



## Planning Bulletin: January 2023

This monthly note highlights some of the recent and forthcoming developments in the world of planning from a heritage perspective. 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.

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## Legislation and Matters Arising

### Emerging Legislation

#### *Government Bills*

- ***Levelling Up and Regeneration Bill***: Introduced in May 2022, this Bill makes provisions for a wide range of matters, including aspects of planning, local democracy and devolution, and levelling up measures. It has now progressed to the Lords. Amongst other things the Bill makes provision for:
  - National development management policies to sit alongside local development plan policies;

- A replacement for the Community Infrastructure Levy;
  - Environmental Outcome Reports to replace Environmental Impact Assessments;
  - Changes to compulsory purchase and enforcement powers;
  - Powers in relation to planning data;
  - A requirement for local authorities to have design codes for their area.
- The Bill contains five clauses relating to the historic environment:
    - A duty to have special regard to the preservation or enhancement of heritage assets and their settings will apply to a wider range of designated heritage assets (Clause 95, previously 92);
    - Enforcement powers introducing Temporary Stop Notices for listed building works, aligning them with general planning enforcement powers (Clause 96, previously 93);
    - New powers to enable Urgent Works Notices to be served on occupied buildings, and any costs to be entered as a land charge (Clause 97, previously 94);
    - Removal of compensation for local authorities when they serve a Building Preservation Notice on a historic building under threat of damage whilst it is considered for listing (Clause 98, previously 95);
    - A statutory underpinning for Historic Environment Records, enabling them to be a strong evidence base for the new planning system (Clause 212, previously 185).
  - The Bill was accompanied by an Explanatory Note and a Policy Paper giving further information on its contents and future consultations on aspects of the Bill. Two Research Briefings have also been published, the first provides a general briefing on the Bill and was published as part of the House of Commons Library on 1 June. A further Research Briefing on the Levelling Up and Regeneration Bill 2022-23: Progress of the Bill was also published on 9 November.
  - The Bill was subject to a series of amendments as it passed through the House of Commons; including, but not limited to, the following:
    - Powers for community land auctions that allow local authorities to benefit financially from land allocations (Part 5);
    - Proposals for ‘street votes’, subject to independent examination and referendum (Clause 99);
    - The potential for consolidation of existing legislation without the need for parliamentary approval (Clause 123);
    - Powers for Local Authorities to decline to determine applications from applicants who have been slow to implement previous permissions (Clause 105).
    - The right for Councils to require developers to provide progress reports on their projects (Clause 106);
    - Statutory consultees could be permitted to charge for advice related to Nationally Significant Infrastructure Project applications (Clause 118).
    - New duty on councils to grant sufficient permission for self- and custom-build housing (Clause 115);
    - A requirement for water companies to upgrade sewage treatment works to unblock permissions in sensitive areas affected by nutrient pollution (Part 7);
    - A provision for the registration of short-term rental properties (Clause 190).

- The Bill has passed through the House of Commons and the amended version is currently being considered by the House of Lords. It had its First reading on 19 December 2022, and a Library Briefing for the Levelling-up and Regeneration Bill was published on 10 January. The Bill had its Second reading (i.e. debate) on 17 January and is currently at Committee stage. The marshalled amendments from the House of Lords, which are to be reviewed alongside the rest of the Bill at committee, are available here.
- UK Infrastructure Bank Bill 2022-23: The Bill has been introduced in the House of Lords to give statute to the UK Infrastructure Bank. Its purposes are to contribute to addressing climate change and to support regional and local economic growth through investment in infrastructure. The Bill was examined at Committee stage on 22 and 23 November 2022 and has now passed to Report Stage, a date for which is awaited. A Research Briefing was published by the House of Lords Library on 19 May 2022.
- High Speed Rail (Crewe-Manchester) Bill: This legislation has been introduced to make provision for a railway between a junction with Phase 2a of High Speed 2 south of Crewe in Cheshire and Manchester Piccadilly Station; for a railway between Hoo Green in Cheshire and a junction with the West Coast Main Line at Bamfurlong, south of Wigan.
- The Bill has been carried over from the previous session of Parliament and received its First and Second readings on 11 and 20 May 2022. The Bill has now passed to Committee stage, a date for which has yet to be announced. A Research Briefing was published by the House of Commons Library on 16 June 2022.
- Energy Bill: The Bill has been introduced through the House of Lords. The aim of the Bill is to increase resilience and reliability of energy systems across the UK, support the delivery of the UK's climate change commitments and reform the UK's energy system while minimising costs to consumers and protecting them from unfair pricing. The Bill has three key pillars:
  - Leveraging investment in clean technologies.
  - Reforming the UK's energy system and protecting consumers.
  - Maintaining the safety, security and resilience of the energy systems across the UK.
- The Bill had its First reading in the House of Lords on 6 July 2022 and its Second reading on 19 July 2022. A Library Briefing for the Energy Bill was published by the House of Lords Library on 14 July 2022. The Bill is currently at Report stage, having been debated at Committee Stage on 7 September and 12, 14, and 19 December 2022, as well as on 16 and 18 January. The draft Bill as amended by committee is available here.

