



Historic England

## **Historic England Response to 'Improving the Use of Planning Conditions: Consultation on Draft Regulations'**

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.

### **General comments**

- Historic England recognises the need for effective and proportionate use of planning conditions, and the discouragement of excessive or inappropriate conditions.
- Historic England welcomes the introduction of the default period of 10 working days, at the expiry of which a local planning authority (LPA) is able to grant planning permission subject to the pre-commencement condition without the written agreement of the applicant.
- The provisions for the LPA to respond to disagreement from the applicant by granting planning permission without the condition, seeking written agreement to an alternative, or refusing to grant permission are clearly articulated, but it will be important for any related policy or guidance to ensure that LPAs are not unduly encouraged to remove conditions altogether, or discouraged from refusing the application. LPAs do not always have access to specialist heritage expertise, and may feel under some pressure to approve an application where the only reason for refusal is a heritage-related pre-commencement condition, particularly if there is a shift in the balance of national policy, as suggested by recent consultations.
- Guidance could also address the fact that no reference is currently made to the possible need for statutory consultees to be involved in the discussions around conditions, e.g. Historic England in terms of archaeology and other heritage conditions. Conditions may have been suggested in response to statutory consultations, and any subsequent discussion of those conditions could usefully involve the statutory consultee.

Historic England welcomes the opportunity to respond to the following consultation questions:

### **Q1. Do you agree that the notice should require the local planning authority to give full reasons for the proposed condition and full reasons for making it a pre-commencement condition?**

Yes, in the interests of clarity of intention, and of consistency with other planning decision notifications in respect of conditions. Whether or not there have been earlier discussions between the local planning authority and the applicant, this will be an

important opportunity to set out the reasoning behind heritage-related and other pre-commencement conditions.

**Q2. Do you agree with our proposed definition of “substantive response” set out in draft Regulation 2(6)?**

A little clarification may be helpful, in the Planning Practice Guidance if not in the Regulations themselves, confirming that any response that does not explicitly agree or disagree with the condition constitutes ‘comments’. More constructive engagement between the LPA and the applicant around the key issues would be supported by a ‘full reasons’ requirement for the applicant as well as for the LPA, thereby maximising the likelihood that ‘further negotiations could follow which may result in agreement’: this would be in the best interests of the applicant and of historic environment conservation.

**Q3. Do you agree with our proposal not to give local planning authorities discretion to agree with applicants a longer period than 10 working days to respond to the notice?**

Yes. This provides certainty to all parties and ensures that the determination of the application is not unnecessarily delayed. The promotion of good practice in the Planning Practice Guidance is to be encouraged, namely the encouragement for LPAs and applicants to discuss the issues before the issue of the notice setting out the terms of a proposed pre-commencement condition.

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