



Planning Bulletin: July 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

- *The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021* was laid on 16 July 2021 for public services infrastructure and fire safety matters. Full details are [here](#).
- *Town and Country Planning (General Permitted Development etc) (England) (Amendment) (No 2) Order 2021* has been laid to take account of consequential changes to permitted development rights resulting from the above legislation. The Order introduces new prior approvals in respect of fire safety. The changes to permitted development rights will come into force on 1 August 2021. Full details are [here](#).

Written Ministerial Statements

Article 4 Directions

- The Secretary of State for Housing, Communities and Local Government laid a Written Ministerial Statement setting out a new policy on the use of Article 4 Directions. **The new policy came into effect on 1 July 2021.**

The policy includes new text for paragraph 53 of the National Planning Policy Framework. It states Article 4 Directions are used in a highly targeted way; and are well-evidenced so there is clear justification for their introduction. In summary:

- For change from commercial to residential uses Article 4 Directions are limited to situation where it is “*necessary to avoid wholly unacceptable adverse impacts...*”
- In all other cases where it is “*necessary to protect local amenity or the well-being of the area....*”
- For all cases Article 4 Directions should “*apply to the smallest geographical area possible.*”

Building Beautiful Places

- The Secretary of State for Housing, Communities and Local Government made a Written Ministerial Statement on the 20 July 2021 to put beauty and design at the heart of the local planning system. The statement details publication of the revised *National Planning Policy Framework*; launch of the *National Model Design Code*; and the Government’s response to the consultation on both documents. The changes take forwards the recommendations of the *Building Better, Building Beautiful Commission* that national policy should place a stronger focus on the creation of beautiful buildings and beautiful places.

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 Bill has not been taken forward into the 2021-22 session of Parliament.

- *Environment Bill 2019-21, 2021-22*: 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 has reintroduced the Bill and has said that it demonstrates a 'commitment to tackling climate change and to protecting and restoring our natural environment for future generations'. A line by line examination of the Bill took place on 14 July 2021 and amendments to several clauses were discussed. The Report Stage is scheduled to begin on 6 September 2021.

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 2020. The Second Reading is due to take place on 10 September 2021.
- *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 Second Reading in the House of Commons is due to take place on 14 January 2022.
- *Planning (Enforcement) Bill 2021-22*. The Bill to create a national register of persons who have committed planning offences and introduce tougher penalties was introduced on 16 June 2021. The Bill is to receive its second reading on 19 November 2021.

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. In May 2021 the Bill formally passed in the Lords and was sent to the Commons where it is proceeded through Second House Examination. It is currently waiting a date for the Committee Stage.

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.
- There have been changes to the Unesco World Heritage Site list with the City of Liverpool de-listed and the City of Bath inscribed to recognise the international qualities of the spa town. The City of Bath now has a rare double World Heritage Site listing. Further details can be found here.

Policy

National Planning Policy Framework (NPPF)

Summary

- The revised NPPF was published on 20 July 2021 and includes changes to paragraph and footnote numbers, addition of a new paragraph 198 to heritage policies, an update as to how Article 4 Directions are used (following the Written Ministerial Statement on 1 July 2021), an extended definition of the presumption in favour of sustainable development, introduction of mandatory design codes for local planning authorities and an updated test of soundness for development plans to be compliant with other national planning policy.

Heritage

- A new policy (paragraph 198) has been introduced which states “*In considering any applications to remove or alter a historic statue, plaque, memorial or monument (whether listed or not), local planning authorities should have regard to the importance of their retention in situ and, where appropriate, of explaining their historic and social context rather than removal.*”

Design

- Beauty and place-making become a strategic theme in the NPPF with references embedded throughout.
- Chapter 12 introduces the mandatory preparation of design guides and codes by local planning authorities, which should be “*consistent with the principles set out in the National Design Guide and National Model Design Code...*”
- Chapter 12 gives ‘significant weight’ to development which reflects local design policies and government guidance; and details the basis for decision making on design matters.
- There is also an emphasis on making use of trees in new developments through new planting or retention of existing trees.

