



## Planning Bulletin: July 2018

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

### Government Departments

#### *Ministry of Housing, Communities and Local Government*

- Following Dominic Raab's appointment as Secretary of State for Exiting the European Union, Kit Malthouse has been appointed to replace him as Minister of State for Housing.

#### *Department for Digital, Culture, Media and Sport*

- Further to Matt Hancock's appointment as Secretary of State for Health, Jeremy Wright has been appointed to replace him as Secretary of State for Digital, Culture, Media and Sport.

### Legislation and Matters Arising

#### *Emerging Legislation*

#### *Government Bills*

- *European Union (Withdrawal) Act*: the Act - which seeks to repeal the European Communities Act 1972 and make other provision in connection with the withdrawal of the United Kingdom from the EU – received Royal Assent on 26 June.
- *High Speed Rail (West Midlands - Crewe) Bill*: the hybrid Bill makes provision for a railway between a junction with Phase One of High Speed 2, near Fradley Wood in Staffordshire, and a junction with the West Coast Main Line near Crewe in Cheshire. Second reading took place on 30 January; a date for committee stage has not yet been scheduled. Explanatory notes are available [here](#).
- *Automated and Electric Vehicles Bill*: the Bill makes provisions about automated vehicles and electric vehicles, including in relation to charging points. The House of Commons accepted all the amendments proposed by the House of Lords so the Bill will now proceed to Royal Assent.
- Another Bill mentioned in the Queen's Speech which is of potential interest is the Agriculture Bill (to support UK farmers and protect the natural environment). The Bill will allow the delivery of many of the reforms set out in Defra's consultation on proposals for future agricultural policy in England (*Health and Harmony: the Future for Food, Farming and the Environment in a Green Brexit*).
- Defra has launched a consultation on the development of an *Environmental Principles and Governance Bill* (closing date 2 August). The Bill will mark the creation of a new statutory and independent environmental watchdog to hold government to account on environmental ambitions and obligations once the UK has left the EU.

### *Private Members' Bills*

- *Bat Habitats Regulation Bill*: the Bill makes provision to enhance the protection available for bat habitats in the vicinity of a building site, and to limit the protection for bat habitats in buildings used for public worship. Second reading took place on 27 April; committee stage has yet to be scheduled. A briefing is available here.
- *Bat Habitats Regulation (No. 2) Bill*: the Bill makes provision to enhance the protection available for bat habitats in the non-built environment and to limit the protection for bat habitats in the built environment where the presence of bats has a significant adverse impact upon the users of buildings. The Bill was presented to Parliament on 5 September; second reading is expected on 26 October.
- *Equality Act 2010 (Amendment) (Disabled Access) Bill*: the Bill amends the *Equality Act 2010* to improve access to public buildings by introducing six- and twelve-inch rules for step-free access. Second reading took place on 24 November, 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.
- *Planning (Agent of Change) Bill*: the Bill requires specified planning controls in relation to developments likely to be affected by existing noise sources. It was introduced on 10 January, and is expected to have its second reading on 26 October.
- *Green Belt (Protection) Bill*: the Bill provides for the establishment of a national register of Green Belt land in England, the restriction of the ability of local authorities to de-designate Green Belt land, and provision about future development of de-designated Green Belt land. First reading took place on 5 September 2017; second reading is scheduled for 23 November.
- *Clean Air Bill*: the Bill requires the Secretary of State to set, measure, enforce and report on air quality targets; to make provision about mitigating air pollution; to make provision about vehicle emissions testing; and to restrict the approval and sale of vehicles with certain engine types. First reading took place on 22 November 2017; second reading is scheduled for 26 October.

