



Planning Bulletin: August 2019

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.

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Government Departments

Department for Digital, Culture, Media and Sport

- Following a Cabinet reshuffle at the end of July, Nicky Morgan MP (Loughborough) has been appointed Secretary of State for Digital, Culture, Media and Sport, replacing Jeremy Wright MP.
- Nigel Adams MP (Selby) has been appointed Minister of State at the Department for Digital, Culture, Media and Sport. The Minister has responsibility for a number of key areas, such as international strategy, replacing Margot James MP.
- Rebecca Pow MP (Taunton Deane) has been re-appointed as a Parliamentary Under Secretary of State (Minister for Arts, Heritage and Tourism). Her responsibilities include: arts; museums and cultural property; libraries; heritage; tourism; gambling and lotteries; cultural diplomacy; and overall approach to culture and place.
- Matt Warman MP (Boston and Skegness) has been appointed as Parliamentary Under Secretary of State (Minister for Digital and Broadband).

- Baroness Barran MBE was appointed Parliamentary Under Secretary of State (Minister for Civil Society and DCMS), with responsibility for all DCMS business in the House of Lords, replacing Lord Ashton of Hyde.

Department for Environment, Food and Rural Affairs

- Theresa Villiers MP (Chipping Barnet) has been appointed Secretary of State for Environment, Food and Rural Affairs, replacing Michael Gove MP.
- George Eustice MP (Camborne and Redruth) has been appointed Minister of State at the Department for Environment, Food and Rural Affairs, replacing Robert Goodwill MP.

Ministry of Housing, Communities and Local Government

- Robert Jenrick MP (Newark) has been appointed Secretary of State for Housing, Communities and Local Government, replacing James Brokenshire MP, and is the Ministerial Champion for the Midlands Engine.
- Esther McVey MP (Tatton) has been appointed Minister of State for Housing, replacing Kit Malthouse MP.
- Jake Berry MP (Rossendale and Darwen) has been appointed Minister of State for the Northern Powerhouse and Local Growth (including responsibility for High Streets) at the Cabinet Office and the Ministry of Housing, Communities and Local Government
- Viscount Younger of Leckie has been appointed Parliamentary Under Secretary of State (Minister for Faith and Communities), replacing Lord Bourne of Aberystwyth..

Legislation and Matters Arising

Emerging Legislation

Government Bills

- *Parliamentary Buildings (Restoration and Renewal) Bill*: the Bill provides for the establishment of a Sponsor Body and a Delivery Authority to oversee and manage the restoration of the Houses of Parliament. It was introduced into the House of Commons on 8 May. The Bill is available [here](#), and explanatory notes [here](#). It is been through Committee Stage in the House of Lords (22 July) and the Report Stage is scheduled for 3 September.
- *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 2018. The Bill received its First Reading in the House of Lords on 16 July and is scheduled for its Second Reading on 4 September. Explanatory notes are available [here](#).
- *The Kew Gardens (Lease) (No. 3) Bill [Lords]* was considered in a Legislative Grand Committee (England) on Wednesday 24 July and consented to without amendment. The Bill was then read the third time and passed and will now be sent for Royal Assent.
- *Agriculture Bill*: amongst other things, the Bill authorises new expenditure for certain agricultural and other purposes; makes provision about direct payments during an agricultural transition period following the United Kingdom's departure from the

European Union; and confers power to modify retained direct EU legislation relating to agricultural and rural development payments, public market intervention and private storage aid. The Bill concluded its Committee stage on 20 November, with the Report stage in the House of Commons yet to be announced. The Bill has been amended in Committee; explanatory notes and a briefing paper are available.

- Fisheries Bill: amongst other things, the Bill makes provision about grants in connection with fishing, aquaculture or marine conservation. Introduced in October 2018, the Bill went to a Public Bill Committee on 17 December, with the Report stage (and subsequent third reading) due on a date to be announced. The Bill is available here, and explanatory notes here.
- Environment Bill: New measures to enhance wildlife, transform our waste system and improve the resilience of water supplies have been set out by Environment Secretary Michael Gove. In an update on progress towards the introduction of the Environment Bill the government has published firm positions, following a range of consultations on:
 - A deposit return scheme (DRS) for drinks containers
 - Consistency in household and business recycling.
 - Extended producer responsibility (EPR)
 - Biodiversity net gain
 - Conservation covenants
 - Improving our management of water in the environment

A policy statement has also been published, summarising progress so far and updating on the direction and vision of the Bill.

