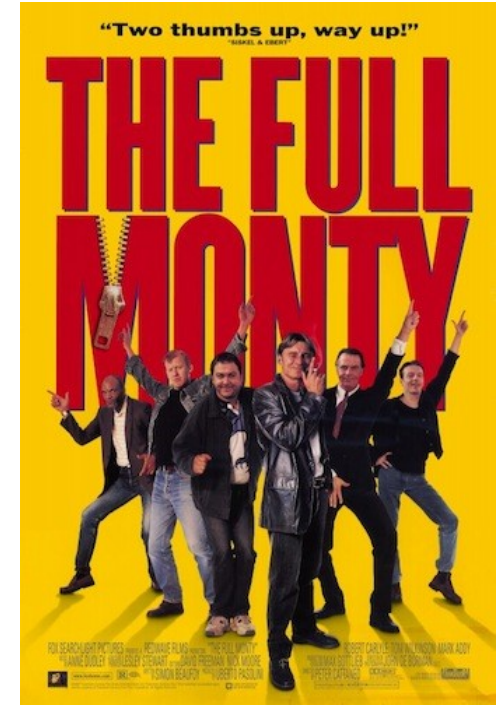




Historic England

*‘We may not be young, we may not be pretty, we may not be right good, but we’re here’ – and we’re worth protecting:*  
**THE PLANNING POLICY  
CONTEXT TO THE  
PROTECTION OF HISTORIC  
PARKS AND GARDENS**

VICTORIA THOMSON  
HEAD OF PLANNING ADVICE AND REFORM

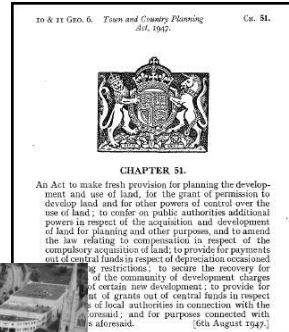




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# What is Planning?

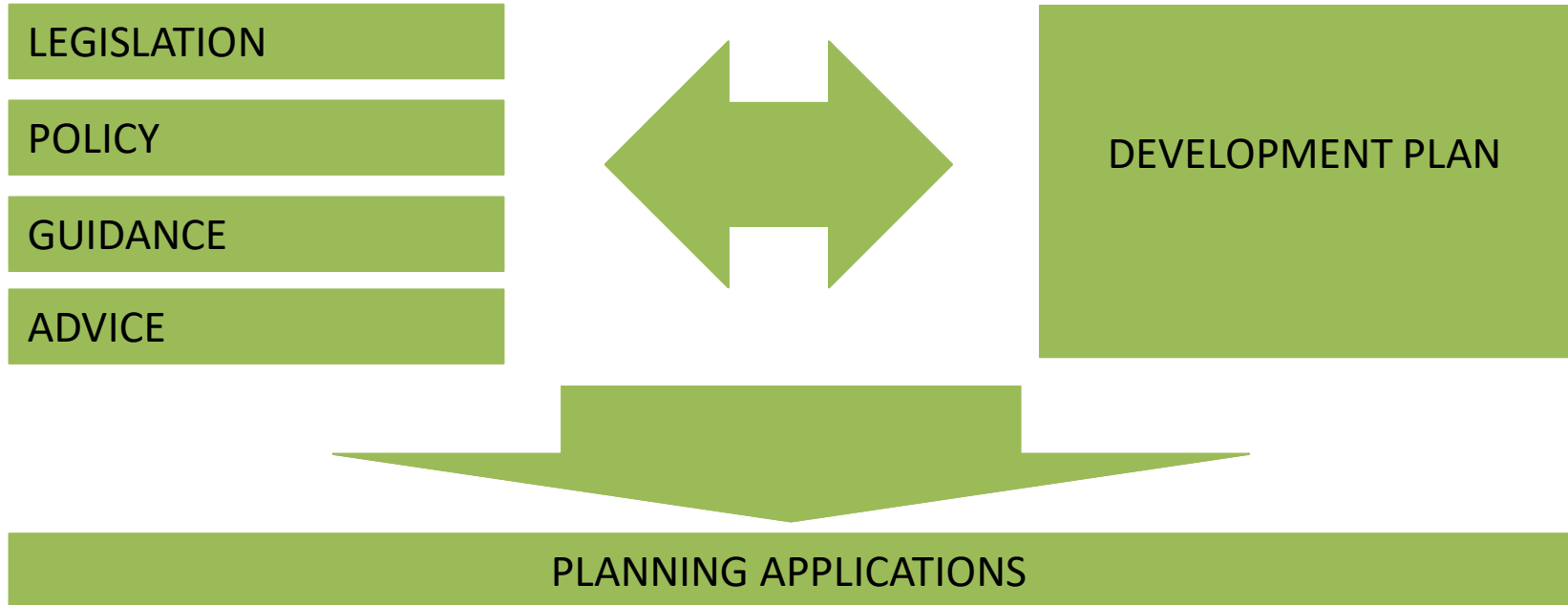
- Origins of the current planning system lie in the 1947 Town and Country Planning Act
- The *specific* purpose (and detail) may change:
  - **1947:** The objects of town & country planning are...to secure a proper balance between competing demands for land
  - **Now:** The purpose of the planning system is to contribute to the achievement of sustainable development
- It's all-changing, all the time, BUT the *general* structure/purpose remains the same





