

**Department for Transport  
Consultation on the Proposed Abolition of BRB (Residuary) Ltd  
Response from English Heritage**

English Heritage is an Executive Non-Departmental Public Body sponsored by the Department for Culture, Media and Sport, with its funding agreement signed by the Department for Communities and Local Government, and the Department for Environment, Food and Rural Affairs. It was established by the National Heritage Act 1983 and seeks to broaden public access to England's cultural heritage, increase people's understanding and appreciation of the past, and conserve and enhance the historic environment.

Our interest in this consultation rests in the historic property portfolio of BRB and how these heritage assets are to be managed and conserved for current and future generations. The document refers to around 3,400 structures such as bridges, tunnels and viaducts on closed branch lines, some of which are designated as listed buildings, together with memorials and a number of shipwrecks

We welcome the commitment set out in paragraph 1.3.2 of the consultation and elsewhere in the document that the maintenance and management of property will continue to the same standards currently employed by BRB.

It is also noted that for the 'Burdensome Estate' this will be 'undertaken on behalf of the Secretary of State by the Highways Agency ... as they have the requisite engineering and maintenance expertise'. We would therefore expect this to be in accordance with the Highways Agency's Cultural Heritage chapter of the *Design Manual for Roads and Bridges Volume 10* once it has been adopted.

At present the Government Historic Estates Unit of English Heritage receives a biennial conservation report from BRB. This is in accordance with the Department for Culture, Media and Sport's *Protocol for the care of the government historic estate* and provides details on the condition of its heritage assets following regular annual inspections.<sup>1</sup> Any issues are then addressed through a planned programme of works (subject to budget provision) and English Heritage would not expect to see any diminution in the level of this information or the inspections and work that are carried out. Indeed, with four different bodies now taking on the responsibilities of BRB, care will need to be taken to ensure this good practice is continued. Unlike the periodic report received from BRB, the returns from the Department for Transport reporting on the Highways Agency estate lack the necessary information for the condition of individual heritage assets to be identified.

BRB also has a good record in finding imaginative and sustainable long-term uses for redundant buildings and structures - as part of the cycle network, for example. We very much hope this collaborative and imaginative approach is not diluted in any way and question the terminology used throughout this document in describing historic structures as the 'burdensome estate'. As the world's first industrial nation and the inventor of the railway system, Britain's

industrial heritage is of considerable historic and technological interest. Many of these engineering features are important landscape features and there are numerous examples throughout the country that have been successfully put to new uses.

Finally we note in paragraph 1.4 the large amount of drawings and maintenance documents relating to Traction and Rolling Stock built prior to 1996. It is therefore recommended that as part of the historic record appropriate professional advice is taken in terms of their conservation and long-term curation.

English Heritage  
29/06/12

1. English Heritage 2009 *Protocol for the care of the government historic estate* - This document has the joint endorsement of the Department for Culture, Media and Sport, the Office of Government Commerce and English Heritage

**Communities and Local Government  
Planning Act 2008**

**Consultation on proposed changes to a suite of guidance documents for the major infrastructure planning regime**

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Having considered the six documents included in this consultation we offer the following comments and observations.

**The Pre-Application Process Guidance**

Paragraph 8 - The reference to statutory and non-statutory guidance can be confusing and this is further demonstrated by the statement in paragraph 5 for the examination of applications which specifically says it is non-statutory guidance. For the avoidance of doubt it would be helpful if each set out "guidance" stated whether it was statutory or non-statutory.

Paragraph 74 - Contains a reference to Secretary of State being able to offer advice without prejudice. However, it is not clear to whom such advice would be given, how this would be done, recorded and therefore available to those following the development of the application.

**Associated Development Guidance**

Paragraph 6 – Is the statement correct that the associated development can be larger in scale than that required for the principal development? By its nature, the associated development must be linked to the requirements of the principal development rather than seeking to anticipate something which might never happen.

In the example given it refers to associated transmission infrastructure so that planned future projects could make use of this, but would it not be the case that the infrastructure would be designed to cope with the impact. In the case of a supermarket development for example, the associated road network is designed to be able to cope with existing as well as future usage, and is not designed in anticipation of a much larger supermarket which may never be built?

Page 5 – Under "other infrastructure" mention is made of "accommodation for staff who must be on site". It is not clear what this means – is it office accommodation, so that staff can be on site during working hours and have access to facilities, rather than accommodation being housing and related development?

**Examinations Guidance**

Paragraph 5 - See earlier comments with regard to statutory and non-statutory guidance.

Paragraph 12 – We welcome the recognition that the level of public interest can be high and that everyone is entitled to support or object to a proposal. It is not meant to be seen as frustrating the consideration/examination, but provides an opportunity to ensure the relevant matters are properly examined, considered and an informed decision can be taken with all the necessary information available.

