



Planning Bulletin: April 2019

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.

Spring Statement

- The Chancellor of the Exchequer presented his [Spring Statement](#) (summarised [here](#)) to Parliament on 13 March, with a number of planning-related proposals:
 - The Government will mandate net gains for biodiversity on new developments in England (to deliver an overall increase in biodiversity), and launch a global review into the economics of biodiversity.
 - The introduction of a Future Homes Standard by 2025, so that new-build homes are future-proofed with low carbon heating and high levels of energy efficiency.
 - A consultation has been launched on [infrastructure finance](#).
 - Reiteration of the commitment to publishing a comprehensive National Infrastructure Strategy.
 - The release of £717 million from the £5.5 billion Housing Infrastructure Fund to unlock various housing sites, plus a further £445 million for the Oxford-Cambridge Arc (a [declaration](#) has also agreed with local authorities in the growth corridor).
- The Spring Statement was accompanied by a [Written Ministerial Statement](#) by the Secretary of State for the Ministry of Housing, Communities and Local Government, which contained further planning-related proposals. These are summarised below, and addressed in more detail as appropriate elsewhere in this Bulletin.
 - In response to the [Letwin report](#) on the gap between housing completions and the amount of land allocated or permissioned, the Government has advised that:
 - There is no evidence of land banking by major house builders; instead it is the market absorption rate that determines the rate at which developers build out large sites. This will all be accelerated by a greater housing mix (already addressed in the NPPF, and supported by funding programmes such as the Home Building Fund): new planning guidance on housing diversification will be published shortly.
 - The design of new development is also important: the '[Building Better, Building Beautiful](#)' Commission will report later this year.
 - The Government is committed to improving the effectiveness of the existing mechanisms of land value capture, making them more certain and transparent for all developments; further reform of the existing system of compulsory purchase and developer contributions is being considered.

- There may be further (primary legislation) interventions to support housing diversification and faster build out.
- MHCLG will work closely with Homes England to identify suitable sites.
- The priority is to ensure faster decision-making within the planning system, and an ‘Accelerated Planning’ Green Paper will be published later this year that will discuss how greater capacity and capability, performance management and procedural improvements can accelerate the end-to-end planning process (this will draw on the Rosewell Review of planning appeal inquiries).
- MHCLG’s consultation on Planning Reform: Supporting the High Street and Increasing the Delivery of New Homes closed in January (Historic England’s response is available [here](#)). The Government has now advised that:
 - ‘Additional flexibilities for businesses’ will be introduced, to ‘support the high street’ (some in an ‘immediate package’ of permitted development right measures in the spring; the more complex matters will be covered in a further package of regulations in the autumn):
 - Amendments to the shops use class, including clarification on the ability of (A) use classes to diversify and incorporate ancillary uses without undermining the amenity of the area.
 - Introduction of a new permitted development right to allow shops (A1), financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shop and launderettes to change use to an office (B1), and to allow hot food takeaways (A5) to change to residential use (C3).
 - Extension of the existing right that allows the temporary change of use of buildings from 2 to 3 years, and provision to enable more community uses to take advantage of this temporary right, and more easily locate on the high street.
 - Publication ‘shortly’ of ‘Better Planning for High Streets’, which will set out tools to support local planning authorities in reshaping their high streets to create prosperous communities, particularly through the use of compulsory purchase, local development orders and other innovative tools.
 - The proposal for a permitted development right for upwards extensions to certain existing buildings in commercial and residential use is to be taken forward in the Autumn.
 - The time-limited right to build larger single storey rear extensions to dwelling houses will be made permanent.
 - The time-limited right for change of use from storage to residential will not be made permanent.
 - Permitted development rights for conversion of buildings to residential use will be reviewed, in respect of the quality standard of homes delivered.
 - The Government will continue to consider the design of a permitted development right to allow commercial buildings to be demolished and replaced with homes.
 - The permitted development right and associated advertising deemed consent will be removed in respect of new telephone kiosks.

- The existing permitted development right to install off-street electric vehicle charging points will be extended to allow for taller charging upstands.
- The Canal & River Trust LBCO will be brought forward.