### *Secondary Legislation*

- *The New Towns Act 1981 (Local Authority Oversight) Regulations*: further to consultation in December 2017, seeking views on draft *New Towns Act 1981 (Local Authority Oversight) Regulations*, MHCLG has laid in Parliament final Regulations, amended to reflect views expressed in this consultation process. MHCLG has also published a summary of the consultation responses received (along with its own response to them). The regulations (due to come into force shortly) will provide the detailed provisions which enable the creation of New Town Development Corporations that are overseen by the local authority or authorities covering the area designated for the new town. The main changes made in the final Regulations are that the aims of the Oversight Authority with regard to long-term stewardship of New Towns have been broadened, by including the additional aims of planning for the participation of the community and legacy arrangements. Additionally, the requirement for HM Treasury consent has been removed for borrowing by the locally led New Town Development

Corporation in excess of £100 million. MHCLG has also issued *Guidance on the New Towns Act 1981 (Local Authority Oversight) Regulations 2018*, which sets out how the government expects the process of setting up a locally-led new town development corporation to work.

#### *Heritage Planning Case Database*

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

#### **Committees**

##### *Housing, Communities and Local Government Committee: Planning Guidance on Fracking Inquiry*

- The Committee has published its report into the adequacy of planning guidance on fracking and of the planning regime that handles such applications. The main conclusions and recommendations in the report are as follows:
  - The definition of fracking used in the planning context should not be liquid or volume based
  - The revised National Planning Policy Framework (NPPF) should clarify and consolidate the Government's fracking policy
  - The Government should clarify the process by which fracking planning guidance documents are updated
  - An online 'one-stop shop' for all fracking guidance and policy documents should be created
  - Mineral Planning Authorities should be free to adapt their Local Plans as they see fit as long as they do not arbitrarily restrict fracking developments
  - The proposed Shale Environmental Regulator should be renamed and repurposed as the Shale Information and Coordination Service
  - Fracking planning applications should not be brought under the Nationally Significant Infrastructure Projects regime nor acquire permitted development rights
  - The Shale Support Fund for Mineral Planning Authorities should be better resourced and caps should be increased on individual bids
  - The planning brokerage system should extend its support beyond Mineral Planning Authorities and developers to members of the public.

#### **Policy**

##### *Airports National Policy Statement*

- The Department for Transport has published the *Airports National Policy Statement*. It sets out:
  - The need for additional airport capacity in the south-east of England
  - Why the Government believes that the need is best met by a north-west runway at Heathrow Airport

- The specific requirements that the applicant for a new north-west runway will need to meet to gain development consent.
- The *Airports National Policy Statement* was subsequently approved in a parliamentary vote on 5 June.
- The Government has also published its response to the two 2017 consultations on drafts of the Airports National Policy Statement. Historic England responded to both the February and December consultations.

#### *Road Haulage Written Ministerial Statement*

- The Department for Transport issued a Written Ministerial Statement on road haulage on 21 May. Relating for the most part to ‘Operation Stack’, it also advised that the Government will be taking three specific steps to address wider lorry parking issues:
  - Highways England have begun to analyse their landholdings in order to identify sites with the potential to be developed into lorry parks, and will in future give increased priority to the provision of lorry parking across the Strategic Road Network.
  - The Transport and Planning Ministers have written to local planning authorities to draw their attention to the results of a national lorry parking survey, which show a strategic national need for more lorry parking and highlight shortages in specific areas. In addition, Highways England is being asked to develop its existing role as a statutory consultee on all proposed developments that are on or that directly affect the strategic road network, to assist local authorities in actively identifying areas of lorry parking need and potential solutions.
  - The Department for Transport will consider further steps to make it easier for local authorities to take enforcement action against hauliers who park inappropriately.

## **Guidance**

### *Planning Policy Guidance*

- The following sections of the Planning Policy Guidance (PPG) website were amended on 15 June:
  - Consultation and pre-decision (clarity on the steps to be taken by the local planning authority to involve members of the public on planning applications)
  - Fees for planning applications (reflects new, higher fees)
  - Making an application (reference added to the General Data Protection Regulation, and minor amendments relating to local authorities’ own applications)
  - Permission in principle (the changes primarily reflect the introduction of the direct application route on 1 June, but also reduce the emphasis on PiP being housing-only, add text on the way in which parts of larger sites should be addressed, and confirm that there is a right of appeal in relation to PiP by application)
  - Use of planning conditions (addresses the restrictions on pre-commencement conditions which come into force from 1 October)
  - When is permission required? (reflects the recent amendments to permitted development rights).

