



Historic England

HISTORIC ENVIRONMENT GOOD PRACTICE ADVICE IN PLANNING

Note 2 – Managing Significance in Decision-Taking

Introduction

1 The purpose of this Historic England Good Practice Advice note is to provide information to assist local authorities, planning and other consultants, owners, applicants and other interested parties in implementing historic environment policy in the National Planning Policy Framework (NPPF) and the related guidance given in the Planning Practice Guidance (PPG). These include; assessing the significance of heritage assets, using appropriate expertise, historic environment records, recording and furthering understanding, neglect and unauthorised works, marketing and design and distinctiveness.

2 This good practice advice acknowledges the primacy of relevant legislation and the NPPF and PPG, and is intended to support the implementation of national policy. It does not however constitute a statement of Government policy, nor does it seek to prescribe a single methodology or particular data sources. In order to gain a full understanding of the relevant issues, this document should be read in conjunction with the relevant legislation, national planning policy and guidance (the NPPF and PPG), as well as Good Practice Advice Note 1 (The Historic Environment in Local Plans) and Good Practice Advice Note 3 (The Setting of Heritage Assets) and other Historic England Advice Notes. Alternative approaches may be equally acceptable, provided they are demonstrably compliant with legislation, national policies and objectives.

3 The advice in this document, in accordance with the NPPF, emphasises that the information required in support of applications for planning permission and listed building consent should be no more than is necessary to reach an informed decision, and that activities to conserve or investigate the asset needs to be proportionate to the significance of the heritage assets affected and the impact on that significance.

General advice on decision-taking

4 Development proposals that affect the historic environment are much more likely to gain the necessary permissions and create successful places if they are designed with the knowledge and understanding of the significance of the heritage assets they may affect. The first step for all applicants is to understand the significance of any affected heritage asset and, if relevant, the contribution of its setting to its significance. The significance of a heritage asset is the sum of its archaeological, architectural, historic, and artistic interest. A variety of terms are used in designation criteria (for example, outstanding universal value for world heritage sites, national importance for scheduled monuments and special interest for listed buildings and conservation areas), but all of these refer to a heritage asset's significance.

5 Heritage assets include designated heritage assets and non-designated assets identified by the local planning authority as having a significance justifying consideration in a planning decision¹. The National Heritage List for England is the official database of all nationally designated heritage assets – see <http://www.historicengland.org.uk/listing/the-list>. Non-designated heritage assets include those that have been identified in a Historic Environment Record, in a local plan, through local listing or during the process of considering the application. Archaeological potential should not be overlooked simply because it is not readily apparent.

6 Both the NPPF (paragraph 188) and the PPG (section ID20) highlight early engagement and pre-application discussion. Where the proposal is likely to affect the significance of heritage assets, applicants are encouraged to consider that significance at an early stage and to take their own expert advice, and then to engage in pre-application discussion with the local planning authority and their heritage advisers to ensure that any issues can be identified and appropriately addressed. As part of this process, these discussions and subsequent applications usually benefit from a structured approach to the assembly and analysis of relevant information. The stages below indicate the order in which this process can be approached – it is good practice to check individual stages of this list but they may not be appropriate in all cases and the level of detail applied should be proportionate²

1. Understand the significance of the affected assets;
2. Understand the impact of the proposal on that significance;
3. Avoid, minimise and mitigate impact in a way that meets the objectives of the NPPF;
4. Look for opportunities to better reveal or enhance significance;

¹ NPPF glossary, page 52.

² For example, where significance and/or impact are relatively low, as will be the case in many applications, only a few paragraphs of information might be needed, but if significance and impact are high then much more information may be necessary

5. Justify any harmful impacts in terms of the sustainable development objective of conserving significance and the need for change;
6. Offset negative impacts on aspects of significance by enhancing others through recording, disseminating and archiving archaeological and historical interest of the important elements of the heritage assets affected.

The assessment of significance as part of the application process

7 Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset and the contribution of its setting early in the process is very important to an applicant in order to conceive of and design a successful development and to the local planning authority in order to make decisions in line with legal requirements and the objectives of the development plan and the policy requirements of the NPPF.

