



Planning Bulletin: March 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.

Government Departments

Defra: Minister of State for Agriculture, Fisheries and Food

- Robert Goodwill was appointed as a Minister of State at the Department for Environment, Food and Rural Affairs on 5 March.

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 2018; a date for Committee stage has not yet been scheduled. Explanatory notes are available [here](#). The promoters' (HS2 Ltd, the Department for Transport, etc.) [response to the Select Committee's second special report](#) and the [response to the Select Committee interim report](#) have also been published.
- *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 and 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](#), with [explanatory notes](#), and a [briefing paper](#) available. Further [amendments to the Bill](#) have been proposed for consideration as part of the Report stage process when this formally begins.
- *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*: Defra has issued a *draft Environment (Principles and Governance) Bill*, which sets out how the Government will maintain environmental standards as the UK leaves the EU, develop the vision of the 25 Year Environment Plan, and create the independent Office for Environmental Protection (OEP). The draft Bill commits the Government to publishing a policy statement which will set out how Ministers should interpret and apply environmental principles. It also commits Government to have a plan for environmental improvement. The Bill is accompanied by a *Policy Paper*,

a Statement of Impacts, and an Information Paper on the Policy Statement on Environmental Principles. Defra has also issued the Government's response to May's consultation on Environmental Principles and Governance after the United Kingdom leaves the European Union. The historic environment is not included in the majority of the provisions within the draft Bill; in this, it differs in approach to the cultural and natural environment to that within the recently published 25 Year Environment Plan (January 2018). The omission of heritage from the Bill has the potential to exclude heritage from the remit of the proposed Office for Environmental Protection.

- Treasure Act 1996: DCMS has launched a consultation on revising the definition of treasure in the Treasure Act 1996, revising the related codes of practice and the process for finds that may be treasure. The aim of the Act is to ensure that important archaeological items are preserved in public collections. The consultation closes on 30 April.

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; second reading 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.
- 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. The first reading took place on 13 July 2017, and second reading has yet to be scheduled. Explanatory notes are available here.
- 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 is expected to take place on 15 March.
- 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 is scheduled for 15 March.
- 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, and second reading is scheduled for 22 March.

- *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, and its second reading is scheduled for 22 March.

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.

Policy

National Planning Policy Framework

- MHCLG published an updated version of the *National Planning Policy Framework* on 19 February which supersedes the July 2018 version. The changes are limited to policy relating to housing needs methodology and habitats assessments, as well as some administrative changes. The paragraph and footnote numbers remain the same as the July version.
- The changes made are as follows:
 - *Housing Policy*
 - Maintaining supply and delivery: footnote 37 to paragraph 73 (regarding the calculation of housing need using the standard methodology) has been amended.
 - The Glossary definition of ‘deliverable’ has been amended.
 - The Glossary definition of ‘local housing need’ has been amended.
 - *Natural Environment Policy*
 - Paragraph 177 has been amended with regard to the presumption in favour of sustainable development and habitats assessments.
 - *Administrative*
 - Paragraph 214 has been amended to clarify which edition of the NPPF is being referred to.
- The results of the *Housing Delivery Test: 2018 Measurement* (an annual measurement of housing delivery in the area of each relevant plan-making authority) were published alongside the updated NPPF. Further detail about this is available in the ‘Other Initiatives’ section of this Bulletin.
- MHCLG has published the Government’s response to the *Technical Consultation on Updates to National Planning Policy and Guidance*. Further detail about the changes is available in the ‘Other Initiatives’ section of this Bulletin.

Guidance

Planning Practice Guidance (PPG)

- MHCLG advised that it is continuing to review the PPG following the publication of the revised NPPF, with updated guidance anticipated in March.
- The PPG on housing and economic needs assessment has been updated to reflect the latest changes to policy.

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.

Historic England Advice Note: Mineral Extraction and Archaeology

- Historic England is currently consulting on a new Historic England Advice Note: Mineral Extraction and Archaeology. This will update the previous version produced by the Minerals and Historic Environment Forum (MHEF), Minerals Extraction and Archaeology: A Practice Guide and provides advice specifically for managing archaeology as part of minerals development within the English planning process. The consultation closes on 12 April.

A Guide to Historic Environment Records (HERs) in England

- Historic England has published A Guide to Historic Environment Records (HERs) in England. This guidance sets out the specification for Historic Environment Records and replaces Benchmarks for Good Practice. It defines the scope of the content and coverage of a HER, its temporal and geographical limits, and how the public can access records.

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:
 - Historic Environment Local Management (HELM): training on managing the historic environment for local authorities, regional agencies and national organisations. Visit the webpages for details of courses on (amongst others):
 - NPPF Decoded: Plan Making (last few places available in Leeds on 28 March).
 - NPPF Decoded: Development Management and Archaeology (Birmingham, 14 March, only one place remaining).
 - Unlocking Historic Buildings (11 April, Budleigh Salterton, Devon).
 - The new programme for 2019-20 will be launched in April.
 - Heritage Practice: training courses for heritage specialists in technical subjects and techniques. Visit the webpages for details of courses on (amongst others):
 - Understanding Setting within the Context of Heritage Assets (Leicester on 25-26 March).
 - Historic Area Assessments (York on 23 May).

- [Understanding Historic Buildings \(Oxford on 16 September\)](#).
- [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](#).

Infrastructure

Aviation 2050 - The Future of UK Aviation

- The Department for Transport's consultation on its [Green Paper](#) (outlining proposals for a new aviation strategy) has been extended from 11 April until 20 June, to provide further time for stakeholders to consider its proposals and submit consultation responses. The extension will not apply to specific questions on legislative airspace change proposals which have been consulted on alongside the Green Paper. The closing date for responses to the airspace change legislation questions remains 11 April 2019.