Legislation and Matters Arising

Emerging Legislation

Government Bills

- *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 2018; a date for Committee stage has not yet been scheduled. Explanatory notes are available [here](#). The promoters' [response to the Select Committee's second special report](#) and the [response to the Select Committee interim report](#) have also been published
- *Agriculture Bill*: amongst other things, the Bill authorises new expenditure for certain agricultural and other purposes; makes provision about direct payments during an agricultural transition period following the United Kingdom's departure from the European Union; and confers power to modify retained direct EU legislation relating to agricultural and rural development payments, public market intervention and private storage aid. The Bill concluded its [Committee stage](#) on 20 November, with the Report stage in the House of Commons yet to be announced. The Bill has been [amended in Committee](#), with [explanatory notes](#), and a [briefing paper](#) available.
- *Fisheries Bill*: amongst other things, the Bill makes provision about grants in connection with fishing, aquaculture or marine conservation. Introduced in October 2018, the Bill went to a Public Bill Committee on 17 December, with the Report stage (and subsequent third reading) due on a date to be announced. The Bill is available [here](#), and explanatory notes [here](#).
- *Environment Bill*: Defra has issued a [draft Environment \(Principles and Governance\) Bill](#), which sets out how the Government will maintain environmental standards as the UK leaves the EU, develop the vision of the 25 Year Environment Plan, and create the independent Office for Environmental Protection (OEP). The draft Bill commits the Government to publishing a policy statement which will set out how Ministers should interpret and apply environmental principles. It also commits Government to have a plan for environmental improvement. The Bill is accompanied by a [Policy Paper](#), a [Statement of Impacts](#), and an [Information Paper on the Policy Statement on Environmental Principles](#). Defra has also issued the Government's [response](#) to May's consultation on [Environmental Principles and Governance after the United Kingdom leaves the European Union](#). The historic environment is not included in the majority of the provisions within the draft Bill; in this, it differs in approach to the cultural and natural environment to that within the recently published 25 Year Environment Plan (January 2018). The omission of heritage from the Bill has the potential to exclude heritage from the remit of the proposed Office for Environmental Protection. This issue has recently been the subject of [written](#) and [oral](#) questions in Parliament.
- *Treasure Act 1996*: DCMS has launched a [consultation](#) on revising the definition of treasure in the Treasure Act 1996, revising the related codes of practice and the process for finds that may be treasure. The aim of the Act is to ensure that important archaeological items are preserved in public collections. The consultation closes on 30 April.

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. The second reading took place on 27 April 2018; the 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 2017; second reading has 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. The second reading took place on 24 November 2017, and the 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. The first reading took place on 13 July 2017, and second reading has yet to be scheduled. Explanatory notes are available here.
- *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. Its first reading took place on 5 September 2017; second reading was scheduled for 15 March 2019 but proceedings were interrupted and the Bill's second reading is now postponed to a date to be announced.
- *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. Its first reading took place on 22 November 2017; second reading has yet to be scheduled.
- *Planning (Appeals) Bill*: the Bill limits the grounds of appeal against decisions on planning applications consistent with a neighbourhood development plan or local plan. It was introduced on 4 December, and second reading has yet to be scheduled.
- *Planning (Affordable Housing and Land Compensation) Bill*: the Bill would create a new duty for councils to include a policy in their local plans to capture betterment values where they arise. It would also replace the current definition of affordable housing (classed as being up to 80% of market prices), with one that stipulates that housing cannot cost more than 35% of net household income for lowest quartile income groups in each local authority area. The Bill also seeks to specify in law the key factors used for viability testing in relation to planning decisions, including placing explicit limitations on the expectations of developer profit and land values for compulsory purchase. It was introduced on 27 February, and second reading has yet to be scheduled.

Heritage Planning Case Database

- Historic England tweets planning decisions of heritage interest, via @HeritageAdvice, and these are then collated into the Heritage Planning Case Database. This is a searchable online database of appeal and call-in decisions relating to planning

permission (that affects a heritage asset) and listed building consent. Cases have been summarised using a standard list of search terms, for ease of use; searches can also be carried out by address, date or decision reference.

Secondary Legislation

Capital Allowances for Structures and Buildings

- HMRC is seeking views on the legislative detail of the Capital Allowances for Structures and Buildings, following the announcement of the Structures and Buildings Allowance at the 2018 Budget (closing date 24 April). This draft secondary legislation is designed to support business investment in new non-residential structures and buildings, and to enhance tax relief for such assets.

Committees

Digital, Culture, Media and Sport Committee: Inquiry into the Contribution of Gardens to UK Tourism, the Economy and National Heritage

- The DCMS Committee has launched an inquiry into the contribution made by gardens to UK tourism, the economy and national heritage. Evidence is sought by 7 May on the following questions:
 - How can gardens across the UK be supported to attract visitors and to ensure their future sustainability?
 - What contribution do gardens and garden design make to domestic and international tourism?
 - How do gardens and garden design contribute to the creative economy?
 - How can garden design and landscaping best support community spaces and community connections?

Public Accounts Committee: Planning and the Broken Housing Market Inquiry

- Following the recent Planning for New Homes report by the National Audit Office, the Public Accounts Committee has launched an inquiry into planning and the broken housing market. It focuses on how 300,000 homes a year will be built, and local planning authority practice (closes 23 April).

