



Planning Bulletin November 2023

This monthly note highlights some of the recent and forthcoming developments in the world of planning, from a heritage perspective. 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.

Jobs

- Historic England's Planning and Heritage Reform team is currently recruiting for two roles – a [part-time National Planning Policy Advisor](#) and a [full-time National Senior Planning Policy Advisor](#). Both roles will contribute towards Historic England's advocacy for and advice on planning and heritage protection matters, as well as responding to government consultations and supporting the delivery of planning reform. Applications for both roles close on 3 December.

Departmental Appointments

- On 13 November, a series of [new ministerial appointments were announced](#). These include:
 - [Lee Rowley MP](#) (North East Derbyshire) appointed as Minister of State (Minister for Housing) in the Department for Levelling Up, Housing and Communities. He has previous experience as housing minister, having held the role during former prime minister Liz Truss's tenure.
 - [Jacob Young MP](#) (Redcar) confirmed as Parliamentary Under Secretary of State in the Department for Levelling Up, Housing and Communities (appointed 18 September). Amongst other things, he will have responsibility for coastal communities, high streets, towns, commercial property and regeneration (brownfield land).



Legislation and Matters Arising

Legislation

Levelling-up and Regeneration Act

- After receiving Royal Assent on 26 October the [Levelling-up and Regeneration Act](#) (LUR Act) has now been published. The Explanatory Notes – which are not part of the Act but help in understanding it – are yet to be published.
- Implementation of the Act will be phased with matters coming into force either on 26 October, two months after Royal Assent (i.e. 26 December), or a date yet to be specified by the Secretary of State.
- Implementation of some of the provisions is currently understood to be:

26 December

- **Heritage specific provisions which come into force:**
 - Extension of the Blue Plaques scheme across England (Section 240).
 - The [Local Government Act 1985](#) (paragraph 4, schedule 2) is amended to enable the Commission (Historic England) to provide and erect a commemorative plaque, tablet or sign, on a house or building or place in any area in England.
 - Clarification of the powers of parish councils regarding funding (Section 82).
 - Inserts a new section 19A into the [Local Government Act 1894](#) to clarify the ability of parish councils to consider offering grants to places of worship for community projects. This provision only relates to parish (and not community) councils.
- **Other provisions affecting the historic environment:**
 - Environmental Outcomes Reports (EORs) (Sections 152- 167).
 - EORs will be a new system of environmental assessment and are proposed to replace Strategic Environmental Assessment and Environmental Impact Assessment. The new provisions found in LUR Act enable the Secretary of State to make regulations to set “specified environmental outcomes” against which relevant consents and plans will be assessed in relation to environmental protection. The detail regarding these assessments will be set out in subsequent legislation. The government’s response to the recent [EOR consultation](#) (closed 6 June) is still awaited.

Dates yet to be specified

- Heritage specific provisions:
 - Special regard to certain heritage assets in exercise of planning functions (Section 102).
 - When in force, this will require the local planning authority or the Secretary of State to have “special regard to the desirability of preserving or enhancing the asset or its setting” when considering whether to grant planning permission, or permission in principle, for development in England that affects a relevant asset¹ or its setting. This provision will be through amendments to the TCPA 1990.
 - Temporary stop notices in relation to listed buildings (Section 103).
 - This will enable a local planning authority in England to issue a temporary stop notice in relation to a listed building if works that contravene section 9 of that Act (i.e. unauthorised works to a listed building) have been, or are being, executed to a listed building in their area. This provision will be through amendments to the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) (PLBCAA 1990).
 - Urgent works to listed buildings: occupied buildings and recovery of costs (Section 104).
 - This provision would enable local planning authorities to carry out urgent works to a building which is occupied and in use; it also provides for recovery of expenses being noted as a local land charge. These provisions will be through amendments to the PLBCAA 1990.
 - Removal of compensation for building preservation notices (Section 105).
 - This provision removes compensation in relation to building preservation notices, however before serving a building preservation notice, the LPA will be required to consult Historic England . This provision will be through amendments to the PLBCAA 1990.
 - A new requirement to maintain a Historic Environment Record (Section 230) is introduced by LUR Act.

¹ Relevant assets comprise scheduled monuments, registered parks and gardens, historic battlefields, protected wrecks and World Heritage Sites.

