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PLANNING AND THE PROTECTION OF HISTORIC PARKS AND GARDENS: A REVIEW OF CURRENT PRACTICE IN ENGLAND

The primary mechanism for the protection of historic parks and gardens in England is the planning system. It has been twenty years since the efficacy of the planning system in this regard was last assessed, in work by Mary S. Stacey, and the planning context has developed considerably in that time. This paper outlines the changes in the planning system of relevance to the conservation of parks and gardens, and reports on the findings of a recent survey of local authority practice. It concludes that the changes do not address the fundamental shortcomings in operation identified by Stacey, and that whilst local authority awareness of historic parks and gardens has increased, further support is still needed.


It is the task of the responsible authorities to adopt, on the advice of qualified experts, the appropriate legal and administrative measures for the identification, listing and protection of historic gardens. The preservation of such gardens must be provided for within the framework of land-use plans and such provision must be duly mentioned in documents relating to regional and local planning.¹

This extract from the Florence Charter, registered by the International Council on Monuments and Sites (ICOMOS) in 1982, defines an expectation that planning controls will be utilized to deliver the protection of historic parks and gardens. International conservation charters are not themselves part of the legislative framework for regulating conservation practice; instead, they provide ‘an expert counterpoint to national legislation’ and ‘the basis of current international conservation philosophy’.² Hence, while there is no requirement for this provision to be implemented within England, determining the degree to which it is reflected within the English planning system provides an insight into the national profile of park and garden conservation and the efficacy of English planning in this regard.

The last comprehensive assessment of English policy and practice was undertaken in 1992 by Mary S. Stacey.³ This paper begins with an evaluation of the changes in the relevant planning provisions since Stacey’s work, before moving on to an assessment of current practice based on a questionnaire survey of English local planning authorities (LPAs).

THE ENGLISH PLANNING SYSTEM

There has always been a close association between the general purpose of town and country planning in England and the conservation of the historic environment. For example, consideration of ‘[t]he preservation of objects of historical interest or natural beauty’ in the preparation of town planning schemes was required in the Housing, Town



Planning Etc. Act 1909, an antecedent of modern planning legislation.⁴ The statutory listing of buildings was introduced in the Town and Country Planning Acts of 1944 and 1947, and while originally introduced in non-planning legislation, provisions for conservation areas were subsequently subsumed in the Planning (Listed Buildings and Conservation Areas) Act 1990.

Even though the legislative provisions for ancient monuments and historic parks and gardens remain outside planning legislation, they are still closely linked to (and often implemented by) the planning system, whether through policy statements or formally defined procedures. Indeed, the planning system is best understood as a collection of legislative, policy and procedural tools. These tools are drafted and applied over a range of geographical tiers, are afforded different weight within the decision-making process, and are subject to varying degrees of flexibility with regard to their interpretation (Figure 1).

In practice, the system is not as hierarchical as Figure 1 might suggest. While legislation and strategic policy are defined at the national level, the system is operated primarily at the local level, by district or borough councils, within the parameters set by legislation and policy at other tiers, and their own local policy. Primary legislation is ‘the principal source’ of planning and conservation provisions,⁵ but that very legislation assigns local planning policies in the ‘development plan’ significant weight: ‘If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.’⁶ These ‘material considerations’ are broadly defined, and include national policy, other local policy, evidence and so on. Hence, planning activity involves the formulation of policy, and the making of decisions on particular proposals within the context of that policy and other relevant factors. It involves the balancing of the rational and the subjective in decision-making, and thereby generates both flexibility and the potential for uncertainty.⁷

This has been the case since the inception of the modern planning system in the 1940s, despite subsequent (and ongoing) reforms of the planning system and, indeed, a redefinition of planning’s purpose from regulating ‘the development and use of land in the public interest’ to ‘contribut[ing] to the achievement of sustainable development’.⁸ It retains, however, its original emphasis on balancing promotion and restraint: ‘many of the demands on the use of our land are conflicting. Some must result in more land being brought into development. [...] On the other hand, town and country planning must preserve land from development’.⁹ It is within this context that the current provisions for the protection of historic parks and gardens must be considered.

PARK AND GARDEN PROVISIONS IN THE ENGLISH PLANNING SYSTEM

At the time of Stacey’s assessment in 1992 of the way in which historic parks and gardens were addressed in the planning process, the primary provision for the conservation of historic parks and gardens was the permissive power for English Heritage (EH) to create a register of ‘gardens and other land situated in England and appearing to them to be of special historic interest’.¹⁰ Initially, the only link between the register and the planning system was the requirement that EH should notify the relevant planning authorities of the registration of a garden. The purpose of the register was subsequently clarified in a statement of government planning policy:

The register, which has no statutory force, lists and grades gardens which still retain their special historic interest. Its purpose is to record their existence so that highway and planning authorities, and developers, know that they should try to safeguard them when planning new road schemes and new development generally.¹¹

Further planning provisions have emerged since Stacey’s assessment, although registered historic parks and gardens remain a statutory designation without a statutory control mechanism, in contrast to other heritage assets such as scheduled monuments and listed buildings, each of which has its own consent regime.

Pressure from the Garden History Society (GHS) and others resulted in a recommendation from the 1993/94 National Heritage Committee that ‘consideration be



Figure 1. The English planning system: legislation and policy framework for making planning decisions.
Drawing: author

given to introducing a statutory requirement on planning authorities to consult English Heritage and the relevant national amenity society about all planning applications affecting registered sites'.¹² The government responded positively and, in 1995, implemented the provisions set out in Table 1 to ensure that LPAs 'receive the specialised advice necessary for informed decision-making'; these provisions remain in force, and give park- and garden-related planning applications a higher profile and likelihood of closer scrutiny, albeit only where the LPA believes the proposal in question will 'affect' the park or garden.¹³ The LPA is then not required to act in accordance with the comments received from the GHS and EH, merely to take them into account.

