
- MHCLG's green paper on social housing (closing date 6 November).

### **Recent Consultation Responses**

- Historic England's response to Defra's consultation on the development of an *Environmental Principles and Governance Bill* is available here.

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*If you did not receive this edition of Planning Bulletin direct from Historic England, you may find the current edition online here. If you would like to sign up for notifications when a new edition is issued, please contact [governmentadvice@HistoricEngland.org.uk](mailto:governmentadvice@HistoricEngland.org.uk).*

## APPENDIX I: HISTORIC ENGLAND PLANNING ADVICE

### *Good Practice Advice notes (GPAs)*

- The GPAs provide information on good practice, particularly looking at the principles of how national policy and guidance can be applied. They are the result of collaborative working with the heritage and property sectors in the Historic Environment Forum, and have been prepared following public consultation:
  - *GPA 1: The Historic Environment in Local Plans* (March 2015)
  - *GPA2: Managing Significance in Decision-Taking in the Historic Environment* (March 2015)
  - *GPA3: The Setting of Heritage Assets* (December 2017)
  - *GPA4: Enabling Development* (forthcoming)

### *Historic England Advice Notes (HEANs)*

- The HEANs include detailed, practical advice on how to implement national planning policy and guidance. They have been prepared by Historic England following public consultation:
  - *HEAN 1: Conservation Areas: Designation, Appraisal and Review* (February 2016)
  - *HEAN 2: Making Changes to Heritage Assets* (February 2016)
  - *HEAN 3: Site Allocations* (October 2015)
  - *HEAN 4: Tall Buildings* (December 2015)
  - *HEAN 5: Setting up a Listed Building Heritage Partnership Agreement* (November 2015)
  - *HEAN 6: Drawing up a Local Listed Building Consent Order* (November 2015)
  - *HEAN 7: Local Heritage Listing* (May 2016)
  - *HEAN 8: Sustainability Appraisal and Strategic Environmental Assessment* (December 2016)
  - *HEAN 9: The Adaptive Reuse of Traditional Farm Buildings* (October 2017)
  - *HEAN 10: Listed Buildings and Curtilage* (February 2018)