- Other provisions affecting the historic environment:
 - National Development Management Policies (NDMPs) and the limiting of local plans to local policy matters, with a new framework for the latter's preparation (Sections 92 – 101 and schedules 6, 7 and 8).
 - Once introduced, NDMPs would be designated by the Secretary of State, for the development or use of land in England. NDMPs would need to be consulted upon, and the Secretary of State must have regard to the need to mitigate and adapt to climate change in preparing or modifying such a policy. If there is a conflict between a Local Plan and a NDMP, then the NDMP will take precedence. This provision requires the amendment of the [Planning and Compulsory Purchase Act 2004](#) (PCPA 2004).
 - Loss of the 'duty to co-operate' and its replacement with an alignment policy (Schedule 7).
 - No details on the new alignment policy have been published to date but a [letter published by the then Housing Minister, Rachel Mclean, in June 2023](#) stated that it would be subject to consultation as part of the future changes to the NPPF. This provision requires amendment of the PCPA 2004.
 - A requirement for local planning authorities to have an authority wide design code in place (Section 15F, schedule 7).
 - The replacement of Section 106 and the Community Infrastructure Levy regimes with a new Infrastructure Levy (Sections 137 – 140 and schedule 12).
 - Further regulations are required for this provision and the recent technical [consultation on the Infrastructure Levy](#) (closed 9 June) stated that it will be introduced through a phased 'test and learn' process over several years. A response to the consultation is awaited.
 - Changes to compensation for compulsory purchase orders (Sections 180 – 190 and schedule 19).
 - This provision aims to give local authorities greater confidence that they have the power to acquire land by compulsion to support regeneration schemes. It requires the amendment of legislation including the TCPA 1990, the [Acquisition of Land Act 1981](#) and [Compulsory Purchase Act 1965](#).
 - New powers for local planning authorities to instigate auctions to take leases on vacant high street properties (Sections 191 – 218).
 - This provision requires further regulations. The recent [consultation on High Street Rental Auctions](#) (closed 7 July) gave no timescale for introduction and a response to that consultation is awaited.



The Energy Act

- After receiving Royal Assent on 26 October the [Energy Act](#) has been published, along with the accompanying [Explanatory Notes](#). The Energy Act 2023 is an extensive piece of legislation, which includes measures to improve the resilience and reliability of energy systems across the UK, support the delivery of the UK's climate change commitments, and reform the UK's energy system.
- The Energy Act does not include any specific historic environment provisions but, amongst other things it introduces (section 291) 'strategic compensation' for adverse environmental effects arising from offshore wind activity and (section 292) the creation of a marine recovery fund to support delivery of this. Implementation of the Energy Act will also be phased.

Emerging Legislation

Government Bills

- On November 7, Parliament started a new session. The government's legislative programme was announced in the [King's Speech](#), which was accompanied by [briefing notes](#). A total of 21 bills were referenced, six of which are carried over from the previous session of Parliament. Two of the carried over bills potentially have heritage/planning implications.

Bills Carried Over

High Speed Rail (Crewe to Manchester) Bill

- The [High Speed Rail \(Crewe to Manchester\) Bill](#) is a hybrid bill authorising the building of HS2 between Crewe and Manchester. Whilst the [government has announced it will not to deliver the Birmingham to Manchester section of HS2](#) covered by the Bill, it has apparently been retained as a vehicle for some [Network North](#) projects.

Holocaust Memorial Bill

- The [Holocaust Memorial Bill](#) aims to facilitate the building of the Holocaust Memorial next to the Houses of Parliament by enabling the Secretary of State to remove restrictions that prevent the construction of new buildings in Victoria Tower Gardens, Westminster. Since the 'carry-over motion' was agreed by Commons and Lords, the Bill has had its first and second reading in the Commons and Committee stage is yet to be announced.



New Bills

The Offshore Petroleum Licensing Bill

- The [Offshore Petroleum Licensing Bill](#) will require the North Sea Transition Authority to invite applications for licences annually rather than the current discretionary basis. The Bill was introduced in the Commons on 8 November and no date has been set for its second reading.

The Rail Reform Bill

- A draft Rail Reform Bill was announced in the King's Speech on 7 November, however details have yet to be published. The [briefing notes for the Speech](#) indicate that this Bill will enable the creation of a new arm's length body - Great British Railways – and help deliver the [2021 Plan for Rail](#). The Bill is to undergo pre-legislative, which is intended to facilitate a swifter passage through Parliament when the legislation is brought forward.