National policy has also evolved since 1992 via a number of iterations. The publication of *Planning Policy Guidance (PPG15): Historic Buildings and Conservation Areas* in 1994 extended and strengthened the references in Circular 8/87 to historic parks and gardens, notably in stating that 'the greatest of [England's designed landscapes] are as important to national, and indeed international, culture as are our greatest buildings'. More practically, PPG15 also stated that:

[L]ocal planning authorities should protect registered parks and gardens in preparing development plans and in determining planning applications. The effect of proposed development on a registered park or garden or its setting is a material consideration in the determination of a planning application. Planning and highway authorities should also safeguard registered parks or gardens when themselves planning new developments or road schemes.¹⁴

Perhaps most significantly, PPG15 encouraged the use of other, more proactive planning tools in support of the conservation of parks and gardens: the use of tree preservation orders (TPOs) to protect trees; and conservation area designation (which brought with it 'controls over demolition [and] strengthened controls over minor development', and its own protection of trees).¹⁵ These were tools that Stacey had already identified as being part of an LPA's armoury, but now their use had the imprimatur of government policy – in relation to registered parks and gardens at least: unregistered historic parks and gardens remained without any dedicated policy.

Sixteen years later, this was to change with the arrival of *Planning Policy Statement 5 (PPS5): Planning for the Historic Environment*, which represented a major development in English conservation policy, introducing the concept of 'significance' as the basis of protection (defined as 'the value of a heritage asset to this and future generations because of its heritage interest'), and implementing a more unified approach to conservation, in which registered parks and gardens were given parity (in policy terms at least) with scheduled monuments and listed buildings through their identification as 'designated heritage assets'. Such assets were protected by a 'presumption in favour of the conservation of designated heritage assets [in which] the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be'. Perhaps most encouragingly, PPS5 explicitly stated that 'Substantial harm to or loss of a grade II [...]

Table 1. Consultation required on planning applications 'likely to affect' registered parks or gardens

	Grade I	Grade II*	Grade II
English Heritage	Yes	Yes	
Garden History Society	Yes	Yes	Yes

park or garden should be exceptional. Substantial harm to or loss of [...] grade I and II* registered parks and gardens [...] should be wholly exceptional.¹⁶

Recognized as ‘non-designated heritage assets’, unregistered parks and gardens also benefited from enhanced protection, albeit to a lesser degree than their registered counterparts: ‘The effect of an application on the significance of [a non-designated] heritage asset or its setting is a material consideration in determining the application.’ For both designated and non-designated assets, PPS5 required that:

In considering the impact of a proposal on any heritage asset, local planning authorities should take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations. This understanding should be used by the local planning authority to avoid or minimize conflict between the heritage asset’s conservation and any aspect of the proposals.¹⁷

Whilst enabling greater recognition of historic parks and gardens within the wider historic environment, the predication of this new approach on the significance of the heritage assets also required a thorough understanding of the parks and gardens in question, involving both their identification and the gathering of relevant information. As a companion document to PPS5 noted, historic parks and gardens were potentially under-evidenced, and therefore unable to benefit fully from the new policy framework: ‘some asset types are not currently well-recorded. For example, the Register of Parks and Gardens of Historic Interest in England is thought to represent around two thirds of sites potentially deserving inclusion’.¹⁸

The policy set out in the short-lived PPS5 was broadly replicated in its 2012 successor and current statement of policy, the National Planning Policy Framework (NPPF), although the presumption in favour of the conservation of designated heritage assets is now replaced by an overarching presumption in favour of sustainable development. The NPPF has also added another policy tool of potential relevance to historic parks and gardens: Local Green Space. Defined as ‘green areas of particular importance’ to local communities, the designation brings control over development ‘consistent with policy for Green Belts’, with the result that most new building is generally not permitted. One of the justifications for the designation of a Local Green Space is that ‘the green area is demonstrably special to a local community and holds a particular local significance, for example because of its [...] historic significance’; it must also be ‘in reasonably close proximity to the community it serves [...] local in character and [...] not an extensive tract of land’.¹⁹

While parks and gardens remain without statutory protection, there is no doubt that they are now eligible for a higher level of protection under the planning system since Stacey published her assessment in 1992. The degree to which the available provisions are actually invoked is discussed further below, but it is important first to note that the planning measures outlined above only become relevant to the protection of parks and gardens when planning permission is needed for works, and much may be done without the need for such consent even being sought.

It is therefore prudent to consider the availability and application of other planning tools for the protection of historic parks and gardens (Figures 2–4). In addition to the designation of TPOs and conservation areas first promoted in PPG15, relevant tools include listed building and scheduled monument controls, both of which bring a higher degree of control over various works to the relevant historic assets and to their setting. Structures within a listed building’s curtilage may be regarded as part of the parent listed building for protection purposes.



Figure 2. Ham House in Richmond-upon-Thames, Surrey. A grade I-listed house in a grade II*-registered garden, with some additional listed structures (e.g. stables, walls), and a conservation area designation. Some protection is afforded to other built features via curtilage listing, and to trees and buildings via conservation area controls. Photo: author, July 2012



Figure 3. Cherry Garden at Ham House. Registration does not bring controls over design, but here the scheme is informed by a seventeenth-century plan. Photo: author, July 2012



Figure 4. Kitchen Garden at Ham House. Registration does not bring controls over planting, either, but again this scheme is informed by seventeenth-century plans. Photo: author, July 2012

Natural environment conservation tools may also be of relevance, such as hedgerow and habitat protection mechanisms, as might wider planning policy relating to Green Belt, landscape and countryside protection, especially when it is reflected in local development plan policy. These other tools can only be applied where relevant, however, and also have their own defined objectives, which may not coincide with those for garden conservation. As Christopher Dingwall and David Lambert note, '[p]rotection of a park or garden as a site of archaeological interest may be at odds with horticultural or landscape management'.²⁰

STACEY'S 1992 ASSESSMENT OF PLANNING PRACTICE

By 1992, while able to report that the register had 'raised the profile of the subject amongst planning officers', Stacey also confirmed the need for registration to be 'reinforced by other measures' due to the register's own lack of controls. Her findings were based on the results of three closely related questionnaire surveys sent to district-level LPAs in ten English counties, to the county-level conservation officers in those counties, and to 'individuals and organisations [...] involved in the [planning] process as officials or as pressure groups'. The questionnaires explored the identification of historic parks and gardens and the protection given to them; the practice of application handling; the relationships between the various parties involved in the process; and the issue of statutory protection for historic parks and gardens.²¹

Stacey's key findings were that the identification and subsequent protection of non-registered historic parks and gardens were limited, and that, in the absence of dedicated protection mechanisms, LPAs were using a wide range of available tools for the conservation of both registered and non-registered parks and gardens, resulting in 'incomplete and cumbersome' protection.²² A strong level of support was expressed overall for the introduction of statutory protection measures.

