



Historic England

## **Changes to the Current Planning System Historic England Consultation Response**

Historic England is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Digital, Culture, Media and Sport (DCMS). We champion and protect England's historic places, providing expert advice to local planning authorities, developers, owners and communities to help ensure our historic environment is properly understood, enjoyed and cared for.

We welcome the opportunity to submit a response to *Changes to the Current Planning System* on the proposals relating to the Standard Method for Assessing Housing Numbers, and Permission in Principle for Major Development.

### **Overview**

Historic England understands the aspirations in the *Changes to the Current Planning System* consultation, to address current issues of housing supply and provide greater levels of transparency and certainty within those areas of the planning system. Historic England has the following observations about the consultation approach:

- It is understood this consultation sets out proposals which are shorter term measures (paragraph 2), whilst there is separate fundamental reform of the planning system. Historic England would welcome clarity regarding transitional arrangements between the *Changes to the Current Planning System* proposals and the implementation of any changes proposed in the *Planning White Paper: Planning for the Future* (PWP) consultation over the coming months.
- Historic England considers inclusion of capacity and constraint factors within the proposed standard method for assessing housing numbers is necessary to deliver a better distribution of housing to prevent avoidable harm to the historic environment.
- Historic England would welcome the inclusion of information relating to the historic environment to be made available within supporting information at the PiP application stage. This would reduce risks of uncertainty at the TDC stage and lead to better quality outcomes in Local Planning Authority (LPA) decision making.
- Proposals for 14 days consultation for major development via the Permission in Principle (PiP) application route are short. Historic England would welcome the introduction of a 21-day consultation process in line with Brownfield Land Register PiP allocations and outline planning applications. Giving consultees

21 days would help enable them to assess proposals fully, which would support good decision-making and may save time at the subsequent TDC stage.

- Much of the detail underpinning the planning proposals in the PWP is not currently available, and there is a risk the interrelationship of the various changes proposed cannot be properly understood, and their cumulative effect adequately assessed. Historic England is keen to ensure that unintended consequences do not arise from the various changes and that the historic environment is appropriately considered. Historic England would be happy to work with MHCLG on matters of detailed policy and guidance arising from the *Changes to the Current Planning System* and the *Planning for the Future* consultations.

## Detailed Response

### THE STANDARD METHOD FOR ASSESSING HOUSING NUMBERS IN STRATEGIC PLANS

Historic England has the following comments in response to proposed changes to the standard method for assessing housing numbers in strategic plans:

- The consultation states that local housing need identified through the standard method is 'a start point and does not establish the housing requirement' (paragraph 3). The consultation refers to the approach set out in the PWP to determine the binding housing requirement. The PWP proposes to take into account capacity and constraint factors including historic environment considerations. If this principle is acceptable in the long term, provision should also be made to take account of capacity and constraint factors in the short term.
- The proposed approach aims to achieve a better distribution of homes, where homes are identified in more high-demand areas and in emerging demand areas (paragraph 14-b). This could result in unintended consequences for the historic environment.
- High-demand areas are often located within dense, heritage-rich urban environments. For example, the London Borough of Islington is the most densely populated local authority in the country, around 50% of the borough is also covered by conservation area designation. Under the new method the borough would see an 186% increase in housing compared to its London Plan target.
- Seeking to achieve this distribution of housing without taking account of land supply capacity and constraint considerations means it will become increasingly challenging to reconcile land-use tensions, placing historic environments at risk. Our research shows where overall capacity and constraint factors are taken into account at the outset, historic environments

have the potential to accommodate high-density residential development (see *Increasing Residential Densities in Historic Environments*, 2018).

- Proposals removing the cap to limit the level of increase in housing demand (as set out in paragraph 39) could place further pressure on the historic environment. The removal of the cap could risk exaggerating long term trends and potentially conflict with the Government's aim of levelling up regions. Could considerations be made to retain a cap where known land supply constraints result in LPAs being unable to respond to the levels of housing need identified through the standard method? Likewise, those locations where regeneration and growth ambitions are a driving factor, described as 'emerging demand areas' (paragraph 14-b) may benefit from the application of a growth factor to the standard method to support these ambitions.
- The consultation confirms the housing need identified through the standard method presents a minimum position (as referenced in paragraphs 7 and 8). Historic England would welcome further clarification on the approach taken where Local Authorities are unable to identify sufficient land supply to meet this level of demand, due to land supply constraints resulting from designated areas of protection for the natural and historic environment. Historic England would also welcome clarification on how co-operation between Local Authorities can be established to resolve potential tension between housing demand and land supply: especially as the PWP proposes removal of the *Duty to Cooperate*.