Private Members' Bills

- Private Members' Bills ballots for the new parliamentary session have taken place. You can find out more about these Bills [here](#).

House of Commons

- The House of Commons [Private Members Bill Ballot](#) took place on 16 November. The successful MPs will introduce their bills on 6 December, and thirteen Fridays will be allocated to debate. The top seven Bills are usually guaranteed a full day of debate.

House of Lords

- The House of Lords [Ballot](#) took place on 9 November. The drawn bills include the Heritage Trees Bill put forward by Baroness Young of Scone. It is due to be introduced on 5 December. The full text of each bill is published after its introduction.

Committees

Built Environment Committee

- The government's response to the [Built Environment Committee's](#) inquiry [into the Impact of Environmental Regulations on Development](#) is due on 5 December.



Environment, Food and Rural Affairs Committee

- In September the [Environment, Food and Rural Affairs Committee](#) opened an inquiry into Urban Green Spaces, exploring the ecological, environmental and other benefits of green space. The call for evidence has now closed and dates for evidence sessions are awaited.

Environmental Audit Committee

- The [Environmental Audit Committee](#) is currently running ten inquiries, including:
 - [The Role of Natural Capital in the Green Economy](#). The [written evidence to this inquiry](#) has been published and includes a [submission by Historic England](#).
 - [Heat Resilience and Sustainable Cooling](#). The [written evidence to this inquiry](#) has been published and includes a [submission by Historic England](#). The [transcripts of two oral evidence sessions](#), in September and October respectively, have also been published.

Levelling Up, Housing and Communities Committee

- The [Levelling Up, Housing and Communities Committee](#) (LUHCC) opened an [inquiry into Children, Young People and the Built Environment](#). The inquiry is looking at how better planning, building and urban design in England could enhance the health and well-being of children and young people, while also benefitting the wider population. The inquiry is accepting evidence until 2 January 2024.
- On 2 February the LUHCC opened an [inquiry into Reforms to National Planning Policy](#). The government response to the findings of this inquiry (published in July) was due on 14 September but is delayed.

Public Accounts Committee

- The [Public Accounts Committee](#) (PAC) is currently running 34 inquiries, including:
 - [Flood Defences](#) – this inquiry is looking into current risk management arrangements; flood protection achievements between 2015 and 2021; and the Government’s preparedness to manage and reduce flood risk in the future. The call for evidence closed on 16 November and an oral evidence session is scheduled for 27 November.
 - The [HS2 Euston: Recall Inquiry](#) is looking into progress on the project since April 2023. The [transcript of the oral evidence](#) session on 16 November is now available.
 - The [Restoration and Renewal Recall Inquiry](#) is looking into progress on the restoration of the Palace of Westminster, a World Heritage Site.



Government Planning Letters

Letters to Chief Planning Officers

The Department for Levelling Up, Housing and Communities (DLUHC) regularly writes [letters to Chief Planning Officers](#) of local planning authorities in England (LPAs), providing guidance on planning.

Letter to Chief Planning Officers: Planning Fees Increase

- On 14 November, Joanna Averley, Chief Planner, published a letter announcing that planning fees will increase as of 6 December. This has been enabled by the [Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) \(Amendment\) Regulations 2023](#), which was passed on 8 November.
- The regulations do the following:
 - Increase planning application fees by 35% for applications for major development and 25% for all other applications.
 - Introduce an annual indexation of planning applications fees, capped at 10%, from 1 April 2025.
 - Remove the fee exemption for repeat applications (the 'free-go'). An applicant will still be able to benefit from a free-go if their application was withdrawn or refused in the preceding 12 months, subject to all other conditions for the free-go being met.
 - Reduce the Planning Guarantee for non-major planning applications from 26 to 16 weeks.
 - Introduce a new prior approval fee of £120 for applications for prior approval for development by the Crown on closed defence sites.

Advice

Historic England Advice

- All [Historic England planning advice](#) is available on our website and [Appendix I](#), below, includes a list of all Good Practice Advice notes (GPAs) and Historic England Advice Notes (HEANs).