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. The second reading took place on 27 April 2018; the 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 and the second reading took place on 23 November 2018; the Committee stage has yet to be scheduled.
- 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. The second reading took place on 24 November 2017, and the Committee stage has yet to be scheduled.
- 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. Its first reading took place on 5 September 2017; second reading was scheduled for 15 March 2019 but proceedings were interrupted and the Bill's second reading is now postponed to a date to be announced.
- 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. Its first reading took place on 22 November 2017; second reading has yet to be scheduled.

- *Planning (Appeals) Bill*: the Bill limits the grounds of appeal against decisions on planning applications consistent with a neighbourhood development plan or local plan. It was introduced on 4 December 2018, and second reading has yet to be scheduled.
- *Planning (Affordable Housing and Land Compensation) Bill*: the Bill would create a new duty for councils to include a policy in their local plans to capture betterment values where they arise. It would also replace the current definition of affordable housing (classed as being up to 80% of market prices), with one that stipulates that housing cannot cost more than 35% of net household income for lowest quartile income groups in each local authority area. The Bill also seeks to specify in law the key factors used for viability testing in relation to planning decisions, including placing explicit limitations on the expectations of developer profit and land values for compulsory purchase. It was introduced on 27 February 2019, and second reading has yet to be scheduled.

Secondary Legislation

The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2019

- These Regulations remove a sunset clause to the existing fees regulations so that local authorities can continue to charge fees for planning applications. The Regulations also introduce a £96 fee for applications for prior approval for permitted development rights for a larger single-storey rear extension to a house.

Heritage Planning Case Database

- Historic England tweets planning decisions of heritage interest, via [@HeritageAdvice](#), and these are then collated into the Heritage Planning Case Database. This is 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

Department for Digital, Culture, Media and Sport Committee: Garden Design and Tourism

- The Committee has published its Report, which states that gardens and parks 'are one of the great cultural assets of the United Kingdom' and that the Committee believes 'that the Department for Digital, Culture, Media and Sport (DCMS) should explore the opportunities to create closer partnerships between the garden sector, destination management organisations and the economic regeneration strategies of Local Enterprise Partnerships. Garden design should also be recognised as part of the UK's creative sector.' The response of the Government is awaited.

Guidance

Planning Practice Guidance (PPG)

- The following sections of the PPG were revised, or introduced, in July:
 - Advertisements
 - Appropriate assessment
 - Consultation and pre-decision matters
 - Effective use of land (new)
 - Enforcement and post-permission matters
 - Green Belt (new)
 - Healthy and safe communities
 - Historic environment
 - Housing and economic land availability
 - Housing and economic needs assessment
 - Housing needs of different groups
 - Housing supply and delivery (new)
 - Land affected by contamination
 - Land stability
 - Natural environment
 - Noise
 - Plan-making
 - Strategic environmental assessment and sustainability appraisal
 - Town centres and retail
 - Use of planning conditions
 - Water supply, wastewater and water quality
 - When is permission required?
- The section on *Conserving and Enhancing the Historic Environment* has been renamed the *Historic Environment*, and a briefing note on the main changes is available [here](#). The majority of the *Historic Environment* PPG text is unchanged. The more significant changes include:
 - Clarity regarding the definition of heritage assets (they are now clearly classified as either designated or non-designated, which provides greater certainty as to the NPPF policy to be applied), and how they are identified (the ways in which non-designated heritage assets can be identified now specifically include neighbourhood plans and neighbourhood planning bodies).
 - Greater discussion of the nature of harm, including clarity regarding total loss, how harm should be articulated, and more information on assessing potential harm to conservation areas.
 - Additional text on the assessment by applicants of significance and the impact of proposals on that significance.
 - Reinstatement of the definitions of the ‘four interests’ (originally set out in Planning Policy Statement 5 (2010)).
 - Clarification of the ‘where appropriate’ provision in the NPPF, in relation to optimum viable use.
 - Clarity regarding the status of World Heritage Site buffer zones as part of setting, and the related consultation requirements.
 - Wherever there is discussion of particular types of designated heritage asset, the coverage has been extended to cover all such asset types.

