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HERITAGE LINK RESPONSE TO DRAFT PPS 15: *PLANNING FOR THE HISTORIC ENVIRONMENT* AND DRAFT PLANNING PRACTICE GUIDE

Dear Sirs,

Heritage Link brings together 76 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. On their behalf we champion the place of heritage in the wider cultural agenda and the role of the voluntary heritage organisations in the Third Sector.

All of our members are affected by changes to policy relating to the historic environment. From the outset Heritage Link, on behalf of its members, has been closely involved in Heritage Protection reform proposals, working together with English Heritage, the DCMS and additional stakeholders on the draft Heritage Protection Bill and other initiatives. We are grateful to have the opportunity to comment on the draft PPS15 and Practice Guide and have undertaken wide-reaching consultation with members, gathering views on the PPS through a dedicated members seminar, newsletter notification and communication on an individual basis. A meeting of Heritage Link's Spatial Planning Advocacy Group was also held to discuss the consultation draft in detail. This feedback informs the Heritage Link response to the consultation, which is formatted in three sections - general points, reactions to consultation questions 1, 4, 5, 7, 9 and 11 including suggestions for amendment where appropriate, and concluding points.

General points

The overwhelming majority of our members agree on the need, as outlined in the 2007 Heritage Protection White Paper, to develop planning policy for the historic environment that is clear, up-to-date and takes an integrated approach to heritage assets across the spectrum. In this respect, the overarching principles and objectives of PPS15 are welcomed and supported. In particular, policies that encourage investigation and explanation of heritage assets, thus better understanding of their significance are to be applauded, as are promotion of pre-application consultation and referral to expert advice.

However, although there is much to be commended in the draft, the consensus view of Heritage Link members is that the PPS in its current form falls short of meeting its stated aims and represents a potential weakening of protection for the historic environment. Areas of over-riding concern include:

- Implementation of terminology and policies based on Bills not yet enacted (Draft Heritage Protection Bill and Local Democracy, Economic Development and Construction Bill respectively);
- Narrowing of scope for public inclusion and engagement in the decision-making process in contrast to key principles set out in the Heritage White Paper;
- Complete lack of recognition of the historic environment's contribution to economic, social and environmental benefits;
- Concern at the way climate change mitigation is positioned in relation to the historic environment;
- Possible underestimation of the burden on local authority resources, in relation to HERs, interpretation of new terminology and guidance and pre-application consultation;
- Absence of any assessment of the demands made on non-government heritage bodies either national or local . Annex A forecasts increased demand for their expertise;
- Omission of any reference to the role of local designation in place-making;
- Lack of sufficient clarity and practical help in the draft Practice Guide.

The above points are addressed in the responses below. The positive outlook is that in terms of the PPS, it is clear that such concerns can be allayed through a limited amount of careful re-drafting. It is therefore hoped that practical suggestions for amendment put forward by Heritage Link, and by other key stakeholders in the sector, will be implemented to produce a document that both champions and protects the historic environment. Heritage Link urges the Government to make these amendments swiftly so that the new PPS may be published before the forthcoming General Election.

In contrast, the Practice Guidance still requires much work before it can be used to provide effective support and direction to stakeholders involved in the decision-making process.

PPGs15 & 16 have evolved over time to include a wealth of information that offers clarification and support to all parties throughout the consent process. In this sense much of Annex C to PPG15 is felt to be of particular benefit. It may be the case that upon completion the full range of English Heritage guidance will successfully supersede that of PPG15. Nevertheless, if not enshrined alongside the PPS and Practice Guide, then the status of the guidance in relation to policy must be made explicit.

Furthermore, there is concern that the onus on applicants (who may be encountering heritage policy for the first time) to refer to several different guidance documents in addition to PPS15, the Practice Guide, additional planning policy statements, HERs etc is perhaps too great. As in the PPS, the theoretical language of some parts of the Practice Guide is also problematic and at worst the burden could deter individuals and organisations from undertaking conservation projects. This would place more of our historic environment at risk.

As stated in the consultation paper, the streamlining of the consent process is crucial in enabling positive change and securing the future of our cultural heritage. Consequently as much practical guidance as possible should be given in the Practice Guide to steer all parties through the application process. Valuable advice on conservation practice and legislation given in PPGs 15 & 16, but not appropriate for inclusion in the PPS and Practice Guide, should be retained and published to a specified timetable, preferably available online with links to additional guidance.