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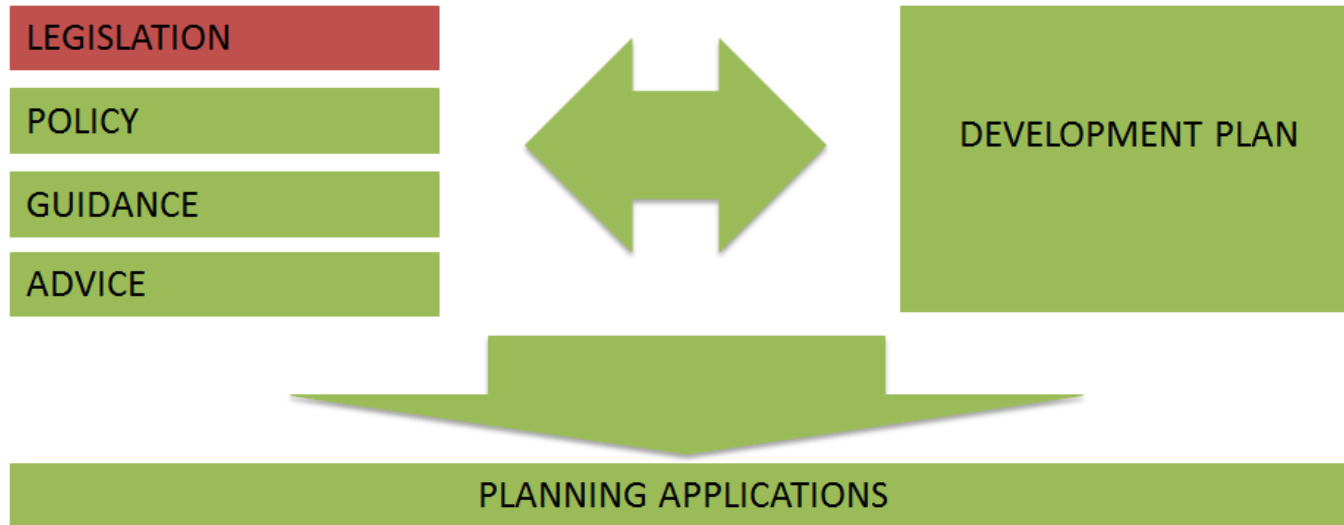
# The Planning System





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# Legislation

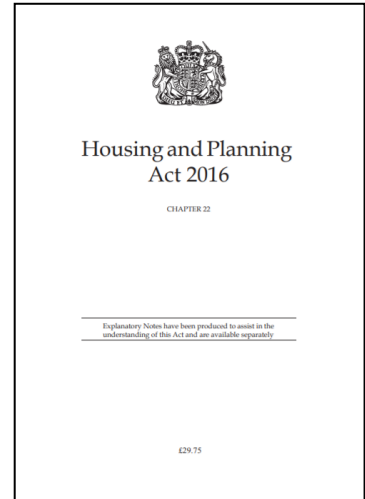




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# Legislation

- Legislation is inflexible, high-level and binding
- Planning and other Acts (and related regulations) set the rules within which planning system operates
- E.g.:
  - How local plans should be prepared
  - Who needs to be consulted on local plans and planning applications
  - What can be designated





