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& planning.policy@english-heritage.org.uk

27th October 2009

Dear Mr Weatherby,

**PLANNING POLICY STATEMENT 15 & PPS PLANNING FOR THE HISTORIC ENVIRONMENT: HISTORIC ENVIRONMENT PRACTICE GUIDE**

The Society for the Protection of Ancient Buildings was founded in 1877. It has a membership of around 9000 which includes building professionals, homeowners, heritage enthusiasts and local societies. The SPAB has a special interest in technical aspects of historic building repair, as well as in the philosophy of building conservation. As a National Amenity Society the SPAB also has a formal role in the listed building consent process, where total or partial demolition is proposed.

The Society has been involved in discussions about heritage legislation since laws were first introduced in the 1880s. We have taken an interest in all subsequent changes and developments in statute and guidance. From the outset, the Society has closely followed the development and preparation of current Heritage Protection reform proposals, and has considered and commented on the White Paper and Heritage Bill. We have also been involved in pre-drafting discussions about Planning Policy Statement (PPS) 15. Heritage Protection proposals have been explained by the Society to its members, and issues have been discussed on many occasions by the Society's Guardians committee, which is elected from within its membership. We are grateful to have the opportunity now to comment on the draft PPS15 and Practice Guide. Our response below aims to answer many of the questions posed in Part 4 of the PPS15 consultation.

**SUMMARY OF SPAB COMMENTS**

- The Society is not opposed in principle to the introduction of a new concise PPS which contains policy, but we have strong concerns about proceeding in the absence of supporting legislation that defines new terminology in law.
- We are unconvinced by the balance struck between conservation and other issues in the current draft of PPS15, when compared to PPG15, and we are particularly concerned by paragraph HE9.8 which seems to undermine Ministers' assurances that there will be 'no lessening of protection'. The weighting must be changed before the draft can be considered suitable as a substitute for PPGs 15 & 16. Revision and further consultation will be needed.
- The Society feels that, in advance of the PPS, the priority for action should be reversal of the adverse effects of the Shimizu Judgement.
- The Practice Guide contains some good advice, but also has many drafting problems. We are not convinced that it is sufficiently clear as an interpretation of PPS15. Also, it is not a substitute for Annex C of PPG15. A firm timetable for the publication of further guidance documents is required.
- We object to the pro-Restorationist clauses of the Practice Guide which run counter to the SPAB's principles and much previous English conservation law, guidance and practice.
- We are disappointed that neither the PPS nor the Practice Guide make any specific reference to the National Amenity Societies, and we are concerned that a shift to pre-application consultation will not provide full opportunity for 'inclusion and involvement' unless such references are made.

## GENERAL REMARKS ON PPS 15 & THE PRACTICE GUIDE IN RELATION TO HERITAGE PROTECTION REFORM

The proposed amalgamation of PPG15 and PPG16 in a new Planning Policy Statement is an ambitious objective. As the PPS's Introduction 1.6 states, it would be a 'significant departure' from the present system. We appreciate that revision has the aim of updating policy and guidance – now nearly 20 years old - and of 'integrating conservation of heritage into the wider planning context'. The new PPS, in adopting the format of other recent government planning policy documents, would separate policy from guidance, and limit this policy to a concise Statement. In principle the Society has no objection to this reform. However, we are concerned that the PPS is not now likely to be underpinned by primary legislation in the way originally intended. The Society generally supported the Heritage Protection Bill. We were not convinced that it offered any significant improvement in the way heritage assets would be managed by local authorities, or that the resource implications had been adequately assessed, but we saw it as a useful step forward in the process of designation reform, providing a more integrated and open system. We hope that the Bill's proposals will eventually be introduced, but we must express our strong reservations about proceeding with a Planning Policy Statement and Practice Guidance in the absence of a new heritage protection law. Only through this primary legislation will it be possible to provide legal definition of those key new concepts on which policy and guidance depend, such as 'significance' and how 'undesigned assets' are to be managed. We are also concerned that, in the absence of the new heritage legislation, major issues such as the need for Interim Protection of heritage assets while under consideration for designation and remedy for the problems for conservation areas caused by the Shimizu judgement, are yet to be resolved. If the 'momentum' of the Heritage Protection process is to be maintained, as PPS15 Introduction 1.5 suggests, we believe that it is these issues rather than reform of policy and guidance that should be the first concern.

