



Planning Bulletin: December 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.

Budget

- The Chancellor of the Exchequer presented his [Autumn Budget](#) to Parliament on 22 November.
- Points of interest included:
 - The introduction of planning reforms:
 - Reform to boost the availability of land in the right places for homes, and to ensure that better use is made of underused land in towns and cities. There will be consultation on introducing minimum densities for housing development in city centres and around transport hubs; on policy changes to support the conversion of empty space above high street shops and to make it easier to convert retail and employment land into housing; and on a permitted development right to allow commercial buildings to be demolished and replaced with homes.
 - Confirmation of the Government's commitment to maintain existing protections for the Green Belt.
 - Consultation on strengthening policy so that allocated land is taken out of a plan if there is no prospect of a planning application being made.
 - Intervention where there is a failure to progress Local Plans, and activation of powers that enable the Government to direct local planning authorities to produce joint statutory plans.
 - Consultation on a new policy whereby local authorities will be expected to 'permission land' outside their plan on the condition that a high proportion of the homes are offered for discounted sale for first-time buyers, or for affordable rent.
 - Consultation on strengthening the Housing Delivery Test.
 - Consultation on an expectation that local authorities will bring forward 20% of their housing supply as small sites.
 - Consultation on speeding up the development process by removing the exemptions from the deemed discharge rules.
 - The development of a central register of residential planning permissions from local authorities to improve information on where permissions are held and progress towards them being built out.
 - A Review to look at the gap between planning permissions and housing starts, and make recommendations for closing it (an interim report is to be produced in time for the Spring Statement 2018, and a full report at Budget 2018).

- A commitment to raising housing supply by the end of this Parliament to 300,000 per year.
- Support for local growth, including the Northern Powerhouse and Midlands Engine (the latter to include a manufacturing zone in which planning restrictions will be reduced).
- Funding and wider work to support 5G mobile networks and fibre broadband.
- Funding to support the growth of electric cars, including more charging points.
- The Homes and Communities Agency to become ‘Homes England’, bringing together funding, skills, and planning and compulsory purchase powers.
- New Town Development Corporations will be used to deliver five new Garden Towns.
- Consultation on proposals to respond to the CIL review.
- Cultural Development Fund: DCMS will receive £2 million for place-based cultural development.
- Various housing-related funds (including land assembly, infrastructure, and estate regeneration, etc.).
- Reference to the Industrial Strategy (discussed further below).

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; consideration of the Bill in a Committee of the whole House is scheduled to conclude on 20 December. Explanatory notes are available [here](#), and a research briefing [here](#); a further research briefing on Brexit and the environment is available [here](#), and on the ‘correcting power’ [here](#). A ClfA statement on concerns around the retention of current environmental principles may be found [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, but is expected in early 2018 (if successful, it will be followed by the opening of petitioning against the Bill). 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). The House of Lords have now returned the Bill to the House of Commons with amendments. The amendments will be considered on the floor of the House on a date to be announced. A briefing paper on the Bill is available [here](#).

- *Automated and Electric Vehicles Bill*: the Bill makes provisions about automated vehicles and electric vehicles, including in relation to charging points. Introduced on 18 October, it passed second reading on 23 October, and was considered in a Public Bill Committee on 16 November. An explanatory memorandum is available [here](#), and a briefing for second reading [here](#). A date for report stage has yet to be announced.
- Another Bill of potential interest is the Agriculture Bill (to support UK farmers and protect the natural environment). 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.
- *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; second reading is expected on 6 July 2018.
- *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, 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, and second reading has yet to be scheduled. Explanatory notes are available [here](#).

Private Bills

- *New Southgate Cemetery Act*: the Act received Royal Assent on 16 November. It 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.

Secondary Legislation

- DCLG has launched a consultation on draft *New Towns Act 1981 (Local Authority Oversight) Regulations* (closing date 2 January 2018): these are intended to enable the creation of

locally-led New Town Development Corporations, as a delivery vehicle for new garden towns and cities.

- The Department for Business, Energy & Industrial Strategy is seeking views on amendments to the *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* for domestic properties (discussed further below).

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

Communities and Local Government Committee: Effectiveness of Local Authority Overview and Scrutiny Committees

- The Committee has issued the report from its inquiry into the effectiveness of local authority overview and scrutiny committees. The Committee recommends measures to strengthen the independence of overview and scrutiny committees, and increased scrutiny of combined authorities, Local Economic Partnerships (LEPs) and arm's length bodies.