Policy

Written Ministerial Statements

- The Secretary of State for Housing, Communities and Local Government issued a Written Ministerial Statement on 13 March to accompany the Spring Statement. It covered a number of planning proposals (addressed under ‘Spring Statement’, above).
- A further Written Ministerial Statement was issued on 26 March, following the Court of Appeal judgment in the case of *Save Britain’s Heritage v the Secretary of State for Housing, Communities and Local Government*, regarding the need to give reasons for decisions on call-in. The Secretary of State has confirmed that he will call in those applications where he concludes that he needs to take such a decision, and will not call in applications where he concludes that the decision is best left with the local planning authority. The call-in policy set out in the statement of 12 December 2001 has been withdrawn, and reasons will no longer be given for calling in or declining to call in planning applications. The call-in policy set out in the statement of 26 October 2012 remains in place.

National Planning Policy Framework

- The High Court has ruled that the NPPF consultation was unfair and unlawful with regard to the policy support for ‘fracking’ and other forms of onshore oil and gas operations (paragraph 209a).
- The High Court has dismissed the claim that a strategic environmental assessment (SEA) was required when the NPPF was revised, as the NPPF did not come within the definition of ‘plans and programmes’ in Article 2(a) of the *SEA Directive 2001 (Directive 2001/42/EC)*.

Guidance

Planning Practice Guidance (PPG)

- Changes were made to the following sections of the Planning Practice Guidance on 15 March:
 - Before submitting an application
 - Climate change
 - Community Infrastructure Levy
 - Consultation and pre-decision matters
 - Determining a planning application
 - Environmental Impact Assessment
 - Hazardous substances
 - Permission in principle
 - Plan-making
 - Planning obligations
 - When is permission required?

MHCLG Letters to Chief Planning Officers

- The latest MHCLG Letter to Chief Planning Officers (15 March) covers a number of topics:
 - Survey of Planning Departments 2019
 - Spring Statement: Planning Reforms
 - Updates to National Planning Policy and Guidance
 - Housing Delivery Test
 - Local Development Schemes and Plan Submission Dates
 - Submission of Planning Applications
 - New Burdens Grant payments for Development Management Functions
 - Design Conference
 - Independent Review of Planning Appeal Inquiries
 - Unauthorised Development and Encampments
 - Update from Defra – EU Exit and Planning Regulations
 - Woodland Trust and RTP1 E-module
 - Digital Guidance Published by DCMS.

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 consultation has been launched on a new Historic England Advice Note: Statements of Heritage Significance (closing date 10 May). The draft advice note provides advice on ways to satisfy the requirement in the National Planning Policy Framework for applicants for heritage-related consents to provide information on significance to help local planning authorities in making decisions on the impact of proposals.
- Consultation recently took place on the new Historic England Advice Note: Mineral Extraction and Archaeology (closed 12 April); responses are now being considered, and the final version of this advice will be issued in due course.

Training

- Historic England provides training and guidance to help local authorities, heritage professionals, owners and voluntary organisations look after England's heritage. Training that is 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. Visit the webpages for details of courses on (amongst others):
 - NPPF Decoded: Archaeology (London, 6 June).
 - Understanding Heritage Economics and the Development Process (London, 9 May; Birmingham, 2 July).
 - Heritage Practice: training courses for heritage specialists in technical subjects and techniques. Visit the webpages for details of courses on (amongst others):
 - Historic Area Assessments (York on 23 May).
 - Understanding Historic Buildings (Oxford on 16 September).
 - 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.
 - All courses, and further information, can be accessed on the Historic England website.

Infrastructure

Infrastructure Finance Review

- HM Treasury and the Infrastructure and Projects Authority have published a consultation on the Infrastructure Finance Review (closing date 5 June), looking at how best to support private investment in infrastructure.

Regulating Network Rail's Land Disposals

- The Office of Rail and Road (ORR) is seeking views on its proposed updated arrangements for Regulating Network Rail's Land Disposals (closing date 22 April). The updates proposed include:
 - Amending the general consent to include disposals that would allow construction/enhancement at a station or freight facility for the purposes of providing services relating to railways.

- Providing further indication in the ORR’s decision criteria as to when they will consider there is acceptable evidence that land proposed for disposal may have a reasonably foreseeable railway use.

Other Initiatives

Homes England Land Hub

- Homes England has launched a ‘Land Hub’, which lists the sites available for development or disposal by Homes England.

River Basin Planning: Working Together

- The Environment Agency has published its response to its June 2018 *River Basin Planning: Working Together* consultation. The response summarises the representations received, and outlines how the Environment Agency will use the information gathered to help shape the next cycle of river basin planning.

Garden Towns

- MHCLG has announced £3.7 million to support the development of five new garden towns (developments of more than 10,000 homes):
 - Grazeley Garden Settlement
 - Hemel Garden Communities
 - Easton Park Garden Community, North Uttlesford Garden Community and West of Braintree Garden Community
 - Tewkesbury Ashchurch Garden Community
 - Meecebrook
- These schemes supplement the 23 existing garden communities being supported by Government.

