



Planning Policy Statement 15: Planning for the Historic Environment

**A response by the English National Park Authorities Association
October 2009**

Summary

1. The English National Park Authorities Association (ENPAA) exists to provide a collective voice for the nine English National Park Authorities (NPA's). It is governed by the Chairs of the nine Authorities, and our response, therefore, represents the collective view of the Authorities. Individual NPAs may wish to submit separate comments, which will draw on the specific issues for their particular area.
2. The historic environment is central to the cultural heritage of the National Parks. National Parks have a statutory purpose to conserve and enhance the natural beauty, wildlife and cultural heritage found in their areas. As such we are particularly keen to ensure that the PPS would readily enable the Authorities to carry out their statutory purposes and does not diminish the protection afforded to the historic environment. In addition to responding to the specific questions in the consultation, we also wish to draw Government's attention to areas where we believe improvements could be made. For these we draw on our considerable experience in using the planning system to protect historic environment assets.
3. We welcome the revision of PPGs 15 and 16 and consider that overall the draft PPS 15 is a logical progression from these documents that should help to integrate policy and practice, albeit a progression which is weakened by the absence of the Heritage Protection Bill that would tidy up the legislative differences between different types of assets.
4. We are pleased to see that overall the draft maintains protection for the historic environment through the planning system and include very welcome references to Historic Environment Records. The recognition that "a documentary record of the past is not as valuable as retaining the asset" may even slightly strengthen it.
5. There are occasions where the draft PPS is not as helpful or as clear as it might be as concepts are raised under more than one broad policy heading. Some of these are indicated in our comments below. These need to be read in conjunction with the responses to the questions. It is also clear that implementation of the PPS will depend heavily on separate Guidance. In this respect it is regrettable that the Living Draft Guidance is very incomplete, frequently referring to documents which are not yet available for consideration. We note the intention for the Living Guidance to be published jointly by DCMS, CLG and English Heritage and consider it essential that

the Guidance does have Departmental badgeing in order for it to have sufficient status in the planning process. We believe existing and forthcoming guidance from English Heritage should have the same weight as that in the Living Draft Guidance. We are commenting separately on the Living Draft but hope these comments will be of assistance in producing the final version of the Planning Policy Statement.

6. The Consultation document specifically asks a number of questions. Our responses to these are set out below along with detailed comments on the draft.

Response to questions in the consultation paper

Q1 Yes.

Q2 Basically yes, although specific legislative requirements are not fully addressed and should be referred to.

Q3 No. The draft PPS is very much site orientated and, while the definition of a heritage asset includes landscape, the text does not adequately include any recognition of the concept of cultural landscapes. Such landscapes are integral to the historic environment in National Parks and form a very significant part of the special qualities of both National Parks and AONBs. This omission is underlined by the definitions in Annex 1 – there are interests and values in cultural landscapes which are greater than the narrow definition of archaeological interest as “an interest in carrying out an expert investigation at some point in the future” and the definitions of architectural, artistic and historic interest. Cultural landscapes, and indeed many archaeological sites, normally have clear evidential value as they stand without further investigation as well as illustrative, aesthetic, communal and symbolic values. These values contribute to their significance and need to be clearly recognised in the definitions.

The current PPS 7 prevents statutory landscape protection areas. The protection of non-designated cultural landscapes depends, therefore, on them being adequately protected by PPS 15.

National Park Authorities, like other local planning authorities, are also responsible for the consent regime provided by the Hedgerow Regulations 1997 but we consider the policies and principles in the draft PPS 15 will be transferrable to this. The European Landscape Convention also defines landscape as “perceived by people”- in this respect the draft provides for very welcome local community involvement at the application stage but not earlier.

Q4 No. A key principle that is articulated in PPG 15 and PPG16 paragraph 6 is missing – the consultation draft has no recognition that “archaeological remains are a finite and non-renewable resource, in many cases highly fragile and vulnerable to damage and destruction.” This could perhaps be incorporated into the definition of archaeological interest in Annex 1. However the unambiguous statement that a documentary record of the past is not as valuable as retaining the asset is welcome.

