



THE NATIONAL TRUST

PLANNING POLICY STATEMENT 15: PLANNING FOR THE HISTORIC ENVIRONMENT AND HISTORIC ENVIRONMENT PRACTICE GUIDE

**A submission by the National Trust Response to DCLG and English Heritage
October 2009**

Introduction

1. The National Trust is pleased to offer the following response to the consultation on the draft of Planning Policy Statement 15.
2. We believe that there is much to welcome in the draft PPS. The general principles it sets out reflect the significant advances in our understanding of the value of the historic environment that have been seen since the introduction of Planning Policy Guidance notes 15 and 16.
3. In particular we support the principle, first established in PPG15, of a holistic approach to the wider historic environment, which looks beyond designated sites alone to all types of places and sites that have value for communities. We are also pleased to see policies which recognise the positive contribution that the historic environment makes to sustainable development and place-making and the public benefits of an informed approach to understanding significance and creating new knowledge and understanding. We welcome the proposals for enhanced opportunities for civic participation and understanding, and believe that these will bring advantages for the care and management of the historic environment and for society.
4. However, while there is much to commend in the draft PPS, we fear that parts of it as currently drafted (or omitted) will weaken the level of protection for the historic environment. While we support a more concise policy document, we believe that there are shortcomings in content and language in the current draft PPS, which mean that it might not fulfil the worthy aspirations referred to above. We are concerned in particular that, in moving from the current PPGs to the new PPS, there could be a loss in clarity of language and definition, which could create more scope for uncertainty . and potentially much legal wrangling in appeals (and ultimately in the courts). Other elements that give us cause for concern include: the assumption within the document that the historic environment acts as a barrier to development and climate change mitigation; the underestimate made of the burdens on local authorities; and the lack of required clarity and

direction within the accompanying guidance. Unless these concerns are tackled we will not be able to support the PPS as currently drafted.

5. Finally, we hope that the Government's vision statement on the historic environment will be published soon, in order to provide the context within which PPS15 sits.

The role of the National Trust

6. The National Trust looks after special places for ever, for everyone. We protect and manage, on behalf of the nation, over 270,000 ha of countryside and over 700 miles of unspoilt coastline and estuary. Our coast and countryside open spaces attract more than 100 million visits per year. We are also responsible for many hundreds of buildings and gardens of historic or cultural significance. The Trust is also a major business, with an annual operating budget of more than £350 million and some 5,500 employees. We are a major provider of tourist facilities in many areas, and has Europe's largest network of holiday cottages and gift shops. We are also the largest museum service in the country (with around 150 of our sites accredited as museums with the MLA), and maintain our own historic environment record and other databases for managing heritage.
7. The Trust is committed to sustainable development. We submit many planning applications each year, engage with development plan processes, and comment on third party applications affecting our statutory purpose. We therefore have a highly informed view of the planning system's strengths and weaknesses in relation to sustainable development. Few other private sector organisations in the UK have this degree of day-to-day interaction with planning.

General comments

8. We support the policies within *HE1* on establishing an evidence base, as this will provide the knowledge and understanding needed for the effective management of change. Character assessment, urban archaeology assessment, condition surveys and other techniques are useful contributions to Historic Environment Records (HERs). However, public access to information should not relate solely to HERs, as museums, archives and libraries are also repositories of evidence for the historic environment (*HE1.2, 7.2, 9.1 AND 13.3*). We are also concerned that HERs need proper resources and funding if they are to operate effectively.
9. The shift towards understanding significance is a relatively recent concept, although it is a more established idea within the archaeological sector, whereas the concept of special interest applies to other assets. We support the notion of significance. indeed, it forms a crucial part of the National Trust's own conservation principles, and

we have statements of significance for many of our own properties. But we feel that the PPS and guidance needs to be much clearer on the nature of significance and the relative levels of protection it affords. It needs to distinguish the multiple interests and values that are intrinsic to historic assets and what they mean for people, as well as explain what weight should be attached to them.

