

AGENDA MANAGEMENT SHEET

Name of Committee Portfolio Holder (Leisure, Culture and Housing)
Decision Making Session

Date of Committee 16 October 2009

Report Title Government Consultation on Draft Planning
Policy Statement 15 - 'Planning for the Historic
Environment'

Summary Government's Department for Communities and Local
Government (DCLG) has published the long awaited
replacement for the existing Planning Policy Guidance notes
15 (Planning and the Historic Environment) and 16
(Archaeology and Planning), for a three month consultation
period. The new Draft PPS15 takes account of the 2007
white paper 'Planning for a Sustainable Future' which aims
to streamline policy by integrating the existing national
planning policy on the historic environment, and to separate
policy from guidance. The PPS is supported by draft
guidance prepared by English Heritage, also under
consultation.

This report recommends an appropriate response to the
consultation.

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**Would the recommended
decision be contrary to the
Budget and Policy
Framework?**

No

Background Papers

None (i.e. The consultation document can be found by
following this link:
<http://www.communities.gov.uk/publications/planningandbuilding/consultationhistoricpps>; the supporting guidance from
English Heritage is at <http://www.english-heritage.org.uk/server/show/nav.21136>).

CONSULTATION ALREADY UNDERTAKEN:- Details to be specified

Other Committees

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**Portfolio Holder (Leisure, Culture and Housing)
Decision Making Session - 16 October 2009**

**Government Consultation on Draft Planning Policy
Statement 15 - 'Planning for the Historic Environment'**

**Joint Report of the Strategic Directors of Adult, Health and
Community Services and Environment and Economy**

Recommendation

That the assessment and conclusions set out in sections 3 and 4 and the detailed responses set out in **Appendix A** of the Director's report be agreed as the Council's response to the Government's Consultation on Draft Planning Policy Statement 15 – 'Planning for the Historic Environment' (July 2009).

1. Introduction

- 1.1 Government's Department for Communities and Local Government (DCLG) has published the long awaited replacement for the existing Planning Policy Guidance notes 15 (Planning and the Historic Environment – covering Listed Buildings and Historic Landscapes) and 16 (Archaeology and Planning) for a three month consultation period. The new Draft Planning Policy Statement 15 (PPS 15) takes account of the 2007 White Paper 'Planning for a Sustainable Future' which aims to streamline policy by integrating the existing national planning policy on the historic environment, and to separate policy from guidance. The PPS is supported by draft guidance prepared by English Heritage.

2. Draft PPS15

- 2.1 The draft PPS15 is an element of the Government's ongoing Heritage Protection Review programme. It aims to move beyond an outdated distinction between buildings and archaeology, previously dealt with through largely separate legislation and guidance, in order to embrace the whole of the Historic Environment.
- 2.2 It defines the Historic Environment in terms of heritage aspects to be conserved and where appropriate enhanced, in accordance with a set of common principles in proportion to an asset's significance (defined in terms of historical, archaeological, architectural or artistic interest). It envisages a proportionate response to change, focussing on the significance of each asset, and establishing those aspects of an asset which it is most important to conserve.

- 2.3 The Draft PPS also emphasises the importance of ensuring the availability of adequate information and evidence bases to facilitate plan-making (including development plans and spatial strategies) and decision-making, and makes clear the need for Local Planning Authorities to have access to expert advice concerning Historic Environment. It highlights the importance of integrating conservation of heritage assets into the wider planning context and introduces an increased focus on the positive contribution that heritage can make to regeneration, tourism, the quality of the environment and sense of place.

3. Assessment

- 3.1 Overall the draft is a logical progression from the existing PPGs. It addresses the confusion amongst many owners and managers of historic assets arising from the varied treatment of different elements of the Historic Environment. The policies recognise the positive contribution which the Historic Environment makes to place-making and sustainable development, and emphasises the public benefit of a greater understanding of significance of historic assets and the creation of new understanding.
- 3.2 The emphasis on seeking the views of local communities during consultation (policy HE9) is to be welcomed, especially where an asset's significance to the community may not be understood from records or statutory consultation alone. In addition, the significance of the requirement to use appropriate expert advice to inform decision-making should not be overlooked, especially where there is a need to understand the value of a heritage asset in a range of contexts, from local to global.
- 3.3 The definition of 'heritage asset' is useful, with the recognition that absence of designation does not necessarily indicate lower significance and that all assets should be treated according to the same principles. However there are places where there is over-conflation of the approaches between archaeology, buildings and landscapes; the intrinsic differences between these categories need to be recognised.
- 3.4 The recognition of the importance of Historic Environment Records (HERs) and the need for Local Planning Authorities and applicants to use them goes a long way towards compensation for the delayed introduction of the Heritage Protection Bill published in draft in 2008. The recognition that HERs are dynamic information services with specialised expert staff able to mediate, interpret and analyse the varied and complex data held therein is also welcome. However, there needs to be recognition that local authority historic environment services go beyond maintenance of HERs; the expertise to make effective use of HERs will be key to successful implementation of these policies.

