

CLG consultation on Draft PPS15: Planning and the Historic Environment

English Heritage consultation on Historic Environment Planning Practice Guide

Response by the Council for British Archaeology

The Council for British Archaeology is an educational charity working throughout the UK to involve people in archaeology and to promote appreciation and care of the historic environment for the benefit of present and future generations. We have a statutory role as one of the national amenity societies consulted on listed building proposals. We have a membership of 600 heritage organisations and c.10,000 directly subscribing individuals of all ages. Our institutional members represent national, regional and local bodies encompassing state, local government, professional, academic, museum and voluntary sectors.

General comments

1. The CBA believes the rationale for proceeding with the new PPS is a sound one, despite the delay in the Draft Heritage Protection Bill. It is important to maintain momentum on introducing an integrated and proportionate approach to managing change for the historic environment through the planning system. The CBA welcomes the new policies and practice guide in principle, as a progressive step in line with advancing conservation practice in the sector and in the spirit of reform of the intended heritage legislation. We will continue to press the Government to take forward the Draft Heritage Protection Bill, which enjoys all-Party support, as the earliest opportunity.
2. The CBA welcomes the inclusive approach to understanding significance as the basis for decision-making and particularly the application of the policy principles to non-designated as well as designated heritage assets. Notwithstanding this, the CBA's firm view is that the draft PPS15 policies will require significant revision to achieve effective implementation and to provide confidence that these policies, as successive ministers have pledged, do not result in any net loss to the protection of the heritage.
3. There are serious reservations about the drafting of some of the policies as they currently stand and whether they provide the intended clarification, consistency and certainty for decision-making in the planning system. Concerns clearly exist among CBA members about the risks of introducing unfamiliar terminology and new concepts without the supporting legislative framework of heritage protection reform for which

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they were developed. Hopefully these fears will prove to be unfounded and potential weaknesses can be addressed by redrafting (detailed points relating to this are mentioned below). In addition, there will need to be a concerted campaign to explain, clarify and create confidence among heritage professionals and the voluntary sector. The CBA hopes it can play a constructive role in that advocacy alongside English Heritage and CLG, and with other heritage partners.

4. The CBA welcomes the Government's emphasis on the importance of expert advice being available to local authorities and the scope of 'appropriate expert advice' for local authorities set out in HE 9.2. We are pleased that this includes not only specialist national organisations but also local amenity societies who are often knowledgeable and intimately acquainted with the history of their area. The CBA notes that there is no reference in either the policies or guidance to the role of the National Amenity Societies, as there is in PPG15, and seeks clarification on how and where the procedures for statutory notification to bodies such as our own will be set out.

5. The CBA believes it is important that the same inclusive interpretation of 'expert' should apply in the definition of archaeological interest ('an interest in carrying out an *expert* investigation... into the evidence a place may hold of past human activity') and that this should be amplified in the Practice Guide. Voluntary archaeological groups, working to appropriate standards for best practice, carry out investigations as part of the planning process, alongside professional archaeologists and in their own right. Signposting to the appropriate standards for practitioners, best practice and technical guidance, such as that provided for the sector by the Institute for Archaeologists, should be included in the Practice Guide.

6. The usages of 'archaeology' as a discipline, 'archaeological interest' in heritage assets of all types, and the 'historic environment' (an overarching multi-faceted construction) need careful scrutiny in the PPS and Practice Guide to ensure they are employed more consistently.

7. The CBA recognises that more comprehensive reworking of the Planning Practice Guide is needed to produce the robust and coherent guidance required by the sector on how the policy is to be implemented. In particular, we would like to see the detailed, technical guidance provided in Annex C of the current PPG15 either included in the Practice Guide, or clearly signposted as available elsewhere as formal guidance. On this, and in other areas, we hope that English Heritage will draw on the wide range of experience that practitioners in the sector are keen to contribute to expedite the revision process. It would be regrettable for the publication of the Practice Guide to be separated from that of the parent policy document.

8. Finally, the CBA would like to emphasise that, notwithstanding the comments on matters of detail that follow, the draft PPS represents a positive and welcome advance for heritage protection and we urge that, after much-needed redrafting, its publication should proceed without delay. The CBA's preference would be to see progress with publication of a revised PPS and Practice Guide, as planned, in early 2010. We believe that further postponement of this key element of heritage protection reform would be potentially damaging, on top of current uncertainty about the Draft Heritage Protection Bill. It could be viewed by local planning authorities as a signal that this area is no longer a Government priority with inevitable consequences for the resourcing of local authority historic environment and conservation services, which are already under great pressure.