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# Policy

LEGISLATION

POLICY

GUIDANCE

ADVICE



DEVELOPMENT PLAN



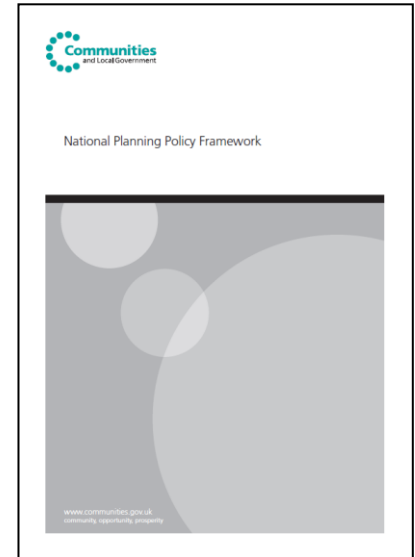
PLANNING APPLICATIONS



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# Policy

- Policy is more flexible, still high-level and, whilst not binding, does have a great deal of weight
- National planning policy is produced by Government
- The main component of this is the National Planning Policy Framework (NPPF)
- NB changes to the NPPF are expected soon....

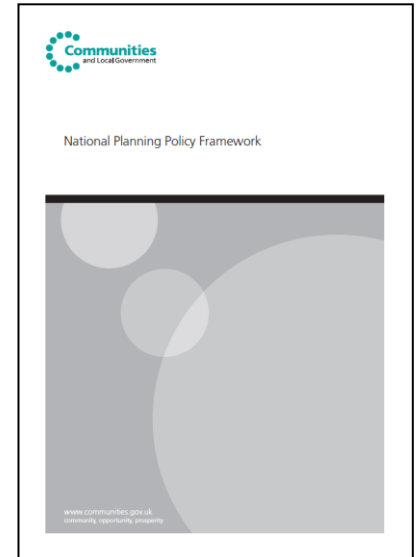




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# Policy

- The NPPF covers a wide range of policy areas, from housing to transport to the historic environment
- The NPPF must be taken into account in the preparation of development plans
- It is also a 'material consideration' in planning decisions







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# Conserving and Enhancing the Historic Environment

- The policy within the NPPF relating to the historic environment has three main components:
  - **Evidence:** Gather appropriate evidence
  - **Strategy:** Positive strategy for the conservation/enjoyment of the historic environment, inc. heritage assets most at risk
  - **Decision-Making:** Assess significance and impact of proposals upon it

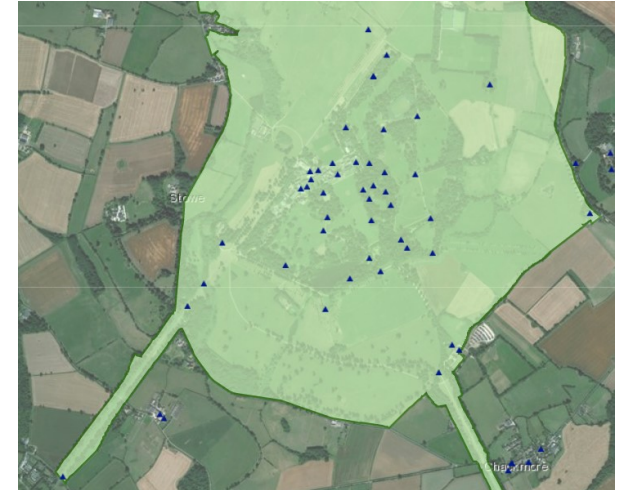




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## Evidence

- Need sufficient evidence to inform local plan policies and decisions on planning applications
- Understand the nature and importance of both known and potential sites
- 'Some asset types are not currently well-recorded. The Register ... is thought to represent only around 2/3 of sites potentially deserving inclusion'
- Evidence gathering can also support local listing or Conservation Area designation
- Research and recording projects very useful in this regard





# Historic England

## Strategy

- NPPF requires that Local Plans should set out 'a positive strategy for the conservation and enjoyment of the historic environment'
- This should include addressing 'heritage assets most at risk through neglect, decay or other threats'
- 'Positive strategy' means that conservation should not be a 'passive exercise'
- Delivered through wide range of development plan policies, and not just 'heritage' ones
- Neighbourhood plans only required to be in general conformity with strategic local plan policies: important to have clear *strategic* policies for heritage
- Plan may usefully include policy for the conservation of P&G (2012: 68% of LPAs had one)





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## Decision-Making

- Relevant policy applies to ‘heritage assets’, which include parks and gardens
- *Designated heritage assets:*
  - Registered parks and gardens (Grades I and II\* are ‘of the highest significance’)
  - Most LPAs have at least one (though not all know how many they have...)
- *Non-designated heritage assets:*
  - Parks and gardens identified by the LPA
  - In 2012, c. half LPAs had formally identified parks and gardens in this category





