



Draft PPS 15 - Consultation Questions on which views are being sought

Response from the Historic Towns Forum

Preamble

1. Whilst the Historic Towns Forum (HTF) initially welcomed the publication of Draft PPS15 for consultation, having now studied its content, it is extremely concerned and disappointed at certain of its messages and believes that it is fundamentally compromised by the failure to enact the Heritage Protection Bill. Without this the PPS appears vague and may be open to legal challenge. The question must be posed as to whether it is fit for purpose in strengthening heritage protection. Critical aspects of the Bill that require enactment include:
 - a. clarification of, and a statutory basis for, the concept of *heritage assets*;
 - b. a statutory basis for the concept of *significance* as it attaches to heritage assets;
 - c. a statutory basis for Heritage Partnership Agreements;
 - d. a statutory basis for *local lists*;
 - e. clarification that development in Conservation Areas should address positively enhancement to overcome the effects of the South Lakeland decision; and
 - f. control over all demolition in Conservation Areas to reverse the effects of the Shimizu judgementThe HTF urges the Government to bring forward the legislation at the earliest possible opportunity.
2. Given these fundamental concerns the HTF feels that the consultation has been rushed, and regrets how much cannot be responded to meaningfully when so many supporting documents referred to in the PPS Practice Guide are not yet available for public comment. We are concerned that the PPS will be adopted with inadequate scrutiny.
3. The HTF is, however, pleased that a draft has been published for consultation as this has engendered a full debate around the ongoing issues of heritage protection. It notes favorably:
 - a. the objectives set out in paragraph 5;
 - b. the support for a robust evidence base for plan making, Policy HE1;
 - c. the inclusion of historic environment issues in Regional Spatial Strategies, Policy HE2;
 - d. support for the use of Article 4 directions, Policy HE5;

- e. support for pre-application discussions and assessments, Policy HE7;
 - f. the emphasis on information requirements to validate planning applications, Policy HE8; and
 - g. the consideration of setting issues in Policy HE11.
4. Further comments of the HTF on the consultation draft of PPS15 are set out under the questions posed by CLG below.

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

The HTF is very concerned that the PPS does not contain a strong vision statement that:

- endorses heritage in its own right;
- considers heritage assets as non renewable resources, thus making conservation a key component of sustainability; and
- spells out a presumption in favour of conservation.

We are also concerned that the draft PPS changes the emphasis of national policy from the preservation of assets for their own sake, set out in PPG15, to the conservation of assets of significance. The historic environment is a finite and non-renewable resource and the draft PPS policies should give this greater emphasis, particularly in weighing up the impact of development proposals on heritage assets, which would result in a loss of such assets. In this respect we are particularly worried by HE9.8(iii), which:

- weakens protection by undermining the presumption in favour of retention;
- lacks clarity on how the balance between competing interests is to be assessed; and
- gives no sense of the priorities involved.

The English Heritage Practice Guide paragraph 39 notes that the loss of significance would be generally irreversible and states that ~~where~~ the decision is finely balanced the Policy HE 9.7 requires a presumption in favour of retention. We believe that Policy HE 9.7 should be reworded to state a presumption in favour of retention.

We urge strongly that Policy 10.2 should extend the list of assets to which a material loss of significance would be wholly exceptional to include Grade II Listed Buildings and buildings on Local Lists that make a positive contribution to the character of Conservation Areas. Consideration should be given to including all locally listed buildings.

On the matter of local listing, we wish to stress in the strongest terms the need to enact the legislation to give force to this concept by bringing in the power to control demolition. Local Lists and control of demolition must be seen as complementary measures.

In relation to Policy HE10 and paragraph HE10.5, there needs to be a much firmer commitment to development enhancing a better revealing the

significance of assets. The words “authorities should take into account the desirability of enhancing” ought to be replaced by something like “authorities will proactively seek ways of enhancing”

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)?*

Policy HE10.6 considers non-designated archaeological assets of significance, but there is concern about how other heritage assets of unknown significance in buildings would be covered by the PPS, for example, if they were hidden by later additions. It should be made clear that archaeological significance also applies to buildings. The HTF is also concerned that in relation to archaeology:

- there is no presumption in favour of preservation in situ;
- requirements for investigation should be asserted more strongly; and
- the question of contingency funding for unexpected finds should be addressed.