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Detailed comments

Detailed comments follow below which bring together the views of CBA Trustees and members. We have tried to relate these to the consultation questions where possible but not all the points we have to make fit easily into that framework.

1. Does the PPS strike the right balance between advocating the conservation of what is important and enabling change?

1.1 On policy principle HE9.8iii, concerns have been expressed about whether this is effectively a 'developer's charter' and that the presumption in favour of retention/preservation is not sufficiently emphasised here as a fundamental principle, albeit that it is set out later in HE10. Re-ordering of the policies may assist in ensuring there is a balanced perception of the weight to be given. There would be a serious loss of protection if the 'additional' policy principles guiding *consideration* of applications for development related to designated assets could be interpreted as subsidiary in any way to those in HE9 for the *determination* of applications relating to all heritage assets.

1.2 HE10.2 should include grade II listed buildings as well as grade I and II* in order to maintain an equivalent level of protection to that provided under PPG15. The implication that the loss of grade II buildings is not an exceptional matter would be highly damaging.

2. By adopting a single spectrum approach to historic assets, does the PPS take proper account of any differences between types of asset (e.g. are archaeological assets adequately covered)?

2.1 An evidence-based approach to plan making and decision making is one that fits well with archaeological methods for assessment and investigation. Archaeological practice works alongside a range of methodological and professional approaches to understanding the significance of historic assets. This multi-disciplinarity reflects the range of public values and expert opinion that should be taken into account in planning for the historic environment. We believe that the new policy principles (in HE 1 for plan making and in HE 8 -11 for decision making in planning applications) provide a consistent basis for informed planning for all aspects of the historic environment, whether designated or not, including its significance for archaeological interest.

2.2 One of the differences in approach between the designation of archaeological sites and historic buildings in the past has been the application of a discretionary approach to scheduling for ancient monuments (as noted in HE10.6). In practice this has meant that many sites of high archaeological interest have not been designated under the 1979 Act but planning authorities, acting under the guidance in PPG16, have treated them as having equivalent significance (i.e. being of national importance) in making decisions that affect them. In the single spectrum approach, policy principle HE10.6 makes it clear that this principle should continue. It would be more appropriately placed and less ambiguous, if this were stated after HE10.2, making it absolutely clear that 'non-designated assets of archaeological interest equal in significance to that of scheduled monuments should be treated according to the same principles'.

2.3 Some sites of archaeological interest may not be designated under the limitations of the 1979 Act, as acknowledged in HE10.6. It would be helpful if the Practice Guide provided clear indication of the types of site (e.g. lithic scatters and palaeo-

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environmental deposits) that may be considered in this category that will also be treated according to the same principles, as above.

2.4 In relation to this (non-designated assets of equal significance to scheduled monuments), the adoption of the ‘effect on significance’ as the test of whether consent is required introduces a change in practice to that which applies under the 1979 Act where all works require consent, regardless of their effect. Is this adequately accommodated?

2.5 Conservation Area designation is an important means of protecting historic areas and their significance, together with the character appraisal process which provides the basis for assessing that significance. In our view, this latter aspect and other spatial planning tools such as historic landscape and urban characterisation deserve more explanation in the Practice Guide and cross reference in the PPS, as the basis for assessing significance and informed decision making.

2.6 HE3.2 should also include the creative contribution that historic character can bring to the design of new civic and public space and green infrastructure.

2.7 HE7.2 appears to have been drafted with below ground archaeological interest in mind rather than the general archaeological interest in heritage assets of all types. Field evaluation has a specific application but a redefinition could widen this to include analysis of fabric, building construction and landscape history.

2.8 HE9.8, conversely, appears to have been drafted in relation to the loss of historic buildings through demolition or partial demolition and lacks a clause on mitigation for loss of archaeological interest in buildings and sites.

Definitions

2.9 In the definition of ‘archaeological interest’, the last sentence is problematic in that there is no ‘record’ of the past inherent in heritage assets but the potential for new interpretation and narratives based on investigation of the evidence. We suggest that this sentence, harking back to the ‘preservation by record’ approach, is either omitted or rephrased. However, the principle that archaeological remains (now the potential archaeological interest in an asset) are ‘a finite and non-renewable resource, in many cases highly fragile and vulnerable to damage and destruction’ (PPG16, 6.) remains a strong statement and could be effectively introduced here.

