



## Planning Bulletin: October 2017

*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*

- *European Union (Withdrawal) Bill*: the Bill seeks to repeal the European Communities Act 1972 and make other provision in connection with the withdrawal of the United Kingdom from the EU. The Bill passed second reading on 11 September; a date has yet to be scheduled for Committee stage. Explanatory notes are available [here](#), and a research briefing [here](#).
- *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. First reading took place on 17 July; a date for second reading has not yet been scheduled. Explanatory notes are available [here](#).
- *Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill*: the Bill provides powers for the Secretary of State to award relief from business rates to providers of telecommunications infrastructure (its provisions were previously found in the Local Government Finance Bill, which had completed Committee Stage in the House of Commons when the 2017 General Election was called). First reading in the Lords took place on 6 September, and second reading is scheduled for 9 October. An updated briefing paper on the Bill is available [here](#).
- Other Bills of potential interest are:
  - Agriculture Bill (to support UK farmers and protect the natural environment)
  - Automated and Electric Vehicles Bill (amongst other things, to provide for the installation of charging points for electric and hydrogen vehicles)

The Queen's Speech also confirmed that the Government will bring forward proposals to help ensure that more homes are built. The associated briefing confirmed that the Government will deliver the reforms proposed in the Housing White Paper 'to increase transparency around the control of land, to "free up more land for new homes in the right places, speed up build-out by encouraging modern methods of construction and diversify who builds homes in the country"'. The background briefing notes are available [here](#).

- *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. First reading took place on 3 July; second reading is yet to be scheduled.
  - *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. First reading took place on 27 June, and second reading 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, and second reading has yet to be scheduled. Explanatory notes are available [here](#).
- *Private Bills*
  - *New Southgate Cemetery Bill*: the Bill confers powers upon New Southgate Cemetery and Crematorium Limited and the National Spiritual Assembly of the Bahá'is of the United Kingdom to extinguish rights of burial and disturb human remains in respect of New Southgate Cemetery for the purpose of increasing the space for interments. The Bill did not complete its passage through Parliament in the last Session, and has been revived. The Bill was reintroduced in the Lords on 19 July; a date for third reading in the Commons has yet to be scheduled.

#### *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.

## **Policy**

### *National Planning Policy Framework (NPPF)*

- DCLG has [confirmed](#) its intention to publish a revised National Planning Policy Framework in Spring 2018, stating that '[t]his will ensure that we not only plan for the right homes in the right places, but that we turn existing and future planning permissions quickly into homes through reforms such as the Housing Delivery Test'. Subject to the outcome of consultation on *Planning for the Right Homes in the Right Places*, and the responses received to the *Housing White Paper* consultation, the Government intends to publish a draft revised National Planning Policy Framework early in 2018, and to 'allow a short period of time for further consultation on the text of the Framework to make sure the wording is clear, consistent and well-understood'.

## **Advice**

### *Historic England Advice*

- Historic England Advice notes (HEANs) 1-8 have all now been published on the Historic England website:

- *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).
- An update of *Streets for All* has been published for consultation. It is accompanied by nine regional documents, also for consultation. These documents provide updated practical advice for anyone involved in planning and implementing highways and other public realm works in sensitive historic locations, and will replace the earlier editions of Streets for All (2000-2006). The closing date for comments is 9 November.

## **Infrastructure**

### *Airports National Policy Statement*

- The Secretary of State for Transport has announced that a further period of consultation is needed on the draft Airports National Policy Statement (NPS), to allow updated evidence to be taken into account (including revised aviation demand forecasts and the government's final air quality plan). The further consultation will focus mainly on the specific elements of the NPS affected, and is expected to begin later this year; the Government expects to lay any final NPS in the first half of 2018 for a vote in the House of Commons. A report on the initial consultation is available here.

## **Other Initiatives**

### *Planning for the Right Homes in the Right Places*

- DCLG has launched a consultation on a number of proposals to reform the planning system to increase the supply of new homes and increase local authority capacity to manage growth (the closing date is 9 November). Some of these proposals were foreshadowed in the *Housing White Paper*, and will involve amendments to the *National Planning Policy Framework (NPPF)* and regulations. *Planning for the Right Homes in the Right Places* includes the following proposals:

*i) A standard method for calculating local housing need*

The proposed method has three components: 1) a demographic baseline, 2) modification of that baseline to take account of market signals (the price of homes), and 3) a cap to limit any increase an authority may face when they review their plan.

The Government notes that this will affect individual authorities differently, and has published illustrative housing need figures for each local planning authority using the new method, on the basis of current data, as well as the extent to which land in each local authority area is covered by specific constraints (limited to Green Belt, National

Parks, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest), and how many homes each authority is currently planning for.

The consultation also notes the proposal in the Housing White Paper for HM Land Registry to register the ownership of all publicly held land in the areas of greatest housing need by 2020. The new approach to assessing local housing need, and the percentage of land which is unregistered within the boundaries of a local authority, will form the basis of definition of 'areas of greatest housing need' for this purpose: a list of areas of greatest housing need is published alongside the consultation document.

*ii) Improving cross-boundary local authority working through the preparation of statements of common ground*

To support more effective joint working where planning issues need to be addressed by more than one local planning authority, the NPPF will be amended to require all local planning authorities (over the housing market area or other agreed geographical area) to produce a statement of common ground. This is intended to increase certainty and transparency, earlier in the plan-making process; encourage local planning authorities to co-operate effectively and seek agreement on strategic cross-boundary issues; and help local planning authorities demonstrate evidence of co-operation.