ASSESSMENT OF PLANNING PRACTICE IN 2012

Given the changes in policy and consultation requirements in the twenty years since Stacey's report, an updated assessment of English planning practice was perhaps overdue. Accordingly, a questionnaire survey was designed and distributed in late 2012 with the aim of understanding the approach now taken by LPAs to the conservation of historic parks and gardens. A precise replication of Stacey's work would have increased the comparability of findings, but was not considered appropriate given the changes in the interim and the wider research context within which the survey was undertaken (ongoing doctoral research at Oxford Brookes University into the ability of the planning system to protect the significance of historic parks and gardens in England). Nevertheless, the questions in the 2012 questionnaire survey discussed below reflected Stacey's approach as far as possible.

Requests to complete an online questionnaire survey were sent to all LPAs in England, including those national park authorities (NPAs) that handle the majority of planning applications in their area. The response rate was 40% (133 returned questionnaires), the vast majority of which were comprehensively completed (86%). The 133 responding authorities were broadly representative of English authorities with regard to their regional distribution, urban/rural classification, and number of registered parks and gardens.

The questionnaire contained 35 park- and garden-related questions, in six different sections, covering the identification of historic parks and gardens; the availability and use of relevant local planning policy; the use of other planning tools; the handling of park and garden-related planning applications; the assessment of significance; and issues relating to information about historic parks and gardens. As the questions covered all aspects of the planning process (in which very few individuals within a planning department would have a complete grounding), conservation officers were suggested as the ideal respondents, being most likely to understand issues to do with parks and gardens, and to be involved with both policy- and decision-making: 68% of respondents were conservation officers.

SECTION 1: THE IDENTIFICATION OF HISTORIC PARKS AND GARDENS

Given the high proportion of LPAs with at least one registered park or garden in their area, and the requirement for EH to notify LPAs on registration of a site, awareness of registered parks and gardens might be expected to be high, and for the most part it was: all LPA respondents claiming to have registered parks or gardens in their area were correct.²³ This awareness was not always precise, however. When asked to quantify the number of registered parks and gardens, whilst 68% of respondents gave answers that matched National Heritage List for England (NHLE) figures, 22% did not (the general tendency in these cases being to underestimate). This, coupled with the small number of authorities who incorrectly believed that they had no registered parks or gardens, suggests that there is some risk that the special merits of these historic sites, and the planning requirements associated with them, may be overlooked to the detriment of the parks and gardens in question.

Half the responding authorities had identified historic parks and gardens of local importance ('non-designated heritage assets', in NPPF terms), with the number per authority varying between one and around one hundred. Associated comments suggest that most work to identify local gardens originates in work on a wider 'local list' of heritage assets, work by the local county gardens trust, or the work done on the national register. This is an improvement on the position as reported by Stacey, in which 67% of responding authorities had not identified non-registered parks and gardens, and 89% of these advised that they were not afforded any protection.

SECTION 2: PLANNING POLICY FOR PROTECTING HISTORIC PARKS AND GARDENS

Only 19% of responding authorities had no park- and garden-specific development plan policy or proposal (adopted or emerging); this compares favourably with the 65% claiming no specific policy in Stacey’s 1992 work. The vast majority (94%) of the responding authorities in 2012 claimed to have an adopted and/or emerging development plan policy that could be used for the general conservation of historic parks and gardens (Figure 5). Given the paucity of dedicated planning tools, and the primacy of development plan policy within the planning system, this is an encouraging finding. LPAs also identified a willingness to use other development plan policy as required, with those most likely to be involved relating to design, open space and the natural environment.

Specific additional guidance on historic parks and gardens, such as that set out in Supplementary Planning Documents (intended to support development plan policy), was more limited: 82% of respondents advised that they did not have any.

SECTION 3: OTHER PROTECTION FOR HISTORIC PARKS AND GARDENS

The questionnaire also addressed the way in which LPAs used the other planning tools available for parks and gardens conservation. A distinction was drawn between proactive use (where designations had perhaps been sought pre-emptively, ahead of development proposals being made), and reactive use (where the controls associated with existing designations had been invoked to provide a degree of protection for all or part of an historic park or garden). The tools most frequently used proactively are unsurprisingly those within the authority’s direct control, namely conservation area designation and TPOs; those most used reactively are listed building controls, TPOs and conservation area controls (Figure 6). In common with Stacey’s findings, multiple single-purpose tools were used by LPAs to create the broadest available protection.