2.10 ‘Historical interest’ as a general term for the interest in ‘past lives and events’ should explicitly be defined as including prehistoric periods which might otherwise be construed narrowly as excluded.

2.11 ‘Heritage asset’ should include ‘area’ as well as building, monument, site etc.

2.12 ‘Historic environment’ would benefit from a fuller definition to encompass townscape and urban characteristics.

2.13 ‘Setting’, as defined, includes the important concept that setting relates not only to the significance of a heritage asset but also to appreciation of that significance by people. This is not clearly reflected in the policy (see below).

3. In doing so, does the PPS take appropriate account of the implications of the European Landscape Convention, and of the cultural dimensions of landscapes designated as National Parks and Areas of Outstanding Natural Beauty?

3.1 HE11.1 should refer to the principle that people’s perception and appreciation of

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the significance of landscape is an element in assessing the impact or enhancement of setting in applications for development. Although this aspect has some coverage in the Practice Guide and is alluded to in the PPS definition of setting, the policy principle should also be aligned with the ELC definition: "Landscape" means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors'.

4. Are the policies and principles set out in the PPS the key ones that underpin planning policy on the historic environment, or should others be included?

4.1 In relation to public engagement, we believe that more opportunity for public and educational access to the process of investigation and discovery can bring significant dividends both for development, in demonstrating directly the investment in local heritage, and for creating more informed and knowledgeable communities. We would like to see this aspect developed in the Practice Guide and an appropriate reference to the principle included in the PPS.

4.2 Policy HE9.3 is welcome recognition that communities may have views on the particular significance of a local heritage asset which might not be reflected in expert and documented evidence. Experience shows that failure to recognise this at the earliest (master planning and pre-application) stage can result in delays and time-consuming renegotiation during the application process. This can often arise in relation to appreciation of the significance of setting and differing perceptions of what is significant. More supporting guidance in this area will be essential and a reference in policy HE7 is also desirable.

4.3 Policy HE8 is a hybrid of principles applying to validation and to consultation on an application once it has been registered which should be clarified. HE8.2 is welcomed and (as noted above), as one of the six National Amenity Societies that local authorities are currently required to notify of listed building consent applications, we will welcome further clarification on our role in future in this capacity.

4.4 The CBA also welcomes the principle and the scope of 'appropriate expert advice' for local authorities set out in HE 9.2. 'Expert' can be a usage that implies exclusion of the judgement of informed local people and so it is helpful to have this interpreted here in a wider sense. HE9.3 is welcome recognition that the views of the local community may include other values of local significance. It would be an improvement to express this as where 'there are indications' rather than 'evidence'.

5. Do you agree that it is the "significance" of a historic asset that we are trying to conserve?

5.1 The CBA agrees that the values - archaeological, architectural, artistic and historic – of a place are what we wish to protect and hand on for the future. However, it is problematic that the concept of 'significance' (which enjoys international usage and is a fundamental building block of English Heritage's Conservation Principles) has no basis in current statute and that the PPS therefore introduces a parallel terminology and framework for valuing the heritage to that of the existing heritage legislation ('special historic and architectural interest' and 'national importance' being established). There is a risk that potential misinterpretation could be exploited in challenges to local authority decisions and that this unintentionally weakens protection. 'Archaeological interest' and 'artistic interest' have no definition in terms of current statutory designation unlike historic and architectural interest. This needs to be addressed explicitly in the Practice Guide,

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in terms of spelling out the ‘read across’ from the old to the new approaches.

5.2 In HE9.8 the expression ‘removal of significance’ is ambiguous and awkward and would be more accurately expressed as loss of significance.

6. Does the PPS comply with devolutionary principles with regard to what is expected at regional and local levels?

6.1 To support and strengthen the policies in HE2, a clear cross reference is required between this policy and the content of regional strategies. The Draft Policy statement on Regional Strategies, also currently out for public consultation, states that a Regional Strategy’s policies and priorities should cover “Priorities for the protection, enhancement and access to the built and natural environment, including biodiversity” (4.9, point 7.). To ensure the integration of policy, the historic environment should be explicitly included there.

7. Does the PPS strike the right balance between the objectives of conserving what is significant in the historic environment and mitigating the effects of climate change?

7.1 There is insufficient emphasis on the key part the heritage plays in sustainable development in paragraph 5. To reduce this simply to tourism and regeneration understates the essential wider case. The historic environment does and should play an important part in the achievement of the Government’s goals for sustainable development and for adaptation and mitigation action on climate change. CBA believes it is right that this should be uppermost among the objectives for planning for the historic environment which has a central role in effective adaptation for climate change.