We hope that the PPS and Practice Guide can be brought forward at the same time as the Bill, secondary legislative reforms, and the government's Vision Statement. In the hope of a timetabling revision to integrate the PPS and Practice Guide into a fuller suite of reforms, we offer detailed comments below on the current drafts.

### PLANNING POLICY STATEMENT 15

#### General

PPS15 is founded on concepts of 'characterisation' and protection of undesignated as well as designated assets. These concepts are perhaps more familiar to those who have worked previously with PPG16. For those, like the Society, primarily concerned with the built historic environment and the concepts of PPG15, there is more uncertainty about the effect of the PPS's proposals. A shift to new concepts and terminology produces the potential for confusion, uncertainty and a loss of existing case law. This is particularly so in the absence of underlying legislation. The Society remains to be convinced that the PPS would offer 'no lessening of protection' for the historic built environment in the way that Ministers have previously guaranteed. We are also concerned that the draft PPS 15 does not achieve the increased 'opportunities for inclusion and involvement' promised by the Heritage White Paper. For anyone not professionally involved with historic environment work or familiar with English Heritage's *Principles of Conservation*, much of the content of the PPS and Practice Guide is complex and difficult to follow. In contrast, PPG15's language is relatively straightforward and accessible to both specialists and non-specialists.

#### Development & Harm

We welcome the PPS's intention of 'ensuring that policies and decisions concerning the development and use of land take account of the positive benefits of conserving and, where appropriate, enhancing heritage assets' (Annex A 5). However we are not convinced that the right balance has been struck between encouraging development and providing protection. In HE10 there needs to be a much clearer statement, as in PPG15 3.3,

of a 'presumption in favour of preservation' for all types of designated asset. We are also concerned that while HE10.2, like PPG15 3.17, indicates that loss of grade I and II\* listed buildings should be 'wholly exceptional' it omits PPG15's preceding sentence which states that demolition of many outstanding listed buildings should be 'almost inconceivable'.

The PPS15 section on enabling development (HE12) offers policies which we support. However, we are far from content with HE9.8. This policy is our principal area of concern within the Statement. In many communities there are heritage assets, such as monuments or ruins, that have no current use and benefit from little active care and conservation, but which still hold great historic value and interest. We are concerned that HE9.8ii appears to state that, in this situation, where other development is impeded, harm to these valued but unutilised assets may be justified. Might this not justify removal of a castle ruin for which there is no active use or management regime? Most concerning of all is HE9.8iii. Stating that social, economic or environmental benefits can justify harm to heritage assets, without making very clear where this might apply, seems to pose a great risk of 'lessening protection'.

### **Public Benefit & New Design**

In several sections (eg HE9.7) 'public benefit' is stated to be a justification for harm, but we see no clear definition of what constitutes 'public benefit'. This inadequate definition could allow excessive flexibility and too much discretion at a local level.

HE3.2's statement that 'the historic environment should be seen as a stimulus to inspire imaginative and high quality new design' is welcomed. The Society has always supported good new design that complements historic structures and sites. However, we have some concern that Introduction 1.3 talks of the historic environment as a 'reference point' for new design, without clarifying the statement's meaning. We would hope to see it made clear that government policy is to encourage sympathetic new work but not imitation or pastiche.

The Society welcomes sympathetic development that can reveal or enhance the character of an historic area. However, we are concerned that HE10.5 may go too far in attaching 'positive public benefit' to any development which replaces an element that 'does not positively contribute' to the area's significance. In many conservation areas, for instance, there are old buildings that are unexceptional yet form part of the grain and character of the area. We are concerned that structures of this kind, which deserve some consideration as the backdrop to the more notable historic sites and structures of the area, might fail a 'positive contribution' test and thus be vulnerable to demolition and redevelopment under HE10.5's policy. We suggest that, instead of the phrase 'does not positively contribute', wording is amended to say consideration should be given to the retention of any element that 'does not detract from significance'.

In HE9.10 we wonder how a local planning authority is to establish that a development is likely to proceed after consent is granted?

