



Planning Bulletin: July 2020

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.

Current and previous editions of Planning Bulletin (back to September 2017) are now available on-line [here](#).

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Historic England

In this challenging and difficult time, we are committed to continuing to provide our services and support to everyone as best we can. We are also working closely with heritage sector organisations to ensure that we all offer support for any queries you may have or practical issues that need to be addressed.

Following the latest advice from Government in relation to Coronavirus (Covid-19), we have closed all our sites and offices until further notice.

Our staff are working from home and we will continue to provide advice and process grant payments as usual. We are doing what we can to maintain our level of response to planning and listing applications and general enquiries, but please do bear with us if responses are a little slower than usual.

Our local teams remain the best first point of call so if you need to contact us, please email your region as normal:

- northwest@HistoricEngland.org.uk
- northeast@HistoricEngland.org.uk
- yorkshire@HistoricEngland.org.uk
- midlands@HistoricEngland.org.uk
- eastofengland@HistoricEngland.org.uk
- southwest@HistoricEngland.org.uk
- londonseast@HistoricEngland.org.uk

For further information, advices, and updates on current Historic England services, please refer to our [website](#).

Planning Response to Covid-19

Given the fast moving nature of responses to the Covid-19 pandemic, we would recommend checking websites such as gov.uk, the [Local Government Association](#), the [Planning Advisory Service](#) and others for up to date information.

This section highlights some of the changes introduced, since the last Planning Bulletin, relating to planning and the historic environment, and is not intended as a compendium of all information relating to Covid-19 issues.

The Business and Planning Bill 2019-21

- *The Business and Planning Bill 2019-21* received Royal Assent on 22 July 2020, and the government have published updated guidance in support of it. This introduces (amongst other things):
 - Temporary pavement licences: a streamlined consent route to allow businesses to obtain a licence to place temporary furniture, such as counters, stalls, tables and chairs outside of cafes, bars and restaurants quickly.
 - An extension to planning permissions and listed building consents that have an expiry date between the start of lockdown and the end of this year, to 1 April 2021.

Secondary Legislation

- *The Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020* (SI 2020/765) and *the Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020* (SI 2020/764) have been introduced. They relate to temporary relaxation of the need to provide documents physically for a number of planning related issues, due to Covid-19.

Cultural Venues and Holiday Parks: Written Ministerial Statement

- The government has published a written ministerial statement to support the culture and tourism sectors by both preventing the loss of theatres, concert halls and live music performance venues, and encouraging local planning authorities to exercise their discretion in relation to planning conditions for caravan, campsites and holiday parks.
- The statement sets out the approach local planning authorities should take to decision making for these venues that have been made temporarily vacant by Covid-19 business disruption. The statement also encourages local planning authorities not to undertake enforcement action which would unnecessarily restrict the ability of caravan, campsites and holiday parks to extend their open season. The government has also published accompanying guidance.

Updated Guidance on Community Infrastructure Levy

- MHCLG has updated its guidance on the operation of the *Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020* which will come into force later in the summer. The guidance will be finalised when the regulations come into force. Amongst other things, councils will be able to defer Community Infrastructure Levy payments from smaller developers for up to six months.

Updated Guidance for the Safe Use of Places of Worship

- MHCLG has updated its published guidance designed to assist places of worship in reopening. It includes, amongst other things, guidance on the use of face coverings and outdoor worship. Some of the guidance has also been added in certain foreign languages.

Extended Public Consultations

- The Environment Agency's consultation on *River Basin Planning: Challenges and Choices* has been extended to 24 September.

Government Departments

Treasury

- The Chancellor of the Exchequer delivered the *Summer Economic Statement*. It focused on a three point plan to support people to find jobs, create jobs and to protect jobs. The full speech can be found here, the policy paper is here and the government press story here. Amongst other things, it included:
 - Funding for Traineeships and Apprenticeships
 - A £2bn green homes grant scheme
 - £1bn to improve energy efficiency of public sector buildings
 - Funding for local infrastructure projects
 - Acceleration of the Towns Fund capital
 - A £400 million Brownfield Housing Fund to seven Mayoral Combined Authorities
- The Chancellor of the Exchequer has also launched the 2020 *Comprehensive Spending Review*. The Review, which will be published in the autumn, will set out the government's spending plans for the parliament. The review will set UK Government departments' resource budgets for the years 2021/22 to 2023/24 and capital budgets

for the years 2021/22 until 2024/25, and devolved administrations' block grants for the same period.

