

**HM GOVERNMENT CONSULTATION
PLANNING WHITE PAPER**

PLANNING FOR A SUSTAINABLE FUTURE

HERITAGE LINK RESPONSE

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We are very glad to have the opportunity to respond to the consultation arising from the Planning White Paper and to contribute to the wider debate on the value and objectives of a national planning system.

Heritage Link brings together 81 voluntary organisations concerned with heritage in England representing interests from specialist advisers, practitioners and managers, volunteers and owners, to national funding bodies and local building preservation trusts. Much of the historic environment is cared for - supported, managed or owned - by these organisations and thus they and their members - from local civic societies to the national amenity societies with statutory consultee status - have firsthand and longstanding experience of the planning system as well as advisory and educational roles.

Since Heritage Link covers England we are not commenting on the implications the White Paper may have for the planning system in Wales.

Summary

The reforms should reflect the value of the planning system as a means of integrating social, environmental, cultural and economic objectives. The Planning White Paper fails effectively to integrate cultural objectives within its proposed reforms.

More specifically:

- the strong presumption in favour of development for nationally significant infrastructure projects which have main aims consistent with the relevant national policy statement leaves the Independent Infrastructure Planning Commission very little discretion to accommodate local circumstance or to safeguard the historic environment
- the Planning White Paper fails to reflect the aspiration of the Heritage White Paper that heritage should be at the heart of the planning system: the integrity of the historic environment should be a key material consideration in each of the National Policy Statements
- the status of the National Policy Statements vis a vis Planning Policy Statements needs to be clarified as does the future of PPGs 15 and 16
- the role of the historic environment, officially designated or not, in place-shaping should be made more explicit. The opportunity to modernise conservation area policy and realise the positive potential Conservation Areas have in place-shaping has not been grasped and there is strong justification for treating them as a special case in the planning reforms.

- o repeating our responses to the Barker Review of Land Use Planning concerning opportunities for individuals and organisations to participate we believe that public engagement in planning is a democratic right. Where the consultation process works well, and the contribution of heritage groups is taken on board, it brings benefits in line with wider government policies: strengthened communities, civic involvement in local government, and an improved quality of the built and natural environment.

Overall approach

We regret the very short overlap between the publication of the Planning White Paper and the Heritage White Paper in timing as well as content. The heritage sector, public, private and voluntary has made a huge effort earlier this year to help shape heritage protection in the 21st century through the Heritage White Paper consultation but felt that we were commenting without firm information on the proposed planning reforms.

Now that both are public, the key objective of the Heritage White Paper 'to put heritage at the heart of the planning system' is not meaningfully reflected in the Planning White Paper. We welcome the statements on the value of the planning system in 1.1 and 1.2 with the reference to enhancing the natural and historic environment but statements throughout the Planning White Paper show that economic development predominates as the desired outcome of these reforms to the planning system: 'Continuing to enjoy sustained rises in our standard of living will mean further improving our economic competitiveness and securing our energy supplies'. A wider appreciation of historic assets, - streetscapes, landscapes, archaeology as well as the designated assets - goes unrecognised either for their contribution to our quality of life or their economic contribution through heritage-led regeneration, tourism, place-shaping and local distinctiveness. The cultural, social, economic and environmental benefits of heritage need to be protected within the procedures for ensuring that major infrastructure projects are developed in line with a public interest that is much broader than business interests.

Our 2006 research work *Making Consultation Matter*¹ is based on first hand accounts of public participation in the planning process. Heritage groups and other local community groups want to be involved and believe they can make a positive difference to the quality of local and regional planning outcomes. Much as we may be assured of joint working between CLG, DCMS, DEFRA and the Cabinet Office, there appears to be a tension between departmental approaches. On the one hand the CLG culture is geared towards communities and opportunities for community engagement but the Cabinet Office is looking towards deregulation and speedier decision making. As we have pointed out in three responses to the Barker Review, these are not incompatible but it does appear that the developer is favoured and the public whether acting individually or through voluntary organisations is blamed for delay and obstruction.

Section 1 Proposed reforms to the development consent regime for nationally significant infrastructure projects.

We welcome the inclusion of heritage as an issue of importance in determining applications for major infrastructure projects but we have reservations how this will work in practice for the reasons given below.

Chapter 2 Improving the way key infrastructure projects are dealt with

Q1 Do you agree that there is a strong case for reforming the current system for planning for nationally significant infrastructure?

