



Planning Bulletin September 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.

Legislation and Matters Arising

Emerging Legislation - England

This section provides a summary of updates to emerging legislation in the last month. Further information on what the emerging legislation covers and its overall progress to date can now be found in [Appendix I](#).

Government Bills

Levelling Up and Regeneration Bill

- The [Levelling up and Regeneration Bill](#) (LURB) continues its progress through parliament: On 6 September, [Lords debated heritage amendments \(i.e. 202A, 202B, 271A, 284, 289 and 296\) to the LURB](#). All government heritage amendments were agreed to and to address other amendments, Lord Parkinson committed to:
 - consulting on options for changes to certain permitted development rights so that local planning authorities can fully consider the impacts on the historic environment and;
 - considering whether local authority links to Historic England guidance could be strengthened.
- In response to amendment 204A and 204B (Baroness Andrews), on removing permitted development rights for the demolition of buildings on a local list, the government indicated its intention to run a consultation on options for changes to that right.
- On 13 September the [government announced that the LURB would be amended](#) to help deliver the recovery of nature in England's National Parks and Areas of Outstanding Natural Beauty. The amendments included enhancing Protected Landscape management plans and placing a stronger requirement on partners such as local authorities and public bodies to contribute to their delivery.
- On 18 September the [amendments to the bill were published](#) and the Third reading of the LURB took place on 21 September.



- The Bill will now go to the Commons for consideration of Lords amendments.

The Energy Bill

- The House of Commons [amendments to the Energy Bill](#) were published on 6 September. Consideration of Commons reasons to disagree with Lords amendments to the [Energy Bill](#) took place in the House of Lords on 12 September. On 13 September, Lords published their amendments which have been returned to the Commons for consideration on 18 October.

High Speed Rail (Crewe to Manchester) Bill

- No change - see Other Items for further news on HS2.

Private Members' Bills

[Private Members' Bills](#) are Public Bills introduced by MPs and Lords who are not government ministers.

Countryside and Rights of Way Act 2000 (Amendment) Bill

- The Second reading of the [Countryside and Rights of Way Act 2000 \(Amendment\) Bill](#) is scheduled for 1 December. However, the House is currently not expected to sit on this day.

Green Belt (Protection) Bill

- The Second reading of the [Green Belt \(Protection\) Bill \(GBP\)](#) is scheduled for 20 October.

Private Burial Grounds and Cemeteries Bill

- No change.

Ecology Bill

- The Second reading of the [Ecology Bill](#) is scheduled for 24 November. However, the House is not expected to sit on this day.

Carbon Emissions Bill

- No change.

Private Bills

[Private Bills](#) are usually promoted by organisations for example local authorities or private companies to give themselves powers beyond, or in conflict with, the general law. Private



Bills only change the law as it applies to specific individuals or organisations rather than the general public.

Bishop's Stortford Cemetery Bill

- The [Bishop's Stortford Cemetery Bill](#) had its third reading on 14 September and after debate was passed. The Bill proceeded to the House of Commons and had its first reading there on 18 September. It was subject to examination on 21 September.

Committees

Built Environment Committee

- On 21 September, the [Built Environment Committee](#) (BEC) published a report on [The Impact of Environmental Regulations on Development](#). The inquiry looked at the interaction between development and environmental protection, which should be 'achievable in a mutually reinforcing way' and concluded that neither is being delivered. To help rectify this, the report makes numerous recommendations including:
 - A review of the full suite of environmental regulations to ensure that they align with the government's environmental principles policy statement.
 - Proposals in the LURB regarding nutrient pollution to be expanded to include agricultural activity.
 - Publication of the government's response to the Nature Recovery Green Paper by the end of 2023.
 - Publication of the proposed skills and resources strategy by the end of 2023.
 - Expansion of the Planning Inspectorate's work to introduce data standards for Nationally Significant Infrastructure Projects.

Environment, Food and Rural Affairs Committee

- On 19 September, the Environment, Food and Rural Affairs (EFRA) Committee announced an inquiry into Urban Green Spaces, which will explore the ecological, environmental and human benefits of green space, and how cities can be made greener and nature rich. The Committee is inviting written submissions through the [inquiry website](#) addressing any or all of the issues raised in the following terms of reference, by Friday 20 October.