## *Guidance on the New Towns Act 1981 (Local Authority Oversight) Regulations 2018*

- MHCLG has issued *Guidance on the New Towns Act 1981 (Local Authority Oversight) Regulations 2018*, which sets out how the government expects the process of setting up a locally-led new town development corporation to work (see also Secondary Legislation, above). The guidance aims to support understanding of the Regulations, setting out how the Government expects the process of setting up a locally-led new town development corporation (LLNTDC) to work, clarifying other issues, and mapping out the process of designating a new town.

### **MHCLG Letters to Chief Planning Officers**

- MHCLG has issued another letter to *Chief Planning Officers* (issued in June but dated 30 May 2018), providing an update on financial support for neighbourhood planning in 2018/19.

### **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 HEAN on neighbourhood planning and the historic environment will be published in coming weeks, as will a revised edition of *HEAN 1: Conservation Areas: Designation, Appraisal and Review*.
- A draft of a new HEAN on World Heritage will also be published shortly for consultation.

### **Training**

- Historic England provides *training and guidance* to help local authorities, heritage professionals, owners and voluntary organisations look after England's heritage. Training currently available covers a wide range of topics, many directly linked to planning matters and Historic England advice:
  - *Historic Environment Local Management (HELM)*: training on managing the historic environment for local authorities, regional agencies and national organisations. The new training programme for the Spring/Summer of 2018 is now published. Visit the *webpages* for details of courses on:
    - Farm Buildings: Policy & Practice
    - Understanding & Managing World Heritage Sites
    - Unlocking Traditional Buildings
    - Managing Local Authority Heritage Assets
    - Coastal Development Projects and the Historic EnvironmentFurther events on the NPPF are planned for the Autumn.
  - *Heritage Practice*: training courses for heritage specialists in technical subjects and techniques. Courses available are: *Understanding Historic Buildings*, *Measured Survey for Cultural Heritage Summer School*, and an *Introduction to Landscape Archaeology*.

- Online training: webinars and other resources to help supplement the short course training opportunities and make them more widely available. The online training includes recordings of webinars and other, longer courses to work through.
- Essentials training: this programme, delivered in partnership with Locus Consulting, covers the building blocks of historic environment management and explores key concepts, methodologies, legislation and policies that govern how the historic environment is understood, protected and managed through the planning system. It is aimed mainly at planners within local authorities.

## Historic England Planning Research

- Historic England’s Strategic Research and Partnerships Team has produced an assessment of the potential impact of Brownfield Registers and the resultant development on the historic environment. This is in response to the Government’s push for the use of brownfield land in helping to address the housing shortage in England. Using Leeds city centre as a case study, the assessment evaluates the likely scale of brownfield development, and its potential impact on historic fabric and places. There is analysis of the opportunities for enhanced understanding of the significance and value of those places selected for potential development. The report also frames the scope of Historic England’s potential response and engagement with the development proposed.

## Infrastructure

### *National Infrastructure Assessment*

- The National Infrastructure Commission (NIC) has published its first *National Infrastructure Assessment*. It builds on the analysis in the Commission’s interim report, *Congestion, Capacity, Carbon: Priorities for National Infrastructure*, to make recommendations for how the identified infrastructure needs and priorities of the country should be addressed. Its recommendations cover digital infrastructure, carbon reduction, roads, city growth, reducing the risks of drought and flooding, and the importance of design.
- The Government will be required to formally respond to the recommendations made, within six to twelve months. Its response will set out which recommendations it has agreed to, any further work required to take forward the recommendations, and alternative proposals for any recommendations it has not agreed.
- Recommendations which the Government agrees should be taken forward will become known as ‘endorsed recommendations’. As noted in the Government’s framework document:
  - Where the Government is responsible for delivering endorsed recommendations, the Government’s endorsement will be a statement of Government policy.
  - Where recommendations have wider implications for the planning regimes, the Government will highlight any further steps needed to confirm the endorsed recommendation as planning policy (the draft NPPF suggests that endorsed recommendations ‘may be material when preparing plans or deciding applications’).