8 Understanding the *nature of the significance* is important to understanding the need for and best means of conservation. For example, a modern building of high architectural interest will have quite different sensitivities from an archaeological site where the interest arises from the possibility of gaining new understanding of the past.

9 Understanding the *extent of that significance* is also important because this can, among other things, lead to a better understanding of how adaptable the asset may be and therefore improve viability and the prospects for long term conservation.

10 Understanding the *level of significance* is important as it provides the essential guide to how the policies should be applied. This is intrinsic to decision-taking where there is unavoidable conflict with other planning objectives.

11 To accord with the NPPF, an applicant will need to undertake an assessment of significance to inform the application process to an extent necessary to understand the potential impact (positive or negative) of the proposal and to a level of thoroughness proportionate to the relative importance of the asset whose fabric or setting is affected.

12 Although there are many sources of information and methods for assessing significance and impact upon it, the most common steps an applicant might take are as follows. The first three steps are almost always necessary:

- 1 Examine the asset and its setting (see GPA 3)
- 2 Check
 - a. the Local Development Plan, evidence base and policies
 - b. main local, county and national records including the relevant Historic Environment Record (see paragraph 21),

- c. statutory³ and local lists,
 - d. the Heritage Gateway,
 - e. the Historic England Archive, and
 - f. other relevant sources of information that would provide an understanding of the history of the place and the value the asset holds for society, for example historic maps, conservation area appraisals, townscapes studies or the urban archaeology database.
- 3 Consider whether the nature of the significance of the affected assets requires an expert assessment to gain the necessary level of understanding; where there is archaeological interest (including buildings, areas and wreck sites), consider whether it requires a desk-based assessment to understand the significance⁴. It is good practice to use professionally accredited experts and to comply with relevant standards and guidance. To find a list of expert groups, see paragraph 16.
 - 4 In order to ensure that the scope of the assessment or evaluation meets the requirements of the local planning authority (LPA) and avoids the risk of damage to heritage assets, it is good practice to discuss the scope of the work with the LPA in advance and to agree a written scheme of investigation (WSI), if necessary, before commencement, thus precluding abortive work.
 5. Carry out additional investigations if initial research has established an archaeological, architectural, artistic, and/or historic interest but where the extent, nature or importance needs to be established more clearly before decisions can be made about change to the site. This may include documentary research⁵.
 6. Where an archaeological desk-based assessment is insufficient to assess the archaeological interest of a heritage asset fully, consider whether an on-site field evaluation would provide the necessary information⁶.
 - 7 Consider, in the case of buildings, whether physical intervention such as the selected removal of non-historic plaster, may be helpful to

³ The statutory lists can be accessed via the National Heritage List for England

⁴ A desk-based assessment will determine, as far as is reasonably possible from existing records, the nature, extent and significance of the historic environment within a specified area, and the impact of the proposed development on the significance of the historic environment, or will identify the need for further evaluation to do so. See the relevant standards and guidance provided by the Chartered Institute for Archaeologists (CIfA) <http://www.archaeologists.net/codes/ifa>. CIfA Standard and Guidance: Historic Environment Desk Based Assessment

⁵ For example, see *Understanding Place: An Introduction*, *Understanding Place: Historic Area Assessments in a Planning and Development Context*, *Understanding Place: Historic Area Assessment – Principles and Practice* (all 2010: English Heritage).

⁶ An archaeological field evaluation will determine, as far as is reasonably possible, the nature of the archaeological resource within a specified area using appropriate methods and practises, including: geophysical survey, physical appraisal of visible structures and/or trial trenching for buried remains. CIfA Standard and Guidance: Evaluation. See also *Mineral Extraction and the Historic Environment*, English Heritage on behalf of the Minerals Historic Environment Forum, 2008.

reveal important details hidden behind later additions and alterations bearing in mind that such investigations should be proportionate to the significance. Most evaluation of significance in buildings is likely to be based on a mixture of documentary research and non-intrusive examination of fabric but where the significance lies below-ground or more deeply concealed in a building's fabric, a greater level of intrusive investigation may be required⁷.

