



Planning Bulletin: January 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 (formerly DCLG)

- Following the Cabinet reshuffle, the Department for Communities and Local Government has been renamed the Ministry of Housing, Communities and Local Government.
- Sajid Javid remains the Secretary of State (also Ministerial Champion for the Midlands Engine).
- Dominic Raab becomes Minister of State for Housing (replacing Alok Sharma).
- Jake Berry remains Parliamentary Under Secretary of State and Minister for the Northern Powerhouse and Local Growth.
- Heather Wheeler becomes Parliamentary Under Secretary of State.
- Rishi Sunak becomes Parliamentary Under Secretary of State.
- Lord Bourne of Aberystwyth remains Parliamentary Under Secretary of State (now Minister for Faith).

Department for Digital, Culture, Media and Sport

- Matt Hancock (former Minister of State for Digital) becomes Secretary of State for Digital, Culture, Media and Sport (replacing Karen Bradley, now Secretary of State for Northern Ireland).
- Margot James becomes Minister of State for Digital and the Creative Industries.
- Tracey Crouch remains Parliamentary Under Secretary of State for Sport and Civil Society.
- Michael Ellis becomes Parliamentary Under Secretary of State for Arts, Heritage and Tourism (replacing John Glen, now Economic Secretary to the Treasury and City Minister).
- Lord Ashton of Hyde remains Parliamentary Under Secretary of State.

Department for Environment, Food and Rural Affairs

- Michael Gove remains Secretary of State for Environment, Food and Rural Affairs.
- George Eustice remains Minister of State for Agriculture, Fisheries and Food.
- Thérèse Coffey remains.
- Lord Gardiner of Kimble remains Parliamentary Under Secretary of State for Rural Affairs and Biosecurity.

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 was considered and amended in a Committee of the whole House which completed on Wednesday 20 December 2017; third reading and report stage will take place on 16 and 17 January. Explanatory notes are available [here](#), and a research briefing [here](#); a further research briefing on Brexit and the environment is available [here](#), and on the ‘correcting power’ [here](#). A version of the Bill showing the changes made at Committee stage is available [here](#), and a paper summarising the main areas of debate at Committee and related amendments and commitments [here](#).
- *High Speed Rail (West Midlands - Crewe) Bill*: the hybrid Bill makes provision for a railway between a junction with Phase One of High Speed 2, near Fradley Wood in Staffordshire, and a junction with the West Coast Main Line near Crewe in Cheshire. First reading took place on 17 July; a date for second reading has not yet been scheduled, but is expected in early 2018 (if successful, it will be followed by the opening of petitioning against the Bill). Explanatory notes are available [here](#).
- *Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill*: the Bill provides powers for the Secretary of State to award relief from business rates to providers of telecommunications infrastructure (its provisions were previously found in the Local Government Finance Bill, which had completed Committee Stage in the House of Commons when the 2017 General Election was called). The House of Lords have now returned the Bill to the House of Commons with amendments. The amendments will be considered on the floor of the House on a date to be announced. A briefing paper on the Bill is available [here](#).
- *Automated and Electric Vehicles Bill*: the Bill makes provisions about automated vehicles and electric vehicles, including in relation to charging points. Introduced on 18 October, it passed second reading on 23 October, and was considered in a Public Bill Committee on 16 November. An explanatory memorandum is available [here](#), and a briefing for second reading [here](#). A date for report stage has yet to be announced.
- Another Bill of potential interest is the Agriculture Bill (to support UK farmers and protect the natural environment). The Queen’s Speech also confirmed that the Government will bring forward proposals to help ensure that more homes are built. The associated briefing confirmed that the Government will deliver the reforms proposed in the Housing White Paper ‘to increase transparency around the control of land, to “free up more land for new homes in the right places, speed up build-out by encouraging modern methods of construction and diversify who builds homes in the country”’. The background briefing notes are available [here](#).

Private Members’ Bills

- *Bat Habitats Regulation Bill*: the Bill makes provision to enhance the protection available for bat habitats in the vicinity of a building site, and to limit the protection for bat

habitats in buildings used for public worship. First reading took place on 3 July; second reading is yet to be scheduled.