More prominence should be given in PPS15 and the Practice Guide to proportionality: it is vital if the system is to work for all parties that the requirements of the application process remains proportional to the extent of the works proposed and their likely impact.

As already mentioned, challenges may arise in the PPS and Guide from the use of terminology such as %significance+and %authenticity+which are not backed up by existing legislation. It is unclear how, or if, decisions on consent applications based on this language will hold up in legal contest, though it is true that people have been using the significance-based approach informally alongside the current legislation for years without major problems.

The first draft of the Practice Guide provides a useful foundation but much work is needed to develop this into a document that provides sound and valuable advice. To ensure that this crucial guidance is delivered in a fit for purpose state at the same time as the final PPS, Heritage Link strongly recommends the formation of a working task group of heritage sector practitioners who can apply their practical knowledge in developing the Guide.

The delay of primary legislation means that delivery of an amended PPS with accompanying guidance is absolutely vital to confirm to local authorities the relative importance of heritage protection and its priority for resources.

Active engagement with the voluntary heritage sector would ensure delivery of both documents before the next general election. If it is regrettably the case that this cannot be achieved, then some Heritage Link members believe that the Guide should be allowed to continue as a living draft for a period following publication of the PPS. Other Heritage Link members believe that the two documents must appear simultaneously in revised form.

Q1. Does the PPS strike the right balance between advocating the conservation of what is important and enabling change?

As currently worded the PPS does not appear to give equal priority to conservation of the historic environment and enabling change. This is particularly true of policy HE9.

To effectively advocate the conservation of what is important it is first necessary to outline what is important, why, and how its survival is to be ensured. Yet as it stands the draft PPS provides no background on the rationale for conserving the historic environment or the legislative framework that exists to protect it. This leaves the PPS lacking an important context, particularly as the proposed accompanying Government Vision statement to clarify the Government's objectives on the historic environment has so far not been published.

The impact statement proposes that the PPS will create greater certainty for developers, leading to higher quality applications. This would undoubtedly be a positive outcome for the historic environment but is more likely to occur if the relationship between statutory duty and policy is made clear from the outset. The assumption that applicants will acquire this knowledge from other sources is perhaps overly optimistic.

Indeed, certain policies in the PPS, namely those under section HE9 appear to contradict existing legislation, which requires local planning authorities (LPAs) to have special regard for the desirability of preserving a heritage asset wherever possible. PPG15 and PPG16 contain policies to support this duty by encouraging a presumption in favour of preservation and a presumption against proposals which would involve significant alteration or cause damage to a heritage asset or its setting. Destruction of a designated asset is said to be wholly exceptional and substantial community benefits are required to justify harm (PPG15).

In contrast, policies under HE9 in the draft PPS15 imply that proposed economic, social and/or environmental benefits of development may outweigh those of a heritage asset. Loss of significance or destruction to any heritage asset may be justified on the broad grounds of public benefits (HE9.7), wider social, economic and environmental benefits (HE9.8 iii) or less specifically the merits of new development (HE9.10). To justify proposals for greater harm an applicant need only submit stronger arguments on these grounds (HE9.7).

What this seems to imply is that the historic environment has little to contribute in terms of positive social, economic and environmental benefits and thus serves only as a constraint to development. As such, the wholly exceptional nature of permission for harm or destruction is not reflected. The inclusion of economic benefits as a stand-alone reason for justification of harm or destruction to significance is of particular concern as even the most unsuitable development could be justified on such grounds. It could lead to irreversible damage to the historic environment for what at best may be only medium term economic gain. To avoid stymieing positive change then the economic benefits of a development proposal should be factored in to planning decisions. Where it would negatively impact on the historic environment the exceptional nature of permission should be stressed, particularly for designated assets which are statutorily protected. The existing or potential economic contribution of a heritage asset should be included alongside heritage values as a factor for consideration.

Heritage Link welcomes policies in HE3.2 and HE10.5 which encourage the historic environment to be seen as a stimulus in inspiring imaginative and high quality design that can reveal or enhance the character of a heritage asset. Many of our members already have first-hand experience of the positive contribution made by the historic environment to the process of place-making.

It is therefore disappointing that policy HE9.6 which focuses solely on this issue does not reflect this sentiment. Rather than promoting innovative design and a positive contribution to a locality, development is merely required to respect setting and reinforce distinctiveness where reasonably practicable. The implication is that in some cases incongruous, poorly designed development would be an acceptable alternative.

