



Planning Bulletin: January 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

- An updated list of Ministerial Responsibilities (including Executive Agencies and Non-Ministerial Departments) was issued by the Cabinet Office on 19 December. This lists Government Ministers and their responsibilities.

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 report stage on 20 November, the details of which can be found here, with the next report stage in the House of Commons yet to be announced. The Bill as amended in Committee is available here, explanatory notes here, and a briefing paper here.
- *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.

Private Members' Bills

- Bat Habitats Regulation Bill: the Bill makes provision to enhance the protection available for bat habitats in the vicinity of a building site, and to limit the protection for bat habitats in buildings used for public worship. The second reading took place on 27 April 2018; the committee stage has yet to be scheduled. A briefing is available here.
- Bat Habitats Regulation (No. 2) Bill: the Bill makes provision to enhance the protection available for bat habitats in the non-built environment and to limit the protection for bat habitats in the built environment where the presence of bats has a significant adverse impact upon the users of buildings. The Bill was presented to Parliament on 5 September 2017 and was expected to have its second reading debate on Friday 23 November 2018 but this has not taken place, and has yet to be rescheduled.
- 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 2019.
- 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 25 January 2019.
- 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 to take place on 25 January 2019.

Secondary Legislation

- A technical consultation on draft regulations that would reform developer contributions was launched on 20 December (closing on 31 January) which would amend the Community Infrastructure Levy Regulations 2010. This includes proposals to:

- Retain the requirement for an authority to consult on a draft charging schedule, but to remove the requirement to consult on a preliminary draft charging schedule;
- Remove the restriction on local authorities using more than five s.106 obligations to fund a single infrastructure project;
- Allow local authorities to use both the levy and s.106 obligations to fund the same item of infrastructure; and
- Introduce a requirement for all local authorities - including those that have not implemented CIL - to publish an annual Infrastructure Funding Statement by 31 December each year.
- The *Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018* came into force on 28 December. They transpose the habitats assessments provisions of Article 6(3) of the *Habitats Directive*, through amendments to the following:
 - *Conservation of Habitats and Species Regulations 2017*
 - *Neighbourhood Planning (General) Regulations 2012*
 - *Town and Country Planning (Permission in Principle) Order 2017*
 - *Town and Country Planning (Brownfield Land Register) Regulations 2017*
- An Explanatory Memorandum to these changes can be found [here](#).
- The *Infrastructure Planning (Water Resources) (England) Order 2019* came into force on 9 January and Article 2 of this Order amends the *Planning Act 2008* in respect of water-related Nationally Significant Infrastructure Projects (NSIP). This introduces a new category of NSIP (for the construction or alteration of desalination plants) and amends the thresholds of the existing categories of NSIP (e.g. the NSIP threshold for the construction or alteration of a dam or reservoir increases from it holding back 10 million cubic metres to 30 million cubic metres of water).

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.

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.

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.

Forthcoming Historic England Advice

- Following earlier public consultation, a revised edition of *HEAN 1: Conservation Areas: Designation, Appraisal and Review* will 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. Visit the webpages for details of courses on (amongst others):
 - NPPF Decoded: Plan Making (last few places available in Ely on 7 February and Leeds on 28 March)
 - NPPF Decoded: Development Management and Archaeology (this course is fully booked, but please contact helmbookings@historicengland.org.uk to be placed on the waiting list).
 - 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 in York on 23 May (bookings open soon).
 - Understanding Historic Buildings in Oxford on 16 September (bookings open soon).
 - 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, including:
 - Article 4 Directions (26 February 2019 at 14:00).
 - All courses, and further information, can be accessed on the Historic England website.

Marine Planning

Marine Management Organisation consultations

- The Marine Management Organisation (MMO) has announced an engagement period on four emerging marine plans (taking place between 21 January and 29 March) which will include workshops in each of the four marine plan areas. It will focus on Iteration 3 outputs for marine planning (e.g. the third round of the development of the Marine Plans) in the North East, North West, South East and South West. The focus will be on preferred draft policies and supporting text (including implementation) and the next steps in marine planning. Information on how to book places at the engagement events is available below:
 - North East Marine Plan Area
 - Newcastle: 29 January

- Redcar: 30 January
- South West Marine Plan Area:
 - Newquay: 5 February
 - Totnes: 6 February
 - Taunton: 7 February
- South East Marine Plan Area:
 - Chelmsford: 12 February
 - Chatham: 13 February
- North West Marine Plan Area:
 - Carlisle: 27 February
 - New Brighton: 28 February.

Infrastructure

Proposals for the Creation of a Major Road Network

- The response to the Department for Transport consultation on proposals to create a Major Road Network (from December 2017) was published in December 2018. Historic England's response can be seen here. The outcomes of the consultation are that Government will proceed with the proposals for the creation of the Major Road Network (MRN), with some changes, including:
 - Amendments to the criteria for defining the network of roads that will be eligible for MRN funding
 - Refinement of the role of Highways England in support this programme of work
 - Greater flexibility in the application of the financial thresholds.

