



Planning Bulletin: June 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.

Job Opportunities

There are currently two planning-related vacancies within Historic England's Government Advice Team:

- [Senior Planning and Regeneration Adviser](#) (permanent post, closing date 17 June): an opportunity to work on national planning policy, guidance and advice, with a particular focus on housing and regeneration, but also involvement in a wide range of other policy areas.
- [Senior National Infrastructure Adviser](#) (fixed-term post until March 2020, closing date 17 June): an opportunity to lead on Historic England's response to emerging National Policy Statements, as well as developing strategic relationships and writing advice.

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. Final amendments were made to the Bill during the third reading in the House of Lords on 16 May: a House of Lords Library Briefing summarises amendments made to the *European Union (Withdrawal) Bill* in the House of Lords. The Bill has now returned to the Commons for consideration of Lords amendments on a date to be announced. Explanatory notes are available here, and a library 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. Second reading took place on 30 January; a date for committee stage has not yet been scheduled. Explanatory notes are available here.
- *Automated and Electric Vehicles Bill*: the Bill makes provisions about automated vehicles and electric vehicles, including in relation to charging points. Committee stage concluded on 17 May; report stage is scheduled for 5 June. An explanatory memorandum is available here, a briefing note here, and a research briefing here.
- Another Bill mentioned in the Queen's Speech which is of potential interest is the Agriculture Bill (to support UK farmers and protect the natural environment). The Bill will allow the delivery of many of the reforms set out in Defra's consultation on proposals for future agricultural policy in England (*Health and Harmony: the Future for Food, Farming and the Environment in a Green Brexit*).

- Defra has launched a consultation on the development of an *Environmental Principles and Governance Bill* (closing date 2 August). The Bill will mark the creation of a new statutory and independent environmental watchdog to hold government to account on environmental ambitions and obligations once the UK has left the EU.

Private Members' Bills

- *Bat Habitats Regulation Bill*: the Bill makes provision to enhance the protection available for bat habitats in the vicinity of a building site, and to limit the protection for bat habitats in buildings used for public worship. Second reading took place on 27 April; committee stage has yet to be scheduled. A briefing is available here.
- *Bat Habitats Regulation (No. 2) Bill*: the Bill makes provision to enhance the protection available for bat habitats in the non-built environment and to limit the protection for bat habitats in the built environment where the presence of bats has a significant adverse impact upon the users of buildings. The Bill was presented to Parliament on 5 September; second reading is expected on 6 July.
- *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 15 June.
- *Green Belt (Protection) Bill*: the Bill provides for the establishment of a national register of Green Belt land in England, the restriction of the ability of local authorities to de-designate Green Belt land, and provision about future development of de-designated Green Belt land. First reading took place on 5 September 2017; second reading is scheduled for 23 November.
- *Clean Air Bill*: the Bill requires the Secretary of State to set, measure, enforce and report on air quality targets; to make provision about mitigating air pollution; to make provision about vehicle emissions testing; and to restrict the approval and sale of vehicles with certain engine types. First reading took place on 22 November 2017; second reading is scheduled for 15 June.

Secondary Legislation

- *The Town and Country Planning (Permission in Principle) (Amendment) Order 2017* came into force on 1 June 2018. It 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 \(Pre-Commencement Conditions\) Regulations 2018](#) were laid before Parliament on 8 May, and come into force on 1 October. They follow the Government's January [consultation](#) (and May consultation [response](#)); Historic England's response to the original consultation is available [here](#). The Regulations implement Section 100ZA of the *Town and Country Planning Act 1990* (itself brought into force on 1 October by the [Neighbourhood Planning Act 2017 \(Commencement No. 5\) Regulations 2018](#)), and apply to pre-commencement conditions imposed on a grant of planning permission on or after 1st October 2018. They provide that:
 - Local planning authorities may notify applicants of proposed pre-commencement conditions, setting out their reasons for them 'clearly and precisely', and giving applicants ten working days to respond.
 - Applicants must provide a 'substantive response' within that period (stating that they do not agree to the imposition of the proposed condition, or providing comments on it); if they do not provide such a response, planning permission may be granted with the proposed pre-commencement conditions in place, and without the applicant's consent.

Where a substantive response has been provided, the local planning authority can amend the condition, remove it, make it a post-commencement condition, or refuse the application.

- BEIS has launched a [consultation](#) on *The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations*. These require all civil nuclear reactor dismantling and decommissioning projects to obtain consent before being allowed to commence, thereby ensuring that projects likely to have significant effect on the environment take due measures to protect and reduce their environmental impact. The consultation invites comments on proposals for implementing amendments of the European Union Directive on environmental impact assessments in so far as the Directive applies to consent for nuclear reactor decommissioning projects in the UK under the Regulations (closing date 20 June).

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

Business, Energy and Industrial Strategy Committee: Inquiry into the Draft National Policy Statement for Geological Disposal Infrastructure

- The BEIS Committee has launched an [Inquiry](#) into the *Draft National Policy Statement for Geological Disposal Infrastructure*. It will examine the objectives and scope of the draft NPS, and consider how it fits with the Government's *Industrial Strategy* and emphasis on regional growth. [Written submissions](#) are invited by 15 June.