In contrast, the more stringent policies of HE10 on proposed development relating to designated assets, which accord with existing legislation, are commendable. Nevertheless it is confusing that policy in this section appears to over-ride that of HE9 which is said to cover all heritage assets. That said, the emphasis on all assets is a welcome step as it reinforces the recognition in PPG16 of the huge potential of non-designated assets.

The omission of Grade II listed assets in HE10 alongside other designated assets is worrying in that it appears to suggest the devaluation of a category that constitutes the majority of designated buildings, often of greatest local significance and most frequently the subject of development proposals. All designated assets have been chosen for their special interest or significance and are protected from harm in statute. PPS15 should reflect this.

Suggested amendments

- Inclusion of an introduction, much like that of PPG15 and PPG16, stating the rationale for conservation, outlining the statutory legislative framework and referring to broader Government objectives for spatial strategy, would clarify the position and key role of the historic environment in the wider planning context. Paragraphs 1.1 and 1.2 in Part 1 of the consultation paper provide a sound overview of the need for conservation and could be readily incorporated.
- The content and direction of HE9 should be reconsidered so that the historic environment is not positioned in opposition to economic, social and environmental aims. Policy and guidance on justification for harm or destruction to significance of all heritage assets should be sufficiently clear to prevent misunderstanding or misuse.
- To avoid confusion it should be made clear as to how HE9 relates to similar policy in HE10 on designated assets.
- Particular areas of contention (as outlined) in HE9 should be amended to comply with statutory obligations.
- For reasons of clarity the merger of HE9 and HE10 would be beneficial.
- HE9.9 is commendable in seeking to deter deliberate neglect by excluding it as a factor in the determination of consent applications. Expansion to include deliberate damage would increase the impact.
- Inclusion of Grade II listed buildings alongside other designated assets in HE10, and throughout the PPS, would ensure consistency of message, compliance with statute and would uphold protection.

Q4. 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?

As previously outlined the overarching principles and objectives of PPS15 are supported by the heritage sector.

Reference to additional relevant policy is already incorporated throughout the draft but in a piecemeal fashion. Greater consistency of messaging on place-making, urban design and sustainable development in line with PPS1 would help to establish a clear connection to wider planning principles and objectives.

One of the key intentions of the Heritage White Paper is to increase opportunities for inclusion and involvement. As an advocate for the voluntary heritage sector Heritage Link welcomes the promotion of inclusion of national and local amenity societies and community groups in the determination of applications but would like to see this expanded to include pre-application consultation. Much of the historic environment is owned and managed by the voluntary heritage sector and the expertise built up by these organisations is a national resource that should be recognised and promoted in Government policy and guidance.

Feedback from our members, often at the forefront of community engagement, suggests that PPS15 in its current form narrows the scope for public involvement compared to existing policy. It does this in several ways:

- Over-use of theoretical language based on the draft Heritage Protection Bill and English Heritage's *Conservation Principles* creates barriers to access and lack of equality for non-specialists.
- Lack of reference in the PPS or Practice Guide to the statutory role of the National Amenity Societies undervalues their importance and downplays this key source of expert knowledge.
- Mixed messages on engagement with national/local amenity and community groups throughout the application process could lead to undermining of the democratic planning process, particularly as publicity requirements may be changed. For example, policy HE7 on pre-application discussions makes no reference to the inclusion of voluntary or community groups in the pre-application consultation process. However, HE8.2 which requires applicants to present information gained from specialist sources, presumes prior consultation with these groups. HE9.2 and 9.3 then make it clear that LPAs should consult with the community as well as national and local amenity societies during the decision-making process.

The 2007 Heritage White Paper emphasised the importance of local designation as a *means for local communities to identify and protect the buildings, sites and spaces that matter to them*. To further this English Heritage is currently producing best-practice guidance to encourage LPAs and their communities to better identify and manage local heritage assets through development of local lists. Government policy should therefore reflect Government objectives for local designation but neither the PPS or Practice Guide contain any reference to the development of local lists.

