



## Planning Bulletin: June 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.*

### Government Departments

#### *Department for Digital, Culture, Media and Sport*

- Following a Cabinet reshuffle at the end of May, Rebecca Pow has been appointed Minister for Arts, Heritage and Tourism. Prior to the reshuffle she was a parliamentary private secretary at the Ministry for Communities, Housing and Local Government.

#### *Ministry for Housing, Communities and Local Government*

- Jake Berry, as Minister for the Northern Powerhouse and Local Growth, has been appointed as a joint Minister between MHCLG and Department for Business, Energy and Industrial Strategy.

### Legislation and Matters Arising

#### *Emerging Legislation*

#### *Government Bills*

- *Parliamentary Buildings (Restoration and Renewal) Bill*: the Bill provides for the establishment of a Sponsor Body and a Delivery Authority to oversee and manage the restoration of the Houses of Parliament. Introduced into the House of Commons on 8 May, the Bill had its second reading on 21 May and went to a Public Bill Committee on 4 June, with the Report stage (and subsequent third reading) due to take place on 19 June. The Bill is available here, and explanatory notes 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 2018; a date for Committee stage has not yet been scheduled. Explanatory notes are available here.
- *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; explanatory notes and a briefing paper are 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*. A *report* by the Environment, Food and Rural Affairs Committee has recently been published (April 2019), following pre-legislative scrutiny of the Bill. 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.

#### *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 and the second reading took place on 23 November; the Committee stage 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.
- *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**

##### *Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations*

- *The Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019* were laid before Parliament on 3 May, and came into force on 25 May. They implement the first tranche of the permitted development changes heralded in October's consultation on *Planning Reform: Supporting the High Street and Increasing the Delivery of New Homes*, and confirmed in March's *Written Ministerial Statement*, including the following:
  - Regulation 4 makes permanent the existing temporary right to enlarge a dwelling house by up to 8 metres in the case of a detached dwelling house, or by 6 metres in the case of any other dwelling house, and removes the time limiting date of 30th May 2019
  - Regulation 5 increases the height limit of electrical upstands and outlets for recharging electric vehicles to 2.3 metres
  - Regulation 6 introduces a new permitted development right allowing the change of use of a building falling within Class A1 (shops), Class A2 (financial and professional services), or Class A5 (hot food takeaways), or a betting shop, pay day loan shop or launderette, to a use falling within Class B1(a) (offices)
  - Regulation 7 permits buildings with a use falling within Class A5 (hot food takeaways) to also change use to a dwellinghouse
  - Regulation 8 clarifies that the floor space of any dwellinghouse created by Class Q cannot exceed 465 square metres
  - Regulations 9, 12 and 15 update references to the National Planning Policy Framework

- Regulation 11 allows certain Class D1 (non-residential institutions) uses as permitted temporary flexible uses, and extends the period of time that a building can be in a temporary flexible use from 2 years to 3 years
- Regulation 16 removes permission for the installation, alteration or replacement of a public call box by, or on behalf of an electronic communications code operator
- Regulation 17 removes deemed consent to display an advertisement on the glazed surface of a telephone kiosk.

## Committees

### *Housing, Communities and Local Government Committee: High Streets and Town Centres in 2030*

- MHCLG has responded to the Housing, Communities and Local Government Committee *High Streets and Town Centres in 2030* report (February 2019). The report provides a set of recommendations to prevent the loss and deterioration of high streets and town centres by 2030. MHCLG's response restates the Government's commitment to high streets and town centres and notes (among other actions) the introduction of new and amended permitted development rights, support for the effective use of existing planning tools such as Compulsory Purchase Orders and Local Development Orders, confirmation of the Government's plans for funding to support town centres and high streets, and for the establishment of the High Streets Task Force.

### *Environment, Food and Rural Affairs Commons Select Committee: National Policy Statement for Water Resources Infrastructure*

- The Environment, Food and Rural Affairs Commons Select Committee has published its report and recommendations on the National Policy Statement for Water Resources Infrastructure (NPS), following conclusion of the parliamentary scrutiny stage on the draft NPS.

## Policy

### *National Planning Policy Framework (NPPF)*

- Paragraph 209(a) of the revised National Planning Policy Framework has been quashed by the Courts, following a successful legal challenge against MHCLG. The initial ruling found that this section of the NPPF failed to take into account relevant evidence and is therefore unlawful; a subsequent ruling determined that the Government does not have to carry out a public re-consultation for its planning policy on 'fracking'. The remainder of the NPPF policies and, in particular, Chapter 17 on 'Facilitating the Sustainable Use of Minerals', remain unchanged and extant, and (for the purposes of the NPPF) hydrocarbon development (including unconventional oil and gas) is considered to be a mineral resource. In addition, the Written Ministerial Statements of 16th September 2015 on 'Shale Gas and Oil Policy' and 17th May 2018 on 'Planning and Energy Policy' also remain unchanged and extant. The Written Ministerial Statements sit alongside the National Planning Policy Framework. Planning Practice Guidance is also unaffected by the ruling.