By their very nature these projects do take time, they involve a wide variety of issues and matters, and will have an impact on the environment. It is of fundamental importance that the best possible scheme can come forward and deliver the public benefits it purports to have whilst ensuring the impacts are properly and fully dealt with, and mitigated for.

**Application form guidance**

Paragraph 11 – Given the possibility of potential confusion over the number of paper copies and electronic submission needed by the Planning Inspectorate and Secretary of State it might be better to specify what is required.

Paragraph 13 - Again for consistency, it might appropriate to state that for certain applications a list of contacts is provided, rather than leave it to discretion. As an alternative, all correspondence could go through the agent?

Paragraph 19 - Should there be a requirement that either the associated development is submitted at the same time as the main development, or after any issues raised by the main development have been resolved? In this way consent for any associated development is not put in place without having addressed matters raised by the principal development.

Paragraph 39 – Should the statement that the applicant ‘may’ wish to discuss its intended approach with relevant consultees be made definitive? The assessment is supposed to be proportionate to the effects, and if the applicant is to determine this, then it is appropriate that the applicant discusses this with the relevant consultee on the basis that at this early stage the issues can be resolved and the correct approach taken. This will ensure that matters can proceed without wasting time later on.

To conclude, we hope that experience has been gained from the applications already considered and from the comments and observations provided by other parties involved in the process. English Heritage also welcomes the preparation by the Planning Inspectorate of the Annex to Advice Note 11: Working with Public Bodies in the IPC process.

English Heritage  
06/07/12



Department for  
Communities and  
Local Government

# Technical consultation on planning

## Consultation response form

We are seeking your views to the following questions on the proposals to streamline the planning system.

### How to respond to this consultation

Please email your response to the questions in this consultation by **26 September 2014** to [planning.consultation@communities.qsi.gov.uk](mailto:planning.consultation@communities.qsi.gov.uk).

Alternatively you can write to:

Planning Consultation Team  
Department for Communities and Local Government  
1/H3 Eland House  
Bressenden Place  
London SW1E 5DU

When you reply please confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post-code),
- an email address, and
- a contact telephone number

**(i) Your details**

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<b>Organisation (if applicable):</b>	English Heritage
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<b>Telephone Number:</b>	020 7973 3826

**(ii) Are the views expressed on this consultation an official response from an organisation you represent or your own personal views?**

- Organisational response
- Personal views

**(iii) Please tick the one box that best describes you or your organisation**

**Public Authority:**

- District/Borough Council
- London Borough Council
- Unitary Council
- County Council
- National Park/Broads Authority
- Parish/Town Council

Other public sector (please specify)

Non-departmental public body: Govt's adviser on the historic environment

**Voluntary/Community:**

- Designated neighbourhood forum
- Community organisation

Voluntary/charitable sector

Residents Association

Other (please specify)

**Retail (A1) and Financial and Professional Services (A2) Business:**

Bank/Building society

Estate agent

Professional service

Betting shop

Pay day loan shop

Existing A1 retail/shop

Other A2 (please specify)

**Other:**

Land Owner

Developer/House builder

Developer association

Professional institute/professional e.g. planner, consultant

Professional Trade Association

Local Enterprise Partnership

Other (if none of the options in the lists above apply to you, please specify here)

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# 1. Neighbourhood planning

Please refer to the relevant parts of the consultation document for narrative relating to each question.

## Would you like to respond to the consultation on neighbourhood planning?

Yes  No

### Time limit for taking decisions on the designation of a neighbourhood area

**Question 1.1:** Do you agree that regulations should require an application for a neighbourhood area designation to be determined by a prescribed date? We are interested in the views of local planning authorities on the impact this proposal may have on them.

#### Comments

Yes, we agree that there should be a time limit, but there should be sufficient time for local planning authority (LPA) to consult other bodies such as English Heritage on issues such as the boundaries of neighbourhood areas. Our local offices have experience of working with LPAs and community groups to determine boundaries of neighbourhoods to achieve better defined neighbourhood areas, but this needs time to allow it to take place at this early stage.

**Question 1.2:** If a prescribed date is supported do you agree that this should apply only where:

- i) the boundaries of the neighbourhood area applied for coincide with those of an existing parish or electoral ward; and
- ii) there is no existing designation or outstanding application for designation, for all or part of the area for which a new designation is sought?

#### Comments

We believe it would be fairer to have the time limit for i), because more time may be needed to get the boundaries right in the case of ii).

**Question 1.3:** If a date is prescribed, do you agree that this should be 10 weeks (70 days) after a valid application is made? If you do not agree, is there an alternative time period that you would propose?

**Comments**

Yes a date limit of 70 days would seem appropriate.

**Question 1.4:** Do you support our proposal not to change the period of six weeks in which representations can be made on an application for a neighbourhood area to be designated? If you do not, do you think this period should be shorter? What alternative time period would you propose?