## **EXTENSION OF THE PERMISSION IN PRINCIPLE CONSENT REGIME**

### **Q24: Do you agree that the new Permission in Principle should remove the restriction on major development?**

- Permission in Principle (PiP) is a relatively new and not particularly well-used process. Removing the restriction means applications for major development on brownfield *and* greenfield sites can be made through the PiP application route. Without the opportunity to understand the impacts of major development proposals at the earliest opportunity, the historic environment is placed at risk. It is understood the original intention was to limit PiP to minor development (as specified in the passage of the Housing and Planning Act 2016 through Parliament).
- Historic England has concerns that major development through the PiP application route would not be supported by an appropriate level of information or consultation. Existing PiP and consent routes for major development allow LPAs to consider sites which are suitable for residential use; defined as meaning land which is 'appropriate for residential development, having regard to any adverse impact on the natural or local built environment, including in particular heritage assets' (Town and Country

Planning (Brownfield Land Register) Regulations 2017, Regulation 4, Paragraph 2.

- PiP for major development through the Brownfield Land Register allocation route or via planning permission also allows for 21 days consultation providing time for consultees to fully consider and respond to the acceptability of major development proposals. The proposed information requirements and consultation period in this consultation are not as strong as requirements under existing PiP allocation and consent routes. This limits the ability for evidence-based decision making regarding the acceptability of major development for residential uses.
- If the PiP allocations route for major development was progressed, Historic England would like to see the principles for information and consultation used in the Brownfield Land Register PiP allocation route or planning application route reflected in the PiP application process. With appropriate information in place there is an opportunity to address heritage 'at risk' through the sensitive development of specific sites. PiP proposals for major development could better reveal the significance of heritage assets (as defined in NPPF paragraph 200) by considering historic buildings that are vacant or underused, especially in struggling high streets and town centres. It also presents an opportunity to kick-start heritage-led regeneration in areas of more depressed property markets. Further comments on this are set out in response to questions 26 and 28.
- Historic England welcomes the inclusion of Environmental Impact Assessment (EIA) restrictions. Our understanding is the specification of 10 – 150 units, as indicated in paragraph 94, is intrinsically linked to the EIA threshold. However, there is concern that if any changes were to occur to EIA (as a review of Strategic Environmental Assessment, Sustainability Appraisal, and Environmental Impact Assessment is proposed in the PWP) this could result in changes to the threshold with larger scale major development schemes over 150 units qualifying for PiP.
- To minimise the risk of major development on the historic environment, Historic England also considers that Article 2 (3) sites should be excluded from major development PiP sites to protect Conservation Areas and World Heritage sites.

**Q25: Should the new Permission in Principle for major development set any limit on the amount of commercial development (providing housing still occupies the majority of the floorspace of the overall scheme)? Please provide any comments in support of your views.**

- Historic England supports the overall ambitions for sustainable development achieved through residential development supported by complementary small-scale commercial, office and community uses. However, clarity over the amount of commercial development permitted is welcomed and this could be

achieved through setting an upper limit, though the potential for subsequent changes of use under permitted development rights and use classes order may have an impact on this. Establishing an upper limit for commercial and other uses would also provide assurances that residential development clearly forms the majority floorspace within the proposal.

- Without a limit on commercial development there may be unintended consequences with schemes proposed for greenfield sites located on urban fringes and within rural areas. Sites in less accessible locations could divert commercial investment from high streets and town centres, further progressing their decline. Historic England considers historic high streets and town centres are an important focal point for commercial development and is seeking to reverse economic decline through the *High Streets Heritage Action Zones* programme, which promotes the active use of high streets as commercial and cultural centres, as do many government initiatives.

**Q26: Do you agree with our proposal that information requirements for Permission in Principle by application for major development should broadly remain unchanged? If you disagree, what changes would you suggest and why?**

- Historic England considers information requirements for PiP major development need to be changed. The lack of information to inform 'in principle' decisions for major development does not allow for heritage considerations to be adequately or appropriately addressed in relation to heritage significance and the impact of proposed development upon that significance.
- Historic England welcomes the acknowledgement that 'limited technical information...is not sufficient environmental information for these requirements to be accurately assessed at the point of decision' (paragraph 96). The same is true of impacts on the historic environment. Paragraph 104 of the consultation also confirms 'the LPA may not require the submission of any other information, including that specified on its local list'.
- Historic England is concerned current proposals for information provided to assist 'in principle' decision making are limited in supporting Local Planning Authorities (LPAs) fulfil statutory duties in respect of listed buildings and conservation areas, with decision makers unable to give great weight to the conservation of heritage assets as required by legislative duties for listed buildings and conservation areas in the *Planning (Listed Buildings and Conservation Areas) Act 1990* (section 66) and in the NPPF.
- The deferment of detailed information for major development to the Technical Details Consent (TDC) stage means impacts on undesignated, including archaeology of national significance (under footnote 63 of the NPPF), and unknown heritage assets may not be apparent until late in the process, with potential risk for developers regarding site viability and the requirement to

implement possible mitigation. Historic England supports heritage matters being considered at the PiP stage to allow heritage opportunities to be unlocked, reducing uncertainty and risk later in the application process.

