



Planning Bulletin: October 2018

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

Legislation and Matters Arising

Emerging Legislation

Government Bills

- *High Speed Rail (West Midlands - Crewe) Bill*: the hybrid Bill makes provision for a railway between a junction with Phase One of High Speed 2, near Fradley Wood in Staffordshire, and a junction with the West Coast Main Line near Crewe in Cheshire. Second reading took place on 30 January; a date for committee stage has not yet been scheduled. Explanatory notes are available [here](#).
- *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 was introduced on 12 September, and had its second reading on 10 October. It has now been committed to a Public Bill Committee, which is expected to report to the House by Tuesday 20 November 2018. The Bill itself is available [here](#), explanatory notes [here](#), and a briefing paper [here](#).
- Defra has consulted on the development of an *Environmental Principles and Governance Bill* (Historic England's response is available [here](#)). The Bill will mark the creation of a new statutory and independent environmental watchdog to hold government to account on environmental ambitions and obligations once the UK has left the EU.

Private Members' Bills

- *Bat Habitats Regulation Bill*: the Bill makes provision to enhance the protection available for bat habitats in the vicinity of a building site, and to limit the protection for bat habitats in buildings used for public worship. Second reading took place on 27 April; committee stage has yet to be scheduled. A briefing is available [here](#).
- *Bat Habitats Regulation (No. 2) Bill*: the Bill makes provision to enhance the protection available for bat habitats in the non-built environment and to limit the protection for bat habitats in the built environment where the presence of bats has a significant adverse impact upon the users of buildings. The Bill was presented to Parliament on 5 September 2017; second reading is expected on 26 October.
- *Equality Act 2010 (Amendment) (Disabled Access) Bill*: the Bill amends the *Equality Act 2010* to improve access to public buildings by introducing six- and twelve-inch rules

for step-free access. Second reading took place on 24 November 2017, and Committee stage has yet to be scheduled.

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

Secondary Legislation

- *The Town and Country Planning (Pre-commencement Conditions) Regulations 2018* came into force on 1 October, meaning that pre-commencement conditions cannot now be imposed without the written agreement of the applicant, except in prescribed circumstances.
- MHCLG has [announced](#) a forthcoming consultation on further measures to make better use of land and vacant buildings to deliver housing, including the introduction of a new permitted development right 'to allow property owners to extend certain buildings upwards, while maintaining the character of residential and conservation areas and safeguarding people's privacy'. MHCLG's 2016 consultation on upwards extensions, in London, is available [here](#), Historic England's response to that consultation is available [here](#), and MHCLG's overall response [here](#).

Case Update

- A Court of Appeal judgement (*R on the Application of Save Britain's Heritage v Secretary of State for Communities and Local Government*, Case Number C1/2017/3462) has ruled that the Secretary of State should have disclosed his reasons for refusing to call in the 'Paddington Cube' planning application, as it has been established government policy since 2001 to give reasons for refusing to call in planning applications.

Heritage Planning Case Database

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

Committees

Housing, Communities and Local Government Committee: Land Value Capture

- The Housing, Communities and Local Government Committee has published the report from its inquiry into land value capture. Its key conclusions and recommendations include the following:
 - There is scope for central and local government to claim a greater proportion of land value increases through reforms to existing taxes and charges, improvements to compulsory purchase powers, or through new mechanisms of land value capture.
 - The Land Compensation Act 1961 requires reform so that local authorities have the power to compulsorily purchase land at a fairer price.
 - Where public land is put forward for residential development, it is important to ensure that the maximum value is captured for new infrastructure and public services. This may not always equate to selling public land to the highest bidder.
 - The Government should give further consideration to the future implementation of a Local Infrastructure Tariff.
 - The Government should commission a cross-departmental project to consider how to capture land value increases on existing properties.