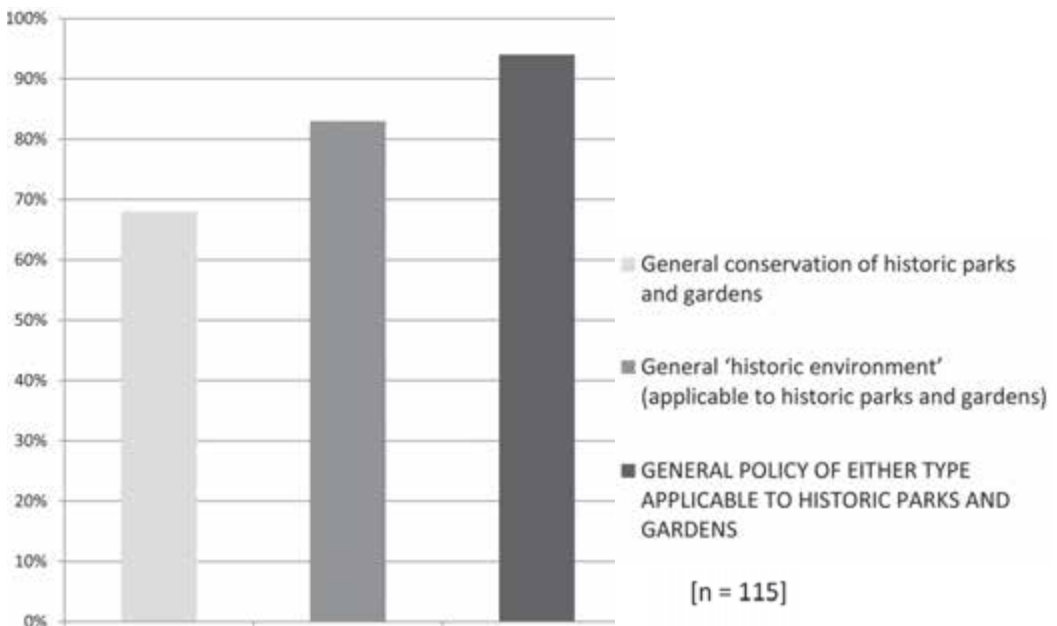


Figure 5. Local planning authorities with adopted and/or emerging development plan policies for the general conservation of historic parks and gardens

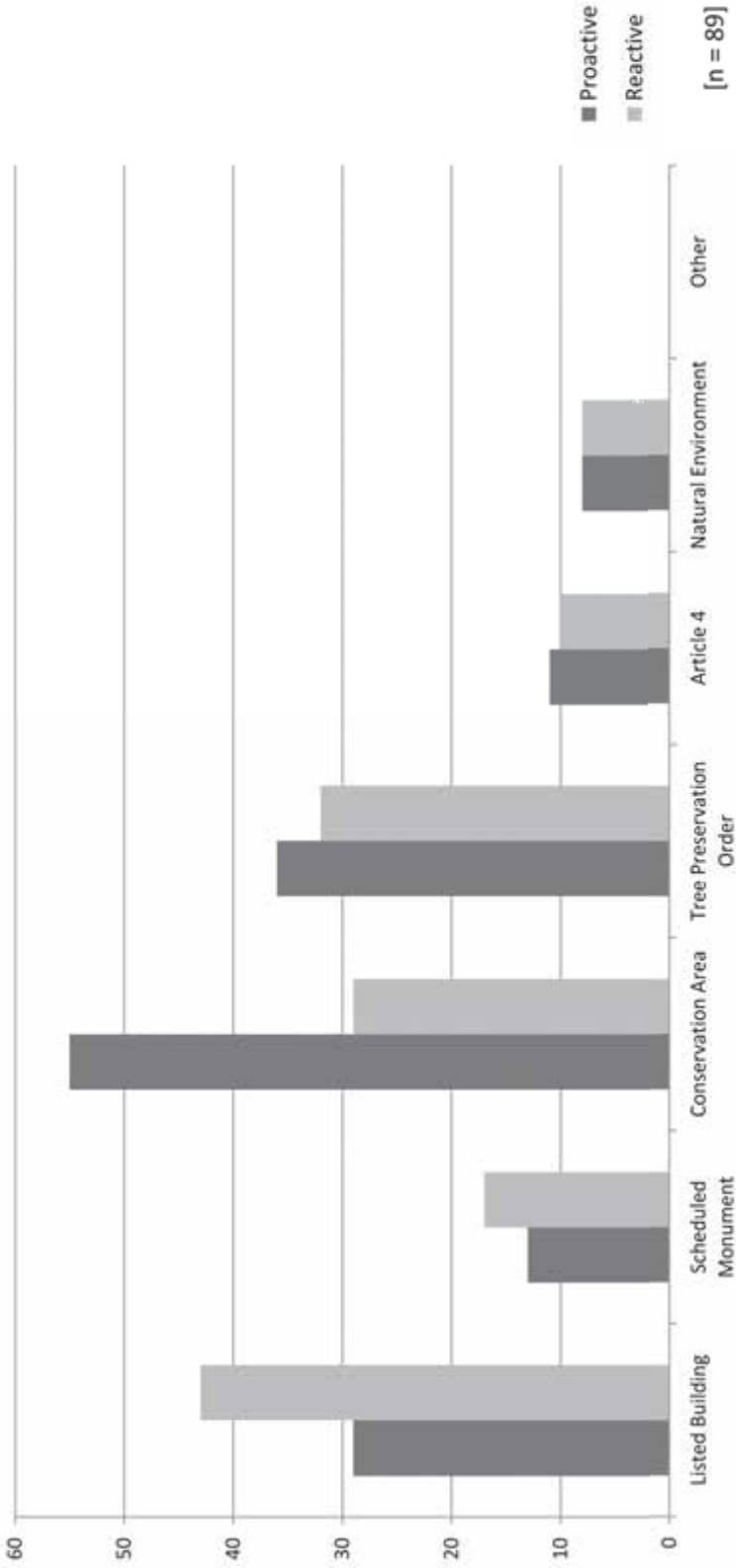


Figure 6. Alternative planning tools used by local planning authorities in the conservation of historic parks and gardens

Of all the available tools, those regarded as the most effective were relevant development plan policy (also chosen by Stacey's respondents as the most useful measure), TPOs, listed building controls, conservation area controls and scheduled monument provisions. This suggests that the selection and evaluation of tools is made within an interesting nexus of control, strength and availability. Development plan policy, TPOs and conservation area designation are all within the control of the LPA; listed building designation and the scheduling of monuments are not. Once designated, conservation areas, listed buildings and scheduled monuments are all subject to statutory control regimes with some strength, which could be usefully invoked where available. Not all parks and gardens benefit from these additional designations, however, so choices may need to be made from a limited palette, and in light of the particular circumstances of individual cases: the effective conservation of historic parks and gardens can require an awareness and creative use of both the available tools and the qualities of the parks and gardens to be protected.

The NPPF was also regarded as effective, but marginally less so than the tools listed above. Some respondents regarded it as 'too soon to judge' the NPPF (although the main thrust of its policy dates from 2010 and PPS5), but overall the policy content was appreciated.

Use of these tools, and an endorsement of their effectiveness, did not necessarily signify an overall appreciation of the conservation options for historic parks and gardens: only 34% of respondents believed registered parks and gardens to be satisfactorily protected, whilst 54% felt that they are not (Figure 7). The discrepancy between these answers and the prevailing view that most of the identified tools were broadly effective is perhaps explained by an interpretation that the specified tools are regarded as effective to a point (and within the defined circumstances discussed above), but do not deliver the desired depth and breadth of protection, perhaps in comparison with the stronger, more holistic approach afforded to other types of historic asset.