**Comments**

Yes we support keeping a 6 week period for representations on application for a neighbourhood area to be designated.

**Further measures**

**Question 1.5:** We are interested in views on whether there are other stages in the neighbourhood planning process where time limits may be beneficial. Where time limits are considered beneficial, we would also welcome views on what might be an appropriate time period for local planning authority decision taking at each stage.

**Comments**

We have no experience of prolonged delays later in the neighbourhood planning process. However if other time limits were thought needed, the following areas could be considered: a time limit after the LPA receives the draft Neighbourhood Plan for it to set up an examination; a time limit for the LPA to decide what to do after the examiner's report is received; and a time limit after the referendum for the LPA to 'make' the Neighbourhood Plan.

## Pre-submission consultation

**Question 1.6:** Do you support the removal of the requirement in regulations for a minimum of six weeks consultation and publicity before a neighbourhood plan or Order is submitted to a local planning authority?

### Comments

No, because English Heritage and the other statutory consultees have a chance at this stage to advise neighbourhood fora on adverse environmental impacts of the proposals in their neighbourhood plans and persuade them to amend their proposals. We encourage the plan promoters to contact us but it is up to us to hear about the proposed neighbourhood plan and correspond directly with the neighbourhood forum, and the 6 week period gives us greater chance of doing this before the plan is submitted to the LPA.

**Question 1.7:** Do you agree that responsibility for publicising a proposed neighbourhood plan or Order, inviting representations and notifying consultation bodies ahead of independent examination should remain with a local planning authority? If you do not agree, what alternative proposals do you suggest, recognising the need to ensure that the process is open, transparent and robust?

### Comments

Yes, because LPAs already perform this role for planning matters, are best placed to do this administrative task and will be familiar with procedures and contacts with various groups to ensure it is done efficiently.

## Consulting landowners

**Question 1.8:** Do you agree that regulations should require those preparing a neighbourhood plan proposal to consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process? If you do not agree, is there an alternative approach that you would suggest that can achieve our objective?

### Comments

Yes, consulting with landowners of sites that the neighbourhood forum may want to propose for development could be beneficial. It would seem to be good practice to suggest that groups drawing up plans talk to all major landowners as part of the early evidence base process for the neighbourhood plan.

**Question 1.9:** If regulations required those preparing a neighbourhood plan proposal to consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process, what would be the estimated cost of that requirement to you or your organisation? Are there other material impacts that the requirement might have on you or your organisation? We are also interested in your views on how such consultation could be undertaken and for examples of successful approaches that may have been taken.

### Comments

We have over 400 sites around England, so there is potential for many to be within neighbourhood Plan areas. English Heritage would only be affected by those neighbourhood plans whose boundaries come up to the edge of (or include) one of our sites. We have not costed what engagement with a neighbourhood forum on a plan has cost our National Collections Department. Experience in Wenlock where we run Wenlock Priory shows the benefits of our being involved in a neighbourhood plan. We would welcome the opportunity to be consulted but would need to decide on site by site basis our level of involvement because of the cost implication beyond what we would do as part of more general community engagement.

### Introducing an additional basic condition to test the extent of consultation

**Question 1.10:** Do you agree with the introduction of a new statutory requirement (basic condition) to test the nature and adequacy of the consultation undertaken during the preparation of a neighbourhood plan or Order? If you do not agree, is there an alternative approach that you would suggest that can achieve our objective?

### Comments

Yes, to ensure that proper consideration of the historic environment is given and English Heritage is happy to assist neighbourhood fora in the preparation of their neighbourhood to ensure they are robust and meet basic requirements. It would give us some reassurance that the LPA and examiner would have this information on consultation to judge whether we and the other statutory consultees had been consulted when there were matters concerning our interests in the plan.

### Strategic Environmental Assessment

**Question 1.11:** Do you agree that it should be a statutory requirement that either: a statement of reasons, an environmental report, or an explanation of why the plan is not subject to the requirements of the Strategic Environmental Assessment Directive must accompany a neighbourhood plan proposal when it is submitted to a local planning authority?

### Comments

Yes

**Question 1.12:** Aside from the proposals put forward in this consultation document are there alternative or further measures that would improve the understanding of how the [Environmental Assessment of Plans and Programmes Regulations 2004](#) apply to neighbourhood plans? If there are such measures should they be introduced through changes to existing guidance, policy or new legislation?

### Comments

No

### Further measures

**Question 1.13:** We would like your views on what further steps we and others could take to meet the Government's objective to see more communities taking up their right to produce a neighbourhood plan or neighbourhood development order. We are particularly interested in hearing views on:

- stages in the process that are considered disproportionate to the purpose, or any unnecessary requirements that could be removed
- how the shared insights from early adopters could support and speed up the progress of others
- whether communities need to be supported differently
- innovative ways in which communities are funding, or could fund, their neighbourhood planning activities.