### **Climate Change**

The Society accepts the need for measures to control climate change and, as HE4.2 states, we believe that sensitive alterations can be made to improve old buildings' energy efficiency. However, as important as physical alteration is modification of use and human behaviour. More might be stated about the benefits of changes to use, before physical alteration is contemplated. This is particularly the case in relation to HE9.8iii, where alterations believed to help lessen climate change are treated as justification for material harm to assets. With historic structures, much research is still to be done to establish how buildings can be altered effectively yet sympathetically to improve their energy efficiency. We are very concerned that HE9.8iii allows harm in the absence of clearer knowledge of changes that will be appropriate and successful. As an example, HE9.8iii might be used to justify double glazing in place of traditional single glazed windows though it remains unproven that double glazing is beneficial environmentally when the costs of its manufacture, transport and short lifespan are taken into account.

We take a more optimistic view than HE4.2 in our assessment of the improvements to energy efficiency in old buildings that are likely to be achievable ó through sympathetic works and modifications in use ó without conflict being inevitable. With more thought and research, change should be possible without damage, rather than merely with õless harmö as HE9.5 suggests.

### **Significance**

The Society has strong reservations about a õsignificanceö-based protection system. We set out our concerns previously in relation to English Heritage's (EH) *Principles of Conservation* document. The current approach of PPG15, based on protection of historic fabric and character, has worked effectively in managing change. In our view it has not been over restrictive, and we do not agree with the suggestion in 1.2 that we currently õprotect all of it for its own sakeö. In fact, when discussing conservation issues with members of the public we frequently find surprise at the extent to which present controls allow change. Conservation of fabric and character seems a much more straightforward concept than conservation of significance. The breadth and subjectivity that can be applied to the latter concept offers much less scope, we feel, for predicting and agreeing where change will be acceptable. The problem is further compounded by the fact that the PPS and Practice Guide do not define significance as clearly and comprehensively as EH's *Principles of Conservation* ( though as that advisory document was prepared primarily for the organisation's internal use we do not feel it can be considered to carry the weight of the more public Practice Guide). We are also troubled that a õsignificanceö-based approach tends to consider in isolation the elements of which the asset is composed, attaching greater or lesser significance to each, yet often ignoring the fact that the value of the whole may be greater than the sum of its parts.

In HE8.1 it is indicated that it is for the applicant to define significance. From our experience of the Church of England's system of control, where Statements of Significance are already in active use, we have seen evidence of huge variation in the understanding of how significance should be defined. Our concerns are increased because, in the majority of cases, Church of England applicants use professional advisers, whereas in the secular world it is very often the case that no professional assistance will be sought. Unless the PPS makes it a requirement that all applicants must appoint professional advisers, we see little prospect that most will be able to reach informed decisions about an asset's significance.

We also see no way in which applicants or assessors will be able to anticipate õfuture significanceö in the way 1.11 suggests. It is unlikely, for instance, that the applicants of the 1960s or 70s could have anticipated the significance we now attach to Victorian or Edwardian work.

Of particular concern to the SPAB is the notion that significance can be õenhancedö (eg HE9.4 & 11.2). Enhancing significance suggests a re-creation of lost elements from the past. This is firmly opposed by the Society. In our view, to support the idea of õenhancement of significanceö in policy would result in a lessening of protection for true historic interest and would also pose a threat to authenticity.

### **Maintenance and Neglect**

The Society is pleased that HE3.1 mention the need for õbuildings at riskö strategies at local level. However, much more emphasis might be placed on, and encouragement given to the concept of preventive maintenance. HE9.9 is commendable in stating that neglect should not justify harm, but might add that unauthorised damage must not justify it either.

### **HERs & Advice**

The Society agrees with statement in HE13.1 that õa documentary record of our past is not as valuable as retaining the assetö. We also support the encouragement to local authorities to prepare and maintain Historic

Environment Records (Introduction 1.12) though we regret the fact that they are not yet to be a statutory requirement. HERs will be of value to the understanding of what is special and important about an historic asset, provided they contain information of a high standard and are easily accessible on-line. However, it must be ensured that HERs complement rather than replace conservation staff. Trained conservation staff are needed to interpret historic assets, understand the potential impact of proposed change, and to offer viable alternative approaches when harm is anticipated.