10. Of particular relevance here is the nature of significance in comparison to the concept of national importance as set out in the Ancient Monuments and Archaeological Areas Act 1979. This points up the potential problems that arise from preparing a new PPS in advance of the introduction of new legislation for the historic environment. Unless the PPS is able to convince conservation officers of the importance of the significance-led approach, the lack of Heritage Protection Reform legislation may leave much unchanged at the local level.
11. We support the policies in *HE2 Regional Planning*, although in *HE2.3* we suggest "*alongside other objectives such as economic growth and housing supply*" is deleted. This is already implicit in a sustainable development approach and it repeats what is covered already in PPS4 and PPS12.
12. The policies encouraging local authorities to develop their own strategies for the conservation, enhancement and enjoyment of the historic environment within *HE3 Local Planning* is very welcome. This ambition should not be restricted to just ~~where appropriate~~, since all local planning authorities need to adopt this approach.
13. We also welcome the strong sustainable development steer. But as well as the references to mitigating and adapting to climate change in *HE4.2* sustainability should be about more than climate change. The social, environmental and economic value that the historic environment provides, need to be emphasised more clearly. Greater recognition of the different heritage factors which contribute to different strands of sustainability . from flooding protection to wellbeing . should be made much clearer. There should be more within the PPS to enable appropriate development of the historic environment, and setting out the principles required to ensure this is done properly without damage.
14. Our own experiences suggest pre-application discussions with local planning authorities and English Heritage are beneficial. We would however want to see this opportunity broadened out to local communities who are currently omitted in *HE7*.
15. We also support the principles within *HE8* (Information Requirements) and we would expect to do this with any applications we submit. However, we are again concerned that the difference in how significance is defined from how it is often used to mean importance will result in such statements focussing on importance (potentially often

seeking to play this down) rather than ensuring that the historic interest and values of the asset or area have been fully understood and taken into account in locating and designing developments to avoid and minimise harm and promote and enhance conservation. It should be left to planning authorities and their advisers to decide what relative weight to give to historic interest as part of the balance of public interest in their determining particular proposals, obviously taking account of any designation or other recognition of importance.

16. We are disappointed by the nature of the wording of the statement in HE13 Policy principles guiding the recording of information related to heritage assets:

They (Developers) should also offer the archive generated to a local museum or other public depositoryq(HE13.3).

This is arguably considerably weaker than the previous situation in which, because there was no policy statement, it had become normal practice for planning authorities to require developers to transfer archives to a museum or other publicly accessible archaeological resource centre. We urge that the following sentence be substituted:

provision should be made for the long term preservation of the archive in an appropriate museum or repositoryq

Specific detailed concerns

17. We would like to raise five specific areas of concern in relation to the PPS:
- the policies for development applications and decisions in HE9 and HE10;
 - the policies on settings;
 - the treatment of climate change;
 - the resources and skills that will be needed to implement the new PPS; and
 - the relationship between the PPS and the guidance document.

Language of policies for development applications and decisions

18. We feel that insufficient weight is given to the statutory framework of protection in the draft PPS in paragraphs **HE 9.7**, **HE 9.8** and **HE 10.1**. We accept that statements of national planning policy represent material planning considerations in the determination of planning applications. However the current draft PPS needs to reflect better the established law as this relates to listed buildings, conservation areas etc. Thus, we urge some amendment here.
19. The Planning (Listed Buildings and Conservation Areas) Act 1990 section 66 states that *'in considering whether to grant planning permission for development which affects a listed building or its setting,*

the local planning authority... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". In conservation areas section 72 of the same legislation requires a similar duty to *preserve and/or enhance the character or appearance* of that area.