### Comments

We believe that the sharing of insights from the early vanguard neighbourhood fora and LPAs is a key resource. Neighbourhood groups have a variety of networks, but thought should be given to funding visits from those starting out to those with adopted neighbourhood plans or orders.

**Question 1.14:** Are there any further comments that you wish to make in response to this section?

Yes  No

**Comments**

We think it would be helpful going ahead for consideration to be given to a mechanism for neighbourhood fora to renew their mandate for a second term before they come to the end of their first term. This was not included in the Localism Act or its regulations and needs to be addressed before the earliest vanguard neighbourhood for a reach the end of their term of five years.

## 2. Reducing planning regulations to support housing, high streets and growth

Please refer to the relevant parts of the consultation document for narrative relating to each question.

**Would you like to respond to the consultation on reducing planning regulations to support housing, high streets and growth?**

Yes  No

### Increasing Housing Supply

**Question 2.1:** Do you agree that there should be permitted development rights for:

(i) light industrial (B1(c)) buildings and

Yes  No

(ii) storage and distribution (B8) buildings to change to residential (C3) use?

Yes  No

### Comments

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded for these new permitted development rights. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

**Question 2.2:** Should the new permitted development right:

- (i) include a limit on the amount of floor space that can change use to residential
- (ii) apply in Article 1(5) land i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites and
- (iii) should other issues be considered as part of the prior approval, for example the impact of the proposed residential use on neighbouring employment uses?

- |                                   |   |  |
|-----------------------------------|---|--|
| (i) limit on floor space          | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| (ii) apply in Article 1(5) land   | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| (iii) other prior approval issues | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |

**Comments**

We believe that there is a danger that if PD rights are allowed for ii) Article 1(5) land, it could result in damage to the historic environment that would be counter to the NPPF and the Government's stated commitment to maintain the level of protection for the historic environment. This is because of the changes in appearance of the buildings that would be required and the ancillary development needed for residential use.

**Question 2.3:** Do you agree that there should be permitted development rights, as proposed, for laundrettes, amusement arcades/centres, casinos and nightclubs to change use to residential (C3) use and to carry out building work directly related to the change of use?

- Yes  No

**Comments**

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.



**Question 2.4:** Should the new permitted development right include:

(i) a limit on the amount of floor space that can change use to residential and

Yes  No

(ii) a prior approval in respect of design and external appearance?

Yes  No

### Comments

We believe limitations and control of appearance is necessary to ensure that the quality of our settlements (and the general historic environment) are managed sensitively.

**Question 2.5:** Do you agree that there should be a permitted development right from May 2016 to allow change of use from offices (B1(a)) to residential (C3)?

Yes  No

### Comments

We believe that before this is considered a full impact assessment of the present temporary permitted development should be undertaken, to look at the impact not only on the wider historic environment, especially the character and appearance of conservation areas, but also on the supply of office space and cheap work space for business startups. Research by ourselves and the Heritage Lottery Fund has shown that creative industries like using this type of individual space that the historic environment can provide.

**Question 2.6:** Do you have suggestions for the definition of the prior approval required to allow local planning authorities to consider the impact of the significant loss of the most strategically important office accommodation within the local area?

Yes  No

### Comments

**Question 2.7:** Do you agree that the permitted development rights allowing larger extensions for dwelling houses should be made permanent?

Yes  No

**Comments**

We believe that a review of the impact of these PD rights for larger domestic extensions should be undertaken before these rights are made permanent. It is too early to know whether the temporary change has been positive or negative.

**Supporting a mixed and vibrant high street**

**Question 2.8:** Do you agree that the shops (A1) use class should be broadened to incorporate the majority of uses currently within the financial and professional services (A2) use class?

Yes  No

**Comments**

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

**Question 2.9:** Do you agree that a planning application should be required for any change of use to a betting shop or a pay day loan shop?

Yes  No

**Comments**

English Heritage's concern is to ensure that historic retail areas remain vibrant, attractive to visit and varied in the uses with 'active' shop fronts. We previously expressed concern about the PD right introduced to allow A1 retail uses to be converted to banks or building societies. It is important that LPAs have some powers to manage areas appropriately long-term benefit.

**Question 2.10:** Do you have suggestions for the definition of pay day loan shops, or on the type of activities undertaken, that the regulations should capture?

Yes  No

**Comments**

**Question 2.11:** Do you agree that there should be permitted development rights for:

(i) A1 and A2 premises and

Yes  No

(ii) laundrettes, amusement arcades/centres, casinos and nightclubs to change use to restaurants and cafés (A3)?

Yes  No

**Comments**

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

**Question 2.12:** Do you agree that there should be permitted development rights for A1 and A2 uses, laundrettes, amusement arcades/centres and nightclubs to change use to assembly and leisure (D2)?