Do you agree, in principle, that the overall package of reforms proposed here achieve the objectives that we have set out?

If not, what changes to the proposed reforms or alternative reforms would you propose to better achieve these objectives?

Q1 We make no comment about the essentially economic case for reforming the current system for planning for nationally significant infrastructure save to emphasise that the value of the heritage sector (both in economic and other terms) should not be ignored or under-estimated in any assessment.

However, the proposed reforms seek to achieve economic objectives at the cost of cultural and other objectives which are not adequately safeguarded in the current proposals.

Clear mechanisms need to be in place to ensure that appropriate weight is given to the historic environment as a key material consideration at all stages of decision-making.

Chapter 3 National Policy Statements

Q2 Do you agree, in principle, with the introduction of national policy statements for key infrastructure sectors in order to help clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries?

If not, do you have any alternative suggestions for helping to achieve these objectives?

Q2 We broadly welcome the development of National Policy Statements (NPS). However Heritage Link is concerned about their status. These documents appear to lie outside the current planning system, yet Government proposes they should be the primary consideration for major planning decisions. Infrastructure, while important, is not the only matter of national importance with which planning deals. NPS should not be more powerful than Planning Policy Statements and Guidance. This would potentially create a two-tier national policy framework and devalue existing planning policy statements (PPSs and PPGs) making it harder for the Government to achieve other legitimate objectives, including those for the environment, landscape and heritage. We recommend that these statements should be on a par with, but not superior to, planning policy statements. If there is to be an overarching policy, then this should be Planning Policy Statement 1 (PPS1).

In para 2.13 and elsewhere it is stated that the Commission would approve any application for development consent where the main aims are consistent with the relevant national policy statement 'unless adverse local consequences outweighed the benefit, including national benefits identified in the national policy statement'. The narrow definition of 'adverse local consequences' for these purposes as 'those incompatible with relevant EC and domestic law, including human rights legislation' on its face would potentially leave the Commission with little or no discretion to refuse an application on heritage or other environmental grounds. The definition of 'adverse local consequences' needs to be clarified and, if necessary, changed in order to enable the Commission to fully take into account heritage and other environmental considerations in its decision-making.

Q3 Do you agree that national policy statement should cover the core issues set out above?

Are there any other criteria that should be included?

Q3 We agree that the content of national policy statements should include certain core elements (3.9) but that the historic environment should be explicitly included rather than

assumed to be included under 'environmental' or 'greenbelt and other designated areas'. The integrity of historic environment should appear in each National Policy Statement as a circumstance 'where it was particularly important to address adverse impacts of development'. It is vital that all national policy statements refer to the historic environment as a key material consideration in determining applications.

We find the concept of some national policy statements to be 'locationally specific' difficult to fit with the supposed role and discretion of the Commission. The Statements should focus on principles and criteria for development and avoid precise locational guidance ie identify specific sites, otherwise the decision to site major infrastructure projects may be confused with policy formation.

Q3 We recommend that there be a requirement for all national policy statements to be subject to Strategic Environmental Assessment. At present the Planning White Paper proposes SEAs will only be carried out 'where appropriate'.

Q4 Do you agree, in principle, that national policy statements should be the primary consideration for the infrastructure planning commission in determining individual applications?

If not, what alternative status would you propose?

Q4 Status of National Policy statements.

As indicated above, Heritage Link considers that the relationship between Planning Policy Statements and National Planning Statements should be clarified. The revision and status of PPG15 and 16, long awaited throughout the Heritage Protection Reform process, is further destabilised by this uncertainty and is of great concern to our members. The principles of the PPGs should not be lost or diluted in subsequent PPSs or by a subsidiary role to the National Policy Statements.

Q5 Do you agree, in principle, that these proposals would ensure effective public engagement in the production of national policy statements, including with local communities that might be affected?

Are there any additional measures that would improve public and community engagement in their production?

Q5 Local, regional and national bodies and statutory agencies including heritage bodies at all levels should be consulted on the National Policy Statements. Where these are not locationally specific it may be difficult to involve local groups in high level policy even though these will be the most directly affected. The use of focus groups is only a partial substitute so we recommend that the consultation is supported by a public awareness campaign to encourage public engagement. We note the involvement of Planning Aid and suggest that the Civic Trust and other national heritage groups with regional and local networks are also closely involved.

Heritage Link would wish to be consulted on all NPS and offers to use its extensive communications networks to publicise formal consultations.