### *Draft National Policy Statement for Water Resources Infrastructure*

- Following conclusion of the parliamentary scrutiny stage on the draft National Policy Statement for Water Resources Infrastructure (NPS), a report and recommendations has been published. The final NPS and the Government's statement of response are due to be published in autumn 2019.

## Guidance

### *Planning Practice Guidance (PPG)*

- Changes were made to the following sections of the Planning Practice Guidance on 9 May:
  - Neighbourhood planning: the changes include an outline of the procedure for neighbourhood planning bodies where local planning authorities have not provided an indicative figure for housing requirements in the neighbourhood planning area, reference to affordable housing, and details on how neighbourhood plans or orders can be changed.
  - Viability: the changes include a refined definition of existing use value (used for calculating benchmark land values to inform viability assessments), and the removal of the requirement for the application of alternative use value when calculating benchmark land values to be restricted solely to uses with an existing implementable permission.

## Advice

### *Historic England Advice*

- Good Practice Advice notes (GPAs) and Historic England Advice Notes (HEANs) are all available on the Historic England website, and are listed in Appendix I to this Bulletin for ease of reference.
- Consultation recently took place on the new Historic England Advice Note: Statements of Heritage Significance (closed 10 May); responses are now being considered, and the final version of this advice will be issued in due course.
- 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. A summary of the responses received is available here.

## 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):
    - Understanding Heritage Economics and the Development Process (Birmingham on 2 July).
    - Practical Building Conservation Update: Porous Building Materials (Devon, 3 July; Cumbria, 10 July; West Sussex, 10 October).

New courses for the autumn will include Industrial Heritage, Heritage Statements, and Design and Place-making in Historic Areas.

  - Heritage Practice: training courses for heritage specialists in technical subjects and techniques. Visit the webpages for details of courses on (amongst others):
    - Understanding Historic Buildings (Oxford on 16 September).

- Essentials Training: training course on fundamental heritage skills for local authority planners and early entrants into historic environment services. Visit the webpages for details of courses on (amongst others):
  - Assessing Heritage Significance (Worcester, 4 July; Darlington, 12 September)
  - Setting in Practice (Birmingham, 10 October; Leeds, 31 October).
- 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.
- To be added to the mailing list for training events and webinars, or if you would like to suggest topics for courses, webinars or online training please email [helmbookings@historicengland.org.uk](mailto:helmbookings@historicengland.org.uk).

## **Infrastructure**

### *NIC National Infrastructure Design Group*

- The National Infrastructure Commission (NIC) announced the 10 members who will form its new National Infrastructure Design Group on 7 May. The group is intended to champion design excellence in infrastructure projects.

### *HS2 Phase 2a Additional Provision 2 Environmental Statement and Supplementary Environmental Statement 2 Consultation*

- A summary of responses and outcome to the *HS2 Phase 2a Additional Provision 2 Environmental Statement and Supplementary Environmental 2 Statement Consultation* (February 2019), which sought views on proposed design changes and amendments to the *High Speed Rail (West Midlands to Crewe) Bill*, was published on 23 May.

### *A303 Tunnel at Stonehenge World Heritage Site*

- The National Audit Office has published a report evaluating the Department for Transport's plans to improve the A303 between Amesbury and Berwick Down, by building a tunnel underneath the Stonehenge World Heritage Site.

### *5G Telecommunications: Plans to Consult on Changes to Planning Process*

- DCMS has announced plans to consult on proposals to support the introduction of 5G networks, and the further delivery of 4G networks, through a simplification of the planning process in England. DCMS had previously indicated the need to consider planning reforms to assist deployment in its *Future Telecoms Infrastructure Review* (2018).

## **Other Initiatives**

### *Developer Contributions Reform*

- The Government has published its response following the technical consultation on reforming developer contributions, which sought views on draft legislation to amend the *Community Infrastructure Levy Regulations 2010*.
- Following the technical consultation on reforming developer contributions, the *Community Infrastructure Levy (Amendment) (England) Regulations 2019* will come into force on 1 September. Local authorities will be required to produce annual

infrastructure funding statements detailing developer contributions, including for section 106 agreements. These will replace Regulation 123 lists, with a requirement for local authorities to publish their first statements by 31 December 2020. MHCLG has stated that it will provide detailed guidance on this issue.

#### *Environment Agency Consultation: Draft National Flood and Coastal Erosion Risk Management Strategy for England*

- The Environment Agency is currently consulting on a draft *National Flood and Coastal Erosion Risk Management Strategy for England*. The draft strategy sets out its three aims for readiness and resilience to flooding and coastal change to the year 2100:
  - Climate resilient places;
  - Today's growth and infrastructure to be resilient in tomorrow's climate; and
  - A nation of climate champions, able to adapt to flooding and coastal change through innovation.

The consultation closes on 4 July.

