

# Comments on proposed revisions to the section of the national planning practice guidance on the historic environment



28 January 2019

The Heritage Alliance is grateful to MHCLG for this opportunity to comment on the proposed revisions to the section of the national planning practice guidance on the historic environment. Many of the changes proposed help make the document clearer and more useful. However, we are concerned about numerous places where text has been deleted, presumably on the grounds that deleted text appears elsewhere, but this is often to the detriment of readability and accessibility.

We have addressed changes we have comments on paragraph by paragraph below.

Our priorities are:

- The changes to Paragraph 019 as below.
- Ensuring that text relating to non-designated assets is retained and is appropriate. Non-designated assets recorded in HERs are a) by far the majority b) the ones that applicants and LPAs are most likely to deal with and therefore on which guidance is most needed.
- Clarifying that the best source of info for plan making and dev management for non-designated assets is the HER – at the moment this comes as an afterthought, with heavy emphasis on local listing, and assets appearing during plan making. There's also reference to LPAs keeping lists of assets that appear during these processes – use the HER instead! I think it might be worth making this as a general point too.

## Title

We are content with the change.

### **Loss of paragraph 001 Reference ID: 18a-001-20140306**

Some members considered that retaining some introduction might be beneficial, linked to the new NPPF's wording. Perhaps something on the lines of "The protection and enhancement of the historic environment forms part of the overall objective of achieving sustainable development (paragraph 8c). This is expanded upon principally in paragraphs 184-202, but policies giving effect to this objective appear elsewhere in the National Planning Policy Framework."

### **Edit of Paragraph 002 Reference ID: 18a-002-2014-0306**

We welcome the specific inclusion of World Heritage Sites. We suggest adding to this section: "The United Kingdom is required to protect, preserve, present and transmit to future generations its World Heritage Sites." This addition would summarise the expected consequences of inscription in line with the expectations associated with various legislation in the preceding bullet points.

It's useful to add the 1953 Act and take the WHS legislative framework out of the bullets to differentiate it. In relation to development plans and the NPPF (end of paragraph) some members felt that policies should not just be 'applied' but should be 'satisfied'.

#### **Edit of Paragraph 003 Reference ID: 18a-003-2014-0306**

We regret that the opening paragraph is lost from here, particularly the second sentence about "irreplaceable resource". While this could be deemed a reiteration of what's in NPPF, its removal reduces readability. Could it be retained changing the end of the first sentence to "...is the aim."?

We would suggest changing the second remaining paragraph to state "...Ensuring such heritage assets remain used, valued **and maintained**..."

In the third remaining paragraph the SPAB does not believe it is possible for significance to be '**enhanced**' - though it's often possible to improve appearance/setting/maintenance.

#### **Edit of Paragraph 004 Reference ID: 18a-004-2014-0306**

We are concerned that the use of "plan making bodies" is not as clear as possible. There is only 1 reference to other plan making bodies in NPPF, at p.119. We suggest it would be clearer to users as "local authorities and other plan-making bodies". The SPAB is concerned that 'Revealing significance' (retained in text) has been used to justify demolition of work which adds interesting historic layers to the first phase of a structure.

#### **Loss of Paragraph 006 Reference ID: 18a-006-2014-0306**

It would be desirable to keep this. It may be that this topic will be addressed in the revised Plan-making evidence base section of the NPPG?

#### **Edit of Paragraph 007 Reference ID: 18a-007-2014-0306**

There have been too many deletions in last line of the first paragraph, which needs to say Local Plan. Deletions in the 2<sup>nd</sup> paragraph are ok as long as the last sentence in the 3<sup>rd</sup> paragraph is retained with the Historic Environment Record mentioned.

We are concerned at the loss of reference to sites of archaeological interest and the deleted sentence about HERs being sources of info on non-designated assets. While some may be mentioned elsewhere this brevity does not make the document more useful.

#### **Edit of Paragraph 008 Reference ID: 18a-008-2014-0306**

It is important that the last paragraph is retained as none of the 1979/1990/etc Acts has been amended so the primary legislation still says "special interest" and "national importance". Unless/until they are amended, the first sentence of the last paragraph (or equivalent wording) is necessary. This makes it clear that 'special interest' and 'national importance' mean more or less the same as 'significance'. This is a point which otherwise can cause considerable confusion.

The revised paragraph suggests that interests and values are essentially the same, but the primary legislation and guidance were drafted in very different times so this is not clear.

