



ENGLISH HERITAGE

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30 October 2009

Dear Mr Weatherby

ENGLISH HERITAGE RESPONSE TO PPS15: PLANNING FOR THE HISTORIC ENVIRONMENT

The Commission of English Heritage approved the following response to the PPS15: Planning for the Historic Environment on 22 September 2009.

English Heritage welcomes the general principles behind the document and believes that those principles represent a significant step forward for both the quality of heritage conservation decisions and the wider process of planning reform.

However, English Heritage does not believe that the current wording of the document properly achieves Government's policy aims, which we support, in all respects. English Heritage could not support the new policy wording unless some important changes are made.

Once amended, English Heritage believes the PPS could provide greater clarity and quality in decision-making and thus help to speed up the system.

English Heritage supports the emphasis on understanding the historic environment and its significance before decisions are made about it.

English Heritage welcomes the increased emphasis on pre-application discussions and on the greater use of Historic Environment Records and other sources for assessment of significance. This will improve the quality of proposals and reduce the chances of applications being rejected.

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English Heritage welcomes the importance placed by Government on the use of expert advice, both for applicants and local authorities.

English Heritage is keen to continue working with CLG and DCMS to improve the current draft and would like to see the final document published at the earliest opportunity.

Specific comments

Criticisms of the current text fall into three categories: (1) points of fundamental principle that go to the heart of the level of protection for the historic environment in England, the resolution of which will determine whether English Heritage's can give its support for the PPS; (2) important drafting concerns where the aims of the policy are not yet achieved in the consultation wording; and, (3) more minor drafting improvements which will be discussed directly with CLG and DCMS.

1. Points of fundamental principle:

a) The level of protection for designated assets within the PPS has lessened. Justification for harm or loss of significance can be on the grounds of "public benefit" or "wider social, economic and environmental benefits". The categories of possible justification are acceptable, but what is lost is a sense of the degree of priority given to designated assets. PPG 15 referred to only "substantial community benefits" justifying harm.

b) The PPS lacks an introduction of the type in PPGs 15 and 16. They currently give a clear sense of the relative importance of conservation of the historic environment. Through this omission, the document fails to acknowledge the wider benefits that the historic environment can deliver and its important and very positive role in place-making.

c) A critical issue is the design policy in HE9.6. In order not to water down the obligations in statute and in PPG 15 in relation to the protection of the setting of heritage assets, it has to be reworded. EH's suggested alternative wording is: "*Local planning authorities should take into account the desirability of new development being appropriate for its context and making a positive contribution to the character, quality and local distinctiveness of the historic environment. This includes considerations of scale, height, massing, alignment, materials and use.*" The consultation text is weak, using 'where reasonably practicable' as the fulcrum of the obligation.

d) The protection of heritage assets that are not nationally designated is fundamental to current protection levels. Their protection is currently enshrined within national policy. The importance of local authorities identifying their own local heritage assets was set out in the Heritage Protection White Paper¹. EH believes national policies to support locally identified heritage assets are essential for the consistency of decision-making. However, in order that owners/applicants know where they stand policy and

¹ Heritage Protection for the 21st Century (2007) section 1.1 paragraph 23



guidance must be clearer on the means by which local authorities should positively identify assets of genuine significance (i.e. of real value to society).

2 The important drafting concerns:

- a) The presumption in favour of conservation that is implicit in the policy framework should be made explicit. Concern has been expressed that the absence of the phrase “presumption in favour of preservation” gives an impression that there has been a downgrading in protection, even if technically there has not.
- b) Greater clarity is needed that while the whole of the historic environment should be valued, statutorily designated assets have been found to meet strict quality thresholds and thus merit greater protection in plan and decision-making.
- c) The local planning authority should have the policy option to refuse permission where the impact on significance cannot be properly assessed from the application. Many in local authorities welcome the principle of non-validation if the significance and impact cannot be assessed from the application, but see barring applications at the validation stage only as practically very difficult to employ effectively.
- d) The text should be clearer that, whilst strict controls cannot be extended to the wider landscape in many cases (i.e. where a conservation area is inappropriate), the general historic character should still be taken into account as context for planning decisions.
- e) The range of other sources of information available alongside HERs should be recognised, including the NMR, record offices, museums etc (HE1.2, 7.2, 9.1 and 13.3)
- f) The social benefits the historic environment brings should be properly recognised (HE2.3)
- g) All local planning authorities should set out a positive and proactive strategy for the conservation, enhancement and enjoyment of the historic environment. It should not be just ‘where appropriate’. It should also be made clear that the considerations for regional plan-making in HE2.3 also apply to local plan-making, albeit on a different scale.
- f) Within the plan-making process, the historic environment should be seen as a stimulus to inspire ‘development’, in its broadest planning meaning, rather than just ‘new buildings’, which excludes consideration of the development of spaces, infrastructure and sites of imaginative and high quality design (HE3.2)
- g) The central place of the historic environment in delivering sustainable development should be expressed more clearly. At present there is mention of encouraging re-cycling and thus reducing energy use, but not the much wider and positive way in which conservation of the historic environment is an embodiment of