20. As they currently stand, the wording of paragraphs [9.7], [9.8] and [10.1] of the draft PPS represent a significant shift away from current conservation practice in a way that is, in our view, at odds with the legislation.
21. We would suggest that paragraphs 9.7 to 10.3 of the draft merit review and as follows:

[9.7] establishes that where negative impact on a heritage asset would result, a local authority should weigh the public benefit of the proposed development against the harm imposed upon the heritage asset (and continues) that the '*greater the harm the greater the justification*'. This wording is far too imprecise and instead should say that nearly all of the constituent parts of defined Heritage Assets enjoy a level of protection enshrined in statute, for example Listed Buildings and Conservation Areas statute are covered by duties to preserve and enhance, which have been the subject of much legal interpretation. This paragraph should (a) restate these high level tests, (b) define public benefit, as consistent with the enabling development work and (c) state that permitting such negative impacts is envisaged as wholly exceptional (as in the Mappin and Webb case) and, as in PPG15, should be ~~almost inconceivable~~ for the highest grade assets (Grade I and II* and SAMs of major significance).

We would also urge the deletion of the sentence that '*greater the harm the greater the justification*' in favour of '*very exceptional circumstances*'.

[9.8] i, ii and iii we suggest that this paragraph is deleted or revised greatly. We must again stress here the exceptional nature of circumstances in which 'material harm' should be allowed. Perhaps the very minimum test here would comprise environmental and social gains as opposed to purely economic ones. In any event such circumstances would, we hope, be extremely rare. We know that in past years bodies like English Heritage have been highly reluctant to include economic considerations in the criteria considered when listing, rightly considering that this would be a decision made on the historic and architectural importance only. The test under 9.8 (ii) (i.e. no viable use test) opens up short term considerations (i.e. economic viability now) and markedly departs from the underlying foundations of the system in which historic assets are conserved for the benefit of future generations.

[10.1] is weak. Instead we would suggest that a simple but effective statement of principles is needed here, such as a simple reinforcement of the fundamental presumption in favour of conservation.

[10.2] by implication assumes that the material loss of a Grade II building (the vast majority of the stock) is not to be regarded as '*wholly exceptional*'. This substantially alters the fuller statement of established policy stated in PPG15 and is the wrong approach. All Grade II buildings must also be included in this paragraph.

[10.3] appears to be intended to be a reprise of paragraph 3.18 in PPG15 but has completely altered its context and intent, which was to set out specific criteria against which the demolition or part demolition of listed buildings currently has to be justified in addition to the basic principle of conserving their special interest. As restated this has been vastly widened and has lost its value as a specific set of criteria to test alternative options. The original principle of having a sequence of tests that must be satisfied should be re-established, starting from a much more strongly stated presumption in favour of preservation *in situ*

[10.4/5] Clarity is needed on what is intended by this policy and whether it in effect amounts to a two-tier approach to Conservation Areas and World Heritage Site? Demolition of offending elements could be a way of enhancing the CA or WHS as much as new development. This contrasts with 10.6 where the "*absence of designation [as a SAM] does not necessarily indicate lower significance.*" In both policies it needs to be much clearer that the interest and character of the WHS or CA should not be seen as overriding the different intrinsic interest and value of an asset that may hide or disguise part of the area's interest. Likewise the removal or redevelopment of offending elements may have serious implications for subsoil heritage.

22. The point is made at paragraph **39** in the Practice Guide, that *'heritage assets ought not to be lost without a public benefit justification'* and then that if a decision is finely balanced that there is *'a presumption in favour of retention'*. Yet, paragraph HE 9.7 in the draft PPS only goes so far as to say that the planning authority should weight the benefits against the harm. This is not as rigorous as the statement in the Practice Guide and we would suggest that the presumption in favour of retention is also clearly stated in paragraph HE 9.7 of the PPS.
23. The Practice Guide at paragraph **40** refers to threshold tests if alteration or '*destruction*' is to be contemplated. 'Tests' here implies a policy balance as opposed to the full force of legal protection and while this is pitched at development control, more use of words like exceptional etc would make the point. We would submit that