Policy

National Planning Policy Framework

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

Guidance

Planning Practice Guidance

- The Planning Practice Guidance was further updated on 13 September:
 - Plan-making
 - Local plans
 - Neighbourhood planning
 - Housing need assessment
 - Housing and economic land availability assessment
 - Build to rent.

MHCLG Letters to Chief Planning Officers

- MHCLG issued a further Planning Update Newsletter in September, covering:
 - The revised NPPF
 - Planning Practice Guidance
 - Planning Advisory Service (PAS) events on the new NPPF
 - Housing Delivery Test
 - Independent Review of Planning Appeal Inquiries
 - Planning for shale gas – update
 - Home loss payments under the *Land Compensation Act 1973*
 - Imposing pre-commencement conditions
 - 2017/18 Annual Casework Report to Parliament
 - Developing future planners
 - Developer contributions and open data tools
 - Publication of the review of planning policy for Sustainable Drainage Systems
 - Design charrettes – call for expressions of interest
 - The Local Digital Declaration and Fund

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.
- Further to earlier public consultation, a new Historic England Advice Note (HEAN 11) on *Neighbourhood Planning and the Historic Environment* has now been published, along with accompanying guidance sheets:
 - *Identifying and Promoting Local Character*
 - *Promoting the Conservation of Heritage Assets*
 - *Tackling Heritage Issues and Identifying Positive Ways to Make Use of the Historic Environment*
 - *Site Allocations*.

Forthcoming Historic England Advice

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

Training

- Historic England provides training and guidance to help local authorities, heritage professionals, owners and voluntary organisations look after England's heritage. Training currently available covers a wide range of topics, many directly linked to planning matters and Historic England advice:
 - Historic Environment Local Management (HELM): training on managing the historic environment for local authorities, regional agencies and national organisations. The new training programme for the Autumn/Winter of 2018 has now been published. Visit the webpages for details of courses on:

- Farm Buildings: Policy & Practice
- Understanding & Managing World Heritage Sites
- Unlocking Traditional Buildings
- Managing Local Authority Heritage Assets
- Coastal Development Projects and the Historic Environment
- NPPF Decoded: Plan Making
- NPPF Decoded: Development Management and Archaeology
- Heritage Practice: training courses for heritage specialists in technical subjects and techniques. Courses currently available for booking include *Curating the Palaeolithic* and *Understanding Setting*.
- Online training: webinars and other resources to help supplement the short course training opportunities and make them more widely available. The online training includes recordings of webinars and other, longer courses to work through.
- Essentials training: this programme, delivered in partnership with Locus Consulting, covers the building blocks of historic environment management and explores key concepts, methodologies, legislation and policies that govern how the historic environment is understood, protected and managed through the planning system. It is aimed mainly at planners within local authorities.

Infrastructure

HS2

- Consultation has been launched on the working draft *Environmental Statement for HS2 Phase 2b (Crewe to Manchester and the West Midlands to Leeds)*, as well as on the working draft *Equality Impact Assessment* (closing date for both 21 December).
- Summaries and final outcomes have been published for two previous consultations:
 - *HS2 Phase 2b draft Environmental Impact Assessment Scope and Methodology Report*
 - *HS2 Phase 2b draft Equality Impact Assessment Scope and Methodology Report*

Other Initiatives

House of Commons Library Briefing Papers

- The House of Commons Library has recently produced a number of useful Briefing Papers:
 - *Neighbourhood Planning* (examines the relevant powers, reviews their effectiveness, and describes recent changes to relevant provisions in the National Planning Policy Framework)
 - *Shale gas and fracking* (provides an overview of hydraulic fracturing (fracking) for shale in the UK, including the UK Government support and proposals, opposition in the devolved Administrations, the regulatory regime (petroleum exploration and development licences, environmental, planning, health and safety), and wider potential implications of fracking on communities and mitigation of these)
 - *What next for planning in England? The National Planning Policy Framework* (identifies the changes between the 2012 and 2018 NPPFs, by policy area).