This interpretation is supported by the fact that 82% of responding authorities supported the introduction of statutory protection for registered parks and gardens; specifically, protection 'similar to that which currently exists for listed buildings' (Figure

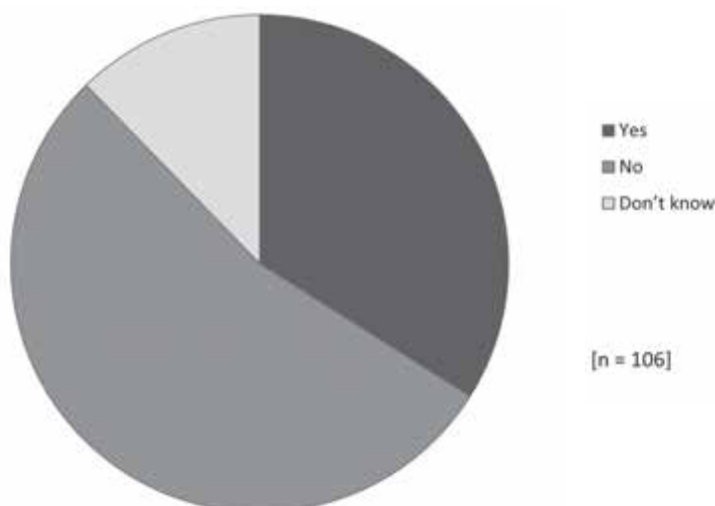


Figure 7. Proportion of local planning authorities regarding registered parks and gardens as satisfactorily protected in the planning system

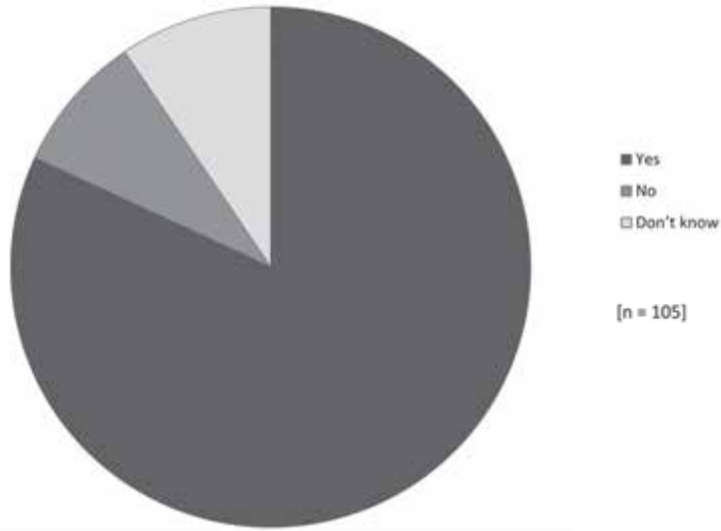


Figure 8. Proportion of local planning authorities supporting statutory protection for registered parks and gardens, similar to that which currently exists for listed buildings

8). This included those authorities regarding the NPPF and development plan policy as effective (79% of the former and 77% of the latter expressed support for statutory protection), and 56% of those regarding parks and gardens as satisfactorily protected.

The issue of statutory protection was explicitly addressed by Stacey, and a comparison of the findings in 1992 and 2012 is itself interesting: Stacey asked a very similar question ('Do you think historic parks and gardens should be given statutory protection?') of district-level development control officers, county conservation officers and other 'experts', who expressed their support, as shown in Table 2.

Support for statutory protection has remained high, despite the increase in the strength and coverage of national planning policy in the intervening period, and the introduction of the statutory consultation requirement. This suggests that the changes are not deemed by practitioners to have delivered sufficient improvement, and, with the more fully developed protection mechanisms for other types of historic asset (such as listed buildings) as a benchmark, it is clear that there remains scope for parks and gardens to benefit from higher levels of protection.

The degree of take-up of the new Local Green Space designation was also assessed: 55% of respondent authorities have not yet designated (or considered designating) one; of the 12% of authorities undertaking designation, around one-quarter cited use of the designation in relation to an historic park or garden. It is too soon to assess the effectiveness of this wholly new designation.

Table 2. Respondents supporting statutory protection for historic parks and gardens in Mary S. Stacey's 1992 survey

Stacey's respondent types	Percentage supporting statutory protection
Development control officers	94%
County conservation officers	88%
Experts	65%

SECTION 4: ADMINISTRATION OF APPLICATIONS IN RESPECT OF HISTORIC PARKS AND GARDENS

One of the two key provisions for the conservation of registered historic parks and gardens is the requirement for EH and the GHS to be consulted in certain circumstances; the other is the policy requirement for significance to be determined and the impact of a proposal on it assessed. The successful implementation of both these provisions depends in large part on the way in which the relevant planning applications are handled by LPAs.

Availability of the necessary expertise was the first administrative issue addressed in the questionnaire, and the responses suggest that in-house responsibility for park and garden matters is usually part of a wider range of duties, if indeed it is assigned at all: a dedicated parks and gardens staff resource (such as a historic parks and gardens officer) existed in only 2% of responding authorities, and around one-quarter of the responding authorities had no officer with specific responsibility for historic park and garden matters (Figure 9). Although this is not in itself encouraging, it is an improvement on the 1992 position reported by Stacey, where 67% of respondents advised that there was ‘no particular officer’ identified as being ‘particularly concerned’ with historic parks and gardens. In 2012, where that responsibility had been assigned, it was generally to conservation officers (43%), or shared between conservation and landscape officers (18%). This should itself be viewed within the context of a reduction of 31% in the availability of LPA specialist conservation advice between 2006 and 2012: even where specialist expertise is available, its application to historic park and garden work will be influenced by other, perhaps higher profile demands.²⁴

Any in-house shortfall is not necessarily addressed by access to external specialist advice: 75% of responding authorities advised that they had no such access (rising to 82% for those responding authorities without any staff with specific parks and gardens responsibility). Given the need under current policy for the significance of historic parks and gardens to be understood before protection can be applied (or local designations made), this is a particular area of concern. Very few authorities (7%) had access to advice