- 3.5 There are a number of areas where the draft PPS would benefit from further clarity.
- (i) Deposition of the 'archival records' arising from archaeological investigations, which may include large quantities of artefacts as well as written records, drawings and electronic databases, is a major issue in many local authorities who may have no, or inadequate, resources for storage and curation.
 - (ii) There is no reference to the need for conservation or display of artefacts, yet it is through museums and their displays that the public benefits of historic environment related work are often delivered.
 - (iii) Community engagement needs to be more strongly advocated. A Planning Authority can require opportunities for public participation and access as a public benefit, where development may lead to overall loss of historic environment significance. If local communities are not empowered through direct access and appreciation of the historic environment of their locality they will be far less likely to have an informed view when consulted over development, or to be good informal stewards and custodians of it,
- 3.6 Very careful attention needs to be paid to language, especially around the terms 'archaeological interest' 'national importance', and 'significance' – and the relationship between these. 'National importance' is used in both the current PPG16 and in the 1979 Ancient Monuments and Archaeological Areas Act. Care needs to be taken to avoid creating confusion and providing the opportunity for tendentious arguments around definitions at, for example, Public Inquiries. There also needs to be a clearer articulation of the principle that landscape is an important component of the Historic Environment and may therefore be significant as a heritage asset in its own right.
- 3.7 There are gaps in the identified costs of implementation of the PPS for Local Authorities; these are the costs of :-
- (i) Preparing core strategies for local development frameworks, since collation of evidence bases is now a requirement.
 - (ii) Additional pre-application discussion.
 - (iii) Implementing additional casework-related investigations (identifying the need, scoping the work, monitoring its implementation and validating the results) over and above those related to creating additional HER entries curation of additional museum deposits resulting from such work.

4. Conclusions

- 4.1 The Draft PPS 15 - 'Planning for the Historic Environment' is, overall, to be welcomed. It is a considered and balanced policy document but one that would benefit from improvement in terms of the matters identified in paragraphs 3.1 – 3.7 above, and in **Appendix A**.

- 4.2 In particular, the Draft PPS needs to give further thought to terminological definitions such as 'archaeological interest', national importance' and 'significance'; avoiding ambiguity here is crucial to the successful implementation of the PPS.

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30 September 2009

Appendix A of Agenda No 4

Portfolio Holder (Leisure, Culture and Housing) Decision Making Session - 16 October 2009

Government Consultation on Draft Planning Policy Statement 15 - 'Planning for the Historic Environment' Questions on which Views have been Particularly Solicited:

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

In general there is a good balance between the requirements of conservation and development. However, the language needs to be carefully defined (see below; question 8) to enable those making planning decisions to be guided by proportionality in those circumstances where the adverse impacts upon the significance of the heritage assets are not matched by the advantages of the development.

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

The integration of archaeology and buildings is one of the primary benefits of the new PPS. This convergence of approach will address many of the misunderstandings - in the minds of the public if not the heritage specialists - which have previously surrounded the parallel legislations, guidance and management frameworks. It is also good to see principles behind PPG16, including the potential importance of non-designated assets (which are often amongst those most valued by local communities), being explicitly applied across the historic environment; this principle is not new but its clear articulation here will make it easier for developers to understand their obligations. However, care needs to be taken that there is not over conflation; the needs of archaeology (where the asset is likely to be buried, incompletely understood or completely unknown, and unlikely to be re-usable) and upstanding structures (visible, known, and potentially economically viable) are not always identical. Thus the references in HE9.8 and 10.3 to the retention of an asset in its original use would not be relevant to buried archaeological assets. However, it is in the underlying guidance that one would expect to see the different approaches to different categories of heritage asset articulated.