Forthcoming Historic England Advice

Climate Change and Historic Building Adaptation

- A new [Historic England Advice Note \(HEAN\) on Climate Change and Historic Building Adaptation](#) has been prepared and published, in draft form, for public consultation. The Advice Note focuses mainly, but not exclusively, on proposals to improve the energy efficiency of domestic listed buildings and homes in conservation areas. It aims to provide advice to local planning authorities, and others involved in the planning process, on:
 - The need for planning permissions and/or other consents for some of the common changes required to decarbonise and improve the energy efficiency of historic buildings.
 - Determining proposals to decarbonise and improve the energy efficiency of historic buildings to enable positive climate action.
 - How local plans and other planning mechanisms can deliver a positive strategy for historic buildings that proactively supports climate action.
- The final version will be supported by a series of online case studies and training for local authorities.
- The draft Advice Note is available for [public consultation](#) until midnight on 24 December.

Managing Change Affecting World Heritage Sites

- A new HEAN on Managing Change Affecting World Heritage Sites in England is being drafted. Public consultation on the Advice Note will be announced in the coming months.

Training

Webinars

- Webinars on a wide variety of topics continue and will sit alongside longer form e-learning courses. Visit [Historic England's training webpages](#) for more information and booking, or keep up-to-date on new courses and training news by signing up to receive [Historic England's bi-monthly Training Newsletter](#).



Infrastructure Planning

Community Benefits for Electricity Transmission Network Infrastructure

- On 22 November, the Department for Energy Security and Net Zero (DESNZ) published its [response to the Community Benefits for Electricity Transmission Network Infrastructure Consultation](#) which ran from May to June this year and explored how communities could directly benefit from hosting electricity transmission network infrastructure.

Early Adopters Programme

- The Planning Inspectorate has provided an update on the Early Adopters Programme (EAP), which was announced via a [news release on 7 July](#). Since then, the EAP has had seven Nationally Significant Infrastructure Projects (NSIPs) trialling various potential 'components' of a future enhanced pre-application service as set out in the [NSIP Reform Action Plan](#). Meetings to refine the briefings around each component have taken place and bi-monthly cross-government forums have been established. These forums include attendance from Historic England, Natural England and the Environment Agency. Further information on the lessons learnt to date is available in the [Planning Inspectorate's news release](#).

Energy National Policy Statements

- On November 22, DESNZ published the new [Energy National Policy Statements](#) (NPSs). The Energy NPSs are planning guidance for nationally significant energy infrastructure projects and are intended to help decision makers, applicants and the wider public to understand:
 - Government policy on the need for NSIPs.
 - How energy infrastructure applications will be assessed.
 - The way in which impacts, and mitigations, will be judged.
- Publication of the Energy NPSs is accompanied by that of the [government response to the Draft National Policy Statements for Energy Infrastructure Consultation](#), which ran from March to June this year.

Improving Nationally Significant Infrastructure

- On 22 November, government published its [response to the National Infrastructure Commission's \(NICs\) report on Delivering Net Zero, Climate Resilience and Growth](#):



[Improving Nationally Significant Infrastructure Planning](#). The NICs report set out six recommendations to government, in response to which government has:

- Re-committed to reviews within a 5-year timeline and to the updating key national infrastructure guidance by Spring 2024. The review will consider whether the criteria for triggering the review of NPSs should be updated.
- Stated that, due to the recent changes to the NPPF, onshore wind will not be brought into the NSIP regime.
- Committed to commissioning an external review of the current NPS review and designation process, to explore options for reconfiguring the NPS framework. This will take place in early 2024.
- Highlighted work being undertaken as part of the UKs Digital Strategy and announced that they intend to apply mitigation libraries within Environmental Outcome Reports when they come into effect.
- Highlighted that the government's [response to the Community Benefits for Electricity Transmission Network Infrastructure consultation](#) has been published. They also committed to taking a strategic approach to securing community benefits in other sectors and to setting out plans for this in due course.
- Committed to a ministerially led forum - that reports to the Prime Minister or Chancellor of the Exchequer - having strategic oversight of major infrastructure projects.
- Highlighted that the [NSIP Operational Reforms consultation](#) set out details on cost recovery and that the response to that is due in Spring 2024. Additionally, the LUR Act enables cost recovery and changes to regulations and guidance to implement this are being progressed (as set out in the [2023 NSIP Reform Action Plan](#)).