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the principle of meeting the needs of the present without compromising the ability of future generations to meet their own needs.(HE4.2)

h) There should be careful checking of the use of words and phrases to ensure they are used consistently throughout the document. For example 'archaeological interest' may apply to all heritage assets, not just those traditionally defined as 'archaeology'. (HE7.2 and elsewhere)

i) Consideration should be given to the location of HE8.2, which deals with consultation, but is located within a policy dealing with validation.

j) It should be clear that meeting the tests in HE9.8 is not separate from the principle test in HE9.7, such that proof under HE9.8(ii) that an asset is non-viable itself and prevents all use of the site does not automatically lead to destruction unless the public benefit in releasing the land for development outweighs loss of the public value in the asset's significance. This is reflected in HE10.2, which provides that loss of the highest grade assets should be "wholly exceptional" in any event, notwithstanding that the tests in HE9.8 may have been met.

k) HE9.8(ii) needs careful examination and testing against common scenarios to ensure consistency with current levels of protection. The policy should refer to the non-viability of the asset, not the site, and to the asset 'preventing' the possible use of the wider site and not just 'impeding' its use.

l) 'Deliberate damage' should be added to 'deliberate neglect' as something that should be disregarded by local planning authorities in determining consents. (HE9.9)

m) HE9.10 should be reworded to clarify its purpose. Its purpose is understood to be: to provide local planning authorities with a hook on which to hang conditions that require that demolition/destruction does not take place until one knows that the replacement development (that justified the loss) is actually going ahead.

n) The policy should clarify the relative importance of Grade II listed buildings and registered parks and gardens, as assets that have met strict criteria for national designation. The precise wording of HE10.2 has led some people to conclude that Grade II buildings and registered parks and gardens are not given proper protection. This is already a problem with some Environmental Impact Assessments methodologies that suggest that Grade II buildings are only of local importance.

o) HE13.3 should be clarified so as to require "appropriate and satisfactory" steps in order to advance understanding. The phrase "maximising opportunities" has caused some confusion.

p) The terminology section in Annex 1 should be augmented to clarify the meaning of phrases that have not been clearly understood. For example, the meanings of 'heritage interest', 'material loss' and 'public benefit' have been understandably questioned given their importance.



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q) The PPS introduction should be explicit as to the other heritage consent regimes these policies apply to, that is Listed Building Consent and Conservation Area Consent.

r) The definition of a “heritage asset” should include a “location” of heritage interest in order to admit the interpretation that it applies to places that have no known historic interest but which have the potential to yield important evidence of our past (locations of archaeological interest, in other words). “Site” is close to “location” in meaning, but “site” has a common association with a place with already established historic significance.

s) HE9.5 ought to be clear that it may be possible to identify a different design that delivers similar climate change mitigation with no harm to the historic environment, not just less.

t) On the issue of climate change generally, consultation feedback has consistently criticised the number of climate change references and the possibility of those references being crude summaries of the more sophisticated climate change policies in other PPSs. Whilst no-one doubts that the relative importance of climate change is established in policy, there is a fear that the impression the reader will get from PPS 15 is that climate change is a justification for harm or loss in all cases. The wording says that conflicts should be avoided, but where they are not, then the relative merits should be weighed. English Heritage has no criticism of this approach, but impressions do count. English Heritage believes that the issue of climate change should be dealt with in one policy only within PPS 15, with clear references to the relevant policies elsewhere in the PPS as the means of assessing the public benefits of any climate change measure.

I trust these observations are of assistance to CLG and DCMS in taking forward the PPS. English Heritage will continue to work closely with the Departments to ensure that the final version of the document addresses the concerns identified by English Heritage and a range of other organisations and individuals at the earliest opportunity.

Yours sincerely

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