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# Significance

- Policy predicated in large part on ‘significance’
- Strongly-worded and high-profile policy within the NPPF
- If applied properly, provides the necessary tools to give heritage protection its proper weight within the planning process





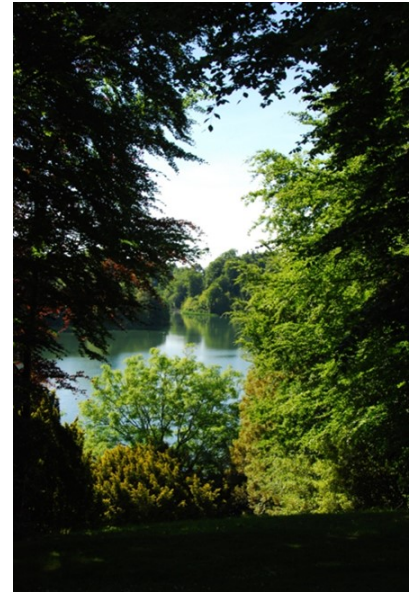
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# Significance

*The value of a heritage asset to this and future generations because of its heritage interest.*

*That interest may be archaeological, architectural, artistic or historic.*

*Significance derives not only from a heritage asset's physical presence, but also from its setting.*





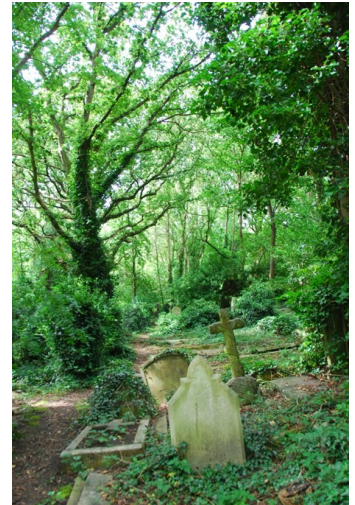


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# Significance

For **all** heritage assets:

- LPAs to require applicants to describe significance of affected heritage assets
- LPAs to identify and assess the particular significance that may be affected by a proposal
- Take this into account when considering impact





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# Applying the Concept of Significance

GPA2 outlines the steps in the process:

- Understand the significance of the affected assets
- Understand the impact of the proposal on that significance
- Avoid, minimise and mitigate impact in a way that meets the objectives of the NPPF
- Look for opportunities to better reveal or enhance significance
- Justify any harmful impacts in terms of the sustainable development objective of conserving significance and the need for change
- Offset negative impacts on aspects of significance by enhancing others (inc. through recording, disseminating and archiving)



Managing Significance  
in Decision-Taking in the  
Historic Environment

Historic Environment Good Practice Advice in Planning 2







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# Understanding Significance

- Gather information (desk and field survey)
- **Analyse** the information to define significance:
  - Understand the fabric and its evolution
  - Determine the interests represented in it, and their relative importance
- Further help available:
  - GPA2 (and GPA3...)
  - *Conservation Principles*

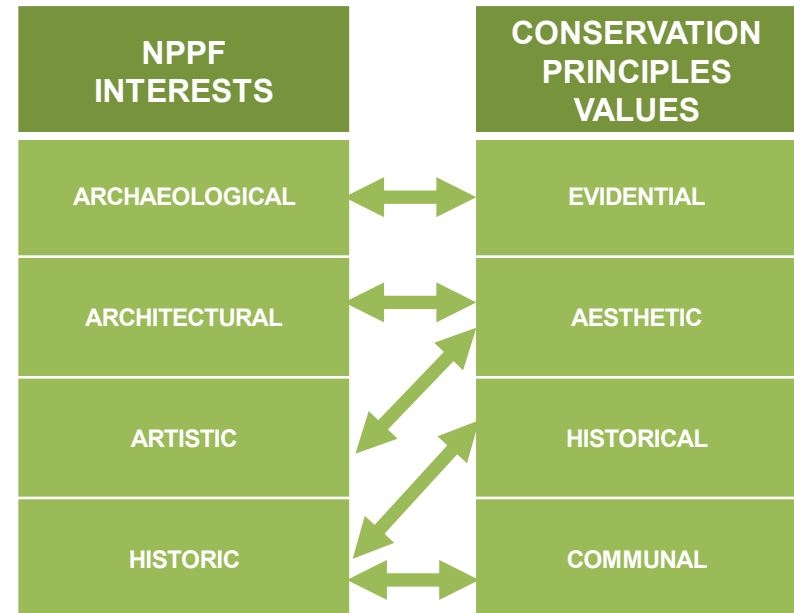




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# Conservation Principles

- 2008 statement of Historic England approach to making decisions
- Six principles provide a comprehensive framework for the sustainable management of the historic environment
- Predates NPPF
- Currently being revised