*iii) Planning for the needs of particular groups*

Planning guidance on how to plan for different types of homes will need to be updated, and this will be published alongside a revised NPPF. The Government is proposing that plan makers should disaggregate total need into the overall need of each type of housing as part of the plan-making process, before taking into account any constraints or other issues which may prevent them from meeting their overall housing need. Suggestions are invited on how to streamline the process for identifying the housing need for individual groups.

*iv) Supporting neighbourhood planning*

The Government proposes to amend planning guidance to allow local planning authorities to provide neighbourhood planning groups with a housing need figure by making a reasoned judgement based on the settlement strategy and housing allocations in their plan. Views are sought on whether national policy should expect local planning authorities to set out, within their plans, a housing figure for designated neighbourhood planning areas and parished areas within their local area. Where local plans are out-of-date, the Government proposes to set out in guidance a simple formula-based approach which apportions the overall housing need figure for the relevant local authority area(s), based on the latest figures calculated under the new standard approach.

*v) Proposed approach to viability assessments*

To ensure there is a robust basis for assessing viability at the plan-making stage – and to lessen the need for this to be revisited when planning applications come forward – the Government proposes to amend national planning policy to set out additional expectations for plans. Specifically, local planning authorities should set out the types and thresholds for affordable housing contributions required; the infrastructure needed to deliver the plan; and expectations for how these will be funded and the contributions developers will be expected to make.

The Government also proposes to make clear in the NPPF that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage: applications that meet requirements set out in the plan should be assumed to be viable. For circumstances where viability assessment is still needed in the course of determining planning applications, the Government proposes to update planning guidance to help make viability assessments simpler, quicker and more transparent.

The Government further proposes to amend national planning policy so that local planning authorities (and elected Mayors) should set out in their plans how they will monitor, report on and publicise funding secured through section 106 agreements, and how it is spent.

*vi) Seeking views on the proposed increase of 20 per cent in fees for planning applications – over and above the 20 per cent increase already confirmed – for local planning authorities delivering housing*

The Government notes that ‘an increase in planning application fees is an important step to recognise and address the significant, nation-wide problem of under-resourced local planning authorities’. Regulations will now be brought forward ‘at the earliest opportunity’ to enable local authorities to increase fees as proposed in the Housing White Paper, namely to increase nationally set planning fees by 20 per cent for those local planning authorities who commit to invest the additional fee income in improving the productivity of their planning departments.

The Housing White Paper also suggested that an increase of a further 20 per cent on the current fee level could be applied to those authorities who are delivering the homes their communities need: the Government is seeking views on the most appropriate criteria to enable this fee increase to be applied, with a particular interest in options that can support housing delivery (while recognising that such increases should not impact unfairly on applications for other types of development).

*vii) Seeking further views on how homes can be built out more quickly*

The Government ‘wants to see homes built faster and expects house builders to deliver more homes, more quickly and to a high quality standard’. The Housing White Paper outlined a number of proposals, but the Government is ‘keen to examine if there are other options for increasing build out rates’.

*viii) Prematurity*

The Government intends to set out the circumstances when a planning application may be refused on the grounds of prematurity in the National Planning Policy Framework, rather than in guidance (as currently).

### *Neighbourhood Planning*

- The Department for Communities and Local Government (DCLG) has announced a package of support worth £22.8 million (around £5.5 million a year between 2018 and 2022) to help communities develop neighbourhood plans.

### *Review of Social Housing*

- The Secretary of State for Communities and Local Government has announced that the Government will be bringing forward a green paper on social housing in England comprising a ‘wide-ranging, top-to-bottom review of the issues facing the sector’.

### *Heritage Online Debate: 70<sup>th</sup> Anniversary of the 1947 Town and Country Planning Act*

- Historic England’s current edition of *Heritage Online Debate* marks the seventieth anniversary of the Town and Country Planning Act of 1947, which was of course the basis for planning and listing as they are known today. This edition of *Heritage Online Debate* includes contributions on the origins of the Act, the relationship between conservation and planning, the parallels between the challenges of the 1940s and today, why the 1947 Act is still relevant, and much more. Comments on and responses to the articles are very much welcomed.

### **Current Consultations**

- The Department for Transport’s consultation on the next East Midlands rail franchise (closing date 11 October).
- Various consultations on HS2-related matters:
  - Crewe Hub: options for building on existing connectivity (closing date 12 October)
  - HS2 Phase 2b: Eastern leg rolling stock depot (closing date 12 October)
- The Department for Transport’s call for evidence on a new aviation strategy for the UK (closing date 13 October).
- The Department for Communities and Local Government’s consultation on *Planning for the Right Homes in the Right Places* (closing date 9 November).
- Historic England’s consultation on *Streets for All* (closing date 9 November).
- The Department for Transport’s consultation on a draft accessibility action plan (closing date 15 November).

### **Recent Consultation Responses**

- Historic England’s response to the Committee on the Natural Environment and Rural Communities Act 2006’s call for evidence will be available here shortly.
- Historic England’s response to the Office of Rail and Road’s consultation on how to regulate Network Rail in railway control period 6 will be available here shortly.
- Historic England’s response to HS2’s consultation on Phase 2b draft Environmental Impact Assessment Scope and Methodology Report will be available here shortly.
- Historic England’s response to HS2’s consultation on Phase 2a (West Midlands – Crewe) hybrid Bill environmental statement will be available here shortly.