First paragraph: we very much welcome the introduction of specific mention of World Heritage Sites and the reference to a site's Statement of Outstanding Universal Value.

Second paragraph: the interpretive bullet points need to cover the definitions used in the World Heritage Convention and set out at paragraph 45 of the Convention's Operation Guidelines. They seem to do so, but it would be as well if MHCLG checked that its understanding of the terms it uses covers the criteria in the Convention. Also suggest adding into the third bullet point (Historic interest) "or world" after "our nation's" to cover World Heritage interest.

Is using the similar terms plan making and decision making helpful?

**Edit of Paragraph 009 Reference ID: 18a-009-2014-0306**

Same point on making and taking. We welcome the continued importance placed on understanding the potential impact and acceptability of development.

**New place for Paragraph 019 Reference ID: 18a-019-2014-0306**

This section is generally good but there is one major exception. At the core of the internationally-accepted approach to heritage conservation, the foundation of the NPPF approach, is a staged approach to change under which (i) those considering change first analyse (proportionately) the significance of the asset and its setting before any design process commences; and (ii) consent applications then contain a (proportionate) analysis of both significance and impact.

This is arguably the most important point outstanding in this paper, because all the evidence (the reports commissioned by Historic England in 2017-18, and years of anecdotal evidence) suggests that the great majority of applications ignore this staged approach: proposals are drawn up without analysis of significance; and even where a 'heritage statement' is provided it is usually just history or description with no substantive analysis of significance or impact. These are major problems because LPAs do not have the resource to do this work themselves.

This is of fundamental importance. These stages in the staged approach need to be clarified in the NPPF as soon as possible, but in the meantime in this section of the PPG. This is not logistically difficult - all that is needed is a strengthening of the "at an early stage" wording which is already there, so that it conveys explicitly the need to do this before any design work commences, as above.

This change to the NPPF/PPG won't solve all the problems overnight, but it is a vital first step: once armed with clear text, Historic England, initiatives like HEF's Historic Environment Protection Reform Group, and local authorities, can begin to turn the tide. Without this change, these efforts are most unlikely to succeed.

Please also see our comments on Paragraph 35 below relating to the needs to avoid duplication of effort and cost, and for independent assessment.

We welcome the new paragraph without a number: 'What assessment of the impact of the proposals on the significance of affected heritage assets should be included in an application?'

**Edit of Paragraph 010 Reference ID: 18a-010-2014-0306**

This section could usefully mention Heritage Statements, or other impact assessments / assessments of harm set out below and make the point that these assessments should be comprehensive and objective. It could be helpful to add 'or Civic Societies' after statutory consultees.

**Edit of Paragraph 011 Reference ID: 18a-011-2014-0306**

This is fine but just because HERs are mentioned here it should not be removed from 007. Deleting references elsewhere is brevity at the cost of readability.

**Edit of Paragraph 012 Reference ID: 18a-012-2014-0306**

We welcome the useful link back to new paragraph. Inclusion in the design and access statement should not compromise the thoroughness and objectivity of the impact assessment.

**Edit of Paragraph 013 Reference ID: 18a-013-2014-0306**

We urge the retention of the useful first paragraph "A thorough assessment...".

**Edit of Paragraph 015 Reference ID: 18a-015-2014-0306**

We welcome the title change and the "a series of failed ventures" addition.

The last half of the paragraph beginning "If there is only one..." misses out probably the most important point, that the OVU is the one most likely to promote/secure the long-term maintenance of the asset.

The use of sometimes in the final paragraph is too weak. Harmful development should not sometimes be allowed but only in 'exceptional circumstances'.

World Heritage UK seek clarification that securing the optimum viable use of the area-based asset as a whole is not a relevant consideration in assessing the public benefits of development proposals affecting such heritage assets. If securing the optimum viable use of any component part of an area-based asset is a relevant consideration, this needs to be made explicit in the text.

**Edit of Paragraph 017 Reference ID: 18a-017-2014-0306**

We agree with the title change and are generally content with the new interpretations of harm. However, we would strongly encourage an extra clause that make clear that alterations and additions can be part of the evolution, story and interest of a structure. It would be quite easy to argue, on the basis of the present text, that any 'later addition' will inevitably be 'inappropriate'.

In the third new para which refers to para 194 of NPPF it would be very helpful if the guidance contained clear advice on the definitions of "wholly exceptional" and "substantial public benefits". World Heritage practitioners are particularly exercised about the meaning of these terms.