Suggested amendments

- Heritage Link would like to see inclusion of specific policy outlining the role of the National Amenity Societies and encouraging inclusion of national/ local amenity societies and community groups during the entire application process. We would also argue for greater prominence of the voluntary heritage sector's role as a source of expert advice/information and as guardians and managers of much of our nation's historic environment.
- The draft PPS15 and Practice Guide would benefit from an audit to establish opportunities to replace technical jargon with plain English to make the document accessible to all.
- Greater consistency of messaging on place-making, urban design and sustainable development in line with PPS1 would help to establish a clear connection to wider planning principles and objectives.
- Policy HE3 on local planning should include reference to the desirability for LPAs and communities to develop local lists.

Q5. Do you agree that it is the “significance” of a historic asset that we are trying to conserve?

The debate on what should be conserved and why is longstanding, and differences in opinion are found throughout the heritage sector. Significance is a concept, something that is inherent in an asset but which may increase or diminish according to perception. It is necessary to conserve the fabric/elements that constitute significance to ensure its survival. This may mean retention/conservation of elements not significant in themselves but removal of which would cause undue harm to an asset. Of concern therefore, is the notion that significance can be broken down and apportioned to the component parts of an asset on a sliding scale. When coupled with the idea that significance can be enhanced (HE9.4 & 11.2) such policies could accelerate loss of the historic environment by attrition.

It should therefore be made clear that while significance may be attributed proportionately and some elements may be more amenable to alteration, often the best way to ensure survival of significance may be to conserve the sum of the parts rather than the parts alone.

Significance is not static; it may increase or diminish according to stakeholder groups and over time. For example, what may be significant to one ethnic group may be less so to another, while many assets that previously were deemed of no significance and consequently destroyed, would be highly prized today. Arguably however the same difficulties arise with current definitions; yet whatever terminology is used, the goal of conservation is to safeguard the opportunity for subsequent generations to learn from and enjoy the benefits of their cultural heritage. Enabling beneficial change is key to achieving these goals; it is important that significance is not judged on short-term contemporary ideals which permit development that might ultimately devalue perceived significance for future generations.

The final point on significance is that its determination will rely heavily on interpretation by local planning authorities. Worryingly however, the impact study shows that LPAs currently have variable access to specialist expertise to assist them in this determination. The promotion of HERs as a key source of information for applicants and LPAs is a hugely beneficial step; but few HERs yet hold sufficient information to enable determination of significance of all asset types. Consequently it is crucial that national policy is sufficiently clear and supportive to empower local authorities to effectively identify and manage local heritage assets. Government support in the form of resource is essential to this process to maximise the public benefit of the planning system.

Suggested amendments

- The definitions of significance given in Annex 1 and the Practice Guide would benefit from expansion to better reflect current practice in terms of special interest, character or importance and to incorporate the broader explanation given in English Heritage's Conservation Principles.
- The notion of a sliding scale of significance should be downplayed and appreciation given to the often positive contribution of subsequent alterations to overall significance.
- It should be made clear that the significance of an asset is inherent and as such cannot be enhanced. What can be enhanced are those physical elements attached to an asset or within its setting that detract from its significance.

Q7. 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?

Heritage Link welcomes the recognition in the PPS and Practice Guide of the historic environment's active role in encouraging sustainable development. Climate change mitigation has to be a priority for all sectors of society and should be reflected in policy. In this respect PPGs 15 & 16 were somewhat outdated.

Nevertheless, our members have expressed overwhelming concern about the way that the PPS positions the historic environment in relation to climate change.

Policy HE4 is dedicated to the relation between heritage assets and sustainable development. It is here that we find the only positive messages in the document about the historic environment's potential role in encouraging sustainable development and reducing carbon emissions. Mitigating the effects of climate change can only be achieved through sustainable development, and sustainable development is more complex than the reduction of energy use and harmful emissions. Section HE4 goes some way in recognising this but falls way behind discussion in wider policy and the public sector in general. For example, it makes no mention of the historic environment's contribution to encouraging sustainable masterplanning and infrastructure, or the heritage sector's long record in implementing sustainability best practice by advocating and using environmentally friendly traditional materials and construction techniques.

This best practice means that many of our members are inclined to be more optimistic than HE4.2 when considering the possibilities for improving energy efficiency in historic buildings. There are numerous instances where successful modifications have been achieved in a sympathetic manner, so it is incorrect to forecast the inevitability of conflict on this issue. Modification of heritage assets merely requires more innovative thought and research than for most new build developments. The life-cycle of any alteration should be accounted for, to minimise disturbance to historic fabric by subsequent repair or replacement.