The HTF is concerned at the limited treatment of Conservation Area issues, generally, but in two specific areas it comments as follows.

1. The treatment of setting issues in HE9.6 is weak and there is a link here with the need for the legislation to reverse the South Lakeland decision
2. Issues facing the non designated heritage are neglected, e.g. changes to doors and windows, pavement treatment, street clutter and satellite dishes. This was highlighted as long ago as 1992 in the English Historic Towns Forum (the former name of the HTF) report *Townscape in Trouble* (1992) and recently reiterated in English Heritage’s study of Conservation Areas at Risk. There is a need for a strong line over permitted development rights in Conservation Areas.

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?*

Aspects of the PPS seem to reflect the aspirations of the Convention, although AONBs and National Parks are not specifically identified as heritage assets. However, the HTF regrets that the Draft does not address the question of landscape as heritage assets, especially cultural landscapes that lie outside formal designations, including Conservation Areas, e.g. the riverside settings of many historic towns. This should be remedied.

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?*

See responses to Q6 and Q7.

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

There is concern that the Draft PPS changes the emphasis from the preservation of assets for their own sake and, in the case of Conservation

Areas, from character and appearance. ~~S~~Significance can be open to different interpretations by different people, even historic environment professionals. The Heritage Protection Bill would have set out in law the framework for assembling the evidence of the significance of assets through the new register. The English Heritage Practice Guide and the draft PPS do not provide guidance on how to do this. The resulting value judgments are likely to result in differing interpretations of ~~s~~significance Without a clear understanding the quality of decisions made will be compromised.

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

The PPS refers to addressing the importance of the historic environment through Regional Spatial Strategies (RSS) (Policy HE2) and this is welcome. However, the policy HE3 must be much more explicit about the essential need for a robust approach to heritage protection to be integrated with the 2004 Act Development Plan system. Robust heritage policies in Local Development Documents and Supplementary Planning Documents must be used to underpin and give weight to statements such as Conservation Area appraisals and management plans and to Local Lists.

There is a strong case for changes to the Development Plan regulations to allow properly prepared Conservation Area appraisals and strategies to have the status of Supplementary Planning Documents.

Moreover, there is a failure to recognise and respond to the broader scope to achieve heritage protection benefits through decisions on planning applications and the use of s106 agreements.

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?*

The PPS must identify heritage assets as finite resources that embody nonrenewable resources, especially energy, that should enhance the presumption in favour of retention.

The other side of the climate change coin is the position of heritage assets in relation to steps to mitigate and adapt to its effects. Climate change technology is constantly changing, so it would be inappropriate to set out detailed responses in the PPS. We are concerned about the potential harm to important assets through changes granted now, because of the potential benefits of addressing climate change, would not have been necessary because of improvements in technology enabling a different solution. The challenges should be identified and principles should be established. Consideration should be given to preparing a Climate Change Supplement to the PPS.

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?*

In line with comments made elsewhere in this response, ~~t~~Heritage assets and

significance are not sufficiently defined in the draft PPS and their definitions are not included in current legislation, which could lead to difficulties in applying these terms and the PPS policies.

A fundamental concern about the nature of the PPS is that it seems to sit and see heritage protection in isolation (in this it is much narrower than the old PPGs 15 & 16.) In practice conservation of the broad cultural and historic environment should be a multi-dimensional, multi-agency matter. It is not simply, or even largely, about the protection/preservation of a fixed designated heritage: the conservation of place, identity and local distinctiveness are at least as important. The draft PPS makes little reference to other issues such as the public realm, historic streetscapes and heritage at risk; there is no mention of roads, statutory undertakers, management of the public domain where there are heritage assets, installations, street furniture and historic surfaces. Taking a holistic view means that it is as important to engage the highway engineer as the conservation officer. That this does not always happen, that heritage protection is not always embraced corporately by local authorities, has been one of the failures of the conservation movement over the past fifty years. In practice effective heritage protection requires the input of a multiplicity of agencies using a wide range of powers and tools, including, for example:

- Policy Frameworks
 - Integration with the 2004 Act Development Plan system
 - Local Area Agreements
 - LSPs and Sustainable Community Partnerships
 - Other PPS notably 1, 3, 6, 9, 12, 13 and 25
 - Construction and highway standards
 - Compulsory purchase
- Other regulatory regimes
 - Listed Building & Conservation Area consents
 - Planning consents
 - Building control special considerations
 - British Standards
 - BS 7913 of particular value in securing special consideration for historic environment under other regulatory regimes and standards; and potential parallels with the widespread use of BS 5837 for planning related tree works.
 - DDA requirements
 - Urgent Works and Repairs Notices

While the HTF accepts that it would be inappropriate to repeat any of them in detail, it would be extremely helpful to users of PPS15, especially non specialists and the public, to have reference or signposts to this wider body of guidance. There also needs to be an introductory statement that firmly connects the PPS to the relevant Statutes. The terminology section could include terms within the statute and explain how they tie in with the PPS.

Overall the HTF considers that the Draft PPS perpetuates the failure to resolve the increased separation of planning and conservation activities since

the coming into force Planning and Compulsory Purchase Act 2004: there is no formal locus in LDFs for Conservation Area Appraisals and other policies under Planning, Listed Buildings and Conservation Areas Act 1990; and no recognition, in new Planning system, of public engagement through conservation area work.

For evidence of the benefits that can flow from a more integrated approach CLG is referred to the recent excellent ongoing work being done on the Falmouth Conservation Area Appraisal and Management Plan - <http://www.cornwall.gov.uk/default.aspx?page=19862>.

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 significance of non-designated assets may not be known until an application is submitted and possibly not until work has commenced. The requirement to assess the significance of heritage assets for non-designated sites, implies that local authority officers need to consider all sites that are not designated, but have potentially heritage assets of significance. Specialists might need to be consulted on a wider range of applications than at present. If the local authority considers that a site might have heritage assets of significance, but this has not been identified by the applicant, long negotiations and delays might result. It is not clear to what extent local authorities can insist on the provision of information regarding the significance of non-designated sites. For designated sites, many descriptions are inadequate and further details would be needed (to be submitted by the applicant?) concerning the significance that relates to the application. Overall there are likely to be considerable resource implications.

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?*

The HTF does not believe the PPS will remain relevant over this period of time taking into account climate change and the pace of wider technological, social and economic wider change. The introduction of the PPS without the primary legislation in place will anyway result in the need for changes once the legislation has been passed.

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?*

We consider that the additional resources needed by local authorities have been underestimated.

- The emphasis on the Historic Environment Records (HER), which we support as a comprehensive resource covering all heritage assets, will result in considerable work for local authorities, especially where there is a need to reconcile currently incompatible records. Making the record fully effective will require the introduction of computer geographic information systems (GIS). There are fundamental issues here: planning management systems developed for ODPM and CLG are not compatible and do not communicate with the HER systems developed for DCMS and EH. Major investment is required and it is not clear that this is included in costing.
- The requirement to assess the significance of heritage assets for non-designated sites, as well as designated sites when applications are submitted, see Q9.

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.*

The omission of any reference to access and DDA issues in the draft PPG is a notable and lamentable omission that must be redressed in the final version.

Other Comments

The approach taken by the Draft PPS is strongly process driven. It needs to pay more attention to ensuring outcomes, including through:

- targets, minimum performance indicators;
- routine day to day monitoring of development to ensure compliance with consents issues;
- enforcement; and
- penalties for breaches.

As there are no national indicators for historic environment, there is:

- no incentive to invest resources, e.g. PPS 12's failure to specifically mention the historic environment as part of evidence base requirements has been a key problem in terms of resourcing this aspect of LDF work, since the removal of the of the Conservation Area updating and management indicators; and
- no scope for historic environment related objectives in Local Area Agreements.

29th October 2009
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