The Public Accounts Committee

- The [Public Accounts Committee](#) is holding an inquiry entitled [HS2 Euston: Recall](#) in which it will question senior officials at the Department for Transport (DfT) and HS2 Ltd on progress on the project since its April 2023 evidence session. This Inquiry will be accepting evidence until 10 November.
- The Public Accounts Committee has also opened an inquiry entitled [Restoration and Renewal Recall](#). The inquiry is exploring progress on the restoration of the Palace of Westminster, a World Heritage Site, which the committee had previously raised concerns about. This inquiry is accepting evidence until 6 October with an oral evidence session scheduled for 18 October.

The Levelling Up, Housing and Communities Select Committee

- On 2 February the [Levelling Up, Housing and Communities Committee](#) opened an [inquiry into Reforms to National Planning Policy](#). The government response to the findings of this inquiry (published in July) was due on 14 September but is delayed.

Policy

National Planning Policy Framework

- On 5 September, a [Written Ministerial Statement](#) and [press release](#) announced that, in [a partial response to DLUHC's consultation on updating the NPPF](#), the government had updated planning policy for onshore wind development in England. The changes amend the planning tests for proposed onshore wind developments to enable suitable locations to be identified through other means than just an area's development plan. They also mean that local authorities must consider the views of whole communities in reaching planning decisions.
- More specifically, the amendments are to Chapter 14 of the [National Planning Policy Framework](#) (and associated Annex 1: Implementation) and include:
 - Adding a new footnote at 53a to clarify how wind energy development can be granted (and amending paragraph 155a to align with the footnote).
 - Adding a new paragraph at 158c, which sets out that in the determination of applications for repowering and life extension of renewable development 'significant weight' should be given to the benefits of using an established site.
 - Amending footnote 54 so that supplementary planning documents can now be used to identify suitable areas for wind energy, as opposed to only development plans.



Additionally, planning impacts now have to be ‘appropriately’ addressed rather than ‘fully’ and the proposal must have community ‘support’ rather than ‘backing’.

- Amending paragraph 155 so that plans should provide a positive strategy for renewable energy and low carbon energy that maximises ‘their future repowering and life extension.’
- The government has stated that they intend to publish the full response to the NPPF consultation later this autumn and that they will also be providing further guidance on addressing the impact of onshore wind projects.

Guidance

Contested Heritage

- On 5 October, DCMS published new [Guidance for custodians on how to deal with commemorative heritage assets that have become contested](#). The guidance sets out a ‘retain and explain’ policy. Historic England has published a series of [reinterpretation case studies](#), alongside the guidance, to illustrate a variety of ways that the reinterpretation has already been put into practice.

Government Planning Letters

Letters to Chief Planning Officers

The Department for Levelling Up, Housing and Communities (DLUHC) regularly writes [letters to Chief Planning Officers](#) of Local Planning Authorities (LPAs) in England, providing guidance on planning.

Letter: Nutrient Neutrality

- On 1 September, the Chief Planner circulated a [letter on nutrient neutrality](#). Following up on the government’s announcement that changes to nutrient neutrality rules would be enacted via amendments to the LURB, the letter provides more detail on the changes and what they will mean for LPAs.

Letter: Reinforced Autoclaved Aerated Concrete

- On 8 September, the Chief Planner circulated a [letter on reinforced autoclaved aerated concrete](#) (RAAC). The letter highlights relevant [guidance on RAAC by the Institute of Structural Engineers](#), as well as [government guidance on RAAC](#).



Planning Newsletter: 11 September

- The Newsletter published on 11 September includes updates on:
 - Changes to the National Planning Policy Framework in relation to onshore windfarms (see above).
 - [Changes to nutrient neutrality rules in the LURB.](#)
 - [Biodiversity Net Gain funding.](#)
 - Amendments to proposals for the Infrastructure Levy in the LURB.
 - Updates to the [Planning Practice Guidance on battery energy storage systems](#) to address grid-scale lithium-ion battery energy storage systems.
 - An announcement that (following the introduction of new Permitted Development Rights for electrical vehicle charge point installation) the Office for Zero Emission Vehicles and the Institution of Engineering and Technology will publish a 'Guide to Electric Vehicle Charging Infrastructure for Local Authorities' later this year.
 - A [survey for local authorities on design codes](#), which is open until 31 October.
 - A [call to participate in research](#) being undertaken by DLUHC on changes to the planning system as set out in the LURB.

Advice

Historic England Advice

- All [Historic England planning advice](#) is available on our website and [Appendix II](#), below, includes a list of all Good Practice Advice notes (GPAs) and Historic England Advice Notes (HEANs).