On a less positive note the remainder of the PPS shifts from the encouraging viewpoint outlined in HE4 to one that positions the historic environment in conflict with climate change objectives. HE9 sets up perceptions of an inherent imbalance between enabling change and conserving our cultural heritage.

Our response to Question 1 has already outlined apprehension about options for justification for harm or destruction being granted on the grounds of economic, social or environmental benefits. Realistically all future development proposals will have to meet ever stricter legislation and standards on carbon emissions and energy use (particularly following COP15 negotiations), which will lead to implementation of various unproven technologies. Consequently, the inclusion of climate change mitigation as grounds for justification of harm (HE9.5 & HE9.8 (iii)) appears as a catch-all caveat that could ensure the granting of permission for nearly all development proposals. Arguments for justification on the grounds of climate change mitigation could be put forward for even the most incongruous and badly designed development. Again this would undermine the ability of authorities to manage and protect the historic environment on a national and local level. It could lead to the sacrifice of our cultural heritage for technologies, some of which have very uncertain impacts.

Suggested amendments

- It is right that the role of the historic environment in sustainable development is dealt with upfront in the PPS and this should continue. However, sustainable development should be dealt with more comprehensively in this section and reference removed from elsewhere in the document, particularly HE9.
- It should be made clear that heritage assets are not inherently in conflict with objectives for sustainable development and indeed have much to contribute in practical terms and in inspiring best practice elsewhere.
- The Practice Guide should reinforce the notion expressed in HE4.1 about the environmental benefits of capitalising on the embodied energy of existing buildings versus the energy costs of demolition and new build over the entire life-cycle (supply chain to end of life).

Q9. 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.)

This issue is discussed in the general points section of our response. It relates specifically to ensuring that sufficient advice and clarity is contained within the Guide to reduce the information burden on all parties.

Due mention should be given throughout the PPS to existing records, collections and other local and national information sources provided by museums and the voluntary heritage sector outside of HERs. This is particularly the case for HE13 policy on recording of information. All interested parties should be encouraged by Government to contribute to information held in HERs.

Q11. 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?

Heritage Link members welcome the emphasis on the importance of establishing a sufficient comprehensive understanding of a heritage asset. It is also encouraging that the onus is on applicants to undertake this research and present their findings as part of the consent process. Promotion of expert advice in this process is also a positive development.

However, to ensure that this process does not become too burdensome for applicants and LPAs, thereby discouraging proactive conservation efforts, the PPS and Guidance should provide sufficient direction in plain English with the inclusion of references to alternative sources of information and expertise where applicable. The need to refer to additional sources of practical guidance should be kept to the minimum possible, and the PPS policies must take account of proportionality.

In relation to LPAs Heritage Link is concerned that although the impact assessment rightly identifies the lack of consistency in availability of expertise across LPAs, it perhaps does not go far enough in recognising resource constraints. We support the encouragement to LPAs to set up and maintain HERs; but as this cannot be made statutory without the draft Heritage Bill, it is worrying as to the extent this advice will be followed. Policy and/or guidance should be included in the documents to prevent the diversion of resources to HERs at the expense of involvement in pre-application consultation and the effective management of the local historic environment. Outside of the PPS, Government should provide LPAs with sufficient resource to implement, rationalise and maintain HERs, which will be the fundamental resource on which heritage policy and practice depends.

Concluding points

The merger of PPG15 and PPG16 in a new Planning Policy Statement with separate guidance is a commendable objective that throws up many challenges due to its significant departure from the present system. However, if the heritage sector is permitted to further contribute to the process of finalising the documents then the challenges are by no means insurmountable.

Concern has been expressed about the requirement for primary legislation to provide legal grounding to those new concepts on which the policy and guidance depend. Consequently, we take this opportunity to again urge Government to progress the draft Heritage Protection Bill. Meanwhile, in the absence of new legislation, we would like to remind decision makers of the pressing need to address major issues including the need for secondary legislation to resolve problems such as the Shimizu judgment.

In terms of the PPS, it is hoped that our suggestions will be actioned swiftly and that the heritage sector offer of active support in re-drafting will be accepted, so that positive reforms can be implemented before the forthcoming General Election. I would be happy to discuss further any of our suggestions should that be required.

Yours sincerely,

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Chairman, Heritage Link