We welcome too the acknowledgement in HE9.2 of the value of specialist national organisations, but we are very disappointed that the PPS (and Practice Guide) contain no specific references to the National Amenity Societies. Clear inclusion in PPG15 has helped the Societies, including the SPAB, explain to local planning authorities who we are and where we fit within the planning process. Without specific mention in the PPS, we believe there may be confusion about our role.

### **Pre-application Discussion**

HE7.1 encourages pre-application discussion. From experience, the SPAB believes that pre-application discussions can be effective in resolving issues and conflicts before the formal consent process begins. We are troubled, though, that HE7.1 refers only to applicants and planning authorities. If there is not also encouragement to applicants to involve interested national and local bodies, there is a danger that conflict will arise at a later stage in the process. Also, if the pre-application process leads to agreement between applicant and authority, without wider consultation, the PPS will not achieve the White Paper's objective of maximising opportunities for inclusion and involvement.

### **Omissions**

There are various matters, which we consider policy issues, that seem to have been omitted from the PPS. Perhaps most significant among these for the SPAB is the omission of encouragement to councils to set a high standard in their own treatment of historic structures (PPG15 1.6 & 3.37); a policy statement about the conservation standards expected of bodies enjoying the ecclesiastical exemption (PPG15 section 8); encouragement to local planning authorities to use the powers available to them to halt neglect and decay (PPG15 Section 7); and the need for flexibility in the application of building regulations to heritage assets (PPG15 3.26).

## **PPS15: PLANNING PRACTICE GUIDE**

### **General points**

PPG15 was generally welcomed in 1994 as an improvement on Circular 8/87. The guidance in Annex C is felt by many, including conservation officers, owners, developers, and amenity bodies, to bring clarity and certainty. Annex C lacked information in some areas, such as the appropriate treatment of farm buildings and historic fittings, but the Society is very reluctant to support its replacement until it is clear that successor guidance will offer equal if not better advice. The full suite of English Heritage guidance documents may provide this improved advice, when published, but as yet many aspects of the advice are not available for review. It also needs to be made clear how further guidance documents will be linked to the Practice Guide and what status they will hold in relation to it. Particularly critical to the SPAB will be guidance on the operation of the ecclesiastical exemption. We also urge that there is a fundamental reconsideration of the Practice Guide's conservation philosophy, particularly in relation to the approach it takes to Restoration. On the basis of the draft, we are not yet assured that new advice and information will be as useful as current guidance, partly because it is not clear what will follow the Practice Guide. We also feel that, at present, the Practice Guide lacks a consistency of tone and voice, and it also fails to offer the comprehensive interpretation of PPS15 that is required. We appreciate that the Guide intends to offer a 'suggested path' and therefore cannot state its advice

as emphatically as if it were policy, but more might be made, through its language, to praise and encourage good conservation practice.

The Practice Guide is also undermined in its authority by using terms such as ‘significance’ and ‘authenticity’ which do not have the backing of new legislation. In current heritage law, ‘impact on significance’ is not a test for the suitability of proposals. PPG15 was clear about categories of designated structure, site and area with which it dealt. The Guide aims to cover all heritage assets, but much of its content seems applicable to listed buildings and not other heritage assets, such as scheduled monuments, conservation areas or undesignated sites. We are also concerned that, in being detached from the policy statement, the weight of its advice may be less than of that included in PPG15. Finally, we feel that to understand and interpret the Practice Guide will require a significant amount of background knowledge, including familiarity with the fuller EH *Conservation Principles* document. We are not convinced this will allow it to be accessible to applicants and others in the way the White Paper intended. Although we appreciate that it is a ‘suggested path’, to weigh the validity of an alternative approach against the content of the Practice Guide will require local planning authority staff to have a considerable amount of conservation knowledge. Many local planning authorities do not, at present, have any experienced conservation staff.

The Practice Guide contains some sound and welcome advice, but has significant problems in its present form. Also, it seems inconsistent in dealing with some issues in considerable detail – for example naming specific regeneration projects such as Woolwich Arsenal, or mentioning architectural details such as carpenters’ marks – yet ignores other important matters altogether, such as the ‘breathability’ of traditional materials or means of sympathetically draught proofing traditional doors and windows.