Environmental Audit Committee: Sustainable Development Goals

- The Government has issued its response to the Committee's report on Sustainable Development Goals in the UK.

Policy

National Planning Policy Framework (NPPF)

- In an appearance before the Communities and Local Government Committee (as referred to above), the Housing Minister and his team confirmed that the revised NPPF will be published for consultation early in 2018 (alongside other publications such as responses to previous consultations), with the final document published in April/May.

National Policy Statement: Water Resources

- The Department for Environment, Food & Rural Affairs has launched a public consultation on the development of a National Policy Statement (NPS) for water resources (to enable projected demand to be met) and the types of infrastructure to which it will apply (closing date 22 December).
- The consultation seeks views on three issues:
 - The three principles to be used to guide the detailed development of the NPS
 - Proposals to change the types and sizes of new water supply infrastructure that are defined as 'nationally significant' in the Planning Act 2008
 - The scoping reports that describe the approach to be taken for the Assessment of Sustainability and Habitats Regulations Assessments that accompany the NPS.

- Responses to the consultation will inform the development of the NPS and final proposals to amend the definitions in the Planning Act 2008; there will be further consultation on a full draft of the NPS in 2018.

National Policy Statement: Nuclear

- The Department for Business, Energy & Industrial Strategy has launched a consultation on a proposed process and criteria to designate potentially suitable sites as part of a new National Policy Statement (NPS) for nuclear power (above 1GW single reactor capacity, for deployment between 2026 and 2035). The closing date is 15 March 2018.
- The current national planning policy context for nuclear power is to be found in the overarching Energy NPS (EN-1), read in conjunction with the Nuclear Power NPS (EN-6: Volume I and Volume II). EN-6 lists sites capable of deployment before the end of 2025.
- Further nuclear projects are planning to make applications for Development Consent Orders in due course. The Government therefore intends to publish a new, standalone NPS for Nuclear Power Generation, setting the framework for development consent decisions on applications for new nuclear power stations post-2025. The current consultation is the first step towards this new NPS, and focuses on the process and criteria to designate potentially suitable sites. The proposed strategic criteria for the selection of sites are based on those used in the original Strategic Siting Process, and include a criterion on cultural heritage. A scoping report on the Appraisal of Sustainability (AoS) for the proposed new NPS accompanies the consultation. There will be further consultation in due course on a draft NPS.

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.
- A revised edition of the *Good Practice Advice in Planning note 3 (GPA3): The Setting of Heritage Assets* will be published by the end of December, and made available here. The new GPA3 (which replaces the 2015 edition, as well as *Seeing the History in the View*) reinforces the existing text on the heritage interest in views, confirming that views may contribute to the significance of heritage assets, and that views are closely related to setting. Further changes include more discussion of the assessment of views, and additional text on landscape issues in light of recent planning cases.

Forthcoming Historic England Advice

- Following earlier public consultation, the final versions of *GPA4: Enabling Development* and an update of the advice on curtilage (in the form of a HEAN) will be issued in coming weeks.
- A revised edition of *HEAN 1: Conservation Areas: Designation, Appraisal and Review* will be published shortly for consultation.
- Consultation on a further HEAN, *Neighbourhood Planning and the Historic Environment*, has recently closed; the advice will be issued in the New Year, as will a final version of the updated national and regional *Streets for All*. An updated version of *Conservation Principles* has also been issued for consultation (closing date 2 February).

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
 - [Heritage Practice](#): training courses for heritage specialists in technical subjects and techniques. Four new courses will be launched in January 2018
 - [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.

Marine Planning

- The Marine Management Organisation (MMO) has announced an engagement period on four emerging marine plans (29 January to 29 March 2018). The engagement will focus on marine plan area visions, draft options to address issues in each marine plan area, and the next steps in marine planning. Information on how to book places at the following engagement events will be made available in early January:
 - [North West marine plan area](#)
 - Whitehaven: 7 February 2018
 - Liverpool: 8 February 2018
 - [South East marine plan area](#)
 - Chatham: 21 February 2018
 - London: 22 February 2018
 - [South West marine plan area](#)
 - Newquay: 6 March 2018
 - Plymouth: 7 March 2018
 - Weston-Super-Mare: 8 March 2018
 - [North East marine plan area](#)
 - Berwick-upon-Tweed: 20 March 2018
 - Newcastle: 21 March 2018
 - Middlesbrough: 22 March 2018

Infrastructure

Infrastructure & Projects Authority

- The Infrastructure & Projects Authority (IPA) has published the 2017 update to the [National Infrastructure and Construction Pipeline](#). The update provides an update on the progress of national priority projects identified in the *National Infrastructure Delivery Plan (NIDP) 2016-2021*, and sets out the country's record of infrastructure delivery since 2010.