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

Whilst the definition of 'Historic Asset' in Annexe 1 makes it clear that the term may refer to landscapes, the draft PPS would benefit from a clearer articulation of the principle that landscape forms an important component of the Historic Environment and can therefore be significant in its own right. This is of particular relevance when determining the position of major urban expansions and other strategic developments, where significance of the landscape needs to be assessed against its sensitivity and capacity to absorb change. Determining the significance of landscapes and the manner in which new development can contribute to or detract from local distinctiveness is an area where perceptions of local people are of especial importance. Although the importance of landscape is acknowledged in HE2.1, which refers to regional spatial planning, this is equally relevant to local planning. We therefore suggest inclusion of reference to historic landscapes in HE 3.1., in order to ensure its consideration in planning at local level. The policy principles in HE 11 are also relevant to historic landscape and this should be made explicit.

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

There were several areas where PPGs 15 and 16 did not deliver public benefit effectively. These included:-

- The definition of the historic environment, which did not adequately account for artefact scatters and palaeoenvironmental deposits,
- Provision for facilitating public engagement,
- Guidance on publication and dissemination of results of archaeological work and the long-term curation of material and records arising from archaeological investigation,
- Guidance on the standards and accreditation of those undertaking professional historic environment work such as archaeology or building recording and analysis.

The draft PPS goes some way towards addressing these deficiencies by providing a framework for underlying guidance which articulates recognised good practice.

Nevertheless, there remain areas of concern. In particular, the policy and guidance both fail to address the variable provision of museums able to accept archaeological archives; not only are there areas which are not covered by the collection policy of an accredited museum, but there are also many museums which only have limited capacity for accepting new material. Indeed, there is no reference whatsoever to conservation or display of artefacts, which are an important means by which the public benefit is realised.

Another area which needs to be addressed is that of public engagement. Whilst the draft PPS contains a welcome requirement that the views of local communities be sought in assessing the significance to them of heritage assets, policy should permit the facilitation, where appropriate, of public access, both physical and intellectual, to the processes of investigation and analysis which may be required where the loss of significance to an asset is being mitigated.

Public benefit will only be fully realised when local people are able to make informed decisions about what is significant; this involves enabling them to engage with their historic environment directly, through participation, where appropriate, with research and discovery.

We also believe that policy principles in respect of recording information about heritage assets in HE13 need to make explicit reference to the important stage of analysis which needs to take place between recording data and disseminating it in a manner which actually furthers understanding.

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

The focus upon significance represents an advance in understanding of the way in which the historic environment influences people’s lives; it is not merely the physical remains which are important but the values people attach to them. The new PPS focuses upon the retention and enhancement of value and understanding rather than solely recording physical fabric, important though that is.

Nevertheless, ‘significance’ may be a disputed term. Advocates for a development may seek to diminish the significance of the assets affected by it whilst heritage champions and professionals may take a contrary position. Focus on significance may therefore increase the potential for controversy.

The shift in conservation aims towards preserving significance, as opposed to preserving assets, is also a move away from the principle of a presumption in favour of preservation of archaeological remains in situ, for which the existing 1979 Ancient Monuments and Archaeological Areas Act provides a firm justification. The statement – which we fully support – in HE13.1 that recording an asset is not as valuable as its retention does not offer the robustness of the very clear statement about physical preservation in PPG16 paragraph 8.

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

Yes; the acknowledgement of the importance of local consultation (HE 9.3), the need for strategic plans to focus upon local distinctiveness (HE3.1) as well as regional identity (HE2.1) indicate conformity with devolutionary principles.

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

There is a danger that climate change – which we acknowledge as being of great significance – dominates perceptions of what is important on the environmental agenda to the exclusion of other issues. Proportionality needs to be applied to ensure the correct balance between retaining historic environment significance and ensuring that development addresses climate change issues. We welcome the support that policies HE4 and HE 9.5 give to keeping historic assets in use and encouraging solutions that deliver climate change mitigation whilst minimising adverse impact upon historic assets. In those cases where the

case for a particular development mitigating climate change outweighs the material harm or removal of significance to an asset (as described in HE9.8 (iii)) the arguments must be made with clarity and transparency; good practice and guidance such as that identified in English Heritage's Climate Change and the Historic Environment (2008) and the advice available through their dedicated website (www.climatechangeandyourhome.org.uk) should be developed further.