### Detailed points

6 Our strong concerns about an approach which is ‘significance’-led have been stated above, as well as our concern that an assessment of ‘impact on significance’ currently has no basis in legislation. Also, we feel that the Practice Guide’s definition of significance is far less helpful and comprehensive than the one in EH’s *Conservation Principles* document. We object too to the suggestion, made repeatedly (eg paragraphs 28, 78, 83 and elsewhere) that significance can be ‘enhanced’ through alteration of fabric. It may be better ‘revealed’ through alteration, but ‘enhanced’ implies an improvement of authenticity which the Society does not believe Restoration work can deliver.

7 The Society’s view is that changes and additions very often add value to the interest of a structure or site. We are concerned by the implication of the example in this paragraph that later additions are more likely to offer scope for change or replacement than first phase work. The original or early phases of a structure or site’s history are not necessarily most important in the SPAB’s view.

We also wonder, in this paragraph, who is to make the decision, in the case of undesignated assets, whether significance needs to be appraised, particularly where there is no conservation officer available?

20 We note the reference to English Heritage’s climate change-related publication. Our reservation is that research by EH and others, including the SPAB, has not been concluded and that good practice guidance is consequently still being developed. PPS HE9.8iii seems to give licence to harm, when the Practice Guide is not yet in a position to explain what changes are most suitable and worthwhile.

29 We would hope that paragraph 29 could make specific reference to consultation with expert bodies such as the National Amenity Societies, when significance is being assessed.

30 We feel that, while Heritage Partnership Agreements may be useful in a small number of cases, they are never likely to enjoy widespread use.

31 We appreciate that the Practice Guide is only advisory, and that it is therefore restricted in the force of language that it can use, but we still believe it far too weak in paragraph 31. With a major repair and refurbishment programme it is not just reasonable but surely necessary that there is detailed information on the asset as a whole and an explanation of the impacts.

Design and Access statements are mentioned here in relation to planning applications but are, in practice, also required now for most listed building applications. In addition, we wonder why there is no mention of heritage statements which are also sometimes sought by local planning authorities?

32&34 Among the steps included in the suggested assessment process, we are very concerned that consultation with national bodies is not specifically mentioned.

36 With climate-change-related works, it is important to mention that fabric as well as character can be affected through the introduction of non-breathable insulation.

38 We would wish to see the reference to enhancing significance removed here.

39 We are pleased to see a reference to the presumption in favour of preservation of designated assets, but this statement needs to be included in the higher level PPS since the Practice Guide is only advisory.

41 It needs to be acknowledged that continuation of an original use is not always best. PPG15's reference to optimum viable use (PPG15 3.9) helps emphasize that sometimes an alternative to the original use might assist conservation of historic fabric and character. An example might be where a traditional farm building would need its openings significantly altered to continue in an agricultural use, but might require less alteration if to be used for some other form of storage.

42 We support the statement that sometimes change of use may cause too much harm to be acceptable, but we question whether this statement is backed by the policies of PPS15 (eg para HE9.6's encouragement to local planning authorities to avoid stifling innovation and undermining investment). We consider this particularly important in relation to ruinous structures, which are sometimes best left without any change of use or development.

43 We consider the first sentence of this paragraph unnecessarily complex and confusing. It would be better to say, perhaps, that although the presence of historic assets may sometimes prevent development, restrictions may have to be accepted.

45 This paragraph seems complex and unclear in many areas. Particularly opaque is: If the cost of making-good the deterioration from deliberate neglect is greater than any value the site may have had without the neglect it may not be possible for the applicant to positively prove that the asset would not have been viable in the assumed condition that policy H[E]9.9 requires.

46 We would request clearer mention of the National Amenity Societies in this paragraph.

47 The statement about maintenance in this paragraph provides an accurate reflection of current law, but might nevertheless be improved if made more positive in tone. As well as encouraging maintenance, it might also be mentioned that action can be taken by authorities if condition of an asset becomes poor.

49-52 These paragraphs provide sound and worthwhile advice on the value of setting, but we are not convinced that applicants or authorities will be left any clearer about the distinction between character, curtilage and setting - a common area of confusion at present.