Coastal Funds

- MHCLG has announced £36 million of funding for 70 coastal projects (26 awards from the fifth round of the government’s Coastal Communities Fund and 44 awards from the third phase of the Coastal Revival Fund). The funding will help develop and improve tourist attractions, create jobs and promote socio-economic growth, including the protection and restoration of heritage sites.

Building Better, Building Beautiful Commission

- The Building Better, Building Beautiful Commission has launched a call for evidence on how to improve the design of homes and neighbourhoods through the planning and development process (closing date 31 May).

PINS Pilot Scheme

- Following publication of the *Report and Recommendations into the Independent Review of Planning Appeal Inquiries* (the Rosewell Review), the Planning Inspectorate has launched a trial in which a small number of inquiry appeals will be accelerated.

Connected Growth: A Manual for Places Working to Boost their Digital, Cultural and Social Connectivity

- DCMS has issued a Connected Growth manual, designed to help in the development of Local Industrial Strategies (LIS) by showing how DCMS sectors (including heritage)

can support the productivity of local places. It builds on existing guidance, providing a source of advice on the best processes for engaging with communities and stakeholders to develop a LIS, as well as being an accessible source of information for a better understanding of DCMS policies and programmes.

Current Consultations

- The Office of Rail and Road's consultation on *Regulating Network Rail's Land Disposals* (closing date 22 April).
- The Public Accounts Committee's *inquiry* into planning and the broken housing market (closing date 23 April).
- HMRC's consultation on *Capital Allowances for Structures and Buildings* (closing date 24 April).
- DCMS's *consultation* on revising the definition of treasure in the *Treasure Act 1996* (closing date 30 April).
- Department for Transport's consultation on a new edition of the *Specification for the Reinstatement of Openings in Highways* (SROH) (closing date 6 May).
- The DCMS Committee's *inquiry* into the contribution made by gardens to UK tourism, the economy and national heritage (closing date 7 May).
- Historic England's consultation on Historic England Advice Note: *Statements of Heritage Significance* (closing date 10 May).
- Department for Transport's *Light Rail and Other Rapid Transit Solutions in Cities and Towns: Call for Evidence* (closing date 19 May).
- The Building Better, Building Beautiful Commission's *call for evidence* on how to improve the design of homes and neighbourhoods through the planning and development process (closing date 31 May).
- HM Treasury and the Infrastructure and Projects Authority's consultation on the *Infrastructure Finance Review* (closing date 5 June).
- Department for Transport's *Aviation 2050 - the Future of UK Aviation* (closing date 20 June).

Recent Consultation Responses

- Historic England's response to Ofgem's consultation on the *RIO-2 Sector Specific Methodology* is available [here](#).
- Historic England's response to Defra's consultation on plans to introduce legislation for *conservation covenants* is available [here](#).
- Historic England's response to HS2 Ltd's consultation on the *Supplementary Environmental Statement 2 and Additional Provision 2 Environmental Statement* is available [here](#).
- Historic England's response to Radioactive Waste Management's consultation on *Site Evaluation - How We Will Evaluate Sites in England* is available [here](#).

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18 April 2019

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

APPENDIX I: HISTORIC ENGLAND PLANNING ADVICE

Good Practice Advice notes (GPAs)

- The GPAs provide information on good practice, particularly looking at the principles of how national policy and guidance can be applied. They are the result of collaborative working with the heritage and property sectors in the Historic Environment Forum, and have been prepared following public consultation:
 - *GPA1: The Historic Environment in Local Plans* (March 2015)
 - *GPA2: Managing Significance in Decision-Taking in the Historic Environment* (March 2015)
 - *GPA3: The Setting of Heritage Assets* (December 2017)
 - *GPA4: Enabling Development (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 (Second Edition)* (February 2019)
 - *HEAN 2: Making Changes to Heritage Assets* (February 2016)
 - *HEAN 3: Site Allocations* (October 2015)
 - *HEAN 4: Tall Buildings* (December 2015)
 - *HEAN 5: Setting up a Listed Building Heritage Partnership Agreement* (November 2015)
 - *HEAN 6: Drawing up a Local Listed Building Consent Order* (November 2015)
 - *HEAN 7: Local Heritage Listing* (May 2016)
 - *HEAN 8: Sustainability Appraisal and Strategic Environmental Assessment* (December 2016)
 - *HEAN 9: The Adaptive Reuse of Traditional Farm Buildings* (October 2017)
 - *HEAN 10: Listed Buildings and Curtilage* (February 2018)
 - *HEAN 11: Neighbourhood Planning and the Historic Environment* (October 2018)