



## Planning Bulletin: May 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.*

### Legislation and Matters Arising

#### *Emerging Legislation*

#### *Government Bills*

- *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. 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.

- *Treasure Act 1996*: DCMS launched a consultation on revising the definition of treasure in the Treasure Act 1996, revising the related codes of practice and the process for finds that may be treasure (Historic England's response to that consultation is available here). The aim of the Act is to ensure that important archaeological items are preserved in public collections.

#### *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; second reading 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 will come 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

### *House of Lords Select Committee on the Rural Economy*

- The House of Lords Select Committee on the Rural Economy has issued its [report](#). It sets out a range of recommendations across different policy areas:
  - Rural strategy
  - Rural delivery and place-based approaches
  - Digital connectivity
  - Housing and planning
  - Skills and business support
  - Local service delivery.

### *House of Lords Select Committee on Intergenerational Fairness and Provision*

- The House of Lords Select Committee on Intergenerational Fairness and Provision has issued its [Tackling Intergenerational Unfairness](#) report. Its recommendations include powers for local authority planning teams to set their own fees.

### *Committee on Climate Change*

- The Committee on Climate Change (CCC) has published [Net Zero: The UK's Contribution to Stopping Global Warming](#). The report's key recommendation is a new emissions target for the UK: net-zero greenhouse gases by 2050. It further recommends 'evolution in the planning system to keep pace with Government ambitions'.

## 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.
- A consultation has been launched on a new Historic England Advice Note: [Statements of Heritage Significance](#) (closing date 10 May). The draft advice note provides advice on ways to satisfy the requirement in the National Planning Policy Framework for applicants for heritage-related consents to provide information on significance to help local planning authorities in making decisions on the impact of proposals.
- 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.

## 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):

- NPPF Decoded: Archaeology (London, 6 June).
- Understanding Heritage Economics and the Development Process (London, 9 May; Birmingham, 2 July).
- Heritage Practice: training courses for heritage specialists in technical subjects and techniques. Visit the webpages for details of courses on (amongst others):
  - Historic Area Assessments (York on 23 May).
  - Understanding Historic Buildings (Oxford on 16 September).
- 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.

## Infrastructure

### *Better Delivery: The Challenge For Freight*

- The National Infrastructure Commission (NIC) has issued the final report from its freight study: *Better Delivery: The Challenge For Freight*. The report includes the recommendation that Government should produce new planning practice guidance on freight for strategic policy making authorities, to better support them in planning for efficient freight networks to service homes and businesses.

## Other Initiatives

### *Planning Reform: Supporting the High Street and Increasing the Delivery of New Homes*

- MHCLG has issued a summary of the responses to the *Planning Reform: Supporting the High Street and Increasing the Delivery of New Homes* consultation (Historic England's response to the consultation is available here). This includes the Government's own response (which largely reflects the announcement made in March's Written Ministerial Statement, and also some of the content of the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations, discussed under *Secondary Legislation*, above):
  - *Part 1. Permitted Development (PD) Rights and Use Classes*
    - Regulations will introduce a new PD right to allow shops (A1), financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shops and launderettes to change to up to 500 square metres of office use (B1), with prior approval by the local planning authority of certain planning impacts, including on the sustainability of the existing shopping area.
    - The existing PD right for change of use of up to 150 square metres of shops (A1), financial and professional services (A2), betting offices, pay day loan shops and launderettes to residential use (C3) will be amended to include change from hot food take-aways (A5).
    - The existing PD right for temporary change of use will be amended to allow change to specified community uses, including change of use to an art gallery, and to extend the period of temporary use from 2 years to 3 years.
    - The shops use class will be amended to ensure it captures current and future retail models, which will include clarification on the ability of the A use classes to

diversify and incorporate ancillary uses without undermining the amenity of the area.

- A PD right will be taken forward ‘to extend upwards certain existing buildings in commercial and residential use to deliver additional homes’. This will respect the design of the existing streetscape, while ensuring the amenity of existing neighbours is considered, and will be informed by the review of permitted development rights for change of use of buildings to residential use. MHCLG recognises ‘the complexity of designing a permitted development right to build upwards and will continue to engage with interested parties on the technical details’.
  - Regulations will remove the PD rights to install, alter or replace additional public call boxes (telephone kiosks) and the associated deemed consent for advertisements.
  - Regulations will increase the height limit for electrical vehicle charging point upstands in off-street parking spaces to 2.3 metres.
  - MHCLG will not extend the time-limited right for change of use from storage to residential use.
  - The time-limited permitted development right for larger single storey rear extensions to dwellinghouses will be made permanent, retaining the neighbour consultation, and becoming subject to a prior approval fee.
  - MHCLG will continue to consider the design of a permitted development right to allow commercial buildings to be demolished and replaced with homes.
- *Part 2. Disposal of Local Authority Land*
- MHCLG is considering the responses to this part of the consultation and will announce the way forward in due course.
- *Part 3. Canal & River Trust: draft listed building consent order*
- MHCLG welcomes the strong support for these proposals, and considers that the methodology which the Trust developed with Historic England (and which must be published on its website) will provide the necessary clarity on the types of work covered by the order.
  - MHCLG believes that the safeguards already proposed provide the right balance between reducing unnecessary burdens and maintaining the appropriate level of protection for the listed waterways structures, and will therefore take forward the Canal & River Trust listed building consent order as soon as Parliamentary time allows.
- *Part 4. New Town Development Corporations: Draft Compulsory Purchase Guidance*
- MHCLG welcomes the support for the draft guidance, and will publish a final version of the guidance in due course, incorporating minor drafting changes where these are consistent with the drafting principles set out in the consultation document.

#### *Village Hall Improvement Grant Fund*

- The Autumn 2018 budget announced that, to mark the centenary of the Armistice, Government would support several initiatives, including making available grant funding

to support improvement projects for village halls. The grant funding will be managed by ACRE on behalf of Defra, with support from the ACRE Network. The grant aims to help fund the updating and refurbishment of village halls so that they are fit for purpose and provide activities which seek to achieve one or more of the following outcomes for their communities:

- Improved health and wellbeing/reduction in loneliness
- Demonstrates a positive impact on the environment
- Supports the local rural economy

The scheme will fund up to 20% of eligible costs, with a minimum grant of £10,000 and a maximum grant of £75,000 payable.

### *PINS Pilot Scheme*

- Following publication of the *Report and Recommendations into the Independent Review of Planning Appeal Inquiries* (the Rosewell Review), the Planning Inspectorate launched a trial in which a small number of inquiry appeals will be accelerated. The Inspectorate has recently provided an update on the progress with this trial.

### **Current Consultations**

- Department for Transport's *Light Rail and Other Rapid Transit Solutions in Cities and Towns: Call for Evidence* (closing date 19 May).
- 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 (closing date 31 May).
- HM Treasury and the Infrastructure and Projects Authority's consultation on the Infrastructure Finance Review (closing date 5 June).
- Department for Transport's *Aviation 2050 - the Future of UK Aviation* (closing date 20 June).

### **Recent Consultation Responses**

- Historic England's response to the Public Accounts Committee's inquiry into planning and the broken housing market is available here.
- Historic England's response to DCMS's consultation on revising the definition of treasure in the *Treasure Act 1996* is available here.
- Historic England's response to the DCMS Committee's inquiry into the contribution made by gardens to UK tourism, the economy and national heritage will be available here shortly.

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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](mailto: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)