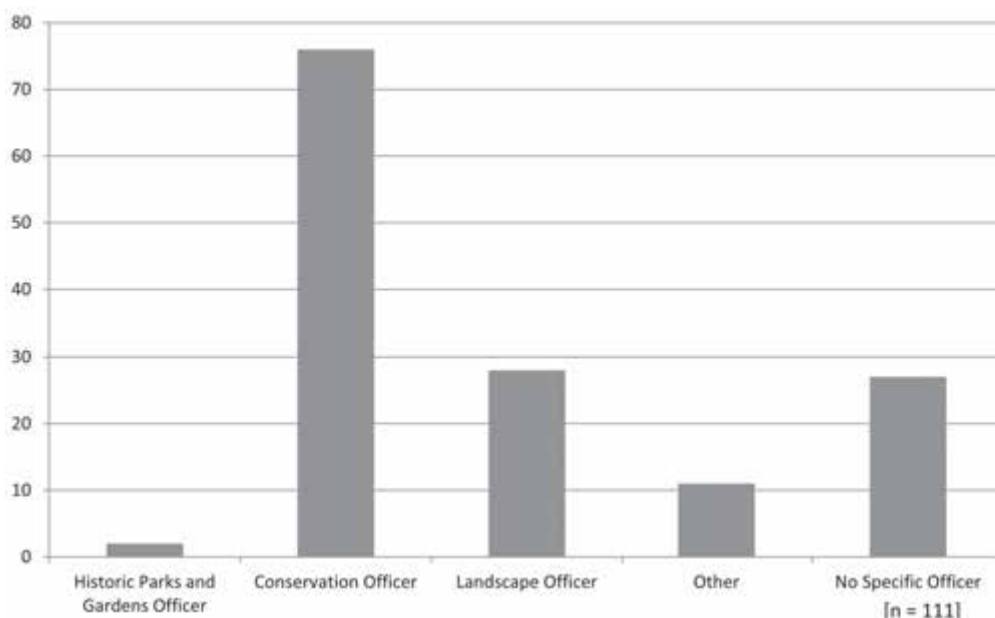


Figure 9. Availability and nature of local planning authority officers with specific responsibility for historic park and garden matters

via county councils or neighbouring authorities (county councils were a frequent source of advice at the time of Stacey's study), and the remainder advised that they obtained specialist advice 'via another arrangement', which subsequent comments identified in the majority of cases as EH, GHS and county gardens trusts, often in their role as consultees on applications (all appearing to have a higher profile with LPAs than in 1992).

The role of consultees is itself not generally well understood. Over half of respondents could not correctly identify the statutory consultation requirements (53%). With regard to practice, and looking only at the non-national park authority respondents who knew how many registered parks and gardens were in their area, and answered the relevant question, 60% are apparently not consulting wholly in accordance with the requirements, with 34% seeming to fail to undertake all the necessary consultations; the majority of the omissions related to the GHS, suggesting a strong need to increase awareness of the GHS and the statutory requirement to consult it (Figure 10).

Information about registered parks and gardens appears to be well recorded within LPA systems, with 77% of responding authorities noting them on local plan proposals maps, 87% recording them on a geographic information system (GIS) related to a development management system, and 67% recording them on both. In Stacey's 1992 report, 53% of responding authorities marked registered sites on constraints maps; this proportion has remained broadly the same (51%), but is now supplemented by the high proportion using the automated GIS approach. This is an important precursor to both accurate consultation and the assessment of significance, as it ensures awareness of the existence and extent of the park or garden amongst decision-makers. Most decisions on whether or not consultation was needed on applications within a registered park or garden were made by individual officers, separately or in combination (59% of responding authorities reported the involvement of a planning technician on a case-by-case basis, and 47% the involvement of the case officer); 30% of authorities utilized an automated process involving application-handling software.

Determining the need for consultation on applications outside but still 'affecting' a registered park or garden is more complex, and this was reflected in a greater reliance by LPAs on case-by-case judgments involving (again, separately or in combination) the case officer (57%), the planning technician (53%) and by the conservation officer (39%).

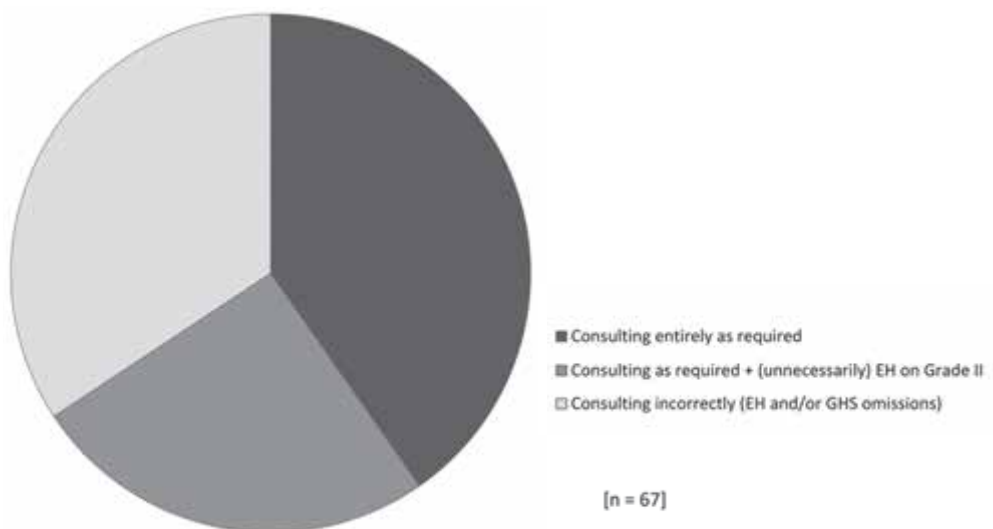


Figure 10. Degree of compliance with consultation requirements

Interestingly, 9% of responding authorities cited the use of a standard buffer zone to define the extent of the 'affected' area: this increases the likelihood of some setting-related consultation, but overlooks the potential impact of developments at a greater distance.