- *Bat Habitats Regulation (No. 2) Bill*: the Bill makes provision to enhance the protection available for bat habitats in the non-built environment and to limit the protection for bat habitats in the built environment where the presence of bats has a significant adverse impact upon the users of buildings. The Bill was presented to Parliament on 5 September; second reading is expected on 6 July 2018.
- *Equality Act 2010 (Amendment) (Disabled Access) Bill*: the Bill amends the Equality Act 2010 to improve access to public buildings by introducing six- and twelve-inch rules for step-free access. Second reading took place on 24 November, and Committee stage has yet to be scheduled.
- *Kew Gardens (Leases) Bill*: the Bill provides that the Secretary of State's powers in relation to the management of the Royal Botanic Gardens, Kew, include the power to grant a lease in respect of land for a period of up to 150 years. First reading took place on 13 July, and second reading has yet to be scheduled. Explanatory notes are available [here](#).
- *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 19 January.

Secondary Legislation

- *The Town and Country Planning (Permission in Principle) (Amendment) Order 2017* was laid before Parliament on 21 December. It comes into force on 1 June 2018, and introduces the direct application route to permission in principle, i.e. the second of the four routes which were created by the *Housing and Planning Act 2016* (the brownfield register route is already in force; the local and neighbourhood plan allocation routes are not yet in force):
 - From 1 June, local planning authorities may grant permission in principle on an application for residential development (expressed as a minimum and maximum net number of dwellings), and associated non-housing development.
 - Permission in principle may not be granted in respect of householder development, major development (10 or more houses, the provision of a building or buildings where the floor space to be created is 1,000 square metres or more, or development carried out on a site having an area of 1 hectare or more), habitats development, or EIA Schedule 1 development.
 - Applications for permission in principle will be subject to a fee.
 - Permission in principle applications will be subject to notification and consultation periods of 14 days; applications are to be determined within five weeks.
 - Once permission in principle is granted, technical details consent (TDC) must then be sought within three years; TDC must be granted before the proposal has the benefit of planning permission.

- *The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017* were made on 20 December and come into force on 17 January 2018. They make provision for an increase of approximately 20% for existing planning fees. The associated Explanatory Note observes that ‘the increase was offered by Government to all local planning authorities ... if they agreed that the additional money would be re-invested within their planning department. All local planning authorities accepted the offer’. The Regulations also:
 - Make provision for a fee in respect of applications for permission in principle
 - Enable Mayoral development corporations and urban development corporations to charge for pre-application advice
 - Permit a planning application fee to be charged where a local planning authority has made an Article 4 direction withdrawing permitted development rights, or where permitted development rights have been withdrawn by a condition imposed on a planning permission
 - Make provision for a fee for prior approval applications in respect of the new permitted development rights.
- *The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017* were laid before Parliament on 13 December 2017. They come into force on 15 January 2018 (apart from regulation 4 (relating to the review of local development documents), which comes into force on 6 April). The Regulations make amendments to the *Town and Country Planning (Local Planning) (England) Regulations 2012*. Key provisions include the following:
 - Local planning authorities must review local plans and statements of community involvement every five years (starting from the date of adoption)
 - The Secretary of State is given the power to direct two or more local planning authorities to prepare a joint development plan document.
- *The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017* were laid before Parliament on 13 December 2017, and come into force on 31 January 2018. They amend the *Neighbourhood Planning (General) Regulations 2012* and the *Town and Country Planning (Development Management Procedure)(England) Order 2015*. Key provisions include the following:
 - The existing procedure for making a neighbourhood plan is applied to the modification of a neighbourhood plan
 - The requirements in respect of the notification of planning applications to neighbourhood planning qualifying bodies are updated.
- The Government has published its response to various consultations on Environmental Impact Regulations:
 - *Government Response to the Technical Consultation on Environmental Impact Assessment (Regulations on Planning and Nationally Significant Infrastructure)*
 - *Environmental Impact Assessment: Technical Consultation (Transport Regulations): Government Response*