- 8 Establish whether any investigative work may itself require listed building consent, scheduled monument consent or other permissions.

Conservation Principles and assessment

13 The reason why society places a value on heritage assets beyond their mere utility has been explored at a more philosophical level by English Heritage in *Conservation Principles* (2008). *Conservation Principles* identifies four types of heritage value that an asset may hold: aesthetic, communal, historic and evidential value. This is simply another way of analysing its significance. Heritage values can help in deciding the most efficient and effective way of managing the heritage asset so as to sustain its overall value to society.

14 Assessment of significance, on a UK wide basis, is also covered in Part 4 of British Standard 7913:2013 'Guide to the Conservation of Historic Buildings'.

Curtilage structures

15 Some buildings and structures are deemed designated as listed buildings by being fixed to the principal building or by being ancillary within its curtilage and pre-dating 1 July 1948. Whether alteration, extension or demolition of such buildings amounts to harm or substantial harm to the designated heritage asset (i.e. the listed building together with its curtilage and attached buildings) needs careful consideration. Some curtilage structures are of high significance, which should be taken fully into account in decisions, but some are of little or none. Thus, like other forms of heritage asset, curtilage structures should be considered in proportion to their significance. Listed buildings designated very recently (after 25 June 2013) are likely to define curtilage definitively; where this is (or is not) the case will be noted in the list description⁸.

Archaeological and historic interest

16 Archaeological interest, as defined in the NPPF, differs from historic interest⁹ because it is the prospects for a future expert archaeological investigation to reveal more about our past that need protecting. Caring for an asset that has a well-

⁷ For further information on the investigation of historic buildings, see *Understanding Historic Buildings: A Guide to Good Recording Practice* (2006), *Understanding Historic Buildings: Policy and Guidance for Local Planning Authorities* (2008 - both English Heritage) and CIfA Standard and Guidance: Archaeological Investigation and Recording of Standing Buildings or Structures.

⁸ <http://historicengland.org.uk/listing/what-is-designation/listed-buildings/>

⁹ Historic interest is an interest in what is already known about past lives and events that may be illustrated by or associated with the asset

understood historic interest, but no substantial archaeological interest, will be relatively straightforward as our existing knowledge of the asset will guide how it can be managed in order to sustain its significance. However, if for example there is good reason to suspect that a bare field which has never been investigated contains important remains, or that an apparently ordinary building contains a hidden medieval timber-frame, the task of managing it would be different.

16 Where a heritage asset is thought to have archaeological interest, the potential knowledge which may be unlocked by investigation may occasionally be harmed by even minor disturbance, thus damaging the significance of the asset. This can make some assets, or parts of them, very sensitive to change. Expert advice will be needed to identify these sensitivities and assess whether and how they can be worked around (see paragraphs 20 - 23).¹⁰ A proportionate approach should be maintained however. It has been estimated that disturbance would have an adverse impact in less than 3% of all planning applications currently.¹¹

Using appropriate expertise

18 Expert advice on where the significance lies and its sensitivity to change can unlock viable uses for the asset and secure its long-term future. It can also be very valuable in minimising and mitigating impact, therefore avoiding conflicts between the owner's reasonable aspirations for the site and its conservation, particularly if it is sought early. Where the proposal is likely to affect the significance of heritage assets, early engagement with appropriate expert advice and the relevant local authority heritage advisers will be helpful both in developing an understanding of significance and in identifying the level of information needed to support the application and can be helpful throughout the process. National amenity societies and local groups, such as civic and historical societies, museums and local records/archives can also be particularly valuable sources of advice and information. Where a heritage asset may have a cultural or faith interest to a particular community, it is important to consult them as their views and information may add to the understanding of the asset's significance.

19 There are several established registers that can be used to identify appropriately qualified specialists or organisations, depending on the nature of the project. Though not exhaustive, the alphabetical list below may be helpful:

- a. Architects Accredited in Building Conservation Ltd operates a register of specialist architectural heritage expertise.
- b. The Chartered Institute for Archaeologists (CIfA) has a register of accredited organisations for historic environment practice¹². CIfA requires its members to meet defined levels of competence.