SECTION 5: SIGNIFICANCE

Statements of significance tend not to be produced proactively by LPAs for registered parks and gardens (76% of responding authorities have not produced or commissioned their own statements of significance); instead, they are most frequently produced in response to planning applications, when the most common means of production are utilising assessments submitted by the applicant or by consultees.

National planning policy, as set out in the NPPF, requires the assessment of significance as defined above, i.e. with reference to archaeological, architectural, artistic or historic interest. An alternative approach to the definition of significance is set out in EH's *Conservation Principles*, which refers instead to aesthetic, communal, evidential and historical values.²⁵ It appears that both approaches are used by LPAs: 84% of responding authorities consider the NPPF 'interests' when forming their view on significance, 84% use EH's 'values', and 74% use both. While the approaches are complementary, the general lack of resourcing and understanding demonstrated in respect of parks and gardens suggests that the parallel use of two approaches is an unnecessary complication. Whichever approach is used, LPAs are drawing on a wide range of information sources to inform their deliberations. All responding authorities used site visits, maps and photographs. Archival sources, published works, register and other NHLE entries, consultee responses, and historic environment record (HER) information were also used by the majority of respondents.

Decisions are also necessarily informed by the information submitted by applicants. The NPPF requires that applicants 'describe the significance of any heritage assets affected'.²⁶ Under PPS5, LPAs were instructed not to 'validate applications where the extent of the impact of the proposal on the significance of any heritage assets affected cannot adequately be understood from the application and supporting documents'; this requirement no longer exists, but LPAs may request further information on an application after validation if needed, and refuse that application if insufficient information is provided.²⁷ In practice, 70% of responding authorities require the submission of statements of significance before relevant applications can be validated, but over half of the authorities requiring submission and advising on further assessment did not then check the adequacy of the statements before validating the application (57%).

There is, however, limited guidance to applicants on how to assess significance, and so the quality of the information received by LPAs may be expected to be mixed: only 31% of authorities provide guidance to applicants on how to assess significance in general terms (62% do not), and of these, only 36% included specific advice in relation to the assessment of significance for historic parks and gardens.

Within international conservation philosophy and practice, the concept of significance is often closely associated with community engagement, as articulated in Article 26(3) of the Australia ICOMOS Burra Charter, 1999: '[g]roups and individuals with associations with a place as well as those involved in its management should be provided with opportunities to contribute to and participate in understanding the cultural significance of the place'.²⁸ This is not addressed in English policy, although an opportunity exists to implement such an approach through the public consultation statutorily required in relation to all planning applications. In the absence of both resources and compulsion, it is perhaps not surprising that the majority of authorities (80%) do not directly engage

with the community in the definition of the significance of registered parks and gardens, other than in the standard statutory consultation.

SECTION 6: INFORMATION

The NPPF requires LPAs to ‘make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible’.²⁹ One-tenth of the responding authorities did not comply with this requirement, but the most common means of presenting the information for the remainder were submission to the HER (55%), and/or publication on the council website (50%), e.g. as part of the wider application-related paperwork (now made available online by most LPAs).

With regard to the availability of information to support both LPAs and applicants, most responding authorities identified a need for practice guidance on the definition of significance (not available at the time of the survey): 74% in respect of the historic environment generally, and 84% in respect of parks and gardens specifically.³⁰ Taken in conjunction with the other findings outlined above, this suggests that significance is not yet fully understood as a concept, and that its application to the conservation of historic parks and gardens is currently suboptimal. In its turn, this suggests an on-going degree of vulnerability for these particular historic assets within the planning system.

CONCLUSIONS

The findings from the 2012 questionnaire survey demonstrate mixed progress since Stacey’s 1992 assessment. The identification of non-registered historic parks and gardens is still limited, although the potential for their protection has improved with the advent of PPS5 and, subsequently, the NPPF. LPAs are still reliant for the most part on a range of tools designed for other purposes, but information recording has improved, as has the coverage of local policy, and the identification of staff with responsibilities for parks and gardens. The statutory consultation requirement long sought by the GHS is now in place, albeit widely misunderstood.

The most striking similarity between the two studies, however, is the consistent call for the increased protection for historic parks and gardens within the planning system, and the introduction of statutory measures. Statutory protection is now unlikely, despite the high level of support expressed by practitioners. It was considered, but rejected, when the register-related legislation was being introduced in 1983, and work on the practicalities of a garden consent regime was undertaken by John Pendlebury and the GHS, but the issue has not had a profile in subsequent debates, and was notably omitted from the draft Heritage Protection Bill in 2008.³¹ Subsequent legislative opportunities have been limited, and focused primarily on piecemeal elements of the original heritage protection reform agenda, within a wider context of deregulation.³² In this climate, policy-based measures perhaps offer a more pragmatic route to enhancing protection. The NPPF itself reflects the wider ‘deregulatory’ approach currently in force, however, being a distillation of all previous planning policy, and even accompanying technical guidance has now been reviewed and reduced to a minimum courtesy of the Taylor Review.³³

It is imperative that parks and gardens are understood if they are to be conserved, as outlined in the Florence Charter and the NPPF, and by EH and the work of Kate Clark.³⁴ The findings from this survey of English LPAs suggest that many would welcome further support in the development of that understanding, and that that support is indeed necessary. In the absence of increased financial resources for LPAs, tailor-made guidance on the assessment of significance for historic parks and gardens will be an important first

step in providing that support, and other actions to increase the profile of these important features within the English historic environment, and the effectiveness of measures for their conservation.

Returning to the provisions of the Florence Charter, the advent of the register and, more recently, the policy within the NPPF together ensure that the ‘appropriate legal and administrative measures’ are in place within English practice for the identification and listing of historic parks and gardens, both national and local. With regard to measures for protection, appropriate reference is made within ‘documents relating to regional and local planning’ (arguably the NPPF), and is increasingly addressed ‘within the framework of land-use plans’ at the local level, but in light of the contrast between the provisions for buildings and those for parks and gardens, and the findings outlined above, the provision in respect of protection must be regarded as less clearly satisfied.