Sustainable Development

- There is a greater emphasis on the environment (including the historic environment) and sustainability in paragraphs 8 and 11 of the revised NPPF.
- There is an extended definition of the presumption in favour of sustainable development in paragraph 11 with all plans promoting “*a sustainable pattern of development that seeks to...improve the environment...*” alongside references to infrastructure and climate change.

Sustainable Use of Minerals

- Revisions to paragraph 211 place a greater emphasis on how to meet any demand for the extraction of building stone needed for the repair of heritage assets, taking account of the need to protect designated sites. There is no longer a reference to small-scale extraction at, or close to, relic quarries.

Guidance

National Model Design Code and Guidance Notes

- The new National Model Design Code (NMDC) and accompanying guidance notes were published on 20 July 2021. The National Design Guide and National Model Design Code are intended to provide a common overarching framework for design.
- The NMDC is a tool kit that provides detailed guidance and advice on the production of local design codes, guides and policies. It reflects the important role that heritage plays in the success of places.
- The guidance notes accompanying the NMDC includes a section on heritage in section C.2 'Cultural Heritage' and refer to Historic England guidance in relation to understanding place, residential density and approaches to assessing the character of places.

Planning Practice Guidance

- Planning Practice Guidance has been updated to accompany the Development Management Procedure and Section 62A Applications regulations:
 - Public Services Infrastructure Development - changes to *Consultation and pre-decision matters*, *Making an application*, and *Determining a planning application* chapters. In summary changes reduce the statutory determination period for public services infrastructure development from 13 to 10 weeks; shorten the statutory consultation period from 21 days to 18 days; and require local planning authorities to notify the Secretary of State when they anticipate making a decision.
 - Fire Safety Matters – publication of a new *Fire safety and high-rise residential buildings chapter*.

MHCLG Letters to Chief Planning Officers

- The Chief Planners Newsletter from Joanna Averley, MHCLG Chief Planner was issued on the 12 July 2021 and included:
 - Planning Apprentices - further promotes the apprenticeship schemes.
 - Campsite Regulations – refers to a Written Ministerial Statement on 28 June 2021 regarding pop-up campsites and expansion of existing sites.
 - Mediating Planning Enforcement Disputes – MHCLG are engaging in a 'Pathfinder' initiative with the Planning Inspectorate to review current enforcement workload in order to identify appeals to refer to mediation.
 - Pandemic Roadmap and Approach to Hearings and Inquiries – following the lifting of restrictions on 19 July, the Planning Inspectorate will be reverting to a pre-pandemic approach for hearings and inquiries and will publish guidance to support this.
 - Public Services Infrastructure and Planning Gateway One – includes an update on legislation and links to relevant information on public services infrastructure and fire safety matters.

- Permitted Development Rights – outlines consequential changes as a result of legislation on fire safety matters.
- New Policy on Article 4 Directions – summarises details from the Written Ministerial Statement laid on 1 July 2021.
- Planning Advisory Service (PAS) – provides a summary of the work done by PAS including working on town centre regeneration, environmental planning and the design pilot programme.
- Research Input – A research project to demonstrate how ‘real world’ planning processes work compared to theoretical models has been launched with participants invited to input in July.
- Natural England Biodiversity Metric – three new tools were launched at the start of July to help measure biodiversity net gain and ensure new developments are nature positive.
- Net Gain Local Authority Capacity Project – this project has been launched with Defra, Natural England and PAS to help local authorities to get read for mandatory biodiversity net gain.
- A further letter was issued on 21 July to provide further details on the Building Beautiful Places launch including changes to the National Planning Policy Framework, launch of the new National Model Design Code, establishment of an Office of Place, and details of the National Model Design Code Phase 2 Pilot Programme.

