



## Planning Bulletin: January 2021

*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.*

*Current and previous editions of Planning Bulletin (back to September 2017) are now available on-line [here](#).*

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### Historic England

In this challenging and difficult time, we are committed to continuing to provide our services and support to everyone as best we can. We are also working closely with heritage sector organisations to ensure that we all offer support for any queries you may have or practical issues that need to be addressed.

Our sites and offices continue to be closed until further notice. Our staff are working from home and will continue to provide advice and grant payments as usual.

Our local teams remain the best first point of call so if you need to contact us, please email your region as normal. For further information, advice, and updates on current Historic England services, please refer to our [website](#).

# Legislation and Matters Arising

## Secondary Legislation

### *Regulations to Make Relaxation of Publicity Requirements for SEA Documents Permanent*

- On 14 December 2020, the *Environmental Assessment of Plans and Programmes (Amendment) Regulations 2020 (SI 2020/1531)* were made. The Regulations are accompanied by an *explanatory memorandum* and are in force immediately before 11 pm on 31 December 2020. The Regulations apply to England only, except where affected plans, programmes or modifications relate to England and another country.
- The Regulations amend the Environmental Assessment of Plans and Programmes Regulations 2004 (*SI 2004/1633*) to make permanent the temporary relaxation concerning publicity and inspection requirements for strategic environmental assessment (SEA) documents, which was introduced in July 2020 and was due to end on 31 December 2020.
- Before the July 2020 modification, the responsible authority had to make documents available for public inspection at its principal office. The modification requires the responsible authority to make the same documents accessible for inspection on a website. The responsible authority (or the Secretary of State as the case may be) must notify persons of the website address instead of an address where the documents may be inspected. The modifications also remove the requirement to inform persons that a copy of documents may be obtained from an address.
- As well as making these modifications permanent, the Regulations put in place additional inspection requirements to ensure that access to documents is maintained for those without internet access. Making the modifications permanent is in line with the government's aim to digitalise the planning system set out in the Planning for the Future White Paper.

### *Amendment Made to Class AA and Class A, Part 20, Schedule 2 Permitted Development Rights*

- The *Town and Country Planning (General Permitted Development) (England) (Amendment) (No 4) Order 2020 (SI 2020/1459)* was made on 7 December 2020 and comes into force on 30 December 2020.
- The Order amends class A (new dwellinghouses on detached blocks of flats) and class AA (new dwellinghouses on detached buildings in commercial or mixed use) in Part 20 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (*SI 2015/596*) by introducing a requirement for a developer seeking prior approval in relation to an existing building, which is 18 metres or more in height, to provide a report from a chartered engineer or other competent professional confirming that the external wall construction of the existing building complies with paragraph B4(1) of Schedule 1 to the Building Regulations 2010 (*SI 2010/2214*).
- Paragraph B4(1) requires that "the external walls of the building shall adequately resist the spread of fire over the walls and from one building to another, having regard to the height, use and position of the building".
- There are transitional and saving provisions applicable where a prior approval application was made or prior approval event occurred before 30 December 2020.

## Written Ministerial Statements

- Robert Jenrick, Secretary of State for Housing, Communities and Local Government, has issued a Written Ministerial Statement about the role of the planning system in relation to the protection of historic statues, plaques, memorials and monuments. This was accompanied by a press statement, giving further details of the proposed new legislation.
- Christopher Pincher MP, Minister of State for Housing, has issued a Written Ministerial Statement encouraging planning authorities to continue to advance Local Plans.

## Emerging Legislation

### *Government Bills*

- *Clean Air (Human Rights) Bill 2019-20*: amongst other things the Bill establishes the right to breathe clean air; requires the Secretary of State to achieve and maintain clean air in England and Wales; and to enhance the powers, duties and functions of the Environment Agency, the Committee on Climate Change, local authorities (including port authorities), the Civil Aviation Authority, Highways England, Historic England and Natural England in relation to air pollution. The Second Reading is still yet to be scheduled.
- *Environment Bill 2019-21*: amongst other things the Bill aims to make provision about targets, plans and policies for improving the natural environment, for statements and reports about environmental protection, conservation covenants, and about air quality. The Government have reintroduced the Bill and have said that it demonstrates a 'commitment to tackling climate change and to protecting and restoring our natural environment for future generations'. The Bill received its sixteenth to twentieth sessions in a Public Bill Committee. The Public Bill Committee voted against the proposed amendment to include heritage in the Environment Bill, noting there was recognition of the connection between the natural environment and heritage in the *25-Year Environment Plan*. The Bill had the first day of its report stage on 26 January. Further information is awaited on the date of remaining days at report stage.
- The House of Commons Library published (21 January) a research briefing, *Environment Bill 2019-21: Report on Committee Stage*, which summarises the House of Commons Public Bill Committee stage and how the Environment Bill has changed.