Other Items

Autumn Statement

- The [Autumn Statement](#) was published on 22 November. Planning reform was mentioned primarily in relation to improving infrastructure, delivering net zero and speeding up approvals. In addition, the Statement included reference to:
 - The introduction of a new premium planning service which will guarantee accelerated decision dates for major applications and refund fees wherever these are not met (para 4.23).
 - Consultation on amending the NPPF to ensure the planning system prioritises the rollout of electric vehicle (EV) charge points, including EV charging hubs (para. 4.24).



- £150 million Investment Opportunity Fund for Investment Zones and Freeports (para. 4.96).
- New Investment Zones in Greater Manchester (focused on advanced manufacturing and materials), the West Midlands (focused on advanced manufacturing) and the East Midlands (focused on green industries and advanced manufacturing) (para. 4.97).
- Development of an Investment Zone in the North East and Tees Valley and two in Wales (para. 4.98).
- Investment of £32 million across housing and planning to provide homes (particularly in Cambridge, Leeds and London) and tackle planning backlogs at LPAs (para. 4.103).
- £5 million for Planning Capacity Funding (para. 5.193).
- Consultations on new permitted development rights to enable one house to be converted into two homes (para. 4.103 and 5.200) and to end the blanket restriction on heat pumps one metre from a property boundary in England (paras. 4.24 and 5.92).
- £110 million of funding to LPAs affected by nutrient neutrality rules to help deliver offsetting schemes (paras. 4.105 and 5.194).
- Commissioning the National Infrastructure Commission to undertake studies on making the electricity distribution network fit for net zero, and how connected and autonomous vehicles and mobility can deliver growth.

House Building

- On 3 and 15 November, the Competition and Markets Authority (CMA) published three working papers linked to its [house building market study](#) launched in February 2023. The papers comprise:
 - [Private Management of Public Amenities on Housing Estates Working Paper](#)
 - [Local Concentration and Land Banks Working Paper](#)
 - [Planning Working Paper](#)
- The Planning Working Paper suggests that the planning system could be streamlined by moving towards a zonal or rules-based approach, similar to that put forward by the Government in the [August 2020 White Paper \(Planning for the Future\)](#). It also suggests that a national housebuilding target which reflects the housing need of specific areas could be introduced.
- [The CMA is seeking feedback on the working papers](#) and how landbanks and planning rules may be impacting competition and how new homes are delivered. The deadline for submitting feedback to the CMA is 6 December.



National Landscapes/Areas of Outstanding Natural Beauty

- On 22 November, it was announced that all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales would be known as [National Landscapes](#). The name change is in response to the [2022 Landscapes Review](#) and is intended to reflect the national importance of these areas. Despite the name change, legal duties with regards to AONBs remain the same.

Calendar

December

December 3 – Historic England's [Senior Planning Policy Advisor](#) / [Planning Policy Advisor](#) vacancies close.

December 5 – The government response to the [Built Environment Committee's report on the Impact of Environmental Regulations on Development](#) is due.

– The Heritage Tree Bill introduced in the House of Lords.

December 6 – Planning fees increase comes into force.

– Private Members Bills announced in the House of Commons.

– The opportunity to [feedback on the CMA's planning and land banking working papers](#) closes.

December 24 – [Public consultation on Historic England's draft Climate Change and Historic Building Adaptation](#) closes.

December 26 – Enactment of certain LUR Act provisions, including: 1. to extend the Blue Plaque scheme; 2. to clarify the ability of parish councils to provide financial assistance to church or other religious bodies' buildings, and; 3. introduce EORs (albeit with further consultation and secondary legislation needed for full implementation).



Historic England

Planning Bulletin Notifications

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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 planning 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: The Historic Environment and Site Allocations in Local Plans \(October 2015\)](#)
- [HEAN 4: Tall Buildings \(Second Edition\) \(March 2022\)](#)
- [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 \(Second edition\) \(January 2021\)](#)
- [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 \(Second Edition\) \(April 2022\)](#)
- [HEAN 12: Statements of Heritage Significance \(October 2019\)](#)
- [HEAN 13: Minerals Extraction and Archaeology \(January 2020\)](#)
- [HEAN 14: Energy Efficiency and Traditional Homes \(June 2020\)](#)
- [HEAN 15: Commercial Renewable Energy Development and the Historic Environment \(February 2021\)](#)
- [HEAN 16: Listed Building Consent \(June 2021\)](#)
- [HEAN 17: Planning and Archaeology \(November 2022\)](#)