¹⁰ The archaeological interest of an asset can remain even after apparently thorough investigation. As techniques and the understanding of our past improve, a previously investigated asset may be revisited to see what further can be learned.

¹¹ Information from forthcoming ALGAO casework survey (to be published summer 2015)

¹² <http://www.archaeologists.net/ro>.

- c. The Institution of Civil Engineers and the Institution of Structural Engineers operate a joint register of engineers (Conservation Accreditation Register for Engineers - CARE) who have demonstrated to their peers that they meet a required standard in conservation.
- d. The Institute for Conservation (ICON) operates a register of accredited conservator-restorers.
- e. The Institute of Historic Building Conservation (IHBC) has a register of accredited organisations for historic environment practice¹³. The IHBC requires its members to meet defined levels of competency.
- f. The Royal Institute of British Architects also operates a register of architects accredited in building conservation, for works on listed buildings, scheduled monuments and pre-1900 buildings.
- g. The Royal Institution of Chartered Surveyors maintains a register of accredited building conservation surveyors.

20 Some projects may need more than one type of specialist and, indeed, others, for instance planners and architectural historians.

Finding appropriate information: Historic Environment Records (HERs)

21 To ensure sustainable development, local planning authorities need to have access to HERs that are publicly-accessible and dynamic sources of information about the local historic environment, its archaeological remains, architecture and town- and landscape of all periods. They need to provide an up-to-date catalogue of heritage assets and interventions within a defined geographical area. They will assist in informing good planning decisions by providing information about the historic environment, complementary to that provided by museums, archives and libraries, to communities, owners and developers. As an information service managed by dedicated specialist staff, they consist of databases, indexes and reference collections linked to a Geographical Information System (GIS) and thus provide core information for plan-making, designation and development management decisions in the planning system as set out in the NPPF, as well as decisions relating to environmental stewardship schemes (details can be found at www.heritagegateway.org.uk/Gateway/CHR).

- 21 An effective HER is likely to contain information on the following:
1. Designated heritage assets
 2. Locally designated heritage assets
 3. Heritage assets with archaeological interest that are neither nationally nor locally designated (including assets that are known to have been demolished or destroyed or known only from antiquarian sources, assets which do not meet the criteria for national or local designation, and those which have yet to be formally assessed as such)

¹³ <http://www.ihbc.org.uk/hespr/>

4. Other heritage assets with historic, architectural and artistic interest that are of local significance (including undesignated historic buildings, parks and gardens and historic places commemorating events and people)
5. Findspots
6. Archaeological objects and their findspots under the Portable Antiquities Scheme
7. Investigations of the archaeological, architectural, historic or artistic interest of a place or landscape, including desk-based assessments, field evaluations, excavation reports, archaeological watching briefs, environmental assessments, conservation management plans and assessments, reports on significance from Design and Access Statements, record reports on buildings, conference notes and proceedings, etc
8. Historic area assessments and characterisation studies, urban archaeological databases, conservation area appraisals and management plans
9. Output from the National Mapping Programme
10. Scientific data relevant to the understanding of heritage assets such as borehole logs, absolute dating and palaeoenvironmental data
11. Documentation, such as Listed Building Heritage Partnership Agreements, Local Listed Building Consent Orders and (National) Listed Building Consent Orders, which derive from changes to the Planning (Listed Building and Conservation Areas) Act 1990 under the Enterprise and Regulatory Reform Act 2013

23 HERs will usually be defined by the administrative boundaries (whether terrestrial, inter-tidal or marine) of the local authority(-ies) that an HER covers. To ensure useful coverage in all types of planning casework, HERs are encouraged to consult user groups regularly and take account of their information requirements in sourcing material.

24 Information generated in putting together the local plan, during the process of applying for consent and in the discharging of conditions placed on consents will often provide new evidence of the state and significance of the historic environment. It can be invaluable in plan-making and decision-making in the future and is of significant public benefit in furthering the understanding of our surroundings and our past. This information should be made publicly accessible, usually through the Historic Environment Record.