### *Transport Appraisal and Modelling Strategy: Informing Future Investment Decisions*

- The Department for Transport’s appraisal framework aims to provide as full a view as possible about the wide range of impacts transport has on the economy, environment and society. DfT is seeking views on the main themes and priorities for developing the

evidence base underpinning its appraisal guidance (WebTAG) over the next 5 years, as well as on how the guidance can be made more user friendly (closing date 15 October).

### *The Road to Zero*

- DfT has published *The Road to Zero: Next Steps Towards Cleaner Road Transport and Delivering our Industrial Strategy*. Its 'core mission' is to put the UK at the forefront of the design and manufacturing of zero emission vehicles, and for all new cars and vans to be effectively zero emission by 2040. Policies in the strategy include:
  - Taking powers through the *Automated and Electric Vehicles Bill* to ensure that chargepoints are widely available
  - Ensuring that new homes, where appropriate, have a chargepoint available (to be the subject of a forthcoming consultation)
  - All new street lighting columns are to include charging points, where appropriately located, in areas with current on-street parking provision
  - Consulting in summer 2018 on a proposal to increase the height limit for the permitted development right in England for the installation of electric vehicle chargepoints in designated off-street parking spaces
  - Ensuring local planning policies incorporate facilities for charging electric vehicles via the National Planning Policy Framework
  - Consulting on amending Building Regulations to require relevant charging provision in new non-residential buildings.

### **Other Initiatives**

#### *Cultural Development Fund*

- Following a commitment in the *Industrial Strategy*, DCMS have launched a £20 million Cultural Development Fund to boost culture, heritage and creative industries across England. Areas will be able to bid for up to £7 million for a number of projects in a certain area to help regeneration, create jobs and maximise the impact of investment. The investment will help to grow local economies, increase access to arts, heritage and the creative industries, and use creativity as a catalyst to make places more attractive to live, work and visit.
- Calls for expressions of interest will run from 3 July to 15 August, with full applications sought from 9 September to 19 October.

#### *NP11: Northern Powerhouse LEPs Board*

- The Chairs of each of the eleven Local Enterprise Partnerships (LEPs) in the North of England are to form a new government-funded board called the 'NP11', in support of the Northern Powerhouse. The NP11 – described as a modern 'Council for the North' – will report to the Ministry of Housing, Communities and Local Government on a quarterly basis.

#### *Independent Review of Build Out Rates: Draft Analysis*

- Following the interim review published in March, Sir Oliver Letwin has now issued a 'draft analysis' document from his review of build out of planning permissions.
- The next stage in the review is the issue of policy options, by the time of the Autumn Budget.

### *Independent Review into Planning Appeal Inquiries*

- Bridget Rosewell has been appointed chair of the Government's forthcoming review of planning appeal inquiries, the aim of which is to reduce the time it takes to determine inquiries established to resolve disputed planning proposals, whilst ensuring quality decision making (the terms of reference are available here).
- The Review expects to issue a Call for Evidence over the summer, and will recommend reforms by the end of the year which produce swifter decisions.

### *Community Housing Fund*

- The Government has launched a £163 million Community Housing Fund, which aims to support an increase in housing supply in England by increasing the number of additional homes delivered by the community-led housing sector. Under phase 1 of the Fund, Homes England is making grants available to eligible organisations to support applications for revenue funding for capacity building and predevelopment costs, and capital bids for associated infrastructure costs which will support community housing development. Full details of phase 1, and how to bid, are published in the Community Housing Fund prospectus.

### **Current Consultations**

- The TCPA's consultation on the interim report for the Raynsford Review of Planning (closing date 16 July).
- Defra's consultation on the development of an *Environmental Principles and Governance Bill* (closing date 2 August).
- Defra's consultation on a Clean Air Strategy (closing date 14 August).
- DfT's consultation on WebTAG (closing date 15 October).

### **Recent Consultation Responses**

- Historic England's response to BEIS's consultation on amending the *Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations* is available here.

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## 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)