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# Significance

- For **non-designated** heritage assets:
  - Effect on significance should be taken into account
  - Balanced judgement required, having regard to:
    - The scale of any harm or loss
    - The significance of the heritage asset





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# Significance

- For **designated** heritage assets:
  - Give great weight to the asset's conservation
  - Any harm or loss should require clear and convincing justification
  - Substantial harm to/loss of a Grade II registered park or garden should be exceptional, and, with regard to a Grade I/II\*, wholly exceptional





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# Significance

- For **designated** heritage assets:
  - Substantial harm to/loss of significance? Refuse consent, unless:
    - Substantial harm/loss demonstrably necessary to achieve substantial public benefits that outweigh it, or...
    - Various tests (listed in the NPPF) apply
  - Less than substantial harm? Weigh harm against public benefits





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# What is ‘substantial harm’?

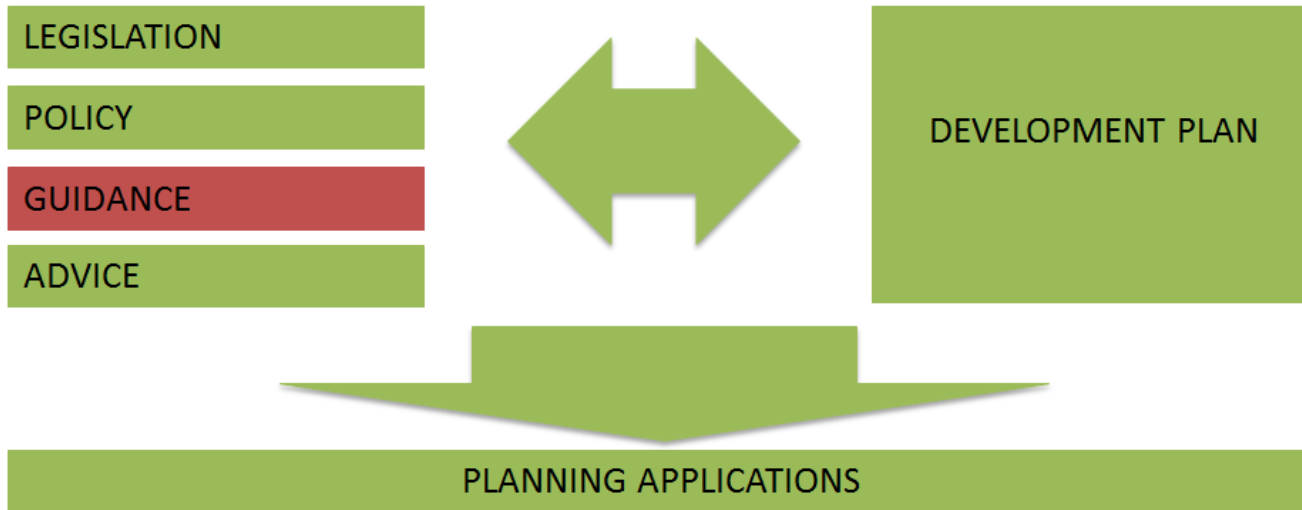
- What matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset (includes setting)
- A judgement for the decision taker in light of case and NPPF
- Substantial harm is a high test, so it may not arise in many cases
- ‘Less than substantial’ does not mean ‘minor’
- Decision on level of harm effectively signposts which policy to apply
- Does the adverse impact seriously affect a ‘key element’? An ‘important consideration’
- The impact of total destruction is obvious...
- Assess *degree* of harm to the asset’s significance rather than *scale* of development





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# Guidance





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# Guidance

- Guidance is also produced by Government, and provides more detail on the implementation of legislation and policy
- Online: <https://www.gov.uk/government/collections/planning-practice-guidance>
- Q&A format:
  - Where can local planning authorities get help to assess the significance of heritage assets?
  - What is a historic environment record?

**Planning practice guidance categories**

We have revised and updated planning practice guidance to make it accessible.