Assessing the proposals

25 In deciding applications for planning permission and listed building consent, local planning authorities will need to assess the particular significance of the heritage asset(s) which may be affected by the proposal and the impact of the proposal on that significance reflecting the approach as described in paragraphs 3-5 above. In most cases, to assess significance LPAs will need to take expert advice, whether in-house, from shared services or from consultants. It is good practice to use

professionally accredited experts and to comply with relevant standards and guidance¹⁴. To find a list of expert groups, see paragraph 19.

26 Successful sustainable development achieves economic, social and environmental gains jointly and simultaneously through planning decisions¹⁵. If there is any apparent conflict between the proposed development and the conservation of a heritage asset then the decision-maker might need to consider whether alternative means of delivering the development benefits could achieve a more sustainable result, before proceeding to weigh benefits against any harm. For example, raft foundations can span archaeological deposits, so minimising both the physical impact and the costs associated with excavation.

27 Substantial harm is a high test which may not arise in many cases. In those cases where harm or loss is considered likely to be substantial¹⁶, then the LPA will need to consider the relevant NPPF tests. Further detail on the tests on levels of harm can be found at paragraphs 133-135 and 139 of the NPPF. Further guidance on heritage conservation as a public benefit in itself, optimum viable use, levels of harm and mitigating harm are given in the PPG section ID 18a, paragraphs 15 to 20.

Cumulative impact

28 The cumulative impact of incremental small-scale changes may have as great an effect on the significance of a heritage asset as a larger scale change. Where the significance of a heritage asset has been compromised in the past by unsympathetic development to the asset itself or its setting, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset in order to accord with NPPF policies. Negative change could include severing the last link to part of the history of an asset or between the asset and its original setting. Conversely, positive change could include the restoration of a building's plan form or an original designed landscape.

Listed building consent regime

29 Change to heritage assets is inevitable but it is only harmful when significance is damaged. The nature and importance of the significance that is affected will dictate the proportionate response to assessing that change, its justification, mitigation and any recording which may be needed if it is to go ahead. In the case of listed buildings, the need for owners to receive listed building consent in advance of works which affect special interest is a simple mechanism but it is not always clear which kinds of works would require consent. In certain circumstances there are alternative means of granting listed building consent under the Enterprise & Regulatory Reform Act 2013¹⁷.

Decision-taking for assets with archaeological interest

¹⁴ For example, the ClfA Standard and guidance: Archaeological Advice

¹⁵ NPPF, para 8

¹⁶ NPPF, paragraph 132 & PPG 01-7

¹⁷ Further advice is given in Historic England Advice Note making changes to heritage assets (forthcoming). See also <http://www.legislation.gov.uk/ukpga/2013/24/contents/enacted>

30 Many heritage assets have a significance that is a combination of historic, architectural, artistic and archaeological interest. However, some will currently hold only an archaeological interest, in that nothing substantial may be known about the site and yet there is a credible expectation that investigation may yield something of strong enough interest to justify some level of protection.

31 For sites with archaeological interest, whether designated or not, the benefits of conserving them are a material consideration when considering planning applications for development.

Recording and furthering understanding

32 If a decision in principle is made to allow a proposal that would cause the loss of an asset (either wholly or in part), developers are required to record and advance our understanding of the significance of the asset or the relevant part in a manner proportionate to its importance and the potential impact¹⁸. Nevertheless, records cannot deliver the sensory experience and understanding of context provided by the original heritage asset, so the ability to investigate and record a heritage asset is not a factor in deciding whether consent for its destruction should be given.

33 Developers are more likely to achieve the NPPF objective if the recording is undertaken by a professionally accredited organisation or individual with appropriate expertise¹⁹ and that it complies with professional standards and guidance and takes account of relevant research frameworks²⁰.

Written Schemes of Investigation (WSI)

34 In those cases where development will lead to loss of a substantive part of the significance of a heritage asset, the steps to be taken by the developer to achieve the NPPF requirements are best controlled through a WSI, although given the number of planning applications likely to have an adverse impact such an investigation may not be required in many cases. A WSI is usually commissioned by the applicant and approved by the LPA. The planning authority will need to satisfy itself that any WSI is set out to a level of detail proportionate to the asset's likely significance and in accordance with appropriate standards and is flexible enough to be able to take account of reasonable and unavoidable changes or unexpected discoveries. WSIs are used to set out proposals for assessment and evaluation, as well as post-permission investigation and recording.