- *Consultation on the Environmental Impact Assessment – Joint Technical Consultation (Planning Changes to Regulations on Forestry, Agriculture, Water Resources, Land Drainage and Marine Works): Summary of Responses and Government Response*
- *Government Response to the Technical Consultation on Environmental Impact Assessment (Regulations on Electricity Works)*
- *Government Response to the Consultation on Draft Legislative Proposals for Implementing Amendments to the Environmental Impact Assessment Directive for Offshore Hydrocarbon-Related Developments and Pipelines.*

Case Update

- A Supreme Court judgement (Dover District Council v CPRE and others 2017) has confirmed that, should planning committees deviate from Planning Officers' recommendations, they should be prepared to give an explanation for their decision. Lord Carnwath stated that 'it should not be difficult for councils and their officers to identify cases which call for a formulated statement of reasons, beyond the statutory requirements. Typically they will be cases where ... permission has been granted in the face of substantial public opposition and against the advice of officers, for projects which involve major departures from the development plan, or from other policies of recognised importance.... Such decisions call for public explanation, not just because of their immediate impact; but also because ... they are likely to have lasting relevance for the application of policy in future cases.... Members are of course entitled to depart from their officers' recommendation for good reasons, but their reasons for doing so need to be capable of articulation, and open to public scrutiny'.

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.

Policy

National Planning Policy Framework (NPPF)

- MHCLG has confirmed that:
 - It will be consulting on new policy measures (as outlined in the Budget and summarised in Historic England's December 2017 Planning Bulletin) alongside a draft of the new NPPF early in 2018.
 - Full guidance will be published at the same time that the revised NPPF is published before the end of the summer in 2018.

MHCLG Planning Update Newsletter

- MHCLG's Chief Planner issued a Planning Update Newsletter on 21 December. It covers a wide range of topics, including:
 - Planning reform update (see NPPF, above)
 - Changes to plan-making procedures (see Secondary Legislation, above)
 - Neighbourhood planning changes (secondary legislation and funding in support of plan preparation)

- Planning Delivery Fund launch
- Housing Delivery Test implementation
- Community Infrastructure Levy reforms
- Local Plan Interventions
- Planning Fee increase (see Secondary Legislation, above)
- Changes to permitted development rights
- Compulsory purchase measures
- Brownfield land register deadlines and actions
- Permission in principle (see Secondary Legislation, above)
- Planning statistics
- Unauthorised development and encampments
- Support for Local Mineral Authorities dealing with shale applications
- Planning treatment of electricity storage facilities (such as battery storage systems)

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, the final versions of *GPA4: Enabling Development* and an update of the advice on curtilage (in the form of a HEAN) will be issued in coming weeks, as will a further HEAN on neighbourhood planning and the historic environment, and a final version of the updated national and regional *Streets for All*.
- A revised edition of *HEAN 1: Conservation Areas: Designation, Appraisal and Review* will be published shortly for consultation.
- An updated version of *Conservation Principles* has also been issued for consultation (closing date 2 February).

Training

- Historic England provides training and guidance to help local authorities, heritage professionals, owners and voluntary organisations look after England's heritage. Training currently available covers a wide range of topics, many directly linked to planning matters and Historic England advice:
 - Historic Environment Local Management (HELM): training on managing the historic environment for local authorities, regional agencies and national organisations
 - Heritage Practice: training courses for heritage specialists in technical subjects and techniques. Four new courses will be launched in January 2018
 - Online training: webinars and other resources to help supplement the short course training opportunities and make them more widely available. The online training includes recordings of webinars and other, longer courses to work through.

Other Initiatives

Housebuilding in the UK

- A House of Lords Library [Briefing](#) was prepared in advance of a debate on 11 January 2018 on the motion ‘that this House takes note of the performance of the United Kingdom’s major housebuilders’. The briefing focuses on the response of the UK Government’s approach to the housing market in England.

The Taylor Review: Sustainability of English Churches and Cathedrals

- The Taylor Review into the sustainability of English churches and cathedrals was commissioned in April 2016, to examine the funding and sustainability of listed Church of England buildings, and consider how to ensure that the thousands of listed church buildings are conserved for future generations. Consultation took place in December 2016-January 2017, and the final [report](#) has now been issued. Its recommendations relate to enhancing and resourcing community use and care of church buildings, and supporting the good care and timely maintenance of buildings.

