



## Planning Bulletin: November 2017

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

### Legislation and Matters Arising

#### Emerging Legislation

- *Government Bills*

- *European Union (Withdrawal) Bill*: the Bill seeks to repeal the European Communities Act 1972 and make other provision in connection with the withdrawal of the United Kingdom from the EU. The Bill passed second reading on 11 September; MPs will next consider the Bill in a Committee of the whole House on 14 and 15 November. Explanatory notes are available [here](#), and a research briefing [here](#).
- *High Speed Rail (West Midlands - Crewe) Bill*: the hybrid Bill makes provision for a railway between a junction with Phase One of High Speed 2, near Fradley Wood in Staffordshire, and a junction with the West Coast Main Line near Crewe in Cheshire. First reading took place on 17 July; a date for second reading has not yet been scheduled. Explanatory notes are available [here](#).
- *Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill*: the Bill provides powers for the Secretary of State to award relief from business rates to providers of telecommunications infrastructure (its provisions were previously found in the Local Government Finance Bill, which had completed Committee Stage in the House of Commons when the 2017 General Election was called). Committee stage in the Lords took place on 24 October, and report stage is scheduled for 28 November. An updated 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 will be considered in a Public Bill Committee, scheduled to conclude by 16 November. An explanatory memorandum is available [here](#), and a briefing for second reading [here](#).
- 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. First reading took place on 27 June, and second reading is scheduled for 24 November.
- *Kew Gardens (Leases) Bill*: the Bill provides that the Secretary of State's powers in relation to the management of the Royal Botanic Gardens, Kew, include the power to grant a lease in respect of land for a period of up to 150 years. First reading took place on 13 July, and second reading has yet to be scheduled. Explanatory notes are available [here](#).

- *Private Bills*

- *New Southgate Cemetery Bill*: the Bill confers powers upon New Southgate Cemetery and Crematorium Limited and the National Spiritual Assembly of the Bahá'is of the United Kingdom to extinguish rights of burial and disturb human remains in respect of New Southgate Cemetery for the purpose of increasing the space for interments. The Bill did not complete its passage through Parliament in the last Session, and was revived. Third reading took place on 17 October and it is now waiting for Royal Assent.

### *Secondary Legislation*

- The *Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017* have been laid before Parliament. They provide for the 20 per cent increase in planning application fees in England that was proposed in February's [Housing White Paper](#), as well as for fees to be charged for applications for permission in principle. They need to be approved by resolution of each House of Parliament, and will then come into force on the twenty eighth day after the day on which they are made.
- The new [light industrial-to-residential permitted development right](#) came into effect on 1 October 2017, for a three-year period. The new right is set out in Schedule 2, Part 3, Class PA of the *Town and Country Planning (General Permitted Development) (England) Order 2015* (as introduced by the *Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016*). It allows the change of use of a building from light industrial use class B1(c) to residential use class C3, subject to specified limitations and conditions (these include that the building must have been used solely for light industry on 19 March 2014, and that its gross floor space cannot exceed 500 square metres), and a prior approval process. The permitted development right does not apply where the building is a

listed building (or is within the curtilage of a listed building), or the site is, or contains, a scheduled monument.

#### *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**

#### *Environment, Food and Rural Affairs Committee*

- The Committee has published the Government's responses to four of the Committee's reports: Forestry in England, Food Waste, Feeding the Nation: Labour Constraints, and post-legislative scrutiny of the Flood and Water Management Act 2010.
- The latter included reference to reservoir safety, with the Government advising that 'Defra will publish the results of ... research following its completion in December 2018. The research considers the impacts of the more recent regulatory changes implemented by the Flood and Water Management Act 2010, on the reservoir industry. It will also provide an evidence base to improve our understanding of the number and state of small raised reservoirs in England (reservoirs with a capacity between 10,000 and 25,000 cubic metres), the risk they pose and what impact existing regulations could have, should there be any reduction in the threshold'.
- The report also addressed sustainable drainage, and the Committee Chair has written to the Secretary of State expressing disappointment that the Government is unable to provide a substantive response to the majority of recommendations on the key issue of sustainable drainage (SuDS) whilst the review by the Department of Communities and Local Government (DCLG) remains unpublished.

#### *Air Quality Inquiry*

- Four Committees (Environment, Food and Rural Affairs; Environmental Audit; Health; and Transport) have joined together to relaunch an inquiry on air quality, in order to scrutinise the Government's air quality plan.

#### *Communities and Local Government Committee: Brexit and Local Government Inquiry*

- This Inquiry will look at which powers currently held by the EU could be transferred to town halls after the UK's exit, and also examine the risks and opportunities posed by Brexit, and how local government is engaged in the Brexit negotiations. Written submissions are invited by 14 November.

#### *Communities and Local Government Committee: Business Rates and Retention Inquiry*

- Following on from an initial inquiry, the Committee has launched an inquiry into the impact of the longer implementation period for 100% retention of business rate revenue amid uncertainty for councils about what happens when their current funding settlements come to an end in 2020. Written submissions are invited by 14 December.