35 The LPA (and their heritage advisers) can advise as to what the WSI should cover; additional guidance is also available, for example through ClfA standards and guidance. Schemes normally include:

¹⁸ NPPF, paragraph 141.

¹⁹ The ClfA maintains a Register of accredited organisations and holds a directory of members.

²⁰ See ClfA Standard and Guidance: Watching Briefs; and Archaeological Excavation. See also footnotes 6 and 7. English Heritage published *Understanding Historic Buildings: a guide to good recording practice* (2006). Local authority archaeological advisers may have additional, locally specific guidance. See <http://historicengland.org.uk/research/support-and-collaboration/research-resources/research-frameworks/>

1. Background information and context relating to existing understanding and the purpose of the investigation
2. Proposals for the site investigation, including statements on research objectives, methodology and community engagements
3. Proposals for the assessment, analysis, publication, dissemination, archiving and curation of the results of the investigation. Assessment and analysis may need to be a two stage process with detailed proposals for investigation and analysis being agreed following completion of the assessment stage
4. Operational matters including timetable, resourcing, expertise of those undertaking the work, compliance with professional standards and legislative or regulatory requirements

Archaeological conditions and obligations for WSIs

36 A requirement to record the significance of a heritage asset with archaeological interest that will be harmed may be made enforceable through conditions, a planning obligation or a combination of the two²¹. The use of conditions or obligations can be applied where the legal and policy tests in the NPPF have been met, and it has been established that sustainable development can only be achieved through harm to a heritage asset. An approach for using conditions to identify and secure the appropriate level of work is set out below. Depending on the nature of the proposals and the heritage assets affected, the timing of submission of details relating to works (ie in this case the WSI), their approval and implementation may need to be tied to the phases of development or occupation. Information requirements should also be tailored to the development.

37 The following is suggested as an example condition which can be helpful to identify and to secure the appropriate level of work that is necessary before commencement of the development, and also what may be required after commencement and in some cases after the development has been completed. The staged approach to discharge can therefore help to avoid problems for developers with the delay of fully discharging pre-commencement conditions such as where lengthy programmes of archaeological work are secured by a single clause pre-commencement condition. Care will be needed to ensure the conditions are enforceable and otherwise comply with the NPPF. A planning obligation may be needed in certain circumstances.

1. No demolition/development shall take place/commence until a written scheme of investigation (WSI) has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives; and:

²¹ See paras 203-206 of the NPPF

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reporting, publication and archiving

38 Where the local planning authority has indicated that a report detailing the findings of the investigation shall be published, it is helpful to consider the following points:

1. The best means of publication to reach target audiences, dependent upon the nature of the findings.
2. For important sites, the publication of detailed findings to an appropriate and proportionate level through books, archaeological, architectural or historical journals or via the internet.
3. The general structure, length and format of the report including summaries.

39 Local planning authorities are advised to ensure that the compilation, deposition and appropriate conservation of the material, digital and documentary archive in a museum, or other publicly accessible repository willing and capable of preserving it, forms an integral part of any recording project. Securing the archive of an investigation according to the terms of deposition or guidelines issued by the receiving body will facilitate future research. Proposals for these stages of work will have been included in the WSI but may need to be updated following completion of the on-site investigation.

40 The ClfA publishes standards and guidance for the creation, compilation, transfer and deposition of archaeological archives²², while advice is also available from the Museums Association and individual museums and archives. Deposition of copies of reports and site summaries with the HER is vital in providing an evidence base that can be called on by applicants for future development and by planners when drawing up plans and making decisions, as well as being important to local communities. Advice on the content of site summaries may be available from the HER.

Human remains

41 There are important, additional legal requirements that apply where development or on-site evaluation may affect human remains and it is advisable to

²² ClfA Standard and Guidance: Archives

follow established professional guidelines. Further guidance on compliance with burials legislation is available from the Ministry of Justice and Historic England²³.