Environmental Audit Committee: Environmental Governance

- The Environmental Audit Committee has launched an [inquiry](#) into the Government's proposals for a new environmental watchdog and its proposals to bring environmental principles into UK law after leaving the EU. The inquiry will build on the written and oral evidence taken during the Committee's inquiry on the Government's *25 Year Plan for the Environment*: further written submissions on any of the issues raised by the consultation are welcomed. As the Committee aims to conclude its inquiry in time to report before the Government's [consultation](#) closes on 2 August 2018, submissions were sought by 1 June, though later submissions will be accepted.

Policy

Energy Policy: Written Ministerial Statement

- A joint [Written Ministerial Statement](#) has been issued by BEIS and MHCLG Secretary of State for Business, Energy and Industrial Strategy) in support of the exploration and development of onshore shale gas resources. The statement is a material consideration in plan-making and decision-taking in England, and will 'sit alongside' the revised National Planning Policy Framework in due course. Key elements in the statement include the following:
 - Mineral Planning Authorities are expected to give great weight to the benefits of mineral extraction (e.g. shale gas exploration and extraction), including to the economy.
 - Mineral Plans should reflect that minerals resources can only be worked where they are found, and applications must be assessed on a site by site basis, having regard to their context.
 - Plans should not set restrictions or thresholds across their plan area that limit shale development without proper justification.
 - Mineral Planning Authorities are expected to recognise the fact that Parliament has set out in statute the relevant definitions of hydrocarbon, natural gas and associated hydraulic fracturing; MPAs should also have due regard to the relevant content of the Planning Practice Guidance (to be revised once the NPPF has been published, to ensure clarity on issues such as cumulative impact, local plan making and confirmation that planners can rely on the advice of regulatory experts).
 - Policies should avoid undue sterilisation of mineral resources (including shale gas).
 - There will be an 'early stage consultation' in summer 2018 on the principle of whether non-hydraulic fracturing shale exploration development should be treated as permitted development, and in particular on the circumstances in which this might be appropriate.

- Also in summer 2018, there will be consultation on the criteria required to trigger the inclusion of shale production projects in the Nationally Significant Infrastructure Projects regime.
- There will be consultation in due course on the potential to make pre-application consultation a statutory requirement, to strengthen community engagement.
- A £1.6 million shale support fund is to be launched to build capacity and capability in local authorities dealing with shale applications, and the creation of a new planning brokerage service for shale applications (to provide guidance to developers and local authorities on the planning process to help facilitate timely decision making).
- The Government expects Planning Performance Agreements to be put in place.
- Appeals against refusal of planning permission for exploring and developing shale gas (or against any non-determination) will be treated as a priority for urgent determination by the Planning Inspectorate; the criteria for considering the recovery of planning appeals are continued for a further two years under the Written Ministerial Statement in 2015.
- When any future applications are made to underperforming authorities, the Secretary of State will consider whether he should determine the application instead.
- The Government is to set up a Shale Environmental Regulator which will bring the existing regulators together.
- The Government welcomes the shale gas companies' commitment to making set payments to the 'communities hosting shale gas developments'; in addition, the Shale Wealth Fund will provide additional resources to local communities.

MHCLG Letters to Chief Planning Officers

- MHCLG has issued another [letter to Chief Planning Officers](#) (May 2018), addressing the relevance of the General Data Protection Regulation to local planning authorities.

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.
- Following public consultation, the national and regional [Streets for All](#) documents have now been updated and reissued, providing practical advice for anyone involved in planning and implementing highways and other public realm works in sensitive historic locations:

National

- [Streets for All: Advice for Highway and Public Realm Works in Historic Places](#)

Regional

- [Streets for All: East Midlands](#)
- [Streets for All: East of England](#)
- [Streets for All: London](#)

- [Streets for All: North East](#)
- [Streets for All: North West](#)
- [Streets for All: South East](#)
- [Streets for All: South West](#)
- [Streets for All: West Midlands](#)
- [Streets for All: Yorkshire](#)

Forthcoming Historic England Advice

- Following earlier public consultation, a HEAN on neighbourhood planning and the historic environment will be published in coming weeks, as will a revised edition of *HEAN 1: Conservation Areas: Designation, Appraisal and Review*.

Training

- Historic England provides training and guidance to help local authorities, heritage professionals, owners and voluntary organisations look after England's heritage. Training currently available covers a wide range of topics, many directly linked to planning matters and Historic England advice:
 - Historic Environment Local Management (HELM): training on managing the historic environment for local authorities, regional agencies and national organisations. The new training programme for the Spring/Summer of 2018 is now published. Visit the webpages for details of courses on:
 - Farm Buildings: Policy & Practice
 - Understanding & Managing World Heritage Sites
 - Unlocking Traditional Buildings
 - Managing Local Authority Heritage Assets
 - Coastal Development Projects and the Historic Environment
 Further events on the NPPF and the Disposal of Public Assets are planned for the Autumn.
 - Heritage Practice: training courses for heritage specialists in technical subjects and techniques. Courses on *Historic Area Assessments* and *Understanding Historic Buildings* are currently available to book.
 - Online training: webinars and other resources to help supplement the short course training opportunities and make them more widely available. The online training includes recordings of webinars and other, longer courses to work through.
 - Essentials training: This programme, delivered in partnership with Locus Consulting, covers the building blocks of historic environment management and explores key concepts, methodologies, legislation and policies that govern how the historic environment is understood, protected and managed through the planning system. It is aimed mainly at planners within local authorities.