We agree with parliamentary scrutiny (Q6), the reference to a Select Committee and with the 5 year review of national policy statements (Q8).

Chap 4 Preparing applications for nationally significant infrastructure projects

We welcome the requirement for proposers of projects to be more transparent in their approach, to consult early and to ensure that all information required to inform the decisions available at the time the application is submitted.

Q11 Do you agree, in principle, that promoters should have to prepare applications to a defined standard before the infrastructure planning commission agrees to consider them?

Q11 We recognise the value of ensuring that applications meet a defined standard, providing that the standard allows for the operation of Heritage Partnership Agreements as envisaged in the Heritage Protection White Paper. English Heritage and other heritage bodies should be consulted to ensure consistency over such standards.

*Q12 Do you agree, in principle, that promoters should be required to consult the public before submitting an application to the infrastructure planning commission?
Do you think this consultation should take a particular form?*

Q12 Our research findings in *Making Consultation Matter*¹ shows heritage groups are confident in their ability to play a positive role in the planning process and that their participation can make a real difference to the quality of decisions and the future environment.

For constructive participation to be realised through this White Paper, Heritage Link calls on government to invest in and improve consultation standards and practice to exploit the wealth of expertise, experience, local knowledge and civic pride that make national and local groups such a valuable resource. Where the consultation process works well, it brings benefits in line with wider government policies, strengthened communities, civic involvement in local government and an improved quality of life.

The second Consultation Question in the Heritage White Paper concerned the value of pre-application discussions and if this is considered best practice then it should apply equally to major infrastructure projects.

*Q14 Do you agree, in principle, that this list of statutory consultees is appropriate at the project development stage?
Are there any bodies not included who should be?*

Q14 English Heritage should of course be a Statutory Consultee but we query how the national amenity societies which are the statutory consultees² for applications for listed building consent and for English Heritage-registered designed landscapes, are to be included in this procedure. Their specialist knowledge and expertise is outstanding and their legal status should be recognised in the notification arrangements for major infrastructure projects. Some means of notifying a wider range of interested parties should also be considered

*Q15 Do you agree in principle that the Government should set out, in legislation, an upper limit on the time that statutory consultees have to respond to a promoter's consultation?
If so, what time limit would be appropriate?*

Q15 An upper time limit of 28 days for applications for listed building consents is already accepted by national and local heritage groups. The Government's twelve week consultation period is also accepted. A shorter time limit might cause difficulties for the committee cycles of heritage and community groups run entirely by volunteers. However, planning performance targets should not be met at the expense of the quality of outcome. Sufficient time needs to be allowed for the consideration of often complex issues and we

should take our lead from English Heritage and other bodies which are or will be involved in the process.

Chap 5 Determining Applications for nationally significant infrastructure

Q24 Do you agree, in principle, that the commission should be authorized to grant consents, confer powers including powers to compulsorily purchase land and amend legislation necessary to implement nationally significant infrastructure projects?

Are there any authorisations listed that it would be appropriate to deal with separately, and if so which body should approve them, or that are not included and should be?

Q24 In granting consents, Listed Building Consent, Conservation Area Consent and Scheduled Monument Consent, we would expect the same considerations that are usually brought to bear in making these decisions to be part of the Commission's process in determining applications for major infrastructure projects and that sufficient resources will be made available to facilitate this.

Q25 Do you agree, in principle, that the proposed arrangements for the commission to deal with cases is an appropriate way to ensure that consideration is proportionate and that an appropriate range of specialist expertise is brought to bear on the final decision?

If not, what changes or alternative mode of operation would you propose?

Q25 We are pleased to see that heritage is one of specialist areas to be covered by a dedicated Commissioner but express our concerns how one commissioner full or part time might be expected to advise effectively across such a huge and diverse area, yet this is vital if the appointee is to maintain the confidence of the heritage sector.

We question how these specialists - who appear to be unelected and democratically unaccountable - will be appointed.

Q26 Do you agree in principle that the list of statutory consultees set out above is appropriate at the determination stage?

Are there any bodies not included who should be?

Q26 Where Listed Building Consent, Conservation Area Consent and Scheduled Monument Consents are part of the application, it is essential that the Heritage Commissioner is able to draw on the knowledge and expertise of heritage bodies (the statutory consultees, local and specialist heritage organisations). It may be that they should be notified and consulted as well as English Heritage *and at the same time* to avoid delay.