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

There are serious issues around some of the terminology used in the draft PPS which may cause confusion and ambiguity. 'Archaeological Interest' is a new term but not one which sits comfortably with the concept of 'National Importance', which is the criterion used in the 1979 Ancient Monuments and Archaeological Areas Act to identify assets which may be Scheduled, and one which is also followed by PPG16. It could indeed be argued that by qualifying important assets as being those worthy of some unspecified future expert investigation the principle of a presumption of preservation in situ in respect of significant assets is undermined, notwithstanding the principle articulated in HE13.1 that retention of an asset is preferable to merely recording it prior to its destruction. Since the 1979 Act remains in force, it would be useful to explain the relationship between the language of the PPS and that of the Act in the definition of 'Archaeological interest' in Annex 1 'Terminology'.

Some clarity is also required as to how the term 'significance' relates to 'National Importance' as the statutory criterion for Scheduling, particularly as 'National Importance' is also used as a basis for assessing the importance of non-designated assets within the planning process (eg PPG16 para 8 'where nationally important archaeological remains, whether scheduled or not, are affected by proposed development there should be a presumption in favour of their physical preservation').

We anticipate that other consultees will have noted the potential ambiguities around these terms and suggest that this is an area requiring careful consideration in the light of comments received from across the Historic Environment sector, and additional explanation of terminology where required.

We note that Policy HE 10.2, which refers to assets of the highest significance, does not refer to Grade II Listed Buildings; it is unclear whether this is an oversight or a deliberate diminution in the status of these designated assets. If the latter, which we believe would be a retrograde development, this should be made explicit. HE10.2 also refers to 'Scheduled Ancient Monuments' (sic); the term should be 'Scheduled Monument', as per the 1979 Act.

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

The acknowledgement within the draft PPS of the importance of Historic Environment Records (policy HE1) is warmly welcomed; HERs, and the specialist staff who curate the record and provide advice on the basis of its content, are crucial to the delivery of the objectives identified in para 5 and elsewhere within the document. We believe that the requirements for the information necessary to determine applications are appropriate and fully support this aspect of the document.

Consideration of the historic environment in the preparation of Core Strategies of Local Development Frameworks is, in our experience, very variable; we therefore support policies HE1 – HE3 which will help to ensure greater consistency in the use of evidence bases in strategic planning.

There is a lack of clarity over the validation procedures (HE8) in respect of those applications where either undesignated assets or areas of unproven potential are involved. HE1.3 follows PPG16 para 12 in requiring planning bodies to consider those areas where there is a potential for heritage assets to be discovered, but this requirement is not picked up later in the document. Validation of applications, usually undertaken by administrative rather than professional staff, needs to identify such circumstances. We would therefore recommend that the first sentence of HE8.1 be reworded as follows: 'Local planning authorities should require the applicant to provide a description of the significance of the heritage assets affected, an assessment of the potential for heritage assets to be discovered, and the contribution of their setting to that significance.'

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

PPGs 15 and 16, which the new PPS replaces, have on the whole stood the test of time in providing what has generally been a reasonably robust basis for decision making. The adoption of new technologies, the pressure on existing settlement, the need to reduce and mitigate climate change and changing social priorities are all factors that will influence the future management of the Historic Environment and no policy can reasonably be expected to be entirely future proof. Economic circumstances are also crucial; poor planning decisions made for the sake of short-term expediency will leave a legacy of a depletion in the quantity and quality of historic assets for generations to come. This document, with its emphasis on the contribution which the Historic Environment makes to place-shaping and community identity, aspires to a long-term view. We believe that the principles underlying the policies within the document provide a good long-term basis for the protection of our Historic Environment, provided that the issues noted elsewhere in this response are addressed, and that the document has the potential to endure.

Nevertheless, whilst the policy principles themselves may have some longevity, the regional and local government structures on which the PPS is predicated may not endure. It may be prudent to consider whether the principles and content of Policies HE2 (Regional Planning Approach) and HE3 (Local Planning

Approach) would be better served by restructuring, placing into a more generic planning approach section those elements of policy presently in 2.3 and 3.1 which are concerned with the positive contributions of the historic environment for regeneration, tourism and local distinctiveness/sense of place, together with the requirement for positive proactive strategies for conservation, enhancement and enjoyment of historic environment. We believe that these policy principles, together with consideration of landscape as an element of historic landscape (see our response to question 3, above) are as applicable to a regional as a local approach.