Yes  No

## Comments

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

## Supporting retail facilities

**Question 2.13:** Do you agree that there should be a permitted development right for an ancillary building within the curtilage of an existing shop?

Yes  No

## Comments

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

**Question 2.14:** Do you agree that there should be a permitted development right to extend loading bays for existing shops?

Yes  No

## Comments

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

**Question 2.15:** Do you agree that the permitted development right allowing shops to build internal mezzanine floors should be increased from 200 square metres?

Yes  No

## Comments

We are concerned that this could be used by supermarkets and other large retailers to expand the floor area of their stores, to sell others goods and further put pressure on traditional shops on the high streets and affect the vitality of town centres.

Were this proposal to be proceeded with we would recommend that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

**Question 2.16:** Do you agree that parking policy should be strengthened to tackle on-street parking problems by restricting powers to set maximum parking standards?

Yes  No

### Comments

English Heritage believes that managing traffic and parking in historic places is one of the keys to maintaining their attractiveness. Restricting the number of parking spaces in new development encourages the users and occupiers to travel to the new development by other methods of transport – it may encourage some to use street parking, but it is preferable allowing a lot more vehicles to drive to the new development site.

### Supporting growth

**Question 2.17:** Do you agree that there should be a new permitted development right for commercial film and television production?

Yes  No

### Comments

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

**Question 2.18:** Do you agree that there should be a permitted development right for the installation of solar PV up to 1MW on the roof of non-domestic buildings?

Yes  No

### Comments

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

Consideration should also be given to the potential impacts on the setting of designated heritage assets that might arise outside protected land. We would like to discuss with you how to address this.

**Question 2.19:** Do you agree that the permitted development rights allowing larger extensions for shops, financial and professional services, offices, industrial and warehouse buildings should be made permanent?

Yes  No

### Comments

We believe that a review of the impact of these PD rights for larger domestic extensions should be undertaken before these rights are made permanent. The decision should be based on evidence of the recent situation and whether the changes have resulted in net improvements to retail areas (particularly if conservation areas) or if they have diminished in character and appearance.

**Question 2.20:** Do you agree that there should be a new permitted development right for waste management facilities to replace buildings, equipment and machinery?

Yes  No

### Comments

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

**Question 2.21:** Do you agree that permitted development rights for sewerage undertakers should be extended to include equipment housings?

Yes  No

### Comments

Provided that listed buildings, scheduled monuments and their curtilages are excluded and Article 1(5) land is excluded. This is not to prevent change in these areas, but just to ensure that it happens in an appropriately sensitive way.

**Question 2.22:** Do you have any other comments or suggestions for extending permitted development rights?

Yes  No

**Comments**

**Implementing the proposals**

**Question 2.23:** Do you have any evidence regarding the costs or benefits of the proposed changes or new permitted development rights, including any evidence regarding the impact of the proposal on the number of new betting shops and pay day loan shops, and the costs and benefits, in particular new openings in premises that were formerly A2, A3, A4 or A5?

Yes  No

**Comments**

**Article 4 Directions**

**Question 2.24:** Do you agree:

- (i) that where prior approval for permitted development has been given, but not yet implemented, it should not be removed by subsequent Article 4 direction and

Yes  No

(ii) should the compensation regulations also cover the permitted development rights set out in the consultation?

Yes  No

**Comments**

i) If this measure is brought in, there should be a time period put on when works given PD or prior approval have to be completed.

ii) We believe that an Article 4 direction is a useful tool that LPAs can use to protect undesignated heritage assets from damaging changes that would otherwise be allowed under PD rights. There can be concerns about making Article 4 directions and the implications for compensation. Introducing these changes could make LPAs less certain about their use. Further clarification on the use of Article 4s and the implication for compensation would be helpful to give LPAs more certainty on their use.

**Question 2.25:** Are there any further comments that you wish to make in response to this section?

Yes  No

**Comments**



### 3. Improving the use of planning conditions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

**Would you like to respond to the consultation on improving the use of planning conditions?**

Yes  No

**Deemed discharge for certain types of conditions where the local planning authority does not make a timely decision**

**Question 3.1:** Do you have any general comments on our intention to introduce a deemed discharge for planning conditions?

Yes  No

**Comments**

We consider that it is important to have clarity on the situations in which the deemed discharge for planning conditions would arise. Were this change to be made, there is a likelihood that in a few cases LPAs will fail to respond in time to a deemed discharge notice. As a result where the submitted Written Scheme of Archaeology was unsatisfactory but not checked by the LPA's experts within the requisite period work could start on site which could cause irreparable damage. This could have been avoided if longer had been taken to agree an acceptable Written Scheme by negotiation.

LPAs are continuing to lose heritage expertise and the danger of this happening is increasing.