paragraphs 40 to 45 in the Practice Guide require amendment, to provide a more elevated status to the various legal duties that must be discharged when dealing with demolition of a heritage asset. For example, we would say (at paragraph 40), in the words of PPG15 that it should be almost inconceivable that the most significant assets will ever be justifiably destroyed, (paragraph 43 and 44 (the need for overwhelming and convincing evidence to permit such demolition and (at paragraph 45) that marketing ahead of a proposal to demolish is anticipated as a very rare occurrence and that primacy of decision-making is to conserve historic assets regardless of economic consideration. Certainly paragraph 45 does imply that an unsuccessful marketing campaign, no matter how robust, can be used as evidence to promote demolition. There is scant mention of significance in this section and the point must be made that a presumption remains that historic assets (in this case buildings) will be retained and indeed conserved in situ. Again, we return to the central point that conservation is about the longer term protection of assets.

Settings

24. The references to the important issue of the setting of historic assets within PPS15 reflect a crucially important aspect of heritage conservation which we feel has been misunderstood in the past and yet is one of the most hotly contested issues in the conservation of Britain's heritage. The fact that official documents recurrently state that there is no agreed definition and approach to issues of setting is testament to the current inadequacy of policy and guidance.
25. We welcome the fact that the PPS is in general fairly consistent in referring to the setting of assets as needing to be considered as part of their interest and significance. However, in other respects the draft PPS has if anything made the policy and principles regarding setting even less clear than they were, and moreover appears either to have entirely dropped key issues to be considered, or relegated them to as the EH subsidiary guidance we are told will follow shortly.
26. In our view it will be very difficult to implement these policies without a consistent understanding of what is encompassed by the idea of a setting. The definition of setting in the PPS is tautological, and introduces a circular argument that includes development as part of the basic definition. This implies that setting only exists when a development is proposed. The definition is at odds to the definition in the EH guidance and this may lead to legal debates in the future. While the EH definition is preferable, neither adopt the straightforward definition set out in the ICOMOS Xi'an Declaration which we recommend as having emerged from a major international conference: *'The setting of a heritage structure, site or area is defined as the immediate and extended environment that is part of, or contributes to, its significance and distinctive character.'*

27. There needs to be a clear policy statement of the range of assets for which setting is a relevant consideration (eg some buried remains do where their character is well understood and known and have a definable and significant siting in relation to their surroundings, but this does not apply to most non-visible remains). There should also be a clear statement of what aspects of the surroundings and associations of the asset or place should be taken into account . such as the intrinsic character and interest of the asset or place itself (including for example historic skylines), and how that relates to various attributes of its surroundings, including natural and cultural physical surroundings; visual and other perceptual attributes; historical, artistic, literary and other associations, access and amenity attributes; and economic and landuse attributes. The PPS should make it clear that setting is a public interest issue, not one that is related to the amenity of private individuals or companies.
28. There also needs to be a basic statement of the basic principles on which harm to the setting of heritage assets and places should be assessed . again building on some of the points indicated in PPG15. This should cover physical alteration or loss of topography, vegetation or cultural features, intrusion on views and other perceptions, issues of development form, style and design (as promulgated by EH and CABE), changes in use and severance of relationships, as well as noise and smell. There should also be a clear recognition that issues of setting can give rise to complex knock-on effects that may indirectly impinge on the physical fabric of an asset where its economic social or physical use and viability is likely either to be altered by the level of intrusion or by changes of ownership or landuse. It should also set out the special issues regarding enabling development within the setting of a heritage asset, setting out the criteria recommended by EH in their guidance on the matter.
29. It is relatively easy to implement policies to safeguard historic assets like Conservation Areas because they are defined, but you can't do the same for Settings policies like 9.1 and 9.7 unless they are defined. This highlights the advantages of attempting to define the concept of a setting by means of mapping and plotting. The policies at *HE9.1 and 9.7* are good examples of instances that require knowing where the setting is. We recognise that to map the settings of all assets would be an onerous undertaking, but nevertheless local authorities and English Heritage should be encouraged to undertake this where appropriate and justified. Where the setting is especially important and/or at risk then local authorities should give that asset priority.
30. The current draft has no policy to encourage local planning authorities to pro-actively identify the setting at plan making stage. This raises a number of questions around the usefulness of a policy which applies to the submission of information and consideration of applications affecting setting (*HE8.1*), if that setting has not been clearly agreed and