Q.29 Decision

We propose that the commission would approve any application for development consent for a nationally significant infrastructure project which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the national policy statement. Adverse local consequences, for these purposes, would be those incompatible with relevant EC and domestic law, including human rights legislation. Relevant domestic law for infrastructure sectors would be identified in the planning reform legislation.

Do you agree that the commission should decide applications in line with the framework set out above?

If not, what changes should be made or what alternative considerations should it use?

Q29 This is our most significant concern: that the Commission must approve any application for development consent where the main aims are consistent with the relevant national policy statement 'unless adverse local consequences outweighed the benefit, including national benefits identified in the national policy statement' The narrow definition of 'adverse local consequences' for these purposes as 'those incompatible with relevant EC and domestic law, including human rights legislation' on its face would potentially leave the Commission with little or no discretion to refuse an application on heritage or other environmental grounds. The definition of 'adverse local consequences' needs to be clarified and, if necessary, changed in order to enable the Commission to fully take into account heritage and other environmental considerations in its decision-making.

Q32 What experience and skills do you think the commission would need?

Q32 We strongly support the appointment of a Commissioner with expertise in heritage matters. We also agree that the Commission will need specific expertise in community engagement.

1b Proposals to Reform the Town and Country Planning System

Chapter 7 A positive framework for delivering sustainable development

We welcome the statement in 7.1 'We want to create a planning system that enables us to integrate our economic, social and environmental objectives to deliver sustainable development in this changing global context'.

Generally, the Planning White Paper does not go far enough in dealing with suggested changes in relation to conservation areas. The numbers of conservation areas are increasing and there remains a strong justification for treating them as a special case in planning system reforms. Such areas continue to be popular with local authorities as a measure to protect special local environments, and as a tool to lead economic regeneration. They are also a popular concept with the public. Nonetheless, conservation areas remain weak tools relative to both their perceived strength and their potential, particularly in relation to controlling harmful incremental change. There remains a significant opportunity to review and tighten national conservation area policy, an opportunity which has been missed in this White Paper, and which was not tackled head-on in the recent Heritage White Paper. The opportunity must be taken to modernise conservation area policy and realise the positive potential they have in place-shaping.

Connected with our concern over the status of PPGs 15 and 16 above, we consider that the paragraphs in PPG15 relating to conservation areas should not be diluted. These are essential tools for local authorities in controlling the impact of new development on character and appearance. Any companion guidance document to a replacement for PPG15 must have sufficient status to avoid an opportunity for applicants to justify disregarding it.

Chapter 7 A positive framework for delivering sustainable development

Q33 What types of non residential land and property do you think might have the greatest potential for microgeneration and which should we examine first?

Q33. We support the growth of microgeneration but urge special consideration for proposals in Conservation Areas, relating to Listed Buildings and Scheduled Ancient Monuments, archaeological sites and historic landscapes.

Chapter 8: Strengthening the role of local authorities in place-shaping

We are surprised that the historic environment is not accorded a higher role in place-shaping. Heritage Link members believe the historic environment is central to economic and social regeneration, to our quality of life, national and local identity and to community cohesion. Heritage in this context means not only iconic sites or officially designated places but also the historic areas and landscapes, many with no statutory protection that, as has been amply demonstrated, give a locality the fine grain character essential to sustain its identity and social cohesion and which, when harnessed effectively, attracts inward investment.

We welcome the commitment the Planning White Paper makes towards capacity- building in local authorities and the planning sector. But it omits to reflect the proposals in the Heritage White Paper on capacity-building in other professions which make up the historic environment services and, just as importantly elected members. If there is to be a more integrated approach to place-shaping, this needs to be addressed. Our research *Making Consultation Matter*¹ recommends investment in softer skills such as community engagement.

Q34 We think it is important to enable a more joined up approach to community engagement locally. We propose to use the new “duty to involve” to ensure high standards but remove the requirement for the independent examination of the separate planning Statements of Community Involvement. Do you agree?
Q36 Do you agree, in principle, that there should not be a requirement for supplementary planning documents to be listed in the local development scheme.

Q34 and 36 A key aim of the 2004 Planning Act was to secure meaningful consultation on local development frameworks and to involve stakeholders at an early stage in the process. Heritage Link believes it is crucial that opportunities for engaging the community throughout the process of preparing an LDF continue to be available. Research¹ commissioned by Heritage Link highlighted the valuable role of communities, the voluntary sector and amenity groups in the planning process.