The letter also provided updates on the Nationally Significant Infrastructure Projects regime review, a secondment opportunity at MHCLG, details of new fees for Prior Approvals applications, and details of a Direction issued which introduces a modified procedure for public services infrastructure development applications made on or after 1 August 2021.

Committees

Housing, Communities, and Local Government (HCLG) Select Committee

Permitted Development Rights

- The HCLG Committee published the Permitted Development Rights (PDR) Report on 22 July 2021. The report recommended Government should pause any further extensions to PDR for change to residential use; conduct a review of their role in the wider planning system to explain how PDR aligns with plan-led development and local democratic involvement; and consider amending the prior approval process.

Lords Committee for the Built Environment

Housing

- The Lords Committee for the Built Environment has issued a call for evidence on its first Inquiry on the demand for new housing in the UK and how barriers to meeting this demand can be overcome. The closing date for submissions is 10 September 2021.

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

- We anticipate publishing a new draft HEAN for public consultation on *Planning and Archaeology* in the coming few weeks.
- Following public consultation last year, further revision to HEAN 4 on *Tall Buildings* is progressing, taking account of the feedback we received. We anticipate publishing the updated HEAN in the summer this year.

Historic England Research

- Historic England has published *The Heritage Dimension of Commercial Renewable Energy Development in Planning*. The report can be found [here](#).

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 Commercial renewable energy development and the historic and an interactive online workshop: Easy access to historic landscapes and buildings. They can be accessed [here](#).
- Technical Tuesdays; a series of webinars delivered by its Technical Conservation Team is 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 [here](#). For webinar booking please visit [here](#).
- If you would like to enquire about running a webinar or online training please fill in this [form](#).
- 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.

Historic Environment Advice Assistant Apprenticeship Training Programme

- Historic England is working with Strode College to deliver the Level 4 Historic Environment Advice Assistant apprenticeship training programme and are looking to recruit for the next cohort, to **commence September 2021**.
- Apprenticeships are for everyone – not just school leavers! They are simply a mixture of learning new skills in the workplace and completing a taught programme of training.
- This higher technical apprenticeship is a great opportunity to up-skill in the area of managing change to the historic environment through the planning system. It provides a structured programme of training, based around 10 modules delivered by Strode College and Historic England experts. This is completed alongside day to day work,

where the individual will undertake opportunities to develop their experience of working on heritage cases.

- For further information, please visit <https://www.strode-college.ac.uk/college-info/news/historic-environment-advice-assi/> contact Adrian Ash, Head of Higher Education aash@strode-college.ac.uk

Other Initiatives

Planning

- Planning Gateway One will apply to applications for planning permission made on or after 1 August 2021 for two or more dwellings or educational accommodation and meet the height condition of 18m or more, or 7 or more storeys. It will require the development to submit a fire statement and establish the Health and Safety Executive as a statutory consultee for relevant planning applications.

High Streets

- The Government announced the Build Back Better High Streets Strategy on 15 July 2021. The strategy sets out how high streets and town centres can adapt and thrive after the COVID-19 pandemic. It sets out action across 5 areas:
 - Breathing new life into empty buildings
 - Supporting high street businesses
 - Improving the public realm
 - Creating safe and clean spaces
 - Celebrating pride in local communities

Design

- MHCLG has announced a new Office for Place which is intended to drive up design standards, testing and piloting the *National Model Design Code* with local planning authorities and communities.

Recent Consultation Responses

- MHCLG published a response to the consultation on changes to the NPPF in which it states that it “*recognises the importance of the historic environment and has no intention to reduce the important protections that exist for it within the Framework.*”

Calendar

August

1 *Fast track route for public service building applications comes into effect.*

September

10 *Lords Committee on the Built Environment call for evidence closes.*

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27 July 2021

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.

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 (2nd ed): 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)
 - *HEAN 15: Commercial Renewable Energy Development and the Historic Environment* (February 2021)
 - *HEAN 16: Listed Building Consent* (June 2021)