Other Initiatives

National Parks Review

- Defra has launched a review into England's National Parks and Areas of Outstanding Natural Beauty (AONBs), to be conducted by an independent panel led by Julian Glover. The panel will look at how National Parks and AONBs meet current needs, whether the network needs to expand, how access can be improved, how those who live and work in them can be better supported, and their role in growing the rural economy. The Terms of Reference for the review are available [here](#).

Air Quality

- Further to a previous consultation on a [UK plan for tackling roadside nitrogen dioxide concentrations](#), Defra has launched a new consultation on a [Clean Air Strategy](#) (closing date 14 August). The draft strategy outlines the Government's ambitions relating to reducing air pollution, making air healthier to breathe, protecting nature and boosting the economy. It sits alongside the *Industrial Strategy*, *Clean Growth Strategy* and the *25 Year Environment Plan*. The draft *Clean Air Strategy* notes the importance of the planning system in addressing air quality, and states that the Government will provide guidance for local authorities later this year, explaining how cumulative impacts of nitrogen deposition on natural habitats should be mitigated and assessed through the planning system.
- In a separate [consultation](#), Defra is seeking views on how to reduce nitrogen dioxide (NO₂) air pollution in 33 English local authority areas (closing date 26 June). On 23 March 2018, the Government directed these local authorities to undertake studies to establish whether there are measures they can take to reduce NO₂ air pollution in their areas in the shortest possible time. These authorities must submit their findings to the government by 31 July 2018. The government will consider the results, and will publish a supplement to the NO₂ Plan by 5 October 2018.

The Raynsford Review of Planning

- The Town and Country Planning Association (TCPA) is supporting a cross-sector 18-month [task force](#), chaired by the Rt. Hon. Nick Raynsford, to determine the kind of planning system England needs, and to inform short-term changes to planning. The TCPA has just released the [interim report](#) for the Raynsford Review of Planning, and is inviting feedback on the report's propositions (closing date 16 July).

Coastal Revival Fund

- MHCLG is now inviting bids for a new £1 million [Coastal Revival Fund](#) round, which is for grant funding to be spent in 2018 to 2019. Bids may be submitted for up to £50,000 per project: this Coastal Revival Fund round will support projects to help revive heritage assets that are important to local communities but have not yet reached their full economic potential or are facing neglect (e.g. seafronts and public squares, piers, parks, promenades, lighthouses, lidos, marinas, and military structures). The prospectus explains the requirements to be fulfilled to access the funding, and the closing date for bids is 5 July 2018.

Environmental Principles

- The House of Lords has passed an [amendment](#) to the *European Union (Withdrawal) Bill* which would require the Government to maintain the EU's environmental principles in domestic law after Brexit: the amendment lists the principles to be given effect in domestic law.

- Further to its commitment in the [25 Year Plan for the Environment](#), Defra has launched a [consultation](#) on the development of an *Environmental Principles and Governance Bill* (closing date 2 August). The Bill will mark the creation of a new statutory and independent environmental watchdog to hold government to account on environmental ambitions and obligations once the UK has left the EU.
- The Environmental Audit Committee has launched an [inquiry](#) into the Government's proposals for a new environmental watchdog and its proposals to bring environmental principles into UK law after leaving the EU. The inquiry will build on the written and oral evidence taken during the Committee's inquiry on the Government's *25 Year Plan for the Environment*: further written submissions on any of the issues raised by the consultation are welcomed. As the Committee aims to conclude its inquiry in time to report before the Government's consultation closes on 2 August 2018, submissions were sought by 1 June, though later submissions will be accepted.

Energy Efficiency Directive

- The Council of the European Union has adopted a [revised directive on the energy performance of buildings](#). It improves energy efficiency in buildings and encourages building renovation, promoting cost-effective renovation work.

Current Consultations

- The BEIS Committee's [Inquiry](#) into the *Draft National Policy Statement for Geological Disposal Infrastructure* (closing date 15 June).
- BEIS's [consultation](#) on amending the *Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations* (closing date 20 June).
- Defra's [consultation](#) on how to reduce nitrogen dioxide (NO₂) air pollution in 33 English local authority areas (closing date 26 June).
- The TCPA's consultation on the [interim report](#) for the Raynsford Review of Planning (closing date 16 July).
- Defra's [consultation](#) on the development of an *Environmental Principles and Governance Bill* (closing date 2 August).
- Defra's consultation on a [Clean Air Strategy](#) (closing date 14 August).

Recent Consultation Responses

- Historic England's response to MHCLG's consultation on the revised [NPPF](#) is available [here](#).

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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)
 - *HEAN 10: Listed Buildings and Curtilage* (February 2018)