Local Infrastructure Rate

- HM Treasury has issued its [response](#) to the consultation on the local infrastructure rate, along with details of the bidding process. As confirmed in the Autumn Budget, the Government has confirmed that it will lend local authorities in England up to £1 billion at a

new discounted interest rate, accessible for three years to support infrastructure projects that are high value for money.

HS2 Phase 2a (West Midlands-Crewe): Environmental Statement

- HS2 has issued a summary of the responses submitted to the consultation on the environmental statement for the HS2 Phase 2a route between the West Midlands and Crewe.

WebTAG: Understanding and Valuing Impacts of Transport Investment Wider Economic Impacts

- ‘WebTAG’ is the Department for Transport’s guidance on capturing the wider economic impacts of transport investment. Further to a consultation on amendments to that guidance in September 2016 (which sought views on proposed changes to the estimation of wider economic impacts in transport appraisal), the Department for Transport has now issued its response. The objective of the emerging guidance (which will become definitive in May 2018) is to ensure that users are able to better communicate analysis, and robustly appraise economic impacts in transport business cases.

5G

- DCMS has issued a call for views on 5G Network Deployment Pilots (closing date 24 January 2018), along with an update to the government’s 5G Strategy (which summarises the progress made by the Government to deliver against the goals outlined in the Spring 2017 5G Strategy). The call for views is part of the 5G Testbeds and Trials Programme, itself part of the 5G Strategy.
- Views are sought on the appropriate scale and scope of deployment pilots in order to have impact, the timescales over which they should be delivered, the amount of public funding contribution which would be appropriate and the method by which funding should be allocated.
- Deployment challenges relating to planning and street works are specifically addressed: ‘network deployment pilots could include seeking to identify and help address the regulatory, planning, building control, permitting and other issues that are specific to the UK as well as providing the opportunity to pilot deployments in built environments in the UK’. More specifically, deployment pilots could be used to:
 - Explore ways of deploying small cell networks at scale
 - Look at innovation in the design of 5G network equipment and associated street furniture that could minimise the impact on the built environment
 - Establish best practice in permission for street works, for example in terms of civil works for the installation of fibre infrastructure and power or road closures associated with installing or accessing street furniture
 - Explore local authority schemes to speed up planning and street works approvals, testing solutions identified by the BBTF.

Future Telecoms Infrastructure Review: Call for Evidence

- DCMS has issued a call for evidence on market and policy models to support investment in future telecoms infrastructure (closing date 30 January 2018). The Future Telecoms Infrastructure Review will assess whether any additional policy interventions are needed to create the conditions for long term investment in world-class digital connectivity that is

seamless, reliable, long-lasting and widely available. Submissions will inform a report, to be published in Summer 2018, which will identify options available to Government to support an ‘attractive and stable environment for investment in full fibre and 5G technologies’.

Other Initiatives

Industrial Strategy

- Following the [Green Paper consultation](#) in January 2017, the Government has now published the Industrial Strategy White Paper: *Building a Britain Fit for the Future*. It sets out a long-term plan to boost the productivity and earning power of people throughout the UK, with a focus on ‘5 foundations of productivity’:
 - Ideas: the world’s most innovative economy
 - People: good jobs and greater earning power for all
 - Infrastructure: a major upgrade to the UK’s infrastructure
 - Business environment: the best place to start and grow a business
 - Places: prosperous communities across the UK.
- The White Paper notes that ‘the United Kingdom has a rich heritage with world-leading businesses located around the country’, and that ‘our cities, towns and rural areas have competitive advantages that will be essential to shaping our economic future’.
- Specific proposals include:
 - Introduction of Local Industrial Strategies
 - Continued support for the Northern Powerhouse and Midlands Engine, and locally-driven partnerships, proposals and reforms
 - New policies to ‘improve skills in all parts of the country, create more connected infrastructure, back innovation strengths, ensure land is available for housing growth, and strengthen our cultural assets’
 - Recognition that ‘investment in culture, sport and heritage can contribute to positive economic and social outcomes’
 - Development of an ‘agile approach to deregulation’
 - Support for Sector Deals
 - A commitment to ‘work not just to preserve, but to enhance our natural capital’
 - A review of the roles and responsibilities of Local Enterprise Partnerships, with a view to bringing forward ‘reforms to leadership, governance, accountability, financial reporting and geographical boundaries’ and ‘set out a more clearly defined set of activities and objectives in early 2018’.