Legislation and Matters Arising

Primary Legislation

As reported in the *Planning Response to Covid-19* section (above):

- *The Business and Planning Bill 2019-21* received Royal Assent on 22 July 2020. Amongst other things it covers: temporary Permitted Development Rights for shops, etc. to use footways, etc. for trading; extensions to permissions expiring during lockdown; and flexibility for construction site working hours.

Secondary Legislation

As reported in the *Planning Response to Covid-19* section (above):

- *The Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020* (SI 2020/765) and *the Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020* (SI 2020/764) have been introduced and relate to temporary relaxation of the need to provide documents physically for a number of planning related issues.

Permitted Development Rights

- *The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020* (SI 2020/755) allows for existing houses to be extended to provide more living space by constructing up to two additional storeys. It also introduces permanent PD Rights to allow the construction of up to two additional storeys on detached buildings and on buildings in a terrace that are houses or in certain commercial uses, to create additional self-contained homes. It comes into force on 31 August.
- Details include:
 - PD Rights for upwards extension of existing houses which are detached, semi-detached or in a terrace can be extended upwards to provide additional living space (amongst other things):
 - Allows the construction of up to 2 additional storeys on the topmost storey of houses of 2 storeys or more, or 1 additional storey on houses of 1 storey, above ground level.
 - Subject to a maximum height limit for the newly extended house of 18 metres, and where the house is in a terrace its height cannot be more than 3.5 metres higher than the roof of every other building in the row.
 - Does not apply to Listed Buildings and Scheduled Monuments (or land within their curtilages), as well as Article 2(3) Land (Conservation Areas, World Heritage Sites, National Parks, etc.)
 - does not apply to dwelling-houses built before 1 July 1948 or after 28 October 2018
 - For upwards extensions to dwelling-houses, a condition is imposed that the materials used in any exterior work must be of similar

appearance of the materials used in the construction of the existing house.

- For upwards extensions to detached buildings in commercial or mixed use; or terraced buildings, prior approval is required as to the external appearance of the building
- Prior approval is required for all upwards extensions in this PD right, although the provisions vary they do include amongst other things:
 - the design and architectural features of the extension
 - impact on the amenity of the neighbouring premises including overlooking, privacy and the loss of light
- Where prior approval relates to impact on a protected view identified in the *Directions Relating to Protected Vistas dated 15th March 2012(a)* issued by the Secretary of State. Consultation with Historic England is required in those cases.

- PD Rights for the construction of new self-contained homes by allowing additional storeys to be constructed on detached buildings and on buildings in a terrace in certain commercial uses, and in mixed uses with an element of housing. They also allow additional storeys to be constructed on existing houses which are detached or in a terrace (which includes semi-detached houses) to create new self-contained homes (amongst other things):

- Up to 2 additional storeys of new homes can be constructed on the topmost storey of existing, detached, free-standing commercial or mixed use
- Buildings of 3 storeys or more above ground level. This is subject to a maximum height limit for the newly extended building of 30m.
- Where buildings are in a terrace (of 2 or more attached buildings) it allows upwards extensions to create new self-contained homes: up to 2 additional storeys of new homes can be constructed on the topmost storey of a building of 2 storeys or more above ground level, or 1 additional storey on a building of 1 storey. The overall height of the building when it is extended cannot be greater 18 metres and no more than 3.5 metres higher than the highest part of the roof of every other building in the row of the terrace.
- Exemptions and Prior Notifications are as above: i.e. Listed Buildings, SAMs, Conservation Areas and WHSs, etc. are excluded.

- *The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020* (SI 2020/756) introduces a new PD Right to allow for the demolition of certain types of buildings and construction of a replacement building as residential, while allowing for local consideration of key planning matters. It comes into force on 31 August.

- Amongst other things:

- The right will apply to vacant (for at least 6 months before prior approval application) free-standing buildings that fell within the B1(a) offices, B1 (b) research and development, B1 (c) industrial processes (light industrial), and free-standing purpose-built residential blocks of flats (C3) use classes. The right therefore does not apply to terraced buildings, detached dwelling houses, or to mixed use buildings other than those above.

- The right will apply to those buildings constructed before 1 January 1990. The right does not require detailed consideration of the condition of the building in respect of redundancy. It allows for redevelopment of a single new building within the footprint of buildings with a footprint of up to 1,000 sq m.
- The height of the new residential building should not exceed the lower of 7 metre above the height of the old building, or 18 metres above ground level.
- It does not apply to Listed Buildings and Scheduled Monuments (and within their curtilages, as well as Article 2(3) Land (Conservation Areas, World Heritage Sites, National Parks, etc.)
- Prior approval is required for, amongst other things:
 - the design of the new building
 - external appearance of the new building
 - the impact of the development on the amenity of the new building and of neighbouring premises, including overlooking, privacy and light
 - the impact of the development on heritage and archaeology
 - impact that, because of the siting of the new building the development will have on a protected view identified in the *Directions Relating to Protected Vistas dated 15th March 2012(a)* issued by the Secretary of State, unless no part of the building occupies airspace not occupied by the old building. Consultation with Historic England is required in those cases.