### *Communities and Local Government Committee: Housing Need and the NPPF*

- In a one-off evidence session with the Housing Minister, the Committee examined proposed changes to the way the need for new homes is calculated for each local authority, and the proposed changes to the National Planning Policy Framework (NPPF).

### *Natural Capital Committee: Advice to Government on the 25 Year Environment Plan*

- The Natural Capital Committee was asked by the Secretary of State for Defra to advise on what the 25 Year Environment Plan should aim to achieve, how it should seek to do so and what the necessary conditions for success are. The Committee issued its advice in September.

### *Environmental Audit Committee: Environmental Policy Inquiry*

- The Environmental Audit Committee heard from the Secretary of State, Department for Environment, Food and Rural Affairs on the Government's environmental policy.

## **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.

## **Advice**

### *Historic England Advice*

- Historic England Advice notes (HEANs) 1-9 have all now been published on the Historic England website:
  - HEAN 1: Conservation Areas: Designation, Appraisal and Review (February 2016)
  - HEAN 2: Making Changes to Heritage Assets (February 2016)
  - HEAN 3: Site Allocations (October 2015)
  - HEAN 4: Tall Buildings (December 2015)
  - HEAN 5: Setting up a Listed Building Heritage Partnership Agreement (November 2015)
  - HEAN 6: Drawing up a Local Listed Building Consent Order (November 2015)
  - HEAN 7: Local Heritage Listing (May 2016)
  - HEAN 8: Sustainability Appraisal and Strategic Environmental Assessment (December 2016)
  - HEAN 9: The Adaptive Reuse of Traditional Farm Buildings (October 2017)
- The new HEAN 9 is part of a suite of updated and revised advice on traditional farm buildings:
  - Adapting Traditional Farm Buildings: Best Practice Guidelines for Adaptive Reuse is aimed at owners, building professionals and local planning authorities, and replaces the *Conversion of Traditional Farm Buildings* (2006). It recognises that the majority of

traditional farm buildings have now become partly or wholly redundant for modern agricultural purposes, unsupported by income to fund their maintenance and repair, but still have the potential to be of economic value. The guidelines explains how significance can be retained and enhanced through well informed and designed adaptation to new uses.

- *The Maintenance and Repair of Traditional Farm Buildings: A Guide to Good Practice* provides practical advice to farmers, land managers and others involved with the maintenance and repair of traditional farm buildings. It explains how work of this kind can be considered in a wider context of sustainable management to ensure these buildings have an economic value and a future. The guidance is primarily directed at buildings in active farming or related uses, but recognises that, with changing agricultural practices and economic pressures, many traditional farm buildings have lost their original purpose and become vulnerable to neglect and decay. Many may therefore need urgent works to prevent further deterioration of their structure and fabric.
- *HEAN 9: The Adaptive Reuse of Traditional Farm Buildings* provides a synopsis of the key issues involved in adapting traditional farm buildings to new uses. It places the need to understand the significance of any farmstead or building, its relationship to the wider landscape setting, and its sensitivity and capacity for change within the context of the *National Planning Policy Framework*.
- The topic of farm buildings will also be addressed in the next edition of Historic England's *Heritage Online Debate*, to be issued in mid-November.
- A further HEAN has been issued for consultation. *Neighbourhood Planning and the Historic Environment* is written for those involved in preparing neighbourhood plans (neighbourhood planning groups, local planning authorities and others), and advises on how to cover heritage effectively and make the most of the opportunities available. The consultation closes on 15 December 2017. When finalised, the HEAN will replace the 2014 document of the same name.
- An updated version of *Conservation Principles* has also been issued for consultation. The first edition of *Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment* was published by the then English Heritage in 2008. It is being updated to set out Historic England's approach to conservation in a format that is more accessible and aligned with the language of the National Planning Policy Framework and legislation. The key changes which are proposed include:
  - Making the document more concise and clarifying the language to make it more accessible and compelling
  - Recasting the explanation of how significance is understood to focus on the 'Heritage Interests' (Historic, Architectural, Archaeological and Artistic) used in legislation and planning policies, whilst retaining reference to the four heritage values presented in the original document
  - Deleting content that has since been reissued elsewhere, making the document shorter.

The consultation closes on 2 February 2018, and comments are invited via an online questionnaire.

### *Forthcoming Historic England Advice*

- Following earlier public consultation, final versions of *GPA3: The Setting of Heritage Assets* (second edition), *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.

### **Training**

- Historic England provides training and guidance to help local authorities, heritage professionals, owners and voluntary organisations look after England's heritage. The available programmes include the following, and they address a wide range of topics, many directly linked to planning matters and Historic England advice:
  - Essentials: a training programme designed for local authority planners and early entrants into historic environment services.
  - Historic Environment Local Management (HELM): training on managing the historic environment for local authorities, regional agencies and national organisations
  - Online training: resources to help supplement the short course training opportunities and make them more widely available. The online training includes short overview training resources and longer courses to work through.