Forthcoming Historic England Advice

- A new Historic Environment Advice Note (HEAN) on Managing Change Affecting World Heritage Sites in England is being drafted. Public consultation on the guidance will be announced in the coming months.
- A new HEAN on Climate Change and Historic Building Adaptation is being drafted. Public consultation on the guidance will be announced soon.



Training

Webinars

- 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, or keep up-to-date on new courses and training news by signing up to receive [Historic England's bi-monthly Training Newsletter](#).

Infrastructure Planning

HS2: Northern Leg

- On 4 October, [government announced the cancellation of the northern leg of HS2](#) between Birmingham and Manchester and the redirection of the projects funding to transport projects primarily in the Midlands and North.

Water resources infrastructure: National Planning Statement

- On 18 September the [Water Resources Infrastructure National Planning Statement](#) (NPS) was designated under the Planning Act 2008. The NPS provides guidance for decision-makers on the application of government policy when determining applications for development in relation to Nationally Significant infrastructure Projects. Its function is to clearly state an established need for water infrastructure and how existing policy applies to development consent, removing discussion of the merits of government policy from the examination process so that decisions can be made based on planning considerations alone.

Other Items

Biodiversity Net Gain

- On 27 September, government announced an [update to the timetable for Biodiversity Net Gain](#). Under the updated timetable developers in England will be required to deliver 10% Biodiversity Net Gain from January 2024, with all guidance and regulations to be published by the end of November. Biodiversity Net Gain for small sites will still be applicable from April 2024, and implementation for Nationally Significant Infrastructure Projects remains planned for 2025.



Community Ownership Fund

- On 25 September the government announced that the [Community Ownership Fund](#) would award forty-five spaces, including a range of pubs, museums and sports clubs, more than £12.3 million in funding.

Design Code Pathfinder Programme - Masterclasses

- Throughout September to December, the Office for Place is holding a series of free online sessions covering different aspects of developing design codes. A [session on 'Coding for Heritage'](#) is being held on 14 November.

Consultations

Ongoing consultations

Plan-making Reforms: Consultation on Implementation

- On 25 July, DLUHC launched a [consultation on Plan-making Reforms](#) aimed at making plans simpler, shorter and more accessible. It is proposed that any policy changes – and accompanying guidance - will be in place by autumn 2024.
- The consultation also includes proposals for piloting Community Land Auctions (CLA), an alternative approach for identifying land for allocation for development that seeks to improve land value capture for the benefit of local communities.
- The consultation also contains proposals for new Supplementary Plans, which will enable planning authorities react quickly to changes in their areas, or to establish authority-wide design policies, by producing a plan that has the same 'weight' as local plans or minerals and waste plans. These Supplementary Plans will be subject to consultation and independent examination.
- The consultation closes on 18 October.



Calendar

October

October 18 – DLUHC’s [consultation on Plan-making Reforms](#) closes.

October 20 – EFRA Committee’s [call for evidence on Urban Green Spaces](#) closes.

October 31 – DLUHC’s [survey on authority wide design codes](#) closes.

November

November 10 – The Public Accounts Committee’s [call for evidence on HS2 Euston](#) closes.

Planning Bulletin Notifications

If you did not receive this edition of Planning Bulletin direct from Historic England, you can sign up for notifications when a new edition is issued by emailing: governmentadvice@HistoricEngland.org.uk

If you no longer wish to receive Planning Bulletin, or have received this in error, please email governmentadvice@HistoricEngland.org.uk and we will remove you from the mailing list.



Appendix I: Progress of Legislation to Date

This appendix contains background information on emerging legislation that has the potential to influence the management and protection of the historic environment. The latest progress for any bills is reported in the main 'Emerging Legislation' section of the newsletter above.

Government Bills

Levelling Up and Regeneration Bill

- The [Levelling Up and Regeneration Bill \(LURB\)](#) makes provisions for a wide range of matters, including aspects of planning, local democracy and devolution, and levelling up measures. Amongst other things, LURB makes provision for:
 - National development management policies, which will sit alongside local development plan policies.
 - A replacement for the Community Infrastructure Levy.
 - Environmental Outcome Reports to replace Environmental Impact Assessments/ Strategic Environmental Assessment.
 - 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 LURB contains five key clauses relating to the historic environment:
 - The 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);
 - It introduces Temporary Stop Notices for listed building works, increasing 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);
 - It removes the requirement for local authorities to provide compensation 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, to facilitate a strong evidence base for the new planning system (Clause 212, previously 185).
- A series of [publications related to the LURB](#) are available. These include a Policy Paper, explanatory notes and research briefings.
- The LURB has passed through the House of Commons and is making its way through the House of Lords.