Q5 Yes – although the use of the word “significance” implies a change in concept and will require a changed approach to thinking about heritage assets and dealing with planning applications. Significance is mentioned in PPG 15 but is not as easily

understandable as character and appearance which include the intangible aspects of age and patina and is not readily ascertained from many, particularly older, designation descriptions. These descriptions will require a considerable amount of professional judgement as well as investment in updating them to make them easier to use by the public. The clarification that recording of assets should lead to public understanding and not just the creation of a record per se is welcomed.

Q6 Yes

Q7 No. We fully recognise the importance of dealing with climate change but are concerned that the phraseology is not always clear and will lead to unnecessary argument. While the PPS covers all aspects of climate change mitigation, including renewable energy generation, we commend to you the wording in paragraph 3.11 of the Government's current consultation draft *Proposals for amending Part L and Part F of the Building Regulations Volume 2 Proposed Technical Guidance for Part L* "a balance between historic building conservation and reasonable provision for energy efficiency improvement." The use of the phrase 'improved resilience to weather' in HE4.2 is very specific in what is essentially a generic document. It could be interpreted as a green light for PVCu doors and windows. These have been recognised as one of the main threats to the integrity of conservation areas, let alone listed buildings. It would be helpful if this phrase were omitted or re-worded.

Q8 Basically, Yes, although the comments on Q7 above with regard to balance would remove uncertainty and risk. The need for the historic environment sector to enhance skills and in some instances change working practices is both a risk and a benefit. Risks might arise from under-staffing of historic environment services, such as impacts on quality of advice and decision-making but these will occur with or without the draft PPS. The mention of conditions in HE13.3 needs to be redrafted to recognise that analysis and publication will largely take place after on-site work has been completed and therefore that it may be necessary to delay discharging conditions until the full requirements of an approved WSI have been completed or secured by contractual agreement (Section 106 agreement or similar) or performance bonds.

Q9 Nearly. Informed decisions are normally better decisions; it is already best practice (supported by PPG 15 and 16) for developers to produce adequate information and the draft HE8.1 makes it clear that this should be at the beginning of the application process. It should be clearer that failure to supply information where consideration of the application shows that further information is required is a sufficient reason for refusal.

Q10 The document has clearly been written with many of the provisions of the draft Heritage Protection Bill in mind. The Bill proposed devolving Scheduled Monument Consent as it currently stands to local planning authorities. It is important to ensure that planning technicians who currently validate planning applications have the necessary skills to validate complicated SMC applications.

Q11 The impact assessment does not fully account for some changes in working practices that will be necessary to ensure that PPS 15 works efficiently. These include the enhanced skills necessary to assess applications at validation stage – particularly the

case with potential applications for SMC. The impact on owners/developers is broadly correct but we assume that the Annex B figures are for purposes of this consultation only and are not intended to be part of the published PPS 15. There may also be an impact on officer workload advising on significance at the pre-application stage although this should be offset by improved applications. The 2008 draft guidance for local authorities in England on HERs states that 'Local Authorities should employ dedicated curatorial staff to create their record and keep it up to date'. The costs for local authorities in the impact assessment for the PPS make the assumption that local authorities have a dedicated HER officer in place. Currently of the 5 National Park Authorities which hold HERs only one has a dedicated HER officer. HERs are not currently statutory requirements for local authorities and National Park Authorities and the need for a dedicated staffing resource needs to be recognised in funding streams in recognition of the key role that HERs will play in future decision-making.

Q12 We do not consider that the PPS 15 would have a differential impact with regard to gender, race or disability.