MHCLG Letter to Chief Planning Officers

- MHCLG has sent a Planning Update Newsletter to local planning authorities setting out updates on the Government's programme of planning reform. Subject headings are:
 - The Planning Inspectorate
 - Post-Rosewell Reforms to the Planning Inspectorate
 - Planning Guidance updates
 - Building Better Building Beautiful Commission– Interim Report
 - Guidance on New Town Development Corporations' CPO Powers
 - Fee Regulations
 - RTPI Apprenticeship
 - Good Development Management
 - Resources Survey
 - Permitted Development Rights and Deemed Advertising Consent
 - Community Infrastructure Levy Regulations
 - Developer contributions research
 - Home loss payments under the Land Compensation Act 1973

Advice

Historic England Advice

- Good Practice Advice notes (GPAs) and Historic England Advice Notes (HEANs) are all available on the Historic England website, and are listed in Appendix I to this Bulletin for ease of reference.
- Consultation is taking place on the new Historic England Advice Note: Energy Efficiency and Traditional Homes. This publication considers energy efficiency improvements in traditional homes from the standpoint of the planning system, outlining a 'whole building' approach that can help in meeting the combined objectives of increasing energy efficiency and sustaining heritage significance, while avoiding unintended consequences. (closing date 13 September)

Training

Consultation on Historic England Heritage Practice Training Provision

- Historic England is inviting views on future training offer/delivery. The Training Strategy provides detail on the need for training, which is underpinned by unprecedented social and economic pressures that are impacting on the availability of key resources. The current consultation concerns Heritage Practice programme, and Historic England is conducting a programme of market research, through an online survey available here. The survey is mainly multiple choice and should take less than 15 minutes to complete. (closing date 30 September 2019)

Current Training

- Historic England provides training and guidance to help local authorities, heritage professionals, owners and voluntary organisations look after England's heritage.

Training that is currently available covers a wide range of topics, many directly linked to planning matters and Historic England advice. Our training programmes are:

- Historic Environment Local Management (HELM): training on managing the historic environment for local authorities, regional agencies and national organisations. Visit the webpages for course dates and booking. New courses for the autumn will include Practical Building Conservation: Porous Building Materials, Industrial Heritage, Heritage Statements, and Design and Place-making in Historic Areas. Courses include:
 - Easy Access to Historic Buildings and Landscapes (Peterborough, 5 September 2019)
 - Easy Access to Historic Buildings and Landscapes (York, 26 Sept 2019)
 - Practical Building Conservation: Porous Building Materials (Avoncroft Museum, Bromsgrove, 3 October 2019)
 - Practical Building Conservation Update: Porous Building Materials (West Sussex, 10 October).
 - Making a Future for Industrial Heritage (Wigan, 24 October 2019)
- Heritage Practice: training courses for heritage specialists in technical subjects and techniques. Visit the webpages for details of courses on (amongst others):
 - Understanding Historic Buildings (Oxford on 16-19 September).
- Essentials Training: training course on fundamental heritage skills for local authority planners and early entrants into historic environment services. Visit the webpages for details of courses on (amongst others):
 - Assessing Heritage Significance (Darlington, 12 September)
 - Setting in Practice (Birmingham, 10 October; Leeds, 31 October).
- 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.
- All courses, and further information, can be accessed on the Historic England website.
- Proposed training in autumn/winter will include more training on industrial heritage, and new courses on the disposal of military assets, and statements of heritage significance.
- To find out more visit Historic England's training webpage. To be added to the mailing list for training events and webinars, or if you would like to suggest topics for courses, webinars or online training please email helmbookings@historicengland.org.uk.

Infrastructure

HS2 Review

- The government has announced an independent review into the delivery and benefits of HS2, and has published details of its terms of reference.

Other Initiatives

Biodiversity Net Gain

- Defra has published the summary of responses and the government's response on the recent consultation on plans to introduce mandate net gains for biodiversity in the *Environment Bill*. The government response sets out how it will work to bring this into force.

Built Environment Sector Deal

- MHCLG and BEIS have written to the Built Environment Sector Deal Champion, confirming the government will open formal negotiations on a Built Environment Sector Deal. 'The negotiation process will refine and finalise offers and asks of both government and the sector, but will maintain core objectives of:
 - Delivering more homes and improving housing quality for example through initiatives that support offsite construction.
 - Improving the sector's productivity through improved access to data and the promotion of PropTech.
 - Enabling the sector to diversify its workforce through dedicated skills and employment strategies, as well as diversifying its firm base and increasing competitiveness.
 - Promoting clean growth and supporting the sector's transition to low carbon'.

Compulsory Purchase Process and the Criche! Down Rules

- MHCLG has published guidance on the compulsory purchase process and the Criche! Down Rules. It replaces that published on 28 February 2018, and has been revised to include guidance in relation to new town development corporations.