Use Classes

- *The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020* (SI 2020/757) comes into force on 1 September and creates, amongst other things:
 - A new broad ‘Commercial, business and service’ use class (Class E) which incorporates the shops (A1), financial and professional services (A2), restaurants and cafes (A3) and offices (B1) use classes. Uses such as gyms, day nurseries and health centres (previously in use classes D1 Non-residential institutions and D2 Assembly and leisure) and other uses which are suitable for a town centre area are also included in the class.
 - New ‘Learning and non-residential institutions’ (F1) and ‘Local community’ (F2) use classes. The ‘Learning and non-residential institutions’ use class (F1) incorporates those uses from the former D1 Non-residential institutions use class which are more likely to involve buildings which are regularly in wider public use such as schools, libraries and art galleries. The ‘Local community’ use class (F2) groups together those uses from the former D2 use class which provide for group activities of a more physical nature – swimming pools, skating rinks and areas for outdoor sports. It also includes the use of buildings where this is principally by the local community. The class recognises the importance of small, local shops in meeting the day to day shopping needs of local communities, particularly in rural communities, large residential estates and outside main shopping areas generally. Therefore, alongside community social facilities, the F2 class includes what would be considered shops servicing the essential needs of local communities.
 - Former A4 Drinking establishments and A5 Hot food takeaway use classes have been removed from the new use class, to ensure that local pubs can be protected or to prevent the proliferation of hot food takeaways. Cinemas,

concert, dance and bingo halls, which fell within the former D2 use class, have also had their use class removed. This will mean that changes to and from these uses will be subject to full local consideration through the planning application process.

Emerging Legislation

Government Bills

- **Agriculture Bill**: amongst other things the Bill authorises expenditure for certain agricultural and other purposes; to make provision about direct payments following the United Kingdom's departure from the European Union and about payments in response to exceptional market conditions affecting agricultural markets; to confer 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 to the House of Commons and given its First Reading on 16 January. The Bill passed its Second Reading on 3 February and has been considered by a Public Bill Committee which reported to the House on 6 March. The Bill has passed its Third Reading in the Commons on 13 May and has now passed its Second Reading in the House of Lords on 10 June. The Committee stage took place on 7 July, and the date of the Report stage is yet to be announced.
- **Clean Air (Human Rights) Bill 2019-20**: amongst other things the Bill establishes the right to breathe clean air; requires the Secretary of State to achieve and maintain clean air in England and Wales; and to enhance the powers, duties and functions of the Environment Agency, the Committee on Climate Change, local authorities (including port authorities), the Civil Aviation Authority, Highways England, Historic England and Natural England in relation to air pollution. The Bill was introduced to the House of Commons and given its First Reading on 13 January. The Second Reading is yet to be scheduled.
- **Environment Bill 2019-21**: amongst other things the Bill aims to A make provision about targets, plans and policies for improving the natural environment, for statements and reports about environmental protection, conservation covenants, and about air quality. The Government have reintroduced the Bill and have said that it demonstrates a 'commitment to tackling climate change and to protecting and restoring our natural environment for future generations.' The Bill had its Second Reading in the House of Commons on 26 February. This Bill was being considered by a Public Bill Committee but due to current circumstances the sittings of the Committee have been suspended until further notice. The Committee is now scheduled to report by 29 September.

Private Bills

- **Highgate Cemetery Bill**: was deposited with Parliament on 27 November 2019. The Examination took place on 18 December and the Bill was found to be compliant with Private Business Standing Orders. The Bill was introduced to the House of Lords and had its First Reading on 22 January. The Second reading took place on 12 February and was unopposed, so there was no debate. The Bill needed a 'Wharnclyff' Examination to comply with certain standing orders concerning the consents of owners, members and directors of companies. The Examination was on 9 March and the Bill was found compliant. The bill now proceeds to an Opposed Bill Committee to consider the petitions. No date has yet been set.