Search [planning practice guidance](#)

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**Advertisements**  
8 March 2014   Guidance

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**Air quality**  
8 March 2014   Guidance

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**Appeals**  
3 March 2014   Guidance

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**Before submitting an application**  
8 March 2014   Guidance

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**Climate change**  
11 June 2014   Guidance

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**Community Infrastructure Levy**  
11 June 2014   Guidance

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**Conserving and enhancing the historic environment**  
9 April 2014   Guidance

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**Consultation and pre-decision matters**  
8 March 2014   Guidance

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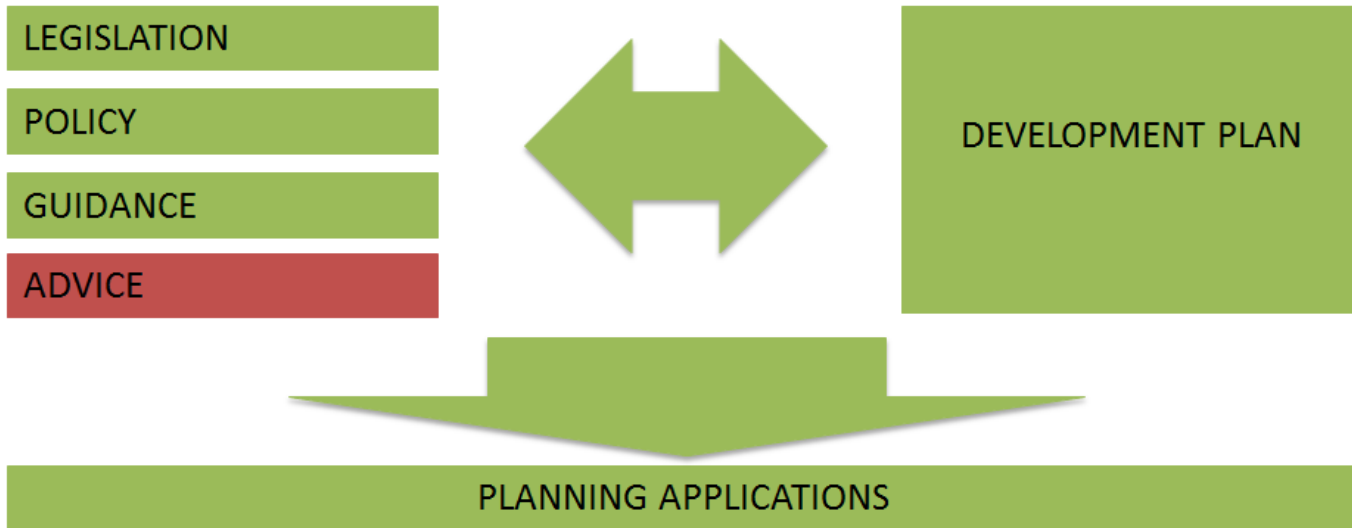
**Crown development**  
8 March 2014   Guidance





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# Advice





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# Good Practice Advice



## The Historic Environment in Local Plans

Historic Environment Good Practice Advice in Planning: 1



## Managing Significance in Decision-Taking in the Historic Environment

Historic Environment Good Practice Advice in Planning: 2



## The Setting of Heritage Assets

Historic Environment Good Practice Advice in  
Planning Note 3 (Second Edition)



ENABLING  
DEVELOPMENT  
AND THE CONSERVATION  
OF SIGNIFICANT PLACES





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# Historic England Advice Notes

- **HEAN 1** Conservation Areas: Designation, Appraisal & Review
- **HEAN 2** Making Changes to Heritage Assets
- **HEAN 3** Site Allocations
- **HEAN 4** Tall Buildings
- **HEAN 5** Setting up a Listed Building Heritage Partnership Agreement
- **HEAN 6** Drawing up a Local Listed Building Consent Order
- **HEAN 7** Local Heritage Listing
- **HEAN 8** Sustainability Appraisal & Strategic Environmental Assessment
- **HEAN 9** The Adaptive Reuse of Traditional Farm Buildings
- **HEAN 10** Curtilage
- More coming soon....
- Suggestions and questions: [governmentadvice@HistoricEngland.org.uk](mailto:governmentadvice@HistoricEngland.org.uk)



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## The Historic Environment and Site Allocations in Local Plans