56 While we appreciate what is intended by 'passive conservation' this term might be confused with 'inaction'.

58 We welcome the statement that 'the best sources of information and understanding of our past are always the heritage assets themselves'.

59 While it may be an aspiration, we are not at all convinced that the statement 'an appropriate expert adviser to the developer will usually then draft the scheme' reflects the current situation in terms of the conditions normally attached to consents for listed structures. Does the Practice Guide aim to change this? Also, although a recording condition may be attached to a listed building consent, our understanding is that it is not possible to stipulate that it will be undertaken by an 'expert'?

64 We would prefer omission of any indication that 'dismantling a building' has 'public interest' since the phrase might be misused to help justify demolition.

68 This paragraph illustrates the problems that arise in using new terminology without the support of primary legislation. If it is only alteration affecting the 'special interest' of listed buildings that requires consent at present, any discussion of the impact on 'significance' seems irrelevant. Also, it seems regrettable that the Practice Guidance has to acknowledge that its advice may not apply to scheduled monuments since they remain subject to legislation separate from that for listed buildings.

**69 This paragraph is the Society's principal area of concern within the Practice Guide.** We consider the categories of work suggested to be wholly inappropriate. In our view, the first category of work should be Maintenance and Repair. These are activities which normally fall outside the need for listed building consent. Restoration is very different to Repair and should not be confused with it. Further, Restoration is by definition an alteration and therefore very likely to require consent. It should be grouped with Addition and Alteration.

71 While we would generally hope for greater clarity in advice to applicants over what does and does not need consent, we consider the use of specific examples in paragraph 71 unhelpful. At present, local planning authorities sometimes require consent for new bathrooms and kitchens within listed structures, and do so with reason since the effect of change may not only have an impact on character but also on fabric. New service runs often require significant alteration to structure and finishes.

72 This paragraph confirms our view, as stated in relation to paragraph 69 above, that Restoration is an alteration and therefore 'likely to require listed building consent'.

73 We welcome the statement about the benefits of 'routine management and maintenance' but an indication might be given too that if maintenance fails councils (or EH and the Secretary of State) can take action in the case of listed buildings and conservation areas. EH and the Secretary of State can also act in the case of neglected scheduled monuments.

75 Use of 'matching materials' in repairs is often appropriate but not always best. Sometimes it is of benefit to distinguish new work from old.

77 This paragraph seems to offer more scope for large scale 'ó and in our view inappropriate 'ó Restoration than PPG15.

78 We fundamentally disagree with the suggestion that Restoration can lead to an enhancement of the significance of an asset.

83 While removal of later layers may sometimes have a positive aesthetic effect or reveal significance, we do not agree that it can lead to an *enhancement* of the significance.

84 There might be mention of the fact that reinstatement of a traditional finish is sometimes desirable for technical reasons, to protect historic fabric beneath.

87 We agree with this statement about the need to protect small-scale features, but where their loss is proposed this should not merely require justification but should be not normally be acceptable.

89 We welcome the statement, included previously in PPG15 Annex C.29, that the protection of smoke blackened layers of thatch is important, though we feel that advice about the desirability of protection could be strengthened in the Practice Guide.

91 & 92 We do not agree with the indication that there may sometimes be benefits in Restoring rather than repairing standing remains of a ruin. Re-use may sometimes be possible and justifiable, but this should combine repair with sympathetic new work, not Restoration.

95 We agree with the statement that Restoration from buried remains is not appropriate.

97 We would reiterate the point above that sympathetic new design should be considered preferable to Restoration of a lost element of an historic area or space. This should be acknowledged in 97.

101 This paragraph is wholly inadequate in present form. It mentions some matters of detail, while excluding many others. We are also not convinced that it is appropriate to state that a window's detail must be restored or recreated. Sympathetic new design is likely to be preferable, in our view, when an element has been completely lost.

102 While we support the reference to the potential interest of historic flooring materials, it also needs to be mentioned that their traditional 'breathable' construction can be important to the performance of surrounding walling and other historic fabric.

Yours sincerely,

Matthew Slocombe  
Deputy Secretary

Cc Harry Reeves, DCMS; Jeremy Hunt MP; Don Foster MP; National Amenity Societies; Heritage Link; IHBC; HHA; Cadw