Health and Harmony: the future for food, farming and the environment in a Green Brexit

- Defra has issued a summary of the responses received to February's Health and Harmony consultation.

Planning Freedoms

- Both the Housing and Planning Act 2016 and the NPPF make reference to 'planning freedoms'. It has now been confirmed that planning freedoms have been agreed in Oxfordshire as part of a Housing Deal: Oxfordshire has been granted 'flexibility from the National Planning Policy Framework policy on maintaining a 5 year housing land supply' in support of longer-term housing delivery. The flexibility is confirmed in a Written Ministerial Statement, which effects a temporary change to housing land supply policies in Oxfordshire (it remains in effect until the adoption of the Joint Statutory Spatial Plan in each of the defined areas).

Housing Funds

- The Government has launched two funding streams to support the delivery of housing:
 - The Land Assembly Fund: £1.3 billion, to be used to acquire land needing work and get it ready for the market, making it less risky for developers to invest in and start building (outside London this work will be carried out by Homes England).
 - The Small Sites Fund: £630 million for public land owners or local authorities to expedite infrastructure delivery in support of house building.

Coastal Communities Fund

- Sixteen 'Fast Track' projects are receiving a share of £6 million from the fifth round of the Coastal Communities Fund, to help deliver sustainable growth and jobs in coastal areas. Applications submitted for Round 5 of the Coastal Communities Fund are still being assessed, and will be announced by early 2019.

Recording Planning Decisions

- The Local Government & Social Care Ombudsman has issued guidance on Recording Planning Decisions for planning practitioners. It shares insights from Local Government Ombudsman investigations to help councils learn from the mistakes of others, and to review their own practice and policies in this area.

Procedural Guide: Planning Appeals – England

- The Planning Inspectorate has produced new advice on procedure for planning appeals, setting out the responsibilities of each party and the roles they have in the planning appeal process, and reflecting changes to the time limits for making appeals.

Current Consultations

- MHCLG's consultation on Permitted Development for Shale Gas Exploration (closing date 25 October).
- BEIS's consultation on Inclusion of Shale Gas Production Projects in the Nationally Significant Infrastructure Project (NSIP) Regime (closing date 25 October).
- MHCLG's green paper on social housing (closing date 6 November).
- HS2's consultations on the working draft Environmental Statement for HS2 Phase 2b (Crewe to Manchester and the West Midlands to Leeds) and Equality Impact Assessment (closing date for both 21 December).

Recent Consultation Responses

- Historic England's response to DfT's consultation on [WebTAG](#) will be available [here](#) shortly.

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18 October 2018

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:
 - *GPA 1: The Historic Environment in Local Plans* (March 2015)
 - *GPA2: Managing Significance in Decision-Taking in the Historic Environment* (March 2015)
 - *GPA3: The Setting of Heritage Assets* (December 2017)
 - *GPA4: Enabling Development* (forthcoming)

Historic England Advice Notes (HEANs)

- The HEANs include detailed, practical advice on how to implement national planning policy and guidance. They have been prepared by Historic England following public consultation:
 - *HEAN 1: Conservation Areas: Designation, Appraisal and Review* (February 2016)
 - *HEAN 2: Making Changes to Heritage Assets* (February 2016)
 - *HEAN 3: Site Allocations* (October 2015)
 - *HEAN 4: Tall Buildings* (December 2015)
 - *HEAN 5: Setting up a Listed Building Heritage Partnership Agreement* (November 2015)
 - *HEAN 6: Drawing up a Local Listed Building Consent Order* (November 2015)
 - *HEAN 7: Local Heritage Listing* (May 2016)
 - *HEAN 8: Sustainability Appraisal and Strategic Environmental Assessment* (December 2016)
 - *HEAN 9: The Adaptive Reuse of Traditional Farm Buildings* (October 2017)
 - *HEAN 10: Listed Buildings and Curtilage* (February 2018)
 - *HEAN 11: Neighbourhood Planning and the Historic Environment* (October 2018)