- A *Strategic Environmental Assessment (SEA) environmental report*, presenting the results of the assessment process and including a summary of the outcome of the Environment Agency consultation on a *Strategic Environmental Assessment scoping report* (closed October 2018), also forms a part of the consultation for the Strategy.

#### *Government Target for Net Zero Emissions by 2050*

- The Government has announced its plans to set a target of net zero emissions by 2050. To enable this, a statutory instrument amending the *Climate Change Act 2008* was laid in Parliament on 12 June. The decision follows the Committee on Climate Change report *Net Zero: The UK's Contribution to Stopping Global Warming*, the key recommendation from which was a new emissions target for the UK of net-zero greenhouse gases by 2050. The report further recommended an 'evolution in the planning system' in order to do so.

#### *Grants for the Development of Neighbourhood Development Orders (NDOs)*

- MHCLG has launched an £8.5 million fund as part of a three-year pilot project to support the delivery of discounted homes through locally-led Neighbourhood Plans. Between £10,000 and £50,000 will be available to volunteer groups, to help identify suitable sites for discounted homes, secure planning permission and to provide other technical support. Further free specialist advice and guidance will also be made available for those participating in the pilot.

#### *Conservation Covenants*

- The Department for Environment, Food and Rural Affairs has received 112 responses to the consultation on *Conservation Covenants*. Defra are finalising their analysis and expect to publish a response later this year.

#### *Review of the 25 Year Environment Plan*

- The first progress review of the 25 Year Environment Plan has been published. The review found that in the Plan's first year 90% of its actions have been delivered or are on track for timely delivery, including:
  - The preparation of the first Environment Bill in 20 years, providing a statutory foundation for the 25 Year Environment Plan.

- The development of the Agriculture Bill, and its presentation before Parliament.
- The safeguarding forests and woodlands through the creation of a Northern Forest and the appointment of a Tree Champion.
- Protecting the marine environment through the establishment of the Fisheries Bill.
- Consulting on plans for biodiversity net gain to ensure new houses meet the needs of people and also contribute to ecological recovery.
- Protecting habitats by launching a review to enhance England's National Parks and Areas of Outstanding Natural Beauty.

The report is available [here](#). A new indicator framework for the 25 Year Environment Plan has also been published.

#### *The Urban Tree Challenge Fund*

- A new £10 million fund to plant and maintain 130,000 trees in towns and cities across England has been announced by the Government. Grants will be awarded over the next two years through the fund, which will be administered by the Forestry Commission, in support of Government targets to plant one million urban trees by 2022.

#### *Future High Streets Fund: Historic High Streets*

- A new £62 million fund to regenerate historic high streets across the country was announced on 18 May in a DCMS-led announcement, including £44 million to be administered by Historic England through its High Streets Heritage Action Zones initiative, and £15 million for the Architectural Heritage Fund to support social enterprise organisations to take ownership of and bring back into use buildings of local importance. £3 million from the National Lottery Heritage Fund will support a cultural programme for community engagement with high streets. This forms part of the Government's wider plans for high streets, which includes the £675 million Future High Streets Fund announced in the Autumn 2018 budget statement.

#### *High Streets Task Force*

- The Government has created a High Streets Task Force, following its commitment to do so in the 2018 Budget. As a response to the Housing, Communities and Local Government Select Committee inquiry into the future of high streets and town centres, the remit of the High Streets Task Force will include the provision of planning experts to assist local authorities in designing high street and town centre strategies.

#### *PINS: Rosewell Review*

- Following publication of the Report and Recommendations into the Independent Review of Planning Appeal Inquiries (the Rosewell Review), the Planning Inspectorate (PINS) launched a trial in which a small number of inquiry appeals will be accelerated. PINS has recently provided an update on the progress with this trial, which is now being scaled up.
- PINS has also published its action plan to implement the recommendations of the Rosewell Review. However, it has stated that a sizeable transition period would be needed to meet the all 22 of the recommendations of the Review, and that it aims to do so by June 2020.
- A new PINS notification procedure, in line with a recommendation of the Rosewell Review, will require applicants to notify the local planning authority and PINS at least

10 working days before cases are submitted when seeking appeal inquiries. PINS has also published a 'notification of intention to submit an appeal' template for inquiry requests. Local authorities have been asked to advise applicants of the new requirement when issuing decisions.

### **Current Consultations**

- Department for Transport's *Aviation 2050 - the Future of UK Aviation* (closing date 20 June).
- Environment Agency consultation on a draft *National Flood and Coastal Erosion Risk Management Strategy for England* (closing date 4 July).

### **Recent Consultation Responses**

- Historic England's response to the DCMS Committee's inquiry into the contribution made by gardens to UK tourism, the economy and national heritage is available here.
- Historic England's response to the Department for Transport's call for evidence on *Light Rail and Other Rapid Transit Solutions in Cities and Towns* is available here.
- Historic England's response to 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 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:
  - *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)