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- ² D. Bell, *The Historic Scotland Guide to International Conservation Charters* (Edinburgh: Historic Scotland, 1997), p. 5.
- ³ Mary S. Stacey, *The Protection of Historic Parks and Gardens in the Planning System (WP 29)* (Bristol: Faculty of the Built Environment, University of the West of England, 1992). Others have, however, assessed particular elements of protection in the interim, a notable example being Lambert and Shacklock’s review of appeal decisions; David Lambert and Vincent Shacklock, ‘Historic parks and gardens: a review of legislation, policy guidance and significant court and appeal decisions’, *Journal of Planning and Environment Law*, July (1995), pp. 563–73. In addition, in 2006, Lambert and Lovie provided a valuable overview of progress with garden protection, and a commentary on the then state of play; David Lambert and Jonathan Lovie, ‘All rosy in the garden? The protection of historic parks and gardens’, *Journal of Architectural Conservation*, 12/3 (2006), pp. 83–106.
- ⁴ John Delafons, *Politics and Preservation: A Policy History of the Built Heritage, 1882–1996* (London: E&FN Spon, 1997), p. 34.
- ⁵ Charles Mynors, *Listed Buildings, Conservation Areas and Monuments*, 4th edn (London: Sweet & Maxwell, 2006), p. 19.
- ⁶ UK Government, *Planning and Compulsory Purchase Act 2004: Elizabeth II. Chapter 5* (London: HMSO, 2004), s. 38(6).
- ⁷ Joe Weston, ‘EIA, decision-making theory and screening and scoping in UK practice’, *Journal of Environmental Planning and Management*, 43/2 (2000), pp. 185–203.
- ⁸ Department of the Environment (DoE)/Department for National Heritage (DNH), *Planning Policy Guidance (PPG15): Planning and the Historic Environment* (London: HMSO, 1994), p. 1; Department for Communities and Local Government (DCLG), *National Planning Policy Framework (NPPF)* (London: DCLG, 2012), p. 2.
- ⁹ Lewis Silkin, Minister of Town and Country Planning, Hansard, Parl. Debs (ser. 5): HC Deb 29 January 1947 vol. 432 cc. 947–1075.
- ¹⁰ This provision had been inserted as Section 8C in the Historic Buildings and Ancient Monuments Act 1953, by Section 33(3) and paragraph 10 of Schedule 4 of the National Heritage Act 1983; it took effect on 1 April 1984, via the National Heritage Act 1983 (Commencement No. 4) Order 1984.
- ¹¹ Department of the Environment (DoE), *Circular 8/87: Historic Buildings and Conservation Areas – Policy and Procedures* (London: HMSO, 1987), p. 5.
- ¹² National Heritage Select Committee, *Third Report: Our Heritage: Preserving It, Prospering From It*, Vol. I: *Report and Minutes of Proceedings* (London: HMSO, 1994), p. xxi.
- ¹³ The GHS provision appeared first in a DoE circular letter dated 28 April 1995 covering the Town and Country Planning (Consultation with the Garden History Society) Direction 1995. Within a month that direction was reissued in Circular 9/95: General Development Order Consolidation 1995, which also explained the new EH provision (itself introduced via the separate Town and Country Planning (General Development Procedure) Order 1995. At the time of writing, the EH provision was included in the Town and Country Planning (Development Management Procedure) (England) Order 2010.
- ¹⁴ DoE/DNH, *Planning Policy Guidance (PPG15)*, pp. 25–26.
- ¹⁵ *Ibid.*, p. 16.
- ¹⁶ Department for Communities and Local Government (DCLG), *Planning Policy Statement 5 (PPS5): Planning for the Historic Environment* (London: HMSO, 2010).
- ¹⁷ *Ibid.*, p. 7.
- ¹⁸ Department for Communities and Local Government (DCLG), *PPS5 Planning for the Historic Environment: Planning Practice Guide* (London: HMSO, 2010), p. 12.

¹⁹ DCLG, *National Planning Policy Framework (NPPF)*, pp. 18–20.

²⁰ Christopher Dingwall and David Lambert, *Historic Parks and Gardens in the Planning System: A Handbook* (Reigate: Landscape Design Trust, 1997), p. 15.

²¹ Stacey, *Protection of Historic Parks and Gardens in the Planning System*.

²² *Ibid.*, p. 38.

²³ This aspect of the analysis excluded NPA respondents, for whom English Heritage's (EH) National Heritage List for England (NHLE) data was not available ($n = 126$). NHLE data from December 2012 suggest that 91% of local planning authorities have at least one registered park or garden in their area; 93% of all respondents stated that there were registered historic parks and gardens in their area (compared with 72% in Stacey's work: registration has continued apace since 1992).

²⁴ English Heritage, Association of Local Government Archaeological Officers, and Institute of Historic Building Conservation, *A Fourth Report on Local Authority Staff Resources – August 2012* (London: English Heritage, 2012).

²⁵ English Heritage, *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment* (London: English Heritage, 2008).

²⁶ DCLG, *National Planning Policy Framework (NPPF)*, p. 30.

²⁷ DCLG, *Planning Policy Statement 5*

(*PPS5*), p. 6.

²⁸ Australia ICOMOS, *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 1999* (Burwood: Australia ICOMOS, 2000), p. 8.

²⁹ DCLG, *National Planning Policy Framework (NPPF)*, p. 32.

³⁰ No respondents made reference to the GHS's Planning and Conservation Advice Notes (PCANs), suggesting that these valuable aids to the consideration of parks and gardens in a planning context could usefully be promoted more widely, particularly PCAN 14 (Management Plans), which does address significance.

³¹ John Pendlebury, *Working Paper No. 44: Historic Parks and Gardens and Statutory Protection* (Newcastle upon Tyne: Department of Town and Country Planning, University of Newcastle upon Tyne, 1996).

³² An example being the Enterprise and Regulatory Reform Act 2013.

³³ Department for Communities and Local Government (DCLG), *External Review of Government Planning Practice Guidance* (London, HMSO, 2012).

³⁴ ICOMOS, *Historic Gardens*; DCLG, *National Planning Policy Framework (NPPF)*; English Heritage, *Conservation Principles*; Kate Clark, *Informed Conservation: Understanding Historic Buildings and their Landscapes for Conservation* (London: English Heritage, 2001).