#### *Private Member's Bills*

- Carbon Emissions (Buildings) Bill: This Private Member Bill has been introduced with proposals to require the whole-life carbon emissions of buildings to be reported; to set limits on embodied carbon emissions in the construction of buildings; and for connected purposes.
- The Bill had its First reading in the House of Commons on 2 February 2022 and was reintroduced in the next session of Parliament on 20 June 2022. The Bill is currently

undergoing its Second reading. It was debated on 25 November 2022 and will be again on 23 February.

- **Green Belt (Protection) Bill**: This Private Member Bill seeks to establish a national register of Green Belt land in England, to restrict the ability of local authorities to de-designate Green Belt land and to make provision about future development of de-designated Green Belt land. The Bill was introduced in the 2021-2022 session of Parliament but did not progress beyond the First reading. It was reintroduced in the 2022-2023 session in the House of Commons on 20 June 2022. The Bill is due its Second reading on 3 March.
- **Climate and Ecology Bill**: The Bill was introduced through the House of Lords. The Bill would impose a duty on the government to achieve defined climate and nature targets. This would include introducing a strategy for reducing the UK's overall contribution to global greenhouse gas emissions to net zero. The Bill would also impose a similar requirement on targets designed to halt and reverse the UK's overall contribution to the degradation and loss of nature. A Library Briefing for the Climate and Ecology Bill was published by the House of Lords Library on 11 July. The Bill underwent Committee Stage, sitting on 18 November 2022, and Reporting Stage on 25 January. A date for its Third reading is currently awaited.

### **Amendments to Primary Legislation**

- On 4 December 2022 the government announced their response to the consultation on the revision of the Treasure Act 1996 and its accompanying Codes of Practice. In their response they determined to revise the definition of treasure and commission research to look at options for achieving this and their implications. This will be published in 2023 and will form the basis of a new definition. The full response can be found here.

### **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, and searches can also be carried out by address, date or decision reference.

## **Committees**

### **Built Environment Committee**

- The committee had a formal meeting on 17 January, to take evidence on infrastructure policy making. The meeting transcript is available here.

### **Land Use in England Committee**

- The Committee held an Inquiry to consider Land Use in England. Formal (private meetings) were held on 7, 14 and 28 November 2022. A report published on 13 December summarised the findings of the Inquiry. The report calls for clarity on Environmental Land Management Schemes (ELMS) and for the government to set up a land use commission that can establish a land use framework, identifying land use challenges and opportunities. The government is due to respond on 13 February.

### **Levelling Up, Housing and Communities Committee**

- The Committee is holding an Inquiry into *Funding for Levelling Up* and examining the funds available for levelling up and how effectively resources are directed to those areas most in need. Formal meetings (oral evidence sessions) were held on 14 and 28 November, 12 December, and 23 January. Correspondence and written evidence for the Levelling Up Funds Inquiry is being published [here](#).

### **Environmental Audit Committee**

- On 11 January, the Environmental Audit Committee held an [Inquiry](#) into *Technological Innovations and Climate Change: Onshore Solar Energy*. The Inquiry focused on both small and large-scale residential and commercial solar deployment, and large-scale solar farms. It is investigating current barriers to solar installation expansion and the land-use risks associated with increasing the number of solar farms in the UK. It is also considering the security and sustainability of the supply chain for solar panels and energy storage technologies. Oral transcripts and written evidence for the Inquiry have been published [here](#).

## **Policy**

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

- The Government announced it would publish a NPPF consultation in the Secretary of State's [Written Ministerial Statement](#) of 6 December 2022. This [consultation](#) was published on 22 December 2022 and comprises 58 questions linked to both the Bill and the Levelling Up agenda.
- The consultation will inform a series of immediate proposed changes to the NPPF which can be viewed in the [National Planning Policy Framework: draft text for consultation](#).
- There are no immediate changes proposed for Chapter 16: Conserving and enhancing the historic environment. However, there are proposed amendments throughout the rest of the NPPF that are relevant to the historic environment, for example:
  - Removal of the requirement at NPPF paragraph 35, bullet point b, for local plans to be justified.
  - The addition, at paragraph 161, to give significant weight to support energy efficiency improvements through the adaption of existing buildings, particularly large non-domestic buildings.
- The consultation will also inform longer term changes to the NPPF, including, amongst other things:
  - The introduction of National Development Management Policies (NDMPs) which would:
    - cover planning considerations that apply regularly in decision-making, such as general policies for conserving heritage assets.
    - be set out in a separate document to the rest of the National Planning Policy Framework, which would be re-focused on principles for plan-making.
  - Developing policy to support levelling up.
  - How national planning policy is currently accessed by users.