### *Private Members' Bills*

- *Climate and Ecology Bill 2019-21*. The Bill requires the Prime Minister to achieve climate and ecology objectives; to give the Secretary of State a duty to create and implement those objectives; to establish a Citizens' Assembly; and to give duties to the Committee on Climate Change regarding the objectives and strategy. The Bill was presented to Parliament on 2 September. The date of its Second Reading in the House of Commons is yet to be announced.
- *Desecration of War Memorials Bill 2019-21*. The Bill aims to create the offence of desecrating a war memorial. It was introduced to Parliament on 23 June under the *Ten Minute Rule*. The date of its Second Reading in the House of Commons is yet to be announced.
- *Planning (Proper Maintenance of Land) Bill 2019 – 21*. The Bill makes provision for increased fines for failures to comply with a notice under section 215 of the Town and

Country Planning Act 1990. Jonathan Gullis MP made positive reference to historic buildings and Historic England. It was introduced to Parliament under the *Ten Minute Rule*. The date of its Second Reading in the House of Commons is yet to be announced.

### *Private Bills*

- *Highgate Cemetery Bill*: The Bill needed a 'Wharnclyff' Examination to comply with certain standing orders concerning the consents of owners, members and directors of companies. The Bill was found compliant on 9 March. The bill now proceeds to an Opposed Bill Committee to consider the petitions. A date has not been set.

### **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.

## **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.
- Following public consultation, the revised *Historic England Advice Note 7 (2nd ed): Local Heritage Listing* has now been published. This advice supports communities and local authorities in introducing a local heritage list in their area or making changes to an existing list. It encourages a consistent and accountable approach to the identification and management of local heritage assets when selected by uniform criteria. Such a list will help all, including community groups, owners and developers, and local planning authorities to understand local development opportunities and constraints. It has been updated to take account of the revised National Planning Policy Framework and Planning Practice Guidance.

### *Forthcoming Historic England Advice*

- Following public consultation, publication of a HEAN on *Commercial Renewable Energy and the Historic Environment* is expected shortly.

## **Training**

### *Historic England Training*

- In response to Covid-19 restrictions, Historic England is increasing its e-learning and remote CPD provision.
- HE has turned the HELM courses into webinars, including topics such as *Enabling Development*, *Industrial Heritage* and *Design and Place-shaping*. They can be accessed [here](#).

- *Threats to the Historic Environment Webinars*: Historic England Environmental Strategy Team is running two webinars in the coming weeks. These introductory webinars are part of the early stages of our work on threats to the historic environment, including the developing climate change strategy and threat framework. These webinars are part of the initial, data-gathering stages of these projects and will introduce attendees to our current thinking and seek feedback about priorities around responding to threats and main areas of future concern.
  - Friday 5 February 2021 at 14:00: Understanding threats to the historic environment: discussion
  - Friday 12 February 2021 at 14:00: The developing Historic England climate change strategy
- *Technical Tuesdays*; a series of webinars delivered by its Technical Conservation Team are made available online, generally about a week after the event.
- Please visit the HE online training web pages [here](#) for the latest on our webinar programme. For webinar booking please visit [here](#).
- 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).

## Other Initiatives

### *Cultural Heritage Capital*

- The DCMS has published *Valuing Culture and Heritage Capital: A Framework Towards Decision Making*, setting out its approach to valuing the benefits of culture and heritage assets to society.
- It has also published a web portal, bringing together research, guidance and estimates to help government and private organisations consider the value of culture and heritage capital.

### *European Landscape Convention*

- The recent 20<sup>th</sup> anniversary of the European Landscape Convention was marked with an article by Historic England staff in *Landscape* (pp. 44-47), the Journal of the Landscape Institute.

### *Marine Management Organisation Newsletter*

- The MMO has published its Winter 2021 *Marine Planning Newsletter*.

### *New Protections to Save Cultural Items for the Public*

- The government has announced new protections for museums and galleries trying to save important cultural items from being acquired by overseas buyers. The new rules came into force on 1 January.

### *Right to Regenerate*

- The government has announced plans to enable the public to require councils and public sector organisations to sell unused land and assets to create new homes or community spaces.

## Calendar

### *February*

- 5 Historic England Webinar: Understanding threats to the historic environment: discussion (14:00)
- 12 Historic England Webinar: The developing Historic England climate change strategy (14:00)

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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 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* (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* (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* (October 2018)
  - *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)