Mineral extraction

42 Archaeological interest is often of particular importance in proposals for minerals extraction. The Minerals and Historic Environment Forum has published *Mineral Extraction and Archaeology: a Practice Guide* (2008) to provide guidance on minerals planning and archaeology²⁴. This is currently being updated given the subsequent publication of the NPPF.

Public engagement

43 Where appropriate, local planning authorities and the developer are advised to consider the benefits of making the investigative works open to and interpreted for the public and to include that as part of the WSI. The results can contribute to a deeper sense of place, ownership and community identity. Promoting understanding will increase active protection for the historic environment. Opportunities for public engagement, proportionate to the significance of the investigation, could, for example, include enabling participation in investigation, providing viewing platforms and interpretation panels, jointly designed open days in partnership with the local community, public talks and online forums as well as coverage in local media. Once analysed, the results and the knowledge gained may be communicated, in addition to formal publication and deposition of the archive, through displays, exhibitions and popular publications and might inform site design and public art.

Unexpected discoveries during work

44 Where a new heritage asset is discovered or an existing known asset proves to be more significant than foreseen at the time of application, the local planning authority is advised to work with the developer to seek a proportionate solution that protects the significance of the new discovery, so far as is practical, within the existing scheme. Developers are advised to incorporate the potential for unexpected discoveries into their risk-management strategies.

Scheduled monument consent

45 Guidance on scheduling and scheduled monument consent is published by DCMS. Scheduled monument consent is a separate approval process from the planning system²⁵.

Neglect

45 While most disrepair is not deliberate neglect, and while LPAs need to be wary of delaying sympathetic proposals which would give the heritage asset a future, where an owner appears to have permitted a heritage asset to deteriorate

²³ <http://historicengland.org.uk/advice/technical-advice/archaeological-science/human-remains-advice/>

²⁴ <http://historicengland.org.uk/images-books/publications/mineral-extraction-and-archaeology/>

²⁵ <https://www.gov.uk/government/policies/protecting-conserving-and-providing-access-to-the-historic-environment-in-england/supporting-pages/protecting-ancient-monuments-through-the-scheduling-system>

deliberately in the hope of making consent or permission easier to gain, the local planning authority will need to disregard the deteriorated state of the asset. In all other cases the condition of the property and its impact on viability can be a material consideration.

46 Working with the owner is the route to solving heritage at risk issues and informal approaches to the owner are the normal starting point. LPAs may need to consider exercising their repair and compulsory purchase powers to remedy neglect, deliberate or otherwise²⁶. The potential to exercise these powers as an alternative means of conserving a heritage asset could be a material consideration in determining applications²⁷.

Unauthorised works, enforcement notices and prosecution

47 The objective of conserving heritage assets for generations to come will not be met if there is no deterrent to those contemplating not applying for a consent and no remedy applied when consents are not sought when they should have been. Wrongdoing should obviously not be rewarded and those who obey the law should not be disadvantaged. Local planning authorities may, where it is expedient and in the public interest, consider the following steps, as appropriate: to remind people of the need for consents; to investigate and prosecute breaches of the law; and, to remedy the effects of any wrongdoing using their enforcement powers. The strategy for enforcement in the historic environment would form part of the 'local enforcement plan'²⁸.

48 Carrying out works that affect the special interest of a listed building and the demolition of a building in a conservation area without consent are both criminal offences. Expert heritage advice should be sought if there is any doubt as to whether consent should be obtained and, if in doubt owners are encouraged to talk to their LPA before works are undertaken. Although scheduled monument consent is a separate regime, unauthorised works are a criminal offence under the Ancient Monuments and Archaeological Areas Act 1979.

Marketing to demonstrate redundancy

49 Excepting those which, by their nature, have limited or no economic end use, total loss or substantial harm to a designated heritage asset may be justified where certain conditions apply²⁹. Marketing is required to demonstrate redundancy as expert evidence of possible purchasers and their intended uses for the site can never be conclusive and the seriousness of the proposed harm justifies the time taken in the marketing exercise³⁰.