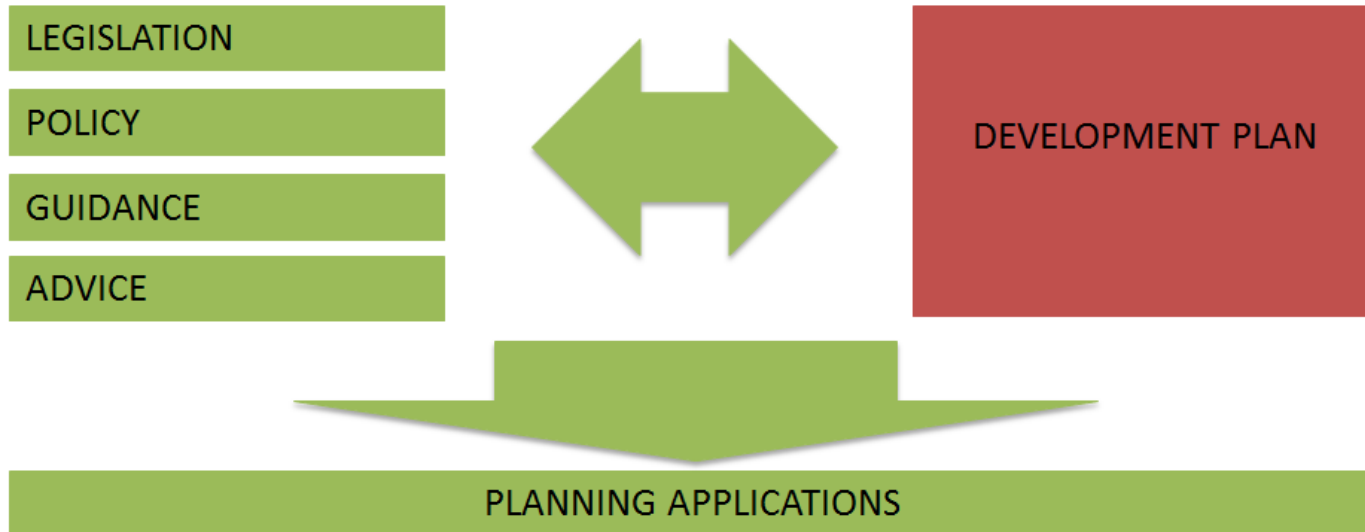
Historic England Advice Note 3





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# Development Plan





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# Why Do Development Plans Matter?

- Plans since 1947
- 'Plan-led' system since 1991
- Therefore important to:
  - Influence plan content at outset
  - Understand wider policy context to proposals

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.**

Planning and Compulsory Purchase Act 2004,  
Section 38(6)



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# Why Do Development Plans Matter?

- The principle of development is established in the Plan
- Fighting that at application stage is akin to rearranging deckchairs on the Titanic....





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# What is the Development Plan for an Area?

<b>STRATEGIC</b> (London/Combined Authorities)	SPATIAL DEVELOPMENT STRATEGY/JOINT LOCAL PLAN
<b>COUNTY/UNITARY</b>	MINERALS AND WASTE PLAN
<b>DISTRICT/UNITARY/NPA</b>	LOCAL PLAN/JOINT LOCAL PLAN
<b>PARISH/NEIGHBOURHOOD FORUM</b>	NEIGHBOURHOOD PLAN



# Historic England







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# Local Plan Content

- Generally:
  - Plan positively for the development and infrastructure required in the area
  - Clear policies on what will or will not be permitted, and where
- Set out the strategic priorities for the area, including policies to deliver conservation and enhancement of the historic environment, including landscape
- Local plan to also include detailed policies as needed (e.g. parks and gardens)





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# Using the Development Plan