- Proposals to give PiP to major development for schemes up to 5ha or 150 houses, without minimal technical input is also of concern for archaeological matters. The backloading of archaeological evaluation (either intrusive or non-intrusive) to the TDC stage would represent a substantial change to the current system, with major development schemes identifying the potential for archaeology of national importance at a late stage in the scheme development. Archaeological evaluation early in the process would prevent high profile cases like the Rose Theatre from occurring providing an insurance policy for developers.
- The concerns regarding information requirements could be remedied by including the heritage requirements for applications (as set out in NPPF paragraph 189) for PiP, subject to a proportionate approach as specified by the LPA.
- Existing guidance is also not prescriptive on how site sensitivity, in relation to heritage assets, may inform a decision not to grant a PiP proposal for a major development site. Historic England would welcome further clarification with respect to this point.
- The consultation does not cover information requirements at the TDC stage. It is presumed as TDC constitutes the award of full planning permission it must cover everything that the PiP application stage has not. It is important to ensure all necessary matters have been properly addressed and that existing levels of protection for heritage assets are unchanged. Historic England would welcome further clarification on information requirements at TDC for major developments and whether a PiP would be overturned if the information provided at TDC stage meant development was no longer acceptable 'in principle'.

**Q27: Should there be an additional height parameter for Permission in Principle? Please provide comments in support of your views**

- Historic England supports the proposal for a maximum height parameter to be included by the promoter on the major development PiP application, alongside proposed minimum and maximum number of dwellings and amount of non-residential development.
- This would allow LPAs and others to consider the acceptability of the proposed maximum building height in relation to designated heritage assets and their settings, as well as undesignated and/or locally important assets. Height parameters are especially important where there are protected views and/or locally important views to be considered.

**Q28: Do you agree that publicity arrangements for Permission in Principle by application should be extended for large developments? If so, should local planning authorities be:**

- i) required to publish a notice in a local newspaper?
- ii) subject to a general requirement to publicise the application or
- iii) both?
- iv) disagree

**If you disagree, please state your reasons.**

- As a statutory consultee on all aspects of the historic environment Historic England welcomes the extension of publicity requirements. Given the potential scale of major development of up to 150 dwellings, the extension of publicity to enable public participation, including civic societies and other heritage organisations with a vested interest in the historic environment is supported. It is important to raise awareness of the ‘in principle’ matters being considered and how this differs from decision making on an outline planning application. The opportunity to consult again at the TDC stage should also be clarified.
- Of greater consequence to Historic England is the amount of time available to consult at the PiP stage. Paragraph 100 of the consultation notes that views are sought on this matter, however there is no direct question to respond to. If the process for PiP applications for major development mirrors PiP applications for minor development, the period for consultation is 14 days. This may not allow enough time to perform Historic England’s statutory consultee duties for major sites. Historic England would welcome the introduction of a 21-day consultation process for PiP applications for major development, in line with Brownfield Land Register PiP allocations and outline planning applications. Giving consultees 21 days would help enable them to assess proposals fully, which would support good decision-making and may save time at the subsequent TDC stage.

**Q29: Do you agree with our proposal for a banded fee structure based on a flat fee per hectare, with a maximum fee cap?**

- It is important the fee structure takes account of LPA time and resources to consider all information, including that related to the historic environment, regarding major development proposals for PiP applications.

**Q31: Do you agree that any brownfield site that is granted Permission in Principle through the application process should be included in Part 2 of the Brownfield Land Register? If you disagree, please state why.**

- Historic England welcomes the proposal to hold PiP information on a register to create a single source of information. The PiP data, presented in a digital format, would then provide a useful source of information.

- If permitted PiP applications were included in Part 2 of the Brownfield Land Register as proposed this would preclude greenfield sites and only show a partial picture for permitted major development for residential use which has been granted PiP. Historic England suggest holding the information for all permitted brownfield and greenfield PiP applications on the standard planning register to avoid any confusion with the purpose and use of the Brownfield Land Register. This is subject to the proposed review of the Brownfield Land Register, which Historic England understands is planned to take place.

**Q32: What guidance would help support applicants and local planning authorities to make decisions about Permission in Principle? Where possible, please set out any areas of guidance you consider are currently lacking and would assist stakeholders.**

- Historic England considers information requirements for major development need to be changed. This could be remedied by including the heritage requirements for applications (as set out in NPPF paragraph 189) for PiP, as well as any specific information requirements set down by the LPA.
- Historic England is producing a PiP Historic England Advice Note (HEAN), which may further support the successful use of this planning tool.

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1 October 2020*