### **Infrastructure**

#### *National Infrastructure Assessment*

- The National Infrastructure Commission (NIC) has published its vision and priorities for UK infrastructure over the next 30 years, in the form of *Congestion, Capacity and Carbon: Priorities for National Infrastructure*. The NIC has identified seven key priorities:
  - Building a digital society: fast, reliable data services everywhere
  - Connected, liveable city-regions: linking homes and jobs
  - New homes and communities: supporting delivery of new homes
  - Low-cost, low-carbon: ending emissions from power, heat and waste
  - Revolutionising road transport: seizing the opportunities of electric and autonomous vehicles
  - Reducing the risks of extreme weather: making sure the UK can stand up to drought and flooding
  - Financing infrastructure in efficient ways: getting the right balance between public and private sectors
- The document is the subject of a consultation (closing date 12 January 2018); responses will inform the development of the final National Infrastructure Assessment

#### *Airports National Policy Statement*

- Following an initial consultation on the draft Airports National Policy Statement (February-May 2017), the Department for Transport has now issued a revised draft Airports National Policy Statement for consultation (for which the closing date is 19 December). The latest consultation document is intended to allow updated evidence to be taken into account (including revised aviation demand forecasts and the government's final air quality plan).

- Following the consultation and Parliamentary scrutiny, if the Secretary of State decides to proceed, he will lay a final Airports National Policy Statement before Parliament. If this is successful, he will then designate the final Airports National Policy Statement. A previous announcement suggested that the Government expects to lay any final NPS in the first half of 2018 for a vote in the House of Commons.

#### *Independent Commission on Civil Aviation Noise*

- In the Government's Consultation Response on UK Airspace Policy: A Framework for Balanced Decisions on the Design and Use of Airspace, the Minister for Aviation has confirmed that an Independent Commission on Civil Aviation Noise (ICCAN) will be set up in 2018. The Commission will 'help to ensure that the noise impacts of any airspace changes are properly considered as part of a trusted and transparent process, and give communities a greater stake in noise management'. In particular, 'ICCAN will be instrumental in ensuring that the needs of local communities are properly taken into account when considering the noise impacts of any expansion of Heathrow and any of other airports'. In addition, the Secretary Of State will be given call-in powers to have the final word on airspace changes of national importance.

#### **Other Initiatives**

##### *Clean Growth Strategy and Call for Evidence on the Reform of the Green Deal Framework*

- The Department for Business, Energy & Industrial Strategy has published a Clean Growth Strategy. The strategy sets out a comprehensive set of policies and proposals that aim to accelerate the pace of 'clean growth', that is, to deliver increased economic growth and decreased emissions.
- A call for evidence on the reform of the Green Deal Framework has been published alongside the Clean Growth Strategy (closing date 23 November). It is intended to improve the Government's knowledge of stakeholders' views on the Green Deal Framework, and whether there is scope for changing the Framework so that it can better support current and future needs.

##### *Proceeds of Crime Act and Anti-Terrorism, Crime and Security Act: Draft Codes of Practice*

- Following consultation earlier this year, the Home Office has now produced revised draft codes of practice on the use of the Proceeds of Crime Act (POCA) 2002 and the Anti-Terrorism, Crime and Security Act (ATCSA) 2001. They provide guidance on the appropriate and proportionate use of POCA and ATCSA powers, and include a code on:
  - Exercising powers to search and seize and detain property
  - The powers to search for criminal cash
  - The operation of the investigation powers
  - Search powers related to the new power to recover listed assets (a new code)
  - The exercise of new seizure, detention and forfeiture powers under ATCSA 2001
- The Attorney General has also published a draft code of practice on the investigative powers of prosecutors.

## **Current Consultations**

- The Communities and Local Government Committee's Brexit and Local Government [Inquiry](#) (closing date 14 November).
- The Department for Transport's consultation on a [draft accessibility action plan](#) (closing date 15 November).
- The Department for Business, Energy & Industrial Strategy's [call for evidence](#) on the reform of the Green Deal Framework (closing date 23 November).
- The Communities and Local Government Committee's [inquiry](#) into the retention of business rates (closing date 14 December).
- Historic England's consultation on [Neighbourhood Planning and the Historic Environment](#) (closing date 15 December).
- The Department for Transport's consultation on the [revised draft Airports National Policy Statement](#) (closing date 19 December).
- The National Infrastructure Commission's [consultation](#) on its vision and priorities for UK infrastructure over the next 30 years (closing date 12 January 2018).
- Historic England's consultation on an updated version of [Conservation Principles](#) (closing date 2 February 2018).

## **Recent Consultation Responses**

- Historic England's response to HS2's consultation on [HS2 Phase 2b: Eastern leg rolling stock depot](#) will be available [here](#) shortly.
- Historic England's response to DCLG's consultation on [Planning for the Right Homes in the Right Places](#) will be available [here](#) shortly.

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