Detailed comments on Draft PPS15

Introduction

- 5 Introduction – Part 1. The Consultation draft has a very useful introduction to what the historic environment is. While appreciating that Planning Policy Statements have a standardised format we consider that paragraphs 1.1 – 1.3 of the consultation provide a succinct but essential rationale for this PPS and therefore should be incorporated within it. This could be achieved within the Introduction and The Government's Objectives (Annex A, particularly paragraphs 4-5) while still keeping to the standard PPS format. The PPS should also link to the Government's (draft) Vision Statement on the Historic Environment. It will also be important that the Vision Statement is appropriately badged to give it weight in the planning process.
- 6 Introduction – Paragraph 4. We welcome the continued reference that non-designated assets are worthy of protection but consider that in line with phrasing elsewhere in the draft PPS "...level of interest..." should be replaced with "...level of significance..."

Policies

- 7 HE1 We strongly support the references in HE1.1 and elsewhere to Historic Environment Records and to the evidence based approach and welcome the recognition that the planning bodies need to consider both known heritage assets and the potential for new heritage assets to be discovered. It is, however, implicit in this that significance of an asset may change as new information is discovered during the development process. See also response to Q5.
- 8 HE2.2 There is a need to recognise that within a region there will be considerable variety in the historic environment which may require different approaches.
- 9 HE3.1 We strongly welcome the need for local strategies to focus on the local distinctiveness of the historic environment and its contribution to a sense of place.

Much of the attraction of the historic environment in National Parks, particularly in a building sense, is in the local distinctiveness of our buildings and settlements reflecting responses to their local environment and the use of local materials. There will, however, be significant workload implications for those National Park Authorities such as the North York Moors which have already been through the Local Development Framework process. Authorities were required to omit development control guidance in relation to historic assets covered by PPGs 15 and 16 in order to avoid duplication. Streamlining the draft PPS means that some material which was in the PPGs is no longer present. There is a danger it will create a policy void requiring the reproduction of localised policies such as those that were abolished with the old Local Plans. Filling this policy gap and bringing terminologies up to date will have resource implications in terms of staff time to prepare the documents and costs in connection with the examination process.

- 10 HE4.1 We welcome the statement that keeping assets in use reduces the consumption of building materials and energy and reduces waste. We wonder whether this statement fully recognises the embedded energy in existing buildings. The continued use of heritage assets can also contribute to sustainable communities.
- 11 HE4.2, 9.5, 9.8 Policy HE4.2 as worded raises the issue of conflict without suggesting how it is to be resolved. The phrase “without such conflict arising” could usefully be replaced with “without the significance of the heritage asset being diminished.” As noted in our response to question 7 above we commend the phraseology in the draft Building Regulations proposals – “the need for a balance between historic building conservation and reasonable provision for energy efficiency improvement” This issue is also raised in HE9.5 and HE9.8 iii. As currently worded HE4.2 appears to underestimate the complexity of the issues and the necessary skills required to resolve conflict. Historic environment officers are not energy assessors and the policy could lead to time consuming and expensive negotiations. See also response to Q7
- 12 HE6.1 We fully recognise the difficulties in identifying suitable indicators which measure outcomes and not just process. In addition to local monitoring indicators, however, we consider that there is a strong need for national indicators. The loss of the Best Value indicators with respect to conservation area appraisals and management plans is greatly regretted as these were useful drivers on conservation activity and resources. National targets have a useful role in encouraging local authorities to carry out some statutory duties. Many National Park Authorities are already carrying out Heritage at Risk surveys and targets could usefully be linked to the recent work by English Heritage in assessing At Risk status.
- 13 HE7.1 Up to date designation descriptions which include a description of the significance of the asset would considerably assist pre-application discussions and consideration of an application. It needs to be recognised though that the significance of an asset may change as new information is discovered during the development process.
- 14 HE7.2, 8.1 We are pleased to see the clear references to potential need for evaluation of an asset and to consideration of the results of evaluation in developing

an application. We note however that there may also be a need for field assessment of buildings to create a description of the significance of the heritage asset (this is implicit in HE8.1) but we consider the policy could be more clearly worded to recognise this. Nevertheless we welcome the clear statement in HE8.1 that applicants should provide a description of the significance of assets.