**Question 3.2:** Do you agree with our proposal to exclude some types of conditions from the deemed discharge?

Yes  No

Where we exclude a type of condition, should we apply the exemption to all conditions in the planning permission requiring discharge or only those relating to the reason for the exemption (e.g. those relating to flooding). Are there other types of conditions that you think should also be excluded?

**Comments**

Consideration could be given as to whether it was practical to exclude conditions for Written Schemes of Investigation for Archaeology. This is because these require investigation and research before the impact of the proposal can be properly understood and these can sometimes be the result of iterative discussions by the LPA's and Developer's experts.

**Question 3.3:** Do you agree with our proposal that a deemed discharge should be an applicant option activated by the serving of a notice, rather than applying automatically?

Yes  No

If not, why?

**Comments**

We believe that the notice should be served on statutory consultees if they are involved in the discharge of any conditions.

**Question 3.4:** Do you agree with our proposed timings for when a deemed discharge would be available to an applicant?

Yes  No

If not, why? What alternative timing would you suggest?

**Comments**

**Question 3.5:** We propose that (unless the type of condition is excluded) deemed discharge would be available for conditions in full or outline (not reserved matters) planning permissions under S.70, 73, and 73A of the Town and Country Planning Act 1990 (as amended).

Do you think that deemed discharge should be available for other types of consents such as advertisement consent, or planning permission granted by a local development order?

Yes  No

## Comments

### **Reducing the time limit for return of the fee for applications for confirmation of compliance with conditions attached to planning permissions**

**Question 3.6:** Do you agree that the time limit for the fee refund should be shortened from twelve weeks to eight weeks?

Yes  No

If not, why?

## Comments

No comment

**Question 3.7:** Are there any instances where you consider that a return of the fee after eight weeks would not be appropriate?

Yes  No

Why?

## Comments

No comment

### **Sharing draft conditions with applicants for major developments before a decision is made**

**Question 3.8:** Do you agree there should be a requirement for local planning authorities to share draft conditions with applicants for major developments before they can make a decision on the application?

Yes  No

### Comments

We also believe that the draft conditions should be shared with the statutory consultees who asked for the imposition of the conditions and would be involved in the discharge of the conditions.

We would like to work with DCLG and the heritage sector on model conditions for archaeology and historic buildings to replace the model conditions in the extant Annex to Circular 11/95 which are now out of date. Nationally consistent standard historic environment conditions would help ensure that developers knew what was required of them and reduce hold up in the discharge of these conditions.

**Question 3.9:** Do you agree that this requirement should be limited to major applications?

Yes  No

### Comments

**Question 3.10:** When do you consider it to be an appropriate time to share draft conditions:

- ten days before a planning permission is granted?
- five days before a planning permission is granted? or
- another time?, please detail

### Comments

**Question 3.11:** We have identified two possible options for dealing with late changes or additions to conditions – Option A or Option B. Which option do you prefer?

Option A  Option B  Neither

If neither, can you suggest another way of addressing this issue and if so please explain your alternative approach?

**Comments**

**Requirement to justify the use of pre-commencement conditions**

**Question 3.12:** Do you agree there should be an additional requirement for local planning authorities to justify the use of pre-commencement conditions?

Yes  No

**Comments**

We believe that local authority historic environment staff in LPAs are already very careful to apply pre-commencement conditions sparingly for the historic environment issues in any development, and to explain to the applicant why the condition has been imposed to help them understand what they need to do to discharge it.

**Question 3.13:** Do you think that the proposed requirement for local planning authorities to justify the use of pre-commencement conditions should be expanded to apply to conditions that require further action to be undertaken by an applicant before an aspect of the development can go ahead?

Yes  No

**Comments**

See above

**Question 3.14:** What more could be done to ensure that conditions requiring further action to be undertaken by an applicant before an aspect of the development can go ahead are appropriate and that the timing is suitable and properly justified?

**Comments**

**Question 3.15:** Are there any further comments that you wish to make in response to this section?

Yes  No

**Comments**

## 4. Planning application process improvements

Please refer to the relevant parts of the consultation document for narrative relating to each question.

### Would you like to respond to the consultation on planning application process improvements?

Yes  No

#### Review of requirements for consultation with Natural England and the Highways Agency

**Question 4.1:** Do you agree with the proposed change to the requirements for consulting Natural England set out in Table 1? If not, please specify why.

Yes  No

#### Comments

No comment
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**Question 4.2:** Do you agree with the proposed changes to the requirements for consulting the Highways Agency set out in Table 2? If not, please specify what change is of concern and why?

Yes  No

#### Comments

No comment
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## Review of requirements for consulting with English Heritage

**Question 4.3:** Do you agree with the proposed changes to the requirements for consulting and notifying English Heritage set out in Table 3? If not, please specify what change is of concern and why?