identified. It is also unclear whether plan making will fully take account of setting if it hasn't identified where it is sited.

31. The principle of *proportionality* should apply to the mapping of settings to determine how pro-active the LA should be in identifying the setting and what weight that should be given to setting. It could be suggested that the principal considerations are:
- the relative importance of the asset itself
 - the characteristics of the sites setting (where views out are important . eg many P&G),
 - the level of *vulnerability*(see HE3.1)
32. We would also suggest that the Para 17 LPA in the Practice Guide is amended: *"the plan would benefit if the proposals map showed all, or key, heritage assets (ADD:) and setting where this is of particular importance and vulnerable"*

Climate change.

33. Climate change matters are largely dealt with in HE 2.3 (on national carbon emissions targets), HE 4.1 (use of energy), HE9.5 (mitigation climate change) and HE 9.8 (iii) (material harm including climate change mitigation). Such detailed issues also fit within the more strategic consideration of sustainable development, set out in paragraph 5.
34. All sectors must contribute to the Government's commitment to reducing green house gas emissions. This is set out in the PPS 1 supplement on Planning and Climate Change, in which paragraphs 38 to 42 deal with the determination of planning applications. No specific mention is made of the historic environment here and the supplement tends to concentrate upon new development. However, a cross reference to the key planning objectives and decision-making principles in this document would be of benefit here.
35. To allow the PPS to give a strategic direction here we suggest it would be better to establish that climate change mitigation measures can be incorporated into the historic environment, but that decisions on the appropriateness of individual technologies must be made with full regard to the significance of the historic asset affected and the nature of intervention to the fabric, setting and integrity of that asset.
36. *[HE 9.5]* is acceptable in that it promotes early engagement with planning authorities but refers to *'less harm'* being achieved as a consequence of negotiations. This should, instead, be replaced with the positively worded duty of *'conservation of the significance of the asset'* or something to the effect *'to prevent any dilution or detracting from the significance of asset'*.

37. The introduction of climate change mitigation (at 9.8 *iii*) implies a certain 'rule breaking' language. The technologies available now for the harvesting of renewable energy supply is plentiful and need not result in any material harm or diminution of significance. Thus, we think that 9.8 (iii) can also be deleted and a more strategic promotion of appropriate mitigation of climate change can be promoted elsewhere in the document. As currently constituted this paragraph will be used to put forward economic cases for demolition of vacant listed buildings at Planning Inquiries. That would be an unfortunate consequence.
38. Adaptation to climate impacts is not well covered. HE9.5 deals with mitigation but there is not a parallel adaptation policy, whereas HE4.2 mentions both in broad terms. Adaptation is just as likely to require Listed Building Consent as mitigation, and HE9.1 makes clear the policies refer to all types of consent, not just pp. There is also little recognition of the need to react the impacts of coastal erosion and flooding on coastal and marine historic environment.