Gas Distribution and Gas and Electricity Transmission Price Controls (RIIO-2 Sector Specific Methodology)

- Ofgem has announced a consultation on the RIIO-2 Methodology which will set out the approach to ensuring the monopoly companies who run the UK's gas and electricity networks have enough revenue to run an efficient network. The proposals it contains relate to the mitigation of the visual impacts of infrastructure, alongside a number of other issues. The consultation closes on 14 March.

The Treatment of Electricity Storage Within the Planning System

- Further to the Progress Update to the Smart Systems and Flexibility Plan (published in October 2018), the Department for Business, Energy & Industrial Strategy is consulting upon The Treatment of Electricity Storage Within the Planning System (closing on 25 March). It considers and seeks views on the following proposals:
 - To retain the 50MW Nationally Significant Infrastructure Projects (NSIP) threshold that applies to standalone storage projects
 - To amend the Planning Act 2008 to establish a new NSIP capacity threshold for composite projects including storage and another form of generation, such that a composite project would only fall under the NSIP regime where either the capacity

of the storage element is more than 50MW or the capacity excluding any electricity storage is more than 50MW.

Access to Public Sector Assets

- Government released guidance (on 20 December) for local authorities on access to public assets in relation to telecommunications, including:
 - Taking proactive action to engage effectively with the digital communications industry
 - Access agreements
 - Different commercial models that local authorities may wish to consider when making their buildings, assets and land available to network providers.

Dorset Visual Impact Provision (VIP) project

- Ofgem has made its final determination on the Dorset VIP project. The regulator has allocated £116 million to allow National Grid to replace an 8.25km section of existing overhead power line with an 8.8km underground cable in the Dorset Area of Outstanding Natural Beauty by 2022.

National Infrastructure Commission Cities Partnership Programme

- The Government's infrastructure adviser, the National Infrastructure Commission (NIC) has announced that it will work directly with five cities, towns and city regions across England to help them develop strategies to deliver new housing and infrastructure. The areas are:
 - Cities in the West Yorkshire Combined Authority area: - Leeds, Bradford, Halifax, Huddersfield and Wakefield
 - The Liverpool City Region
 - Derby
 - Basildon, Essex
 - Exeter, Devon

Aviation 2050 - The Future of UK Aviation

- The Department for Transport is consulting on its green paper which outlines proposals for a new aviation strategy (closing date 11 April). The strategy will set out the challenges and opportunities for aviation to 2050 and beyond.

Future of Freight

- The National Infrastructure Commission (NIC) published its interim report Future of Freight on 21 December, outlining key issues facing the UK freight sector in advance of a full report due to be published in the spring of this year. The NIC stated that major changes will be required to ensure the efficient functioning of the freight system and to address negative impacts arising from freight transport, including carbon emissions, poor air quality, and traffic congestion. It also stated that the planning system's current focus on delivering homes has led to the needs of the freight sector being overlooked.

Geological Disposal Facility Consultation

- Following the Written Ministerial Statement from the Department for Business, Energy and Industrial Strategy, Radioactive Waste Management (RWM - a subsidiary of the

Nuclear Decommissioning Authority), is searching for a willing host community and a suitable site to construct a Geological Disposal Facility (GDF). The *Site Evaluation - How We Will Evaluate Sites in England* consultation sets out how sites are proposed to be assessed in England (closing date 31 March).

Working with Communities: Implementing Geological Disposal

- The Department for Business, Energy & Industrial Strategy has published *Implementing Geological Disposal: Working with Communities* which updates and replaces the 2014 White Paper, *Implementing Geological Disposal*. It has also issued its summary of responses to the consultation *Working with Communities: Implementing Geological Disposal*. This new document sets out:
 - The government’s policy framework for managing higher activity radioactive waste through implementing geological disposal
 - Its consent-based approach to working in partnership with communities to find a suitable location for a geological disposal facility (GDF)
 - The context for the siting process, the planning regime and regulatory landscape for a GDF.
- Historic England’s response to the initial consultation can be found [here](#).

Other Initiatives

Heritage Action Zones

- A Westminster Hall debate was held on 19 December in relation to Heritage Action Zones (HAZs), how they can be useful for assisting with heritage-led regeneration and how they need to link in with other areas of regeneration (e.g. transport) to increase the chances of success.

Heritage Lottery Fund Policy Directions Consultation

- The Heritage Lottery Fund (HLF) is the largest dedicated funder of the UK’s heritage. As a Lottery distributor and public body it is answerable to Parliament for its work, and must take into account Policy Directions issued by Ministers when making its funding decisions. The *Heritage Lottery Fund Policy Directions* have been revised following a consultation (the Government’s response to this consultation can be found [here](#) in light of the recommendation in the Tailored Review of the HLF undertaken in 2017). Historic England’s response to the consultation can be found [here](#).

Environmental Principles and Governance After the United Kingdom Leaves the European Union

- Defra has issued the Government’s response (including a summary of the responses received) to the May 2018 consultation on *Environmental Principles and Governance After the United Kingdom Leaves the European Union*. Further detail in relation to this can be found in the legislation section above, under *Environment Bill*.