Yes  No

Do you agree with the proposed change to remove English Heritage's powers of Direction and authorisation in Greater London? If not, please explain why?

Yes  No

### Comments

We believe that these changes are a reasonable balance between the need to promote sustainable development and achieving the Government's objective of protecting the historic environment. We believe these changes will free up our experts to concentrate on more contentious cases that have the potential to cause significant harm to England's designated heritage, without threatening significant loss or damage to the historic environment.

**Question 4.4:** Do you agree with the proposed changes to the requirements for referring applications to the Secretary of State set out in Table 4? If not, please specify what change is of concern and why.

Yes  No

### Comments



**Question 4.5:** Do you agree with the proposed minor changes to current arrangements for consultation/notification of other heritage bodies? If not, please specify what change is of concern and why.

Yes  No

### Comments

We believe that these changes could lead to some loss of protection of the historic environment. The current broadly-drawn criteria for consultation with national amenity societies allows them to see a significant proportion of LBCs. They can then decide which ones they respond to, sometimes picking up and responding to seemingly innocuous proposed works which in practice would damage the significance of the listed building. We are not aware of evidence that suggests that amenity societies responding to consultation/ notification slows down the system. We recognise that there is, at present, a small burden to LPAs in forwarding a relevant application and taking account of responses received but, on balance, we believe that introducing this change is likely to add to the burden on LPAs who would:

- a) have to look much more closely at relevant LBC cases to determine which ones they needed to send to the other bodies;
- b) not benefit from the specialist advice provided to the LPA on heritage concerns which they may not have in-house.

We recognise the very valuable work the other bodies carry out and note that the vast majority of their work is focused on applications where English Heritage is not engaged.

### Further measure to streamline statutory consultation arrangements

**Question 4.6:** Do you agree with the principle of statutory consultees making more frequent use of the existing flexibility not to be consulted at the application stage, in cases where technical issues were resolved at the pre-application stage?

Yes  No

Do you have any comments on what specific measures would be necessary to facilitate more regular use of this flexibility?

Yes  No

### Comments

A general improvement in the quality of the information supplied with planning applications would reassure English Heritage that there were no historic environment issues or that those issues had been addressed in a satisfactory way which demonstrated that harm to the historic environment was minimised.

## Impacts and benefits of the proposals

**Question 4.7:** How significant do you think the reduction in applications which statutory consultees are unnecessarily consulted on will be? Please provide evidence to support your answer.

### Comments

We believe that the changes in Table 3 are a reasonable balance between the need to promote sustainable development and achieving the Government's objective of protecting the historic environment. If LPAs follow the revised regulations and use the historic environment expert advice they need to have access to, there is reasonable chance that the number of applications unnecessarily notified to English Heritage could be reduced by up to 20%, according to our assessment of casework on planning and listed building consent applications received in 2013-14.

We think that the suggested decrease in applications sent to other bodies in Table 4, that includes the National Amenity Societies would have a very significant impact on the number of LBCs receiving expert scrutiny.

## Notifying railway infrastructure managers of planning applications for development near railways

**Question 4.8:** In the interest of public safety, do you agree with the proposal requiring local planning authorities to notify railway infrastructure managers of planning applications within the vicinity of their railway, rather than making them formal statutory consultees with a duty to respond?

Yes  No

### Comments

No comment

**Question 4.9:** Do you agree with notification being required when any part of a proposed development is within 10 metres of a railway?

Yes  No

Do you agree that 10 metres is a suitable distance?

Yes  No

Do you have a suggestion about a methodology for measuring the distance from a railway (such as whether to measure from the edge of the railway track or the boundary of railway land, and how this would include underground railway tunnels)?

Yes  No

**Comments**

No comment

**Consolidation of the Town and Country Planning (Development Management Procedure) Order 2010**

**Question 4.10:** Do you have any comments on the proposal to consolidate the Town and Country Planning (Development Management Procedure) Order 2010?

Yes  No

**Comments**

**Measurement of the end-to-end planning process**

**Question 4.11:** Do you have any suggestions on how each stage of the planning application process should be measured? What is your idea? What stage of the process does it relate to? Why should this stage be measured and what are the benefits of such information?

Yes  No

**Comments**

**Question 4.12:** Are there any further comments that you wish to make in response to this section?

Yes  No

**Comments**

With regard to the proposed changes, which we broadly welcome, it would be of benefit to have clarity on how they will be implemented bearing in mind the many directions and regulations which make up the heritage notifications and consultation procedures. We would be happy to discuss with you further the changes that need to be made. Bearing in mind present uncertainties relating to the future of English Heritage, we suggest we are referred to as the Historic Buildings and Monuments Commission for England in any regulation changes made until the working name for the planning services side of the current organisation is determined.