Resources and skills

39. The proposed approach is predicated on the existence of a well-resourced local authority historic environment service, including a Historic Environment Records service. We will continue to have concerns that this is simply not going to be the reality in many parts of the country, such that the PPS remains simply fine words without any real bite at the local level. The shift towards using significance as a determining factor means that those making the decisions and gathering the information base need to have the skills, expertise and knowledge in place to perform this role adequately.
40. For heritage to be at the heart of the planning system it needs to have the continuing skills and resources to maintain it there. We are deeply concerned that the proposed reforms will fail if they are not backed with measures to provide the extra capacity, skills and resources essential to delivery in both local authorities and English Heritage. Upgrading the HERs will have resource implications as currently most HERs are greatly stretched, frequently starved of resources and threatened by the emergence of new Unitary Authorities. The HERs, as envisaged by the Heritage White Paper, will not work unless there is a major increase in funding. There is an urgent need to review what these full costs will entail for local authorities. Despite the statutory obligation to maintain HERs there are concerns that this will be a weak spot and funding is already limited. For example in the South West central funding for local authorities will rise at an annual rate of only 0.9% per year in real terms, which raises doubts about the ability to find the resources to implement heritage protection reform.
41. The greater emphasis that is being placed on the role of local authorities in the absence of measures to address the huge variations in local historic environment services is striking. This is illustrated in the

Atkins Report, which concludes that improving standards and consistency will be an enormous task. We work closely with local authorities and English Heritage and the Welsh Assembly Government (WAG) through Cadw on issues relevant to Listed Buildings and Scheduled Monuments across the country and are very aware of the pressures on those organisations and their resource issues. To give just two examples - it took 12 months to receive listed building consent for works at Dinefwr in Wales and more than 2 years to mend a wall which was becoming an increasing health and safety problem at a property in North Cornwall.

42. The greatest single skills shortage with local authorities is the provision of specialist conservation services. We are already starting from an existing position which is far from perfect and there is already limited capacity within local authorities to manage the current system. Recent figures indicate that 20% of local authorities have no specialist service and a further 30% rely on one full or part time member of staff. Of note too is the dismantling of a number of local authority archaeological departments, and there is real concern about how services can be delivered, particularly given the additional responsibility to be imposed on local authorities in terms of determining consent applications. Without a statutory requirement for local planning authorities to maintain both archaeological and conservation services there is no guarantee that local authorities will have the staff on the ground necessary to undertake the work required. This is becoming increasingly more pressing as many conservation officers are now reaching retirement age.
43. In addition, although listed building consents may be handled in a timely manner, the conservation officers lack status in the local planning authority and have limited influence when it comes to strategic matters.
44. The role of conservation and archaeological officers in local authorities is crucial to the success of PPS15 and there is an unassailable case for providing them with a better career structure, enhanced status and training. The new approach will also require strengthened skills in community involvement and participation. There needs to be a clear commitment to taking action in this area if the sector is to have confidence in the review, and it needs to be a very visible part of any announcement. This means not just money, vital though this is, but also a properly thought out investment strategy in the skills, guidance, training and capacity building for local authorities, professionals and heritage organisations required, and in the partnerships to deliver these.
45. One way forward might be through an initiative which animates a national debate about the skills, knowledge and experience needed and draws up recommendations which would go forward as a package with any legislative proposals. We recommend that DCMS works with

organisations such as the Academy of Sustainable Communities and Improvement and Development Agency and strengthens the role of HELM as a training provider.

Guidance note

46. We agree that the PPS should be accompanied by a more detailed guidance document, covering some of the ground that was previously covered in the PPGs. We do not, however, think that the current draft of the guidance note is fit for purpose or sufficiently robust to meet the needs of planning and development. We are concerned that important issues such as setting are no longer to be covered by the guidance. We also have some unease about the idea of a living document in particular in relation to its treatment by lawyers. There ought to be greater clarity about how often the guidance note is likely to change and the process for achieving this.
47. We would prefer a revised version of the PPS to be accompanied by a revised guidance note. Indeed, we could not support any revised PPS if it was published without the essential additional guidance. For this reason, we recommend that EH establishes a working group to look again at the guidance document, and would be happy to offer a representative from the Trust to sit on such a group. We also recommend practitioners . people who work with planning issues on a daily basis would be a valuable addition. If a delay is not appropriate then the advice on practice and legislation contained in Annex C should be retained and used until it can be successfully replaced.