- 15 HE7.3 We recognise that full introduction of Heritage Protection Agreements will require primary legislation but also that discussion and agreed management plans may speed up the decision making process and reduce uncertainty. The significance of an asset to the local community however may not be apparent in discussions between an owner and the local planning authority - the European Landscape Convention defines landscape as “perceived by people” which presumably includes the local community – cf HE9.3. This needs to be clarified by Guidance.
- 16 HE8.1 Authorities should already have access to the Historic Environment Record. While welcoming the statement that applicants should describe the significance of their historic asset and consult the Historic Environment Record as part of the process, applicants should also be required to clearly state how their proposal will impact on and affect the significance of the asset.
- 17 HE8.3 We fully agree with the principle of this policy, which is in line with principles espoused in PPG 15 and 16, but note that full implementation of this may require changes to current working practices. Across the country, applications to LPAs tend not to be seen by the professional officers who are able to assess whether the significance of heritage assets and the impact of proposed developments can be fully understood from an application until after the application has been processed by an authority. It should be clearer that failure to supply information where consideration of the application shows that further information is required is a reason for refusal.
- 18 HE 9.1. The policy should reference local planning authority’s statutory duties when determining applications regarding different types of designated assets.
- 19 HE9.2, 9.3, 7.1, 7.3 National Park Authorities have or have access to appropriate professional advice and policy HE 9.2 will not impact on our activities. We do however note a potential issue with regard to seeking community views, particularly in pre-application discussions where a developer may wish for confidentiality. We do not share the concern expressed in some quarters that local communities could persuade planning authorities that anything was of local community significance thus obstructing development. While most assets will have some significance at a local level, policy HE10.1 provides clear guidance.
- 20 HE9.4 The policy fails to reference local planning authorities statutory duties. While we support a more positive role for enhancement it is unclear what weight can be given to this where an application clearly fails to incorporate desirable enhancement to a heritage asset. Are there circumstances where inadequate enhancement proposals would mean an application could be refused on conservation and design grounds? This needs to be clarified by Guidance.
- 21 HE9.5 We strongly support the need for the mitigation of climate change to be embedded within the development control and planning policy process relating to

heritage assets. This should, however, clearly be on the basis of a balanced approach between conservation of the heritage assets, particularly in sensitive landscapes, and the reasonable provision of energy efficiency improvements and sustainability issues. This balance should acknowledge that the very survival and continuing use of many heritage assets demonstrates that they are a robust and long lasting resource. HE 9.5 should acknowledge that there may not be acceptable solutions which would deliver *similar* climate change mitigation. We suggest an alternative wording of the last sentence “feasible solutions that deliver similar climate change mitigation but which minimise harm to the significance of heritage assets and their setting”. While it is reasonable to expect the local planning authority to help, where practicable, particularly in pre –application discussions, it should be clearer that the onus is on the applicant to investigate alternatives.

- 22 HE9.6 We consider this paragraph should be redrafted. The wording “where reasonably practical” is unsatisfactory. The aim should be to ensure that this is always the case. PPS 1 already requires local planning authorities to “avoid stifling innovation and undermining investment in sustainable development.” We doubt that any planning authority sets out to stifle innovation. We would prefer to see a more positive tone as this phraseology carries defamatory connotations. The word “distinctiveness” should be replaced by “significance” to ensure all the qualities of the heritage asset are protected. The issue of what is distinctive is likely to be contested whereas significance is all encompassing. The scope “in terms of scale, height, massing, alignment, and use of materials”, while copied from PPG15 2.14, omits elements of PPG 15 4.17. We do not wish to encourage pastiche but consider there should be consideration of the aesthetic dimension to cover all aspects of architectural expression and composition, not merely the physical impact of a building. This policy is largely aimed at the setting of historic assets - there should be an equivalent dealing with alterations to historic assets.
- 23 HE9.8ii It should be more explicit that the phrase medium term should be read in conjunction with the lifetime of the asset in order to minimise conflict.
- 24 HE9.8 iii should be reworded to make it clearer that the wider social, economic and environmental benefits that justify material harm or removal of significance of a heritage asset are benefits to the wider public and not private benefits (cf HE 9.7).
- 25 HE10.1, 10.2, 10.4 We endorse the principle of HE 10.1 but question the omission of Grade II buildings from the list in HE 10.2 given that they are listed for their special importance. Experience of the current regime demonstrates that the loss of grade II listed buildings is extremely rare and thus also “wholly exceptional”. The wording should reflect this reality if the PPS is to achieve Minister’s stated aim of Heritage Protection Reform in not reducing the protection currently given. Grade II buildings are designated assets and represent 95% of all listed buildings. A high threshold for loss relating to this very large and important historic resource (which makes a major contribution to sense of place) should also be provided through including them within HE 10.2. For paragraph HE 10.2 to be consistent, it should also refer to registered battlefields. HE 10.4 suggests that significant elements of conservation areas should be recognised as designated assets – the definition in Annex 1 recognises Conservation Areas per se as designated assets.