We also note the absence of any mechanism to monitor the efficacy and outcomes of the new regime.

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

The 'beneficiary pays' principle is retained. The assumption that streamlined policy and a reduction in complexity is likely to lead to overall cost savings in the long term is probably correct. The requirement (HE1.1) that planning authorities have access to Historic Environment Records will not in itself increase overall costs in Warwickshire. However, resources identified as being required to bring many HERs up to an appropriate standard in respect of historic buildings may have been under-estimated; there may be transitional costs involved in ensuring that all HERs conform to the standards outlined in *Informing the Future of the Past: Guidelines for Historic Environment Records (2007)* and the *Draft Guidance for Historic Environment Records in England (DCMS, May 2008)*.

Effective implementation will depend on all planning authorities having access to appropriate numbers of suitably qualified Historic Environment professionals, for which local arrangements will continue to vary; the impact of this will vary from authority to authority. In the current economic climate there may well have been significant reductions nationally in resources allocated to this since the baseline study was undertaken, and such reductions may be continuing - in which case the burden may prove to have been under-assessed.

There may be additional costs, not yet fully quantified, for local planning authorities in the preparation of core strategies for local development frameworks, as the PPS now requires use to be made of evidence bases. The costs will arise from the need to analyse the content of existing records, including HERs and Historic Landscape Characterisation appraisals, in order to assess the impact of individual LDF policies upon the historic environment. In the longer term this will be offset by better understood and sustainable policies, and decision-making that is less vulnerable to challenge.

There may also be cost implications in terms of the increased emphasis on pre-application discussion. Such discussion is of course voluntary, but is likely to add pressure on the time (and thus costs) of Conservation Officers (who will generally be based at District level where there are two tiers of local authority) and archaeological staff (generally at County level). Again, these will be offset by a probable reduction in the number of unsustainable planning applications,

but the savings will in many cases not go back to the section, or even the authority, which bears the cost of providing the initial advice. There may also need to be an increase in resourcing of HERs to take account of the more stringent requirements for consultation of HERs pre-application (as acknowledged in the impact assessment, p 57) although the bulk of these costs will be recoverable from individual developers. The assumption (impact assessment, p57) that developers will not be charged in instances where an HER holds no information about historic buildings needs to be challenged; even 'negative' HER searches take staff time; and it is probably in respect of such requests that the additional resource burden will fall.

Policy HE13 (recording of information relating to the historic environment) anticipates dissemination of such information via HERs. This aspiration is one we support as leading to considerable and welcome gains in public benefit; we note that the additional pressure and costs falling on HERs has been noted in the impact assessment.

The monetised costs for policies HE8/HE14 in annexe B (p64) calculate the costs to developers of an estimated 600 additional pre-application/ pre-development investigations per annum, particularly in relation to historic buildings, necessitated by the proposed new policies. The calculated figure (c£3.35m) makes no provision for the time and resources required to facilitate this process by Historic Environment professionals within the Local Authorities, who will be involved in identifying the requirements for such work, defining its scope through the writing of detailed asset-specific briefs, monitoring their implementation whilst investigative works are in progress, and validating the ensuing reports. The figure of c£80 – 90,000 pa for the costs to local authorities quoted in Annexe B on p65 is only in respect of the costs of creating and maintaining new HER records. Whilst the figure for this work will be very much lower than the costs borne by the developer, even a small increase in resourcing can have a critical impact on the capacity of Local Authority Historic Environment Services. Costs of curation of archives, which will fall on local authority museum services, have also not been assessed. If it is intended that such costs should be recovered from developers, it would be much more efficient to establish such procedures nationally than to leave this to individual local authorities.

We would also question the wisdom of publishing (annexe B) average costs for desk-based archaeological assessments, evaluations, and excavations. Even if these figures are correct (and, since the surveys of casework undertaken by the Association of Local Government Archaeological Officers referred to in Annexe B as the source of this information do not include information about costs it is entirely unclear whether these figures bear any relation to reality), not only will the figures become out of date very quickly during the lifetime of the document but they will be prone to mis-understanding by developers who may choose to interpret the figures as benchmark prices.

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

We have not identified any issues in these areas.