²⁶ NPPF, paragraphs 126 and 207

²⁷ See *Stopping the Rot: A Guide to Enforcement Action to Save Historic Buildings*, English Heritage 2011 - <http://historicengland.org.uk/images-books/publications/stoppingtherot/>

²⁸ NPPF, paragraph 207

²⁹ NPPF, paragraph 133

³⁰ See section 4.7 of *Enabling Development and the Conservation of Significant Places* – English Heritage, 2008

50 No-one is obliged to sell their property. The aim of a marketing exercise is to reach all potential buyers who may be willing to find a use for the site that still provides for its conservation to some degree. If such a genuine purchaser comes forward who would be willing to maintain the asset, there is no obligation to sell to them, of course, but redundancy will not have been demonstrated. To ensure that those marketing efforts have been genuine and given the best chance of succeeding, local planning authorities may consider the following aspects of the campaign in order to judge its merits:

- a. **The timing of the marketing.** Paragraph 133 of the NPPF requires that there is clear evidence that no viable use can be found in the 'medium term'. Under poor market conditions the applicant may wish to consider whether 'mothballing' the asset might be appropriate until conditions have improved to the point when a negative response can be reasonably ascribed to a genuine lack of interest in the asset itself rather than to general market conditions.
- b. **The period and means of marketing.** These will be set to give the best chance of reaching all categories of potential purchaser.
- c. **The asking price.** A price that does not fairly reflect the market value of the heritage asset will deter enquiries.
- d. **Condition of the site and deliberate neglect.** To test the market adequately the price would need to reflect the cost of any works needed to repair the asset. Deterioration from deliberate neglect of the asset in the hope of obtaining consent should be ignored. This means that if the cost of making good the deterioration from deliberate neglect is greater than any value the site may have had without the neglect, the applicant is unlikely to be able to demonstrate that the asset would have been unviable in the assumed condition that the policy requires.
- e. **The extent of the land included and nature of the interest being marketed.** The land being offered needs to be sufficient to provide necessary infrastructure; if a lease rather than freehold is offered and it is too short or has otherwise onerous terms genuine interest may be deterred.

Public or charitable interest and support for assets under threat

51 Where there are no expressions of interest in the general market for maintaining the asset, reasonable endeavours will need to be made to see if there is a public or charitable organisation willing to take on the asset and to find grant-funding that may pay for its continued conservation. This might include approaching the local authority, Historic England, the Heritage Lottery Fund, the Architectural Heritage Fund (who maintain a list of possible alternative sources of funding), charitable foundations, national and local amenity societies and preservation trusts.

Opportunities to enhance assets, their settings and local distinctiveness

52 Sustainable development can involve seeking positive improvements in the quality of the historic environment. There will not always be opportunities to enhance the significance or improve a heritage asset but the larger the asset the more likely there will be. Most conservation areas, for example, will have sites within them that could add to the character and value of the area through development, while listed buildings may often have extensions or other alterations that have a negative impact on the significance. Similarly, the setting of all heritage assets will frequently have elements that detract from the significance of the asset or hamper its appreciation.

Design and local distinctiveness

53 Both the NPPF (section 7) and PPG (section ID26) contain detail on why good design is important and how it can be achieved. In terms of the historic environment, some or all of the following factors may influence what will make the scale, height, massing, alignment, materials and proposed use of new development successful in its context:

- The history of the place
- The relationship of the proposal to its specific site
- The significance of nearby assets and the contribution of their setting, recognising that this is a dynamic concept
- The general character and distinctiveness of the area in its widest sense, including the general character of local buildings, spaces, public realm and the landscape, the grain of the surroundings, which includes, for example the street pattern and plot size
- The size and density of the proposal related to that of the existing and neighbouring uses
- Landmarks and other built or landscape features which are key to a sense of place
- The diversity or uniformity in style, construction, materials, colour, detailing, decoration and period of existing buildings and spaces
- The topography
- Views into, through and from the site and its surroundings
- Landscape design
- The current and historic uses in the area and the urban grain
- The quality of the materials

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