- 26 HE10.4, 10.5 We strongly support the requirement in HE 10.4 for elements within World Heritage Sites and Conservation Areas to be treated as designated assets where they contribute to the significance of the heritage asset. These two policies implicitly relate to the need for Conservation Area appraisals to identify and record significance of features within Conservation Areas. This reinforces our comments above relating to HE 6.1. The loss of the Best Value indicator has reduced some of the impetus behind conservation area appraisals.
- 27 HE 10.6 We strongly support the scope to fully recognise the significance of non designated assets as is currently provided for by PPG 16. Footnote 14 should not specifically single out one group of local government archaeological curators, County Archaeologists, who do not have uniform cover or responsibility. Within National Parks such advice would come from National Park Authority specialist staff.
- 28 HE11.1 If setting is making a positive contribution to the significance of a heritage asset it should be treated as part of the asset. Any harm to that significance should need to be outweighed by public rather than private benefits. We welcome the consideration of setting but consider that the PPS and the current draft Living Guidance miss an opportunity to clarify issues relating to curtilage. Recent court cases mean that buildings which were until recently considered as curtilage buildings may now not be – their protection requires revision of list or asset descriptions which should be undertaken as a priority.
- 29 HE 12.1 The list of bullet points are not true criteria (as suggested by the wording of the policy) but questions. If they are to be criteria they should be expressed as such and it should be made clear, as in the current Enabling Development guidance, that all the criteria to protect the significance of the heritage asset should be met before the development can be approved.
- 30 HE13.1 We strongly welcome the statement that “A documentary record of our past is not as valuable as retaining the asset”.
- 31 HE13.3 The use of the term lost implies passivity – a more accurate term would be destroyed. We welcome the clear requirements to maximise opportunities for improving understanding and for the outcomes of investigation to be published and reports to be deposited with the relevant Historic Environment Record. We are, however, concerned that offering an archive to a local museum or other public depository does not necessarily ensure its survival – museums and record offices etc need to be adequately resourced to enable them to accept and maintain deposits.

Annex 1 - Terminology

- 32 The definition of archaeological interest in particular is too narrow. It should be more than “an interest in carrying out an expert investigation at some point in the future” and those of architectural, artistic and historic interest. Many archaeological sites normally have clear evidential value as they stand without further investigation as well as illustrative, aesthetic, communal and symbolic values.
- 33 Artistic interest should be separate from architectural interest.

- 34 The definition of heritage asset should include area to take account of conservation areas.
- 35 Unlike PPG 15, paragraphs 3.43 and 3.44, the draft PPS does not refer to any sanctions which might be applied if a developer fails to follow the procedures outlined in the PPS or to comply with any conditions which might be applied to an application. The absence of any reference to enforcement is likely to be perceived as constituting a weakening of protection. A paragraph stating that proportionate enforcement action should be considered where a breach has been made or an asset is at risk, should be added to the PPS and expanded upon in the Guidance.

30 October 2009