7.2 Policy HE4 emphasises rightly that re-use and renewal of heritage assets and historic infrastructure has a major role to play in achieving sustainable places to live and work; historic landscapes and their management by traditional, low-carbon methods also provide valuable green and blue infrastructure. We believe there is scope to signpost this more clearly in the Government objectives and spell it out more comprehensively.

7.3 Policy HE 4 makes a clear, strong statement of principle about the important, mutually beneficial, relationship between heritage assets and sustainable development which the CBA firmly supports. This positive policy is weakened by a tendency elsewhere in the policies to add a ‘climate change caveat’ in the case of potential conflicts with loss of heritage significance (e.g. HE2.3, HE9.5, HE11.1). Given HE 4 policies and the expected publication of a separate PPS on climate change, which will set out the wider principles that apply across the board, this appears to be over-emphatic of the potential for conflict. We would like to see the drafting improved to remove this unhelpful repetition.

8. Does the PPS make it clear to decision-makers what they should do, and where they have more flexibility? Are there any risks or benefits you would like to highlight for the historic environment sector?

8.1 The principles that are set out to guide decision-makers in policies HE9.5 and HE9.6 are potentially ambiguous. There appears to be a weakening of protection - or at least the potential for exploiting this - in wording which implies that what is ‘feasible’ or ‘reasonably practical’ should be acceptable in determining applications

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despite a general principle of ‘presumption in favour of conservation’ in HE10.1. The wording could be improved by simply taking out ‘feasible’ and ‘where reasonably practical’.

9. The draft PPS highlights the importance of ensuring that adequate information and evidence bases are available, so that the historic environment and the significance of heritage assets are fully taken into account in plan-making and decision-taking. At the same time we are concerned to ensure that information requirements are proportionate and do not cause unnecessary delays. Are you content we have the balance right? If not how would you like to see our policy adjusted? (Policies HE8 and HE9 are particularly relevant to this question.)

9.1 The CBA’s primary aim as an educational charity is to enable people to learn about and be involved in appreciating the archaeological interest of their local environment. Making available the new information that derives from discoveries as part of the planning process is an important public benefit and mitigation for the material loss of heritage assets. It is commendable that the Government’s objectives for planning for the historic environment include its contribution to our knowledge and understanding of the past.

9.2 We are pleased to see the emphasis given to Historic Environment Records in HE8 and 9 as one of the principal means of providing access to, and disseminating, information. They provide an essential starting point but in almost all cases it will be necessary to enhance this baseline information particularly for the built historic environment.

9.3 In HE 1.1, we would prefer to see reference to local authorities having ‘adequate information’, rather than unqualified ‘evidence’. In HE1.2 it would be accurate to say the information in HERs should be used as the baseline from which ‘to assess the extent, significance etc...’ of known assets.

9.4 The requirement for publication and deposit of records with the relevant HER is a welcome provision in HE13.3. However, the long-term care of archaeological archives and collections derived from development-led investigations remains an unresolved issue where local museum / record office resources are often inadequate or simply not available. Principles to address this deficit should be addressed more firmly in the policies.

10. In your opinion is the PPS a document that will remain relevant for at least the next 20 years? Do you see other developments on the horizon that have implications for the policies set out in the PPS?

10.1 Yes and yes. Revision of other national policies, as part of the current programme of planning reform, will have implications and in the medium term we would expect some harmonisation of policies may be required for example in relation to the reform of regional strategies and the new core sustainability framework (defining environmental limits in relation to the historic environment), and other PPS revisions, such as for development management and climate change.

10.2. The future enactment of the Draft Heritage Protection Bill, and any amendments in the course of its passage, will also have implications for the currency of the PPS.

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11. Do you agree with the conclusions of the consultation stage impact assessment. In particular, have we correctly identified and resourced any additional burdens for local planning authorities? Is the impact on owners/developers correctly identified and proportionate to their responsibilities?

11.1 No. Local planning authorities have variable access to specialist expertise for the historic environment and we believe there will be additional costs arising for many of them to provide the services to support these clearly set out policies, particularly those relating to providing historic environment information services and obtaining expert advice. HER costs as estimated appear to be lower than will be required to comply with accepted standards.

12. Do you think that the policy draft PPS will have a differential impact, either positive or negative, on people, because of their gender, race or disability? If so how in your view should we respond? We particularly welcome the views of organisations and individuals with specific expertise in these areas

12.1 None that we have identified.

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