Other Initiatives

Housing Delivery Test: 2018 Measurement

- The results of the [Housing Delivery Test: 2018 Measurement](#) (an annual measurement of housing delivery in the area of each relevant plan-making authority) were published alongside the updated NPPF. If local authorities do not meet their requirement for housing delivery (measured against a rolling three-year target), then there are a series of sanctions, depending on the level that they have fallen short, ranging from the production of an action plan through to the application of the presumption in favour of sustainable development.

Government's response to the Technical Consultation on Updates to National Planning Policy and Guidance

- MHCLG has published the [Government's response to the Technical Consultation on Updates to National Planning Policy and Guidance](#). This explains that the 2014 household projections should be used for calculating local housing need, makes changes to highlight need for housing being key, as opposed to demand, and provides more detail about the evidence required for planning for economic needs.

Reinstating a Road After Street Works: New Edition of the Code of Practice

- Department for Transport is consulting upon a new edition of the [Specification for the Reinstatement of Openings in Highways](#) (SROH) which was last updated in April 2010. They are seeking views on this statutory code of practice which sets out the standards that utility companies must adhere to when reinstating roads upon the completion of street works (closing date 6 May). The new edition aims to address issues of interpretation in the previous edition, and a number of innovations and brings the document up to date.

Chartered Town Planner Degree Apprenticeship

- The Royal Town Planning Institute (RTPI) has launched its [Chartered Town Planner Degree Apprenticeship](#). This will enable apprentices to study at university to obtain an RTPI-accredited qualification and Chartered Town Planner (MRTPI) status, whilst

gaining practical experience in the workplace. The apprenticeship scheme will typically take three to six years overall, depending on prior qualifications.

Conservation Covenants

- Defra is consulting on plans to introduce legislation for conservation covenants. These would allow landowners to set legally binding obligations on their land for themselves and subsequent owners to secure long term environmental benefits. The consultation seeks views on the demand and potential for conservation covenants, as well as safeguards and Law Commission proposals for them. The consultation closes on 22 March.

Landscapes Review (National Parks and AONBs): Call for Evidence

- The Government has confirmed in an additional note on the consultation page that the responses received to the call for evidence for the Glover Review will be used to develop the final report, which is due to be published in the autumn.

High Streets and Town Centres in 2030

- The Housing, Communities and Local Government Committee has published the report from its High Streets and Town Centres in 2030 inquiry. It raises concerns about the potential loss of town centres and the need for planning to play a crucial role in preventing this. It advocates a number of changes, including:
 - Reforming the compulsory purchase process to make it faster;
 - Updating the town centre first policy, suggesting that it should be changed to better reflect the mixed nature of centres, particularly the recent increase in non-retail uses;
 - An overhaul of and update to the use classes order;
 - The suspension of further extensions to permitted development rights, pending an evaluation of their impact on high streets;
 - An increase in councils making use of masterplans; and
 - Where they are in conflict with local plan policies, councils should have greater freedom to suspend permitted development rights in the affected area.

Stronger Towns Fund

- The Government has launched a £1.6 billion Stronger Towns Fund to boost growth and give communities a greater say in their future after Brexit. £1 billion will be allocated to various regions using a needs-based formula, with the remaining £600 million distributed through a bidding process open to the whole country. Communities will be able to draw up plans for their town with the support and advice of their Local Enterprise Partnership.

The Garden Communities Project

- MHCLG has announced an additional £9 million of funding as part of the Garden Communities Project, which seeks to support local areas that want to create new garden communities. This will help prepare 21 sites for development by assisting with the financing of master planning and technical studies.

Heritage Impact Fund

- The Architectural Heritage Fund (AHF) is launching a £7 million social investment fund to enable charities outside the heritage sector to acquire, reuse or redevelop buildings of historic or architectural importance. The Heritage Impact Fund is a partnership between the AHF, The National Lottery Heritage Fund, Historic England, Historic Environment Scotland and Cadw.

Current Consultations

- Ofgem's consultation on the RIO-2 Sector Specific Methodology (closing date 14 March).
- Historic England's consultation on Conserving Georgian and Victorian Terraced Housing: A Guide to Managing Change (closing date 22 March).
- Defra's consultation on plans to introduce legislation for conservation covenants (closing date 22 March).
- The Department for Business, Energy & Industrial Strategy's consultation on The Treatment of Electricity Storage Within the Planning System (closing date 25 March).
- The Marine Management Organisation's (MMO) consultation on four emerging marine plans in the North East, North West, South East and South West (closing date 29 March).
- HS2 Ltd's consultation on the Supplementary Environmental Statement 2 and Additional Provision 2 Environmental Statement (closing date 29 March).
- Radioactive Waste Management's (part of the Department for Business, Energy and Industrial Strategy) consultation on Site Evaluation - How We Will Evaluate Sites in England (closing date 31 March).
- Historic England's consultation on Historic England Advice Note: Mineral Extraction and Archaeology (closing date 12 April).
- DCMS's consultation on revising the definition of treasure in the Treasure Act 1996 (closing date 30 April).
- Department for Transport's consultation on a new edition of the Specification for the Reinstatement of Openings in Highways (SROH) (closing date 6 May).
- Department for Transport's Light Rail and Other Rapid Transit Solutions in Cities and Towns: Call for Evidence (closing date 19 May).
- Department for Transport's Aviation 2050 - the Future of UK Aviation (closing date 20 June). N.B. The closing date for responses to the airspace change legislation questions remains 11 April.

Recent Consultation Responses

- Historic England's response to Defra's Protecting and Enhancing England's Trees and Woodlands consultation 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.

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)