The Planning White Paper proposes abolishing the Preferred Options stage of preparing a Local Development Framework. There would remain a general 'plan preparations' stage. Should the Government be minded to proceed with this reform, arrangements for consulting the public during this 'plan preparation stage' will need to be strengthened. This will ensure that communities' views are not sidelined and opportunities for early engagement are made widely available, rather than restricted to selected stakeholders, ie those whom planning authorities choose to invite. Regulations currently do not require planning authorities to undertake a full public consultation at the earlier (ie issues and options) stage of consultation. They are only required to consult 'relevant stakeholders' in drawing up options as set out in their Statement of Community Involvement (Regulation 25).

In the absence of clear safeguards to ensure a full public consultation at plan preparation stage, this proposal would be a retrograde step that weakens the democratic right to be heard in planning process. It is also at odds with the Government's wider interests in promoting civic pride and community engagement.

Chapter 9 making the planning system more efficient and effective

Q38 Which types of non residential development offer the greatest potential for change to permitted development rights? What limitations might be appropriate for particular sorts of development and local circumstances?

Q38 Permitted development for non domestic land and buildings

A change to the use of an impact approach to permitted development rights has considerable positive potential in managing conservation area workload. The key will be agreeing the thresholds with which to judge impact - there is a strong case for treating conservation areas differently, for example by having tighter thresholds, or by using the prior notification system (as with, for example, trees in conservation areas) to provide the level of scrutiny expected of specially designated areas.

If such issues of fine-tuning for conservation areas are not addressed, there may be more pressure for Article 4 directions under the GPDO. But the resource commitment associated with Article 4s is high and this remains a significant barrier to their use by local planning authorities. Consequently, any benefits that an impact approach to permitted development could bring might be lost in conservation areas by their continued reliance on introducing challenging additional measures.

Q39 What is your view on the general principle of introducing a streamlined process for approval of minor development which does not have permitted development rights and where the neighbours to the proposed development are in agreement?

Q39 The suggested neighbour agreements are not supported and have detrimental implications. For example, by indicating only neighbour issues are relevant suggests other material considerations would not be considered in the decision. It would also create problems over precedent. Perhaps most importantly, it would encourage unscrupulous developers to 'buy out' potential objectors and obtain the consent they might not achieve without such 'side payments'. This could have particular pressure on suburban conservation areas where there is growing concern about pressures for increased density harmful to historically low density neighbourhoods - developers could put pressure on neighbours to accept such harmful higher density. This goes wholly against the democratic principles of the planning system and could bring it into disrepute. It must not be possible to obtain consent for development by means entirely outside the planning system.

This response is supported by the following Heritage Link members:

Ancient Monuments Society
Architectural Heritage Fund
Association for Industrial Archaeology
Association of Gardens Trusts
Battlefields Trust
Campaign to Protect Rural England (CPRE)
The Chapels Society
Civic Trust
Council for British Archaeology
Council for Independent Archaeology
Ecclesiastical Architects and Surveyors
The Garden History Society
The Georgian Group
Heritage of London Trust
Historic Farm Buildings Group
Historic Houses Association
Historic Royal Palaces
Inland Waterways Association
Institute of Historic Building Conservation
Institute of Field Archaeologists

The Leche Trust
The National Trust
North of England Civic Trust
Open Spaces Society
Oxford Preservation Trust
The Prince's Regeneration Trust
The Ramblers Association
RESCUE: The British Archaeological Trust
The Scole Committee
The Society for the Protection of Ancient Buildings (SPAB)
Standing Conference on London Archaeology (SCOLA)
The Victorian Society.

Heritage Link
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1. *Making Consultation Matter: a survey of voluntary sector experience of Local Authority Consultation on Land-Use Planning* Heritage Link 2006 Report and Appendices
http://www.heritagelink.org.uk/docs/MCM_full.pdf
Summary http://www.heritagelink.org.uk/docs/HL_Consultation_06%20FINAL.pdf
2. National Amenity Societies which are Statutory Consultees: Ancient Monuments Society, Civic Trust, Society for the Protection of Ancient Buildings, Council for British Archaeology, The Georgian Group, The Victorian Society, The Twentieth Century Society and the Garden History Society. <http://www.jcnas.org.uk/>
ODPM Circular 09/05: Arrangements For Handling Heritage Applications - Notification To National Amenity Societies Direction 2005).