25 Year Environment Plan: Measuring Progress

- Defra has issued a consultation relating to the indicators that could be used to show environmental change and how progress could be measured against the 10 goals of the 25 Year Environment Plan. The consultation closes on 25 January.

Air Quality: Clean Air Strategy 2019

- Defra has published the summary of responses to the consultation of the *Draft Clean Air Strategy 2018* alongside the finalised *Clean Air Strategy 2019*. This sets out how the Government intends to tackle all sources of air pollution and meet legally-binding international targets to reduce emissions of five of the most damaging air pollutants (fine particulate matter, ammonia, nitrogen oxides, sulphur dioxide, non-methane volatile organic compounds) by 2020 and 2030. The strategy sets out the action that is required from across all parts of Government and society to meet these targets. New legislation will create a framework for action to tackle air pollution. This will be underpinned by new England-wide powers to control major sources of air pollution, in line with the risk they pose to public health and the environment, plus new local powers to take action in areas with an air pollution problem.

Building a Safer Future: An Implementation Plan

- *Building a Safer Future: An Implementation Plan* sets out the Government's programme of work to ensure people who live in residential high-rise buildings are safe, including making fire and rescue bodies statutory consultees in the planning process. The plan responds to the interim and final recommendations of the *Independent Review of Building and Fire Safety* (December 2017, May 2018) that was commissioned by Government to look at the regulatory framework around the construction, maintenance and ongoing use of buildings, with a focus on multi-occupied, high-rise residential buildings.

The High Street Report

- The High Streets Expert Panel (which includes representatives from the retail, local government, design, property and community sectors) has summarised its findings and recommendations in *The High Street Report*. The panel had been asked to diagnose the issues facing high streets and town centres, and then advise Government on the best practical measures to take. It makes a series of recommendations covering three areas:
 - The recommendations in relation to the High Streets Task Force include that it should:
 - Be a single voice for town centres
 - Provide places with access to the data to help them improve their town centres
 - Facilitate cross-sector networking and skills building
 - Share information and best practice stories
 - Provide access to expert help and support
 - Help to enable local 'champions' in driving forward their plans
 - Help to streamline the planning process.
 - The recommendations in relation to the Future High Streets Fund state it should:
 - Co-fund with other sectors
 - Interact with the Task Force to increase the impact of both
 - Go to places that show a clear vision for their town centre
 - Fund places with community involvement in their town centre

- Fund towns that demonstrate cross-sector leadership or intent to develop this
- Show a commitment to collaboration and partnership working.
- The recommendations for short term measures to help high streets and town centres included that:
 - Towns should improve housekeeping of their high streets and town centres
 - Local authorities should use their initiative to encourage landlords and tenants to think innovatively about how to use empty properties
 - Places should ensure that their parking restrictions and charges are not driving people out of their town centres.

East Midlands Manufacturing Zones

- Four projects, involved in the space industry, food sector, and the development of HS2, will form the new East Midlands Manufacturing Zones to develop their plans which will help them boost economic growth and employment in the Midlands. These include Melton Mowbray, Space Park Leicester, and areas across North Derbyshire and Greater Lincolnshire. Together they will benefit from total funding of £500,000, originally announced in the November 2017 Budget.

Protecting and Enhancing England's Trees and Woodlands

- Defra is consulting (until 28 February) on Protecting and Enhancing England's Trees and Woodlands. The consultation document proposes four measures, including:
 - Two new duties on local authorities:
 - To consult on the felling of street trees; and
 - To report on tree felling and replanting.
 - Creating best practice guidance to support local authorities in drawing up a tree and woodland strategy.
 - Giving the Forestry Commission more powers to deal with illegal tree felling and strengthen protection of wooded landscapes.

Current Consultations

- The Business, Energy and Industrial Strategy Committee's Energy Efficiency Inquiry call for evidence (closing date 17 January).
- Defra's 25 year Environment Plan: Measuring Progress (closing date 25 January).
- Defra's consultation on the draft National Policy Statement for Water Resources Infrastructure (closing date 31 January).
- MHCLG's consultation on Reforming Developer Contributions (closing date 31 January).
- Defra's consultation on Biodiversity Net Gain: Updating Planning Requirements (closing date 10 February).
- The Infrastructure and Projects Authority and HM Treasury's Proposal for a New Approach to Building: Call for Evidence (closing date 17 February).
- Defra consultation on Protecting and Enhancing England's Trees and Woodlands (closing date 28 February).

- Ofgem's consultation on the *RIO-2 Sector Specific Methodology* (closing date 14 March).
- The Department for Business, Energy & Industrial Strategy is consulting upon *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).
- 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).
- Department for Transport's *Aviation 2050 - the Future of UK Aviation* (closing date 11 April).

Recent Consultation Responses

- Historic England's response to Defra's call for evidence for its independent review of National Park and AONB landscapes (the Glover Review) will be available here shortly.
- Historic England's response to MHCLG's consultation on compulsory community pre-application consultation for shale gas development will be available here shortly.
- Historic England's response to MHCLG's *Planning Reform: Supporting the High Street and Increasing the Delivery of New Homes* consultation will be available here shortly.

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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:
 - [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)