**Edit of Paragraph 018 Reference ID: 18a-018-2014-0306**

The text change could also usefully include the assessment of the loss of an open space in a Conservation Area.

**Edit of Paragraph 020 Reference ID: 18a-020-2014-0306**

The first sentence seems a useful addition.

The final part sentence is also a helpful addition, though should be a bit more definite - if as stated the works to the building “secure its future”, they are very likely to be of public benefit, so “could be considered to have some public benefit” is too weak - “are likely to be of public benefit” or similar would be clearer. Some members considered that this should be altered to read “for example, justified works to a ...”. Without this, anything that an owner desired, whether needed or not for securing the building’s future, could be more easily argued to have some public benefit.

There is also concern that the reference to “anything that delivers economic, social or environmental objectives as described in the NPPF” includes a huge range of development, much of which may be totally inappropriate in relation to heritage assets. Finally, there is no definition of “substantial public benefits” – of particular interest when dealing with development proposals in or adjacent to World Heritage Sites. It would be very helpful if this issue were addressed.

#### **Edit of Paragraph 022 Reference ID: 18a-022-2014-0306**

The two bullets below ‘listed building’ are a quote from the 1990 Act, but this bald quote is not very helpful in guidance because decades of case law have qualified this - especially that it is very well established that attached structures or structures in the curtilage have to be ancillary to the listed structure to be covered by the listing. The bald quote by itself is puzzling - for example it is saying that listing a terraced house would automatically list the houses on both sides.

We welcome the description of the types of assets but suggest that in the sentence relating to World Heritage Sites, “inscribed” should be used rather than “designated”, this being the terminology used by UNESCO (and used elsewhere in this Guidance).

#### **Loss of Paragraph 023 Reference ID: 18a-023-2014-0306**

On Balance we agree that the loss of this paragraph is reasonable as most people know what a conservation area is and there is a link to the legislation above.

#### **Edit of Paragraph 024 Reference ID: 18a-024-2014-0306**

The second sentence could add “and may be needed at the time of review”.

#### **Edit of Paragraph 032 Reference ID: 18a-032-2014-0306**

The second bullet point needs to be reworded to make it consistent with the new last paragraph of Paragraph: 017 Reference ID: 18a-017-20140306. It is not a case of striking a balance because “great weight” is to be attached to the conservation of a heritage asset. As worded, this requirement is not at all apparent – conservation is simply one of a list of considerations. Perhaps reword as follows: “While placing great weight on conservation, taking account of the needs of biodiversity...”

With regard to the third bullet point, we strongly suggest adding “and its setting” after “World Heritage Site”. Also it would be very helpful to emphasise the role of neighbouring planning authorities in taking this forward. It is a real issue in some sites, for example Kew Gardens, where the priorities of neighbouring local authorities are different. Hence the conservation of the setting of a site may not be such a high priority for the local planning authority in which the setting is located, and development allowed which cumulatively has a significant effect.

#### **Edit of Paragraph 034 Reference ID: 18a-034-2014-0306**

The changes need to mention “strategy” in development plans as set out in NPPF Paragraph 185

#### **Edit of Paragraph 035 Reference ID: 18a-035-2014-0306**

It is important that this sets out the need for the staged approach - see comments on paragraph 019 above.

At a workshop of World Heritage Site practitioners and planners organised by WH:UK, the matter of impact was a major issue. Many concerns were raised about methodologies and the neutrality of assessments. It was suggested that rather than applicants or authorities undertaking the assessments, they should be done by independent bodies. As it stands, the first paragraph is unclear about whether it expects applicants or local planning authorities to do the assessments. It suggests that applicants provide the information and LPAs to do the assessments, but then refers applicants to the ICOMOS methodology on assessments. So at the end of the first paragraph, suggest adding: "Applicants should use these tools to identify and agree with the local planning authority what information is needed for the assessment. The local planning authority should then consider using an independent body to undertake the assessment itself."

At the same workshop, concern was raised about possible duplication and additional cost if an environment impact assessment required a heritage impact assessment to form part of it, when a heritage impact assessment had already been done at an earlier stage of the application process. It would help if the guidance addressed this issue to ensure that only one heritage impact assessment is necessary when processing an application.

