



ENGLISH HERITAGE

Maria Darby
Statutory consultee performance/
Award of costs consultation
Planning – Development Management Division
DCLG Zone 1/J3
Eland House
Bressenden Place
London SW1E 5DU

Our ref:
Your ref:
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Date: 11 September 2012

Dear Ms Darby

Statutory Consultation performance and award of costs – EH response

English Heritage as a statutory consultee welcomes the opportunity to respond to this consultation on proposals to amend Circular 03/09 Costs Awards in Appeals and Other Planning Proceedings in relation to statutory consultees and their advice at appeal.

We also welcome the opportunity to provide comment on our performance in responding to planning applications and demonstrate how our Improvement Plan will further improve this.

Introduction

English Heritage is Government's statutory adviser on the historic environment and 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.

English Heritage's response

We consider that it is important that statutory consultees take a responsible approach when providing consultation advice on matters and in principle would not object to amending the Costs Circular regarding the responsibility placed on statutory consultees. We would expect that all parties to an appeal behave in a reasonable manner, and agree that the change should not result in the opportunity for more costs applications to be submitted.

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What is perceived as reasonable behaviour in part depends on expectations and in this respect we believe it is important for the circular to point out the circumstances in which we and similar bodies give our advice.

English Heritage works closely with Local Planning Authorities, and provides advice that supplements the advice that the authorities own conservation officers have provided. We do not give advice in place of or to the exclusion of the local authority's own expert consideration of the impact of any proposal on the historic environment. Our engagement in a matter is time limited and the information provided to us by the consultation referral process or otherwise by the local planning authority or applicant direct always provides a natural limit to the expectations that can reasonably be placed on our advice.

We may therefore give an opinion at one stage that would be different at a different time if different information was presented to us. Sometimes it is reasonable to expect that we should say if we need to see more, but sometimes unexpected matters come to light that could change a view if we were notified.

In other words, if we say that the harm to the historic environment is not serious or serious and we later, perhaps on appeal, change our view, it would be appropriate to guide the inspector to:

1. consider whether a change in our understanding of the facts reasonably justified a change of opinion; and,
2. bear in mind that to maintain our broad engagement in casework across England we must rely on being provided with any information that may alter our view by the LPA or applicant in a timely manner.

Close working relationships with the authorities means that a flexible approach can be adopted in relation to appeals. We do not have the capacity to present evidence to every appeal above and beyond our consultation response. Much of the time this is unnecessary given the evidence provided by the applicant and the LPA.

We would be concerned if the amendments made to the circular would result in effect in pressure upon the statutory bodies to be in attendance at every hearing/inquiry in which they had provided consultation responses.

It is also unclear the position to be taken when the local planning authorities request statutory consultees to be their expert witness in support of the authorities' case.

English Heritage works hard to ensure that our conduct at planning appeals is appropriate and we fully expect that an award of costs would be very rare in practice.

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English Heritage's performance under its statutory duty has been set out in our 2011/12 Annual report to DCLG of May 2010. We received 13,637 planning and listed building consent application consultations from local planning authorities (LPAs) and responded to 96% within the 21 day set time. We also received 837 formal pre-application consultations and responded to 94.6% within the set time. We continue to work closely with local planning authorities so that appropriate development schemes and growth to the economy come forward that protects and enhances the historic environment.

The English Heritage Improvement Plan for Services 2012/1-3 can be found on our website at <http://www.english-heritage.org.uk/professional/advice/our-planning-role/improvement-plan-planning-services/> . It includes 25 Actions, including Nos 2-7 on improving timeliness of responses to consultations on heritage consent and planning applications, Nos 8-11 on improving the usefulness of the advice we provide to local authorities and developers, and Nos 12-13 on Pre-application discussions where we are going to ensure that we make any needed improvements in this service and identify where we need to target our involvement. Actions 14-17 on Strengthening relationship management will ensure we build better relationships with the developers and the property industry so that we can ensure that we engage with them at the earliest stage of any development proposals to make sure heritage issues are dealt with and do not cause delay later in the planning or development stages.

Should you have any queries, please do not hesitate to contact us.

Yours sincerely

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