# DLUHC Planning Newsletter

## Message from Chief Planner

- A Planning Newsletter was published on 13 January by the DLUHC Chief Planner. The letter covered the following topics:
  - Government publication of a consultation on the NPPF reforms.
  - A proposed spring update to the NPPF, based on the consultation.
  - An update on the Chief Medical Officers Annual Report and the role of planning in promoting health and reducing air pollution.
  - The introduction of a new executive agency: Active Travel England (ATE), as a statutory consultee from 1 June.
  - Updates by the Planning Advisory Service to their website on the matter of Nutrient Neutrality.
  - A call for participation in the piloting of the Community Land Auctions introduced via the Levelling Up and Regeneration Bill, by the DLUHC.
  - Publication on 23 December of an updated circular on the Strategic Road Network and the delivery of sustainable development by the Department for Transport and the government response to consultation on Circular 02/2013.
  - Publication of a Local Tree and Woodland Strategy Toolkit for local authorities, funded by Defra, and produced by The Tree Council, Forestry Commission, Fera Science, and Forest Research.
  - Launch of the National Green Infrastructure Framework by Natural England webinar on 31 January.
  - Publication of the Sustainable Drainage Systems review.

## 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.

### Forthcoming Historic England Advice

- Advice on historic *Almshouses* is being drafted, with consultation expected later in the year.
- A new HEAN on *Managing Change Affecting World Heritage Sites in England* is being drafted. Further updates will be provided in subsequent Planning Bulletins in advance of public consultation in the coming months.
- Drafting has begun on a new HEAN on *Climate Change and Historic Environment*. Consultation is expected in the coming months.

## Training

### Historic England

- A new Historic Environment Management (HEM) e-learning programme is being prepared. This will include priority topics and will launch in 2023. In due course this will

consist of new blended models of training to include online 'self-study' elements, live webinars and, hopefully, a return to small group courses and site visits.

- Webinars on a wide variety of topics continue and will sit alongside longer form e-learning courses. Visit Historic England's training [webpages](#) for more information and booking.

## Other Initiatives

### *Article 4 Directions Research*

Article 4 Directions (A4Ds) are a mechanism for withdrawing specified permitted development rights within a certain area. Historic England has commissioned consultants, Avalon Planning & Heritage, to research heritage related A4Ds with the aim of developing a better understanding of their use and effectiveness.

We have gathered a large amount of data on existing A4Ds from local authority websites. However, we want to gather insights on local authority experiences, around factors, such as the drivers for the use of heritage related A4Ds. We are undertaking a short [survey](#) for local authority practitioners (chiefly conservation officers and planners) to share their views and experiences with A4Ds in a heritage context. The survey will be open until 10 February.

### *Environmental Land Management*

- On 5 January the government [announced](#) that additional funding will be available for farmers and landowners through the Government's Environmental Land Management schemes. These increases apply to several historic environment management options available via the Countryside Stewardship Scheme. Payments for the England Woodland Creation Offer (EWCO) and Tree Health Pilot (THP) will also be updated this year.

### *Environmental Improvement Plan 2023*

- The [Environmental Improvement Plan 2023](#) (EIP23) was published by the government on 31 January. It is the first five year revision to the 25 Year Environment Plan (25YEP) and builds on the vision it set out five years ago, with new powers and duties from the Environment Act, Agriculture Act and Fisheries Act. To achieve its vision, the 25YEP set ten goals, including 'enhancing beauty, heritage, and engagement with the natural environment'. The other goals share links to the historic environment too. Key references to the historic environment include:
  - Conservation covenants, a new form of legal agreement between landowners and designated responsible bodies, to conserve the natural or heritage features of land.
  - The development of a marine net gain policy to apply to new infrastructure at sea.
  - Development of cost recovery options for environmental regulators in line with the Polluter Pays Principle.
  - The inclusion of marine heritage as a consideration in future marine plans, which guide and direct licensing decisions in the waters adjacent to England.

- Progress towards delivering the EIP23 will be measured against the Outcome Indicator Framework and monitored through Annual Progress Reports.

## **Current Consultations**

- The government's consultation on amendments to the NPPF is open until 2 March. Responses can be made here.

## **Calendar**

### *February*

- 10 Historic England's Article 4 Directions research survey closes.

Historic England

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# 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 and Heritage Assets (June 2020)*

## 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 (Second Edition) (March 2022)*
  - *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 (Second edition) (January 2021)*
  - *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 (Second Edition) (April 2022)*
  - *HEAN 12: Statements of Heritage Significance (October 2019)*
  - *HEAN 13: Minerals Extraction and Archaeology (January 2020)*
  - *HEAN 14: Energy Efficiency and Traditional Homes (June 2020)*
  - *HEAN 15: Commercial Renewable Energy Development and the Historic Environment (February 2021)*
  - *HEAN 16: Listed Building Consent (June 2021)*
  - *HEAN 17: Planning and Archaeology (November 2022)*