#### **Edit of Paragraph 037 Reference ID: 18a-037-2014-0306**

We suggest adding a paragraph at the end:

"Planning authorities should also inform World Heritage Site Steering Groups of development proposals which would have an adverse impact on the Outstanding Universal Value, integrity, authenticity and significance of a World Heritage Site or its setting, including any buffer zone or its equivalent. Local planning authorities should consult Steering Groups during the application process." This is already done in some areas, but not consistently. Steering Groups (or their representatives) may be able to assist Local Planning Authorities in the processing of applications because of their knowledge of sites. (This suggested addition could otherwise be included in Paragraph: 050 Reference ID: 18a-050-20140306.)

#### **Edit of Paragraph 039 Reference ID: 18a-039-2014-0306**

The use of plan making bodies does not aid reading without further explanation.

The revision of the second paragraph which adds a statement which needs to be challenged: "*A substantial majority of buildings, monuments, sites, places, areas or landscapes have little or no heritage significance and thus do not constitute heritage assets. Only a minority have enough heritage significance to merit identification as non-designated heritage assets.*" This was originally just referring to buildings and its extension to cover monuments in particular is making too sweeping a statement, and one that is potentially misleading.

There is also some confusion introduced by the revised wordings. Saying that non-designated assets "do not meet the criteria for designation" is contradicted by paragraph 41 re: discretionary scheduling, etc.

There is also some confusion in aligning non-designated assets so closely with local lists. The replacement of the work 'some' with 'sometimes' changes the meaning of this significantly. Local lists are a subset of NDHAs. It is not correct to say '*some LA refer to (all) non-designated as locally listed*' rather, it should be some Local authorities refer to some NDHAs as locally listed.

The revised text says that non-des assets are identified by plan-making authorities. This is not always true (neighbourhood plans, community-led local lists, and sites recorded on HERs). This is backed-up in paragraph 41.

For the sake of aligning better with paragraph 40's section on non-designated sites of archaeological interest, we would welcome a reference to sites recorded in HERs in the first paragraph as an addition to the final sentence of the first paragraph.

**Edit of Paragraph 041 Reference ID: 18a-041-2014-0306**

Reference to assets identified on HERs at this point would be very useful. HERs are the repository of information on over 1.5 million non-designated HAs (the vast majority). So this statement is somewhat misleading. Their identification through the HER to a large extent informs neighbourhood plan making and CA appraisals. HERs are useful for assessing archaeological potential, but they are more important as publicly accessible records of non-designated HAs.

In summary, this para is muddled and doesn't reflect where NDHAs are identified and where they can be accessed. There should be some link between this para and the one on HERs. We suggest revising the newly proposed first paragraph as follows:

"There are a number of processes through which non-designated heritage assets may be identified, including the local and neighbourhood plan-making processes, ~~and~~ conservation area appraisals and reviews, or by inclusion in the Historic Environment Record."

**Moving of Paragraph 040 Reference ID: 18a-040-2014-0306**

This section needs some editing/clarification, e.g. "3 types" but only 2 bullets follow (perhaps the 2<sup>nd</sup> and 3<sup>rd</sup> bullets were accidentally merged). We have lost the text "usually because they are given the appropriate level of protection under national planning policy" from the 2<sup>nd</sup> bullet. This is useful for clarity, i.e. some sites are not scheduled because they are already listed. Suggest: Re-instate the old wording.

**Edit of Paragraph 044 Reference ID: 18a-044-2014-0306**

The changes do not assist understanding and the new middle paragraph seems technically incorrect in relation to listed buildings and permitted development. The last paragraph should be retained.

**Edit of Paragraph 045 Reference ID: 18a-045-2014-0306**

The last part of paragraph 1, i.e. "listing covers... also curtilage or other structures" is unclear and incorrect. It might be best to say "may cover attached structures and/or structures within the building's curtilage", which warns users that such structures could be covered, without (wrongly) stating that they always are.

We would prefer the last paragraph to be retained

**Edit of Paragraph 047 Reference ID: 18a-047-2014-0306**

This doesn't seem wholly clear - though it might become clear if you followed the link this should be made easier for the reader.

**Paragraph 050 Reference ID: 18a-050-2014-0306**

See suggestion at Paragraph: 036 Reference ID: 18a-036-20140306 re world heritage site steering committees (if not included there).

At the end would be helpful to add "Further details are in the following sections" or similar.

**Edit of Paragraph 059 Reference ID: 18a-059-2014-0306**

This should be altered to make clearer that it applies to all grades of building to ensure that amenity societies are able to comment. We suggest 'To give notice of applications and decisions for works which comprise or include the demolition of the whole or any part of a listed building of **any grade**