Basement Developments and the Planning System

- DCLG has published a [summary of the responses received to its 2016 call for evidence on basement developments and the planning system](#) (Historic England’s submission may be found [here](#)). In its response, the Government notes that the call for evidence highlighted a number of concerns about the impact of basement developments in certain areas, and

provided examples of existing and emerging good practice by local authorities in using the existing tools available to them in the planning system to mitigate these local impacts. The Government concludes that good practice includes the introduction of local plan policies and Article 4 directions to control basement development, and suggests that local planning authorities whose areas are affected by basement developments may wish to consider similar approaches.

Environment Agency Charging

- The Environment Agency has issued a consultation on charging proposals, including changes to the way they charge for planning advice (closing date 26 January 2018).

Shale Wealth Fund

- HM Treasury has issued the Government's response to the August 2016 consultation on the Shale Wealth Fund (to consist of up to 10% of tax revenues arising from shale gas production, to be used for the benefit of communities which host shale sites). The Fund 'could deliver up to £1 billion of funding', and will 'ensure that the benefits of shale developments are directed to the communities that host them'. The Government's response notes that the most popular local priorities for the Shale Wealth Fund to support included heritage projects.
- The Government's response sets out a clear set of policy principles that will be central to the future development of the scheme, including 'investment in the local natural environment', and making a contribution to the local community 'by providing funding for community groups and the development of community assets, such as libraries or sports facilities'.

Energy Performance Certificates

- DCLG has published updated guidance on the Energy Performance Certificates (EPC) exemption for historic buildings:
 - *A Guide to Energy Performance Certificates for the Marketing, Sale and Let of Dwellings*: guidance on how to apply the requirements of the Energy Performance of Buildings Directive to domestic dwellings, to help landlords and sellers understand their responsibility for making EPCs available when renting out or selling a domestic property, and to outline what tenants and buyers should expect to receive when they begin the process of renting or buying a domestic property.
 - *A Guide to Energy Performance Certificates for the Construction, Sale and Let of Non Dwellings*: guidance intended to help sellers, landlords, building managers and occupiers, builders and their agents and buyers and tenants of non-dwellings to understand the operation of the relevant secondary legislation, what their responsibilities are, and when EPCs are required.
- The Department for Business, Energy & Industrial Strategy is seeking views on amendments to the *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* for domestic properties (closing date 13 March 2018). The proposals would amend the domestic minimum level of energy efficiency regulations to introduce a capped landlord financial contribution element. The minimum energy efficiency standard regulations (which take effect from April 2018), require private landlords to ensure their properties meet a minimum energy efficiency standard of Energy Performance Certificate (EPC) Band E, or get as close to

it as is possible using available third party funding. Under the minimum standard regulations, landlords of these properties must take the necessary steps to improve the energy efficiency of their properties the first time they re-let their property after April 2018, provided that improvements can be made at ‘no cost to the landlord’.

Current Consultations

- Defra’s [consultation](#) on the development of a National Policy Statement (NPS) for water resources (closing date 22 December).
- DCLG’s consultation on draft [New Towns Act 1981 \(Local Authority Oversight\) Regulations](#) (closing date 2 January 2018).
- The National Infrastructure Commission’s [consultation](#) on its vision and priorities for UK infrastructure over the next 30 years (closing date 12 January 2018).
- DCMS’s call for views on [5G Network Deployment Pilots](#) (closing date 24 January 2018).
- The Environment Agency’s [consultation](#) on charging proposals (closing date 26 January 2018).
- DCMS’s [call for evidence](#) on market and policy models to support investment in future telecoms infrastructure (closing date 30 January 2018).
- Historic England’s consultation on an updated version of [Conservation Principles](#) (closing date 2 February 2018).
- The Department for Business, Energy & Industrial Strategy’s consultation on amendments to the [Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#) for domestic properties (closing date 13 March 2018).
- The Department for Business, Energy & Industrial Strategy’s [consultation](#) on a proposed process and criteria to designate potentially suitable sites as part of a new National Policy Statement (NPS) for nuclear power (closing date 15 March 2018).
- The Marine Management Organisation’s engagement period (29 January to 29 March 2018) on four emerging marine plans ([North West marine plan](#), [South East marine plan](#), [South West marine plan](#), and [North East marine plan](#)).

Recent Consultation Responses

- Historic England’s response to the Department for Transport’s consultation on the [revised draft Airports National Policy Statement](#) 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)