Heritage Planning Case Database

- Historic England tweets planning decisions of heritage interest, via [@HeritageAdvice](#), and these are then collated into the [Heritage Planning Case Database](#). This is 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

Commons Select Committee

- A Commons Select Committee has launched an inquiry into [Supporting our High Streets after Covid-19](#). The Committee has invited evidence on the following issues:
 - The likely long-term consequence of the COVID-19 outbreak on the future of the high street;
 - How councils, central government, and other stakeholders are and can help mitigate the impact of COVID-19 on the high street and town centres;
 - Assess the Government's previous and current measures to bolster the high street; including the effect of the business rate holiday during the COVID-19 outbreak and the impact of its ending;
 - The progress made on implementing the recommendations of the previous committee's report of February 2019.

DCMS Select Committee

- The DCMS Select Committee has published a [report](#) on the impact of COVID-19 on DCMS sectors. The report's key recommendations include:
 - Introduce flexible versions of the Coronavirus Job Retention Scheme and Self-Employed Income Support Scheme for creatives 'until their work and income returns to sustainable levels'
 - Extend Theatre Tax Relief to 50% until 2023 and introduce a 'Music Tax Relief'
 - Have the *Cultural Sector Taskforce* co-ordinate with the *National Health Service* and others to develop a universal tracing system for event ticketholders

Guidance

- A range of government guidance, relating to the *Business and Planning Act*, has now been [published](#) in final form. The guidance relates to:
 - [Construction working hours](#)
 - [Extension of certain planning permissions](#)
 - [Making current spatial development strategies available digitally](#)
 - [Pavement licences](#)
- The government has also published [guidance](#) to accompany the [written ministerial statement](#) concerning cultural venues and holiday parks.

- MHCLG has updated its published guidance on the safe opening of places of worship.
- MHCLG has also updated its published guidance to explain the operation of the *Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020*.

MHCLG Letters to Chief Planning Officers

- MHCLG has written to Chief Planning Officers with an update on recent changes to the planning system, including outdoor seating and changes to Permitted Development Rights.

Advice

Historic England Advice

- Good Practice Advice notes (GPAs) and Historic England Advice Notes (HEANs) are all available on the Historic England website, and are listed in Appendix I to this Bulletin for ease of reference.
- As noted last month, a new GPA on *Enabling Development and Heritage Assets* has been published (30 June 2020). A related webinar is now available to view on-line.
- A new HEAN on *Energy Efficiency and Historic Buildings* was published on 29 June.

Forthcoming Historic England Advice

- Following public consultation, publication of a HEAN on *Commercial Renewable Energy and the Historic Environment* is expected shortly.
- Following public consultation, publication of a revised HEAN on *Tall Buildings* (HEAN4) is expected shortly.
- A HEAN on *Permission in Principle* is being currently being drafted and should be consulted on soon.

Training

Historic England Training

- In response to Covid-19 restrictions, Historic England is increasing its e-learning and remote CPD provision. HE will be launching new e-learning courses in June, based on previously delivered *NPPF Decoded* HELM events, and have almost tripled the planned programme of Webinars.
- Some topics are tailored to respond, in part, to Covid-19 and how it is affecting the heritage sector. Topics include *Wellbeing and Heritage* and *Heritage Crime During Lock Down*. HE has turned the HELM courses planned for 2020 into webinars, including topics such as *Enabling Development*, *Industrial Heritage* and *Design and Place-shaping*. They can be accessed here.

- Historic England has completed its new *Technical Tuesdays*; a series of webinars delivered by its Technical Conservation Team. *Technical Tuesday* webinars are made available online, generally about a week after the event. Webinars addressed the following themes, but the offer will be expanded later in the year:
 - *Beneath the Surface*
 - Earthen Mortars and Plasters
 - Fibrous Plaster
 - Concealed Decoration
 - *Survey and Inspection*
 - Infrared Thermography
 - Geospatial Survey
 - Damp
 - *Buildings at Risk*
 - Fire in Thatched Buildings
 - Graffiti
 - Lightning Protection
 - *Building Services*
 - Principles and Decision Making
 - Installation
 - Inspection and Maintenance)
- More details about HE online training are available [here](#), and for webinar booking please visit [here](#).
- To be added to the mailing list for training events and webinars, or if you would like to suggest topics for courses, webinars or online training please email helmbookings@historicengland.org.uk.

Other Initiatives

Proposed Reforms to Permitted Development Rights to Support the Deployment of 5G and Extend Mobile Coverage

- The government has published a summary of the [responses](#) to the consultation and the Government's response. Subject to a technical consultation on the detail of the proposals, including the appropriate environmental protections and other safeguards mentioned above, the government intends to take forward the in-principle proposals consulted on to enable in England:
 - deployment of taller and wider masts;
 - building-based masts located nearer to highways; and
 - faster deployment of radio equipment housing, such as equipment cabinets

Flooding and Coastal Erosion Policy: Consultation Response

- The government has published the [responses](#) to this call for evidence. It has published a flood and coastal erosion risk management policy statement which outlines over 40 actions to increase flood resilience across the country.