The Energy Bill

- [The Energy Bill](#) was introduced 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 Energy Bill has three key drivers:
 - 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.
- [Briefings for the Energy Bill](#) were published on 14 July and 9 December 2022.
- Introduced in the House of Lords on 6 July 2022, it completed its passage through that House on 24 April and immediately passed to the Commons where following its second reading on 9 May, it was sent to a Public Bill Committee. It is now continuing its journey through the House of Commons.

High Speed Rail (Crewe to Manchester) Bill

- The [High Speed Rail \(Crewe to Manchester\) Bill](#) 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 received its first reading in the House of Commons on 11 May. On 16 June a High-Speed Rail (Crewe to Manchester) Bill Research Briefing was published to inform the Bill's Second reading on 20 June 2022. Following its second reading, a petitioning period was started. This allowed individuals, groups and organisations 'directly and specially' affected by the Bill to submit a petition against the Bill.
- Between 6 July and 1 September 2022, the Supplementary Environmental Statement 1 (SES1) and the Additional Provision 1 Environmental Statement (AP1 ES) for the proposed High Speed Two (HS2) railway between Crewe and Manchester was open to public consultation. The findings of the HS2 Environmental Statement consultation were



reported on 26 October 2022. It includes comments on the value of a historic canal corridor and potential effects to it.

- On 13 December 2022, the House of Commons agreed a motion to appoint Members to the [High-Speed Rail \(Crewe to Manchester\) Bill Select Committee](#) who will commence work considering petitions against the Bill. A date for the Committee stage has yet to be announced.

Private Member's Bills

Countryside and Rights of Way Act 2000 (Amendment) Bill

- On 20 June, the [Countryside and Rights of Way Act 2000 \(Amendment\) Bill](#) had its first reading in the House of Commons. The Bill seeks to amend the Countryside and Rights of Way Act 2000 to extend the right of public access to the countryside, including to woodlands, the Green Belt, waters and more grasslands; and for connected purposes.

Green Belt (Protection) Bill

- The [Green Belt \(Protection\) Bill \(GBPB\)](#) seeks to establish a national register of Green Belt land in England. The Bill would also restrict the ability of local authorities to de-designate Green Belt land and make provision about future development of de-designated Green Belt land.
- The GBPB is currently passing through the House of Commons, where it was introduced in the 2021-2022 session of Parliament.

Private Burial Grounds and Cemeteries Bill

- The [Private Burial Grounds and Cemeteries Bill](#) aims to make provision for the regulation of private burial grounds and cemeteries. It was introduced to the House of Lords on 15 June 2022. The Second reading (i.e. general debate on all aspects of the Bill) is yet to be scheduled.

Ecology Bill

- The [Ecology Bill](#) (previously the [Climate and Ecology Bill](#)) was introduced through the House of Lords in the 2021-22 parliamentary session. The Bill would impose a duty on the government to achieve defined nature targets, 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 2022. The Bill underwent Committee Stage in November 2022, and Report Stage in January this year; no changes were made.



- The [Ecology Bill](#) had its third reading in the House of Lords on 21 April. The Bill passed (with the removal of clause 3: Financial Provisions) and was sent to the House of Commons, where it had its first reading on 24 April.

Carbon Emissions (Buildings) Bill

- The [Carbon Emissions Bill \(CEB\)](#) proposes that the whole-life carbon emissions of buildings be reported with a buildings application and that limits are set on embodied carbon emissions in the construction of buildings.
- The CEB was introduced in the House of Commons in February 2022 and had its second reading on 25 November 2022. It was scheduled to be debated again on 24 February, but this has been delayed.

Private Bills

Bishop's Stortford Cemetery Bill

- The [Bishop's Stortford Cemetery Bill](#) aims to confer powers upon Bishop's Stortford Town Council to extinguish rights of burial, and allow the disturbance of human remains in Bishop Stortford's New Cemetery and Old Cemetery in order to increase space for interments. The Bill, which includes explanatory notes at its start, was introduced to the House of Lords on 23 January.
- From 24 January to 6 February the Bill was open to petition by those "specially and directly affected" by it. The Bill had its second reading in the House of Lords on 28 February and has proceeded to an Opposed Bill Committee (Select Committee) to consider the petition against it.



Appendix II: 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: The Historic Environment and Site Allocations in Local Plans \(October 2015\)](#)
- [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 \(February 2018\)](#)



Historic England

- [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 \(November 2022\)](#)