A Green Future: Our 25 Year Plan to Improve the Environment

- The Government has issued [A Green Future: Our 25 Year Plan to Improve the Environment](#). The Plan – which refers to cultural as well as natural heritage – is described as ‘a living blueprint for the environment covering the next quarter of a century. It is an ambitious project, made even more so by our use of a natural capital approach’. The Government commits to consulting ‘early in 2018’ on ‘an effective governance structure underpinned by environmental principles’ to ensure that the intended outcomes (which include ‘enhanced beauty, heritage and engagement with the natural environment’) are delivered. Six key policy areas have been identified, around which action will be focused:
 - Using and managing land sustainably
 - Recovering nature and enhancing the beauty of landscapes
 - Connecting people with the environment to improve health and wellbeing.
 - Increasing resource efficiency, and reducing pollution and waste
 - Securing clean, productive and biologically diverse seas and oceans.
 - Protecting and improving the global environment
- The Plan sits alongside the [Industrial Strategy](#) and the [Clean Growth Strategy](#).

Homes England

- [Homes England](#) has been launched as the successor body to the Homes and Communities Agency, i.e. as the Government’s housing, land and regeneration agency in England.

Current Consultations

- DCMS’s call for views on [5G Network Deployment Pilots](#) (closing date 24 January 2018).
- The Environment Agency’s [consultation](#) on charging proposals (closing date 26 January 2018).
- DCMS’s [call for evidence](#) on market and policy models to support investment in future telecoms infrastructure (closing date 30 January 2018).

- Historic England’s consultation on an updated version of Conservation Principles (closing date 2 February 2018).
- The Department for Business, Energy & Industrial Strategy’s consultation on amendments to the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 for domestic properties (closing date 13 March 2018).
- The Department for Business, Energy & Industrial Strategy’s consultation on a proposed process and criteria to designate potentially suitable sites as part of a new National Policy Statement (NPS) for nuclear power (closing date 15 March 2018).
- The Marine Management Organisation’s engagement period (29 January to 29 March 2018) on four emerging marine plans (North West marine plan, South East marine plan, South West marine plan, and North East marine plan).

Recent Consultation Responses

- Historic England’s response to Defra’s consultation on the development of a National Policy Statement (NPS) for water resources will be available here shortly.
- Historic England’s response to the National Infrastructure Commission’s consultation on its vision and priorities for UK infrastructure over the next 30 years will be available here shortly.

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

APPENDIX I: HISTORIC ENGLAND PLANNING ADVICE

Good Practice Advice notes (GPAs)

- The GPAs provide information on good practice, particularly looking at the principles of how national policy and guidance can be applied. They are the result of collaborative working with the heritage and property sectors in the Historic Environment Forum, and have been prepared following public consultation:
 - *GPA 1: The Historic Environment in Local Plans* (March 2015)
 - *GPA2: Managing Significance in Decision-Taking in the Historic Environment* (March 2015)
 - *GPA3: The Setting of Heritage Assets* (December 2017)
 - *GPA4: Enabling Development* (forthcoming)

Historic England Advice Notes (HEANs)

- The HEANs include detailed, practical advice on how to implement national planning policy and guidance. They have been prepared by Historic England following public consultation:
 - *HEAN 1: Conservation Areas: Designation, Appraisal and Review* (February 2016)
 - *HEAN 2: Making Changes to Heritage Assets* (February 2016)
 - *HEAN 3: Site Allocations* (October 2015)
 - *HEAN 4: Tall Buildings* (December 2015)
 - *HEAN 5: Setting up a Listed Building Heritage Partnership Agreement* (November 2015)
 - *HEAN 6: Drawing up a Local Listed Building Consent Order* (November 2015)
 - *HEAN 7: Local Heritage Listing* (May 2016)
 - *HEAN 8: Sustainability Appraisal and Strategic Environmental Assessment* (December 2016)
 - *HEAN 9: The Adaptive Reuse of Traditional Farm Buildings* (October 2017)