Offshore Transmission Network Review

- The government has announced the scope of a review into the existing offshore transmission regime to address the barriers it presents to further significant deployment of offshore wind, with a view to achieving net zero ambitions. The terms of reference for the review set out:
 - the objective for the review
 - the approach that will be taken, looking at what can be delivered under the current framework and options to change the framework
 - the outputs from the review
 - how the review will engage with stakeholders

Planning Inspectorate: Procedural Guidance

- PINS has updated its Procedural Guidance, as well as a Guide to Taking Part in Planning and Listed Building Consent Appeals Proceeding by an Inquiry.

Standard of Homes Delivered Through Change of Use Permitted Development Rights

- MHCLG has published an independent report into the quality standard of homes delivered through certain national permitted development rights for the change of use. The research considered the quality of homes delivered in 11 case study areas in England in respect of size, amenity, location and design, drawing out the differences between homes delivered through permitted development compared with planning applications.

Current Consultations

- The Department for the Environment & Rural Affairs is consulting on a new England Tree Strategy which will be published later this year. The strategy will focus on expanding, protecting and improving woodlands, and how trees and woodlands can connect people to nature, support the economy, combat climate change and recover biodiversity (closing date 11 September).
- The Environment Agency is consulting on River Basin Planning: Challenges and Choices (extended closing date 24 September). It is seeking views on:
 - the challenges that limit the benefits society obtains from the water environment in the river basin districts in England (the challenges)
 - the best way to address these issues (the choices)
- The UK Environmental Audit Committee has launched the Technological Innovation and Climate Change Inquiry, with its first focus on offshore wind power, is inviting written submissions to inform its first session (see *Committees* section, above).

Calendar

September

- 11 The Department for the Environment & Rural Affairs consultation on a new England Tree Strategy closes.
- 24 Environment Agency consultation on River Basin Planning: Challenges and Choices closes

Strategy and Listing Department, Historic England
Email: governmentadvice@HistoricEngland.org.uk
31 July 2020

If you did not receive this edition of Planning Bulletin direct from Historic England, you may find the current edition online [here](#). If you would like to sign up for notifications when a new edition is issued, please contact governmentadvice@HistoricEngland.org.uk.

APPENDIX I: HISTORIC ENGLAND PLANNING ADVICE

Good Practice Advice Notes (GPAs)

- The GPAs provide information on good practice, particularly looking at the principles of how national policy and guidance can be applied. They are the result of collaborative working with the heritage and property sectors in the Historic Environment Forum, and have been prepared following public consultation:
 - *GPA1: The Historic Environment in Local Plans* (March 2015)
 - *GPA2: Managing Significance in Decision-Taking in the Historic Environment* (March 2015)
 - *GPA3: The Setting of Heritage Assets* (December 2017)
 - *GPA4: Enabling Development and Heritage Assets* (June 2020)

Historic England Advice Notes (HEANs)

- The HEANs include detailed, practical advice on how to implement national planning policy and guidance. They have been prepared by Historic England following public consultation:
 - *HEAN 1: Conservation Areas: Designation, Appraisal and Review (Second Edition)* (February 2019)
 - *HEAN 2: Making Changes to Heritage Assets* (February 2016)
 - *HEAN 3: Site Allocations* (October 2015)
 - *HEAN 4: Tall Buildings* (December 2015)
 - *HEAN 5: Setting up a Listed Building Heritage Partnership Agreement* (November 2015)
 - *HEAN 6: Drawing up a Local Listed Building Consent Order* (November 2015)
 - *HEAN 7: Local Heritage Listing* (May 2016)
 - *HEAN 8: Sustainability Appraisal and Strategic Environmental Assessment* (December 2016)
 - *HEAN 9: The Adaptive Reuse of Traditional Farm Buildings* (October 2017)
 - *HEAN 10: Listed Buildings and Curtilage* (February 2018)
 - *HEAN 11: Neighbourhood Planning and the Historic Environment* (October 2018)
 - *HEAN 12: Statements of Heritage Significance* (October 2019)
 - *HEAN 13: Minerals Extraction and Archaeology* (January 2020)
 - *HEAN 14: Energy Efficiency and Historic Buildings: How to Improve Energy Efficiency* (June 2020)