Conservation Covenants

- Defra has published the summary of responses and the government's response on the recent consultation on plans to introduce legislation for conservation covenants in England, allowing landowners to secure lasting conservation benefits. The government intend to introduce legislation for covenants in England in the *Environment Bill* and develop guidance to assist parties to draw up conservation covenants.

Electric Vehicle Charge Points

- The Department for Transport and Office for Low Emission Vehicles are consulting on proposals for electric vehicle chargepoints in residential and non-residential buildings, including to:
 - Alter building regulations for new residential buildings to include requirements for electric vehicle chargepoints, and for new non-residential buildings to include requirements for electric vehicle chargepoint infrastructure, and
 - Introduce a requirement for existing non-residential buildings to have electric vehicle chargepoints. (closing date 7 October 2019).

High Streets

- The Government has announced that plans 'to take back control of vacant high streets' are being piloted in five towns across the country. The Open Doors project supports landlords and communities to transform empty shops and address issues facing high streets. Former retail units taking part in the scheme are located in Stoke-on-Trent,

Bradford, Rochford, Kettering and Slough, and community hubs have opened in Stoke-on-Trent, Bradford and Kettering.

Improving Our Management of Water in the Environment

- Defra has published the summary of responses and government response to the recent consultation on improving water management. The government response sets out the measures it expects to take forward through the *Environment Bill* and other primary legislation.

Landscapes Review: National Parks and Areas of Outstanding Natural Beauty

- Defra has published the interim findings of the independent review to consider the next steps for National Parks and Areas of Outstanding Natural Beauty sites (AONBs) in England. Among these findings, the letter says that 'AONBs should be strengthened, with increased funding, new purposes and a greater voice on development'. The review's final report will be published in autumn.

Marine Management Organisation

- The MMO has appointed Tom McCormack CBE as Chief Executive Officer.

Planning Advisory Service: Local Authority Resource Survey 2019

- The Planning Advisory Service has published a summary of the results of the planning department resources survey undertaken on behalf of MHCLG in spring 2019. 123 responses (of a possible 357) were received, indicating that recent planning fee increases had allowed planning departments to take on an average of around one additional permanent member of staff. Respondents expressed particular worries about Enforcement, Design, Arboriculture and Listed Buildings & Heritage.

Planning Inspectorate

- The Planning Inspectorate has published two new guidance documents covering the process of statements of case and statements of common ground submission. The guidance sets out topics to be covered and timescales for submission. The inspectorate has also updated its appeals procedural guide to reflect the changes to the process.
- The Planning Inspectorate has published its Annual Report and Accounts 2018/19. The Report includes an update on casework performance and progress on implementing service improvements.

Resistance to Moisture in Buildings

- MHCLG have published research investigating the moisture resistance of typical constructions in both new buildings and where insulation is retrofitted to existing buildings.

Towns Fund

- Prime Minister Boris Johnson announced a £3.6 billion Towns Fund supporting an initial 100 towns. They will get help with social and cultural infrastructure, giving 'places new energy and new life'.

Current Consultations

- Historic England is consulting on a new *Advice Note: Energy Efficiency and Traditional Homes* (closing date 13 September 2019).
- The Department for Transport and Office for Low Emission Vehicles are consulting on proposals for electric vehicle chargepoints in residential and non-residential buildings (closing date 7 October 2019)
- Historic England is inviting views on its training provision (closing date 30 September 2019).

Calendar

September

- 5 HELM training course: Easy Access to Historic Buildings and Landscapes (Peterborough)
- 12 Essentials Training: training course: Assessing Heritage Significance (Darlington)
- 13 Consultation on Historic England Advice Note: Energy Efficiency and Traditional Homes closes
- 16-19 Heritage Practice training course: Understanding Historic Buildings (Oxford)
- 26 HELM training course: Easy Access to Historic Buildings and Landscapes (York)
- 30 Consultation on Historic England's Heritage Practice programme closes

October

- 3 HELM training course: Practical Building Conservation: Porous Building Materials (Avoncroft Museum, Bromsgrove)
- 7 Consultation on electric vehicle chargepoints in residential and non-residential buildings closes
- 10 HELM training course: Practical Building Conservation Update: Porous Building Materials (West Sussex)
- 10 Essentials Training: training course: Setting in Practice (Birmingham)
- 24 HELM training course: Making a Future for Industrial Heritage (Wigan)
- 31 Essentials Training: training course: Setting in Practice (Leeds)

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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.

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:
 - *GPA1: 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 (Second Edition)* (February 2019)
 - *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)
 - *HEAN 11: Neighbourhood Planning and the Historic Environment* (October 2018)