## 5. Environmental Impact Assessment Thresholds

Please refer to the relevant parts of the consultation document for narrative relating to each question.

### Would you like to respond to the consultation on Environmental Impact Assessment Thresholds?

Yes  No

#### The proposals we are consulting on

**Question 5.1:** Do you agree that the existing thresholds for urban development and industrial estate development which are outside of sensitive areas are unnecessarily low?

Yes  No

#### Comments

General amenity is highly regarded by communities and inappropriate development can reduce the attractiveness of an area for residents and businesses, as well as effecting rent levels and residential sales values, plus potentially harm or adversely affect the setting of environmental assets, including designated heritage assets.

**Question 5.2:** Do you have any comments on where we propose to set the new thresholds?

Yes  No

#### Comments

Our concern is that EIA under the proposals would not be required for quite sizeable development of up to 150 residential units that could be adjacent to designated heritage assets and potentially destroy their setting. The NPPF paragraph 132 states that great weight should be given to the conservation of designated heritage assets, and the significance of an asset can be harmed or lost through development within its setting. By raising the EIA threshold, more cases are likely to arise where urban development schemes have to be refused because of the adverse affect on the historic environment whereas had an EIA been undertaken, these adverse effects might have been dealt with by mitigating the scheme post EIA and before decision-taking.

For consistency we think that setting the threshold at the DCLG 2010 definition of 'major development', more than 10 housing units or 1HA, would introduce some flexibility without causing problems at planning application stage where

environmental impacts would only then be considered. Large schemes of up to 5HA if not assessed under EIA are likely to be more controversial at this stage because of no assessment of the proposals through EIA at an earlier stage, when modification of the proposals is more easily made.

**Question 5.3:** If you consider there is scope to raise the screening threshold for residential dwellings above our current proposal, or to raise thresholds for other Schedule 2 categories, what would you suggest and why?

**Comments**

**Question 5.4:** Are there any further comments that you wish to make in response to this section?

Yes  No

**Comments**

## 6. Improving the nationally significant infrastructure regime

Please refer to the relevant parts of the consultation document for narrative relating to each question.

**Would you like to respond to the consultation on streamlining consents for nationally significant infrastructure projects?**

Yes  No

### Non-material and material changes to Development Consents Orders

**Question 6.1:** Do you agree that the three characteristics set out in paragraph 6.10 are suitable for assessing whether a change to a Development Consent Order is more likely to be non-material? Are there any others that should be considered?

Yes  No

### Comments

Although the three characteristics may be seen to be suitable for judging non-material changes, this should not be seen as automatic, and it will depend on each case.

### Making a non-material change

**Question 6.2:** Do you agree with:

- (i) making publicising and consulting on a non-material change the responsibility of the applicant, rather than the Secretary of State?

Yes  No

- (ii) the additional amendments to regulations proposed for handling non-material changes?

Yes  No

## Comments

### Making a material change

**Question 6.3:** Do you agree with the proposals:

- (i) to change the consultation requirements for a proposed application for a material change to a Development Consent Order?

Yes  No

- (ii) to remove the requirement on an applicant to prepare a statement of community consultation for an application for a material change?

Yes  No

- (iii) to remove the current requirement to publish a notice publicising a proposed application where an application for a material change is to be made?

Yes  No

## Comments

If decisions are being taken on amendments, there needs to be appropriate engagement with statutory consultees on environmental issues. We are happy to discuss this further. The recently approved Thames Tideway Tunnel is an example of where this has been well handled.

**Question 6.4:** Do you agree with the proposal that there should be a new regulation allowing the Secretary of State to dispense with the need to hold an examination into an application for a material change?

Yes  No



**Comments**

**Question 6.5:** Do you agree with the proposal to reduce the statutory time periods set out in the 2011 Regulations to four months for the examination of an application for a material change, two months for the examining authority to produce a report and their recommendation and two months for the Secretary of State to reach a decision?

Yes  No

**Comments**

**Guidance on procedures**

**Question 6.6:** Are there any other issues that should be covered if guidance is produced on the procedures for making non-material and material changes to Development Consent Orders?

Yes  No

**Comments**

**The proposal we are consulting on**

**Question 6.7:** Do you agree with the proposal that applicants should be able to include the ten consents (see main document) within a Development Consent Order without the prior approval of the relevant consenting body?

Yes  No

**Comments**

No comment

**Question 6.8:** Do you agree with the ways in which we propose to approach these reforms?

Yes  No

**Comments**

No comment

**Question 6.9:** Are there any other ideas that we should consider in enacting the proposed changes?

Yes  No

**Comments**

**Question 6.10:** Do you have any views on the proposal for some of the consents to deal only with the construction stage of projects, and for some to also cover the operational stage of projects?

Yes  No

**Comments**

**Question 6.11:** Are there any other comments you wish to make in response to this section?

Yes  No

**Comments**

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