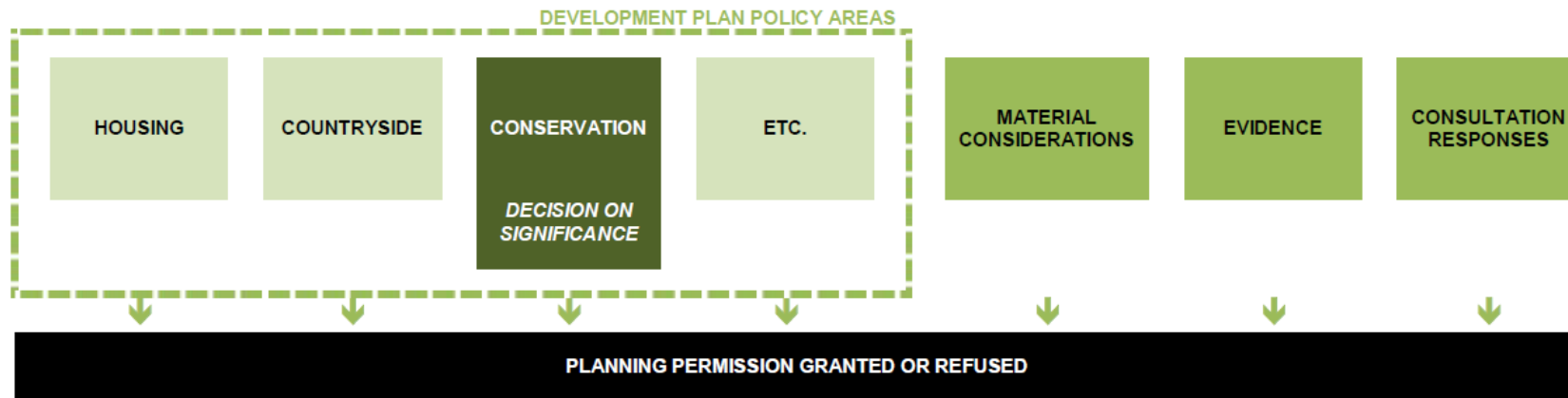
- Wide range of policies to be considered within a decision on an application
- NPPF gives heritage policy a lot of relative weight
- Still important to consider the 'competition'





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# A Decision Within A Decision





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# Neighbourhood Planning

- Various planning-related powers for local communities
  - Neighbourhood plans
  - Neighbourhood Development Orders
  - Community Right to Build Orders
  - Assets of Community Value

## **LOCALISM**

- Localism Act 2011
- Increased emphasis on community empowerment
- Some tensions with wider planning changes



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# Neighbourhood Plans

- Part of the development plan
- Have the same legal status as the Local Plan as soon as approved at a referendum
- Must conform with strategic local plan policies
- Conflicts between local and neighbourhood plan policies must be resolved in favour of the policy in the most recent addition to the development plan
- Policies in neighbourhood plans should reflect and respond to the unique characteristics and planning context of the neighbourhood area





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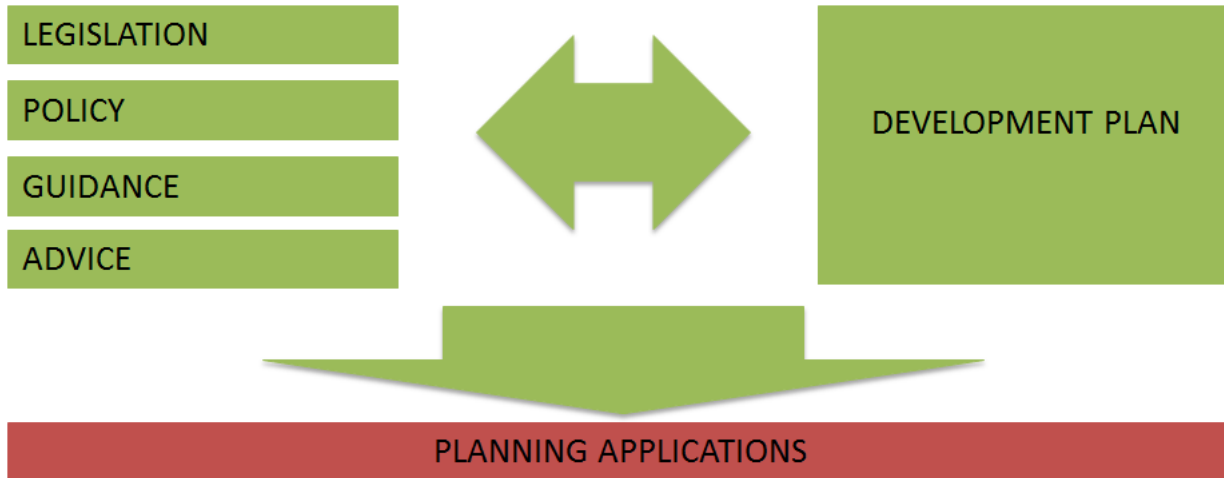
# Preparing a Neighbourhood Plan





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# Planning Applications





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# Planning Applications

- Statutory P&G consultation requirements since 1995:
  - Relates to 'development likely to affect' registered parks and gardens: not necessarily 'in' the designated site
  - Applied with varying degrees of success (in 2012, 1/3 of LPAs appeared not to be complying)
- No statutory duty in respect of registered P&G
- Applications determined in light of policy
- Limited heritage input to consideration of applications? (37% decrease in conservation specialists advising LPAs since 2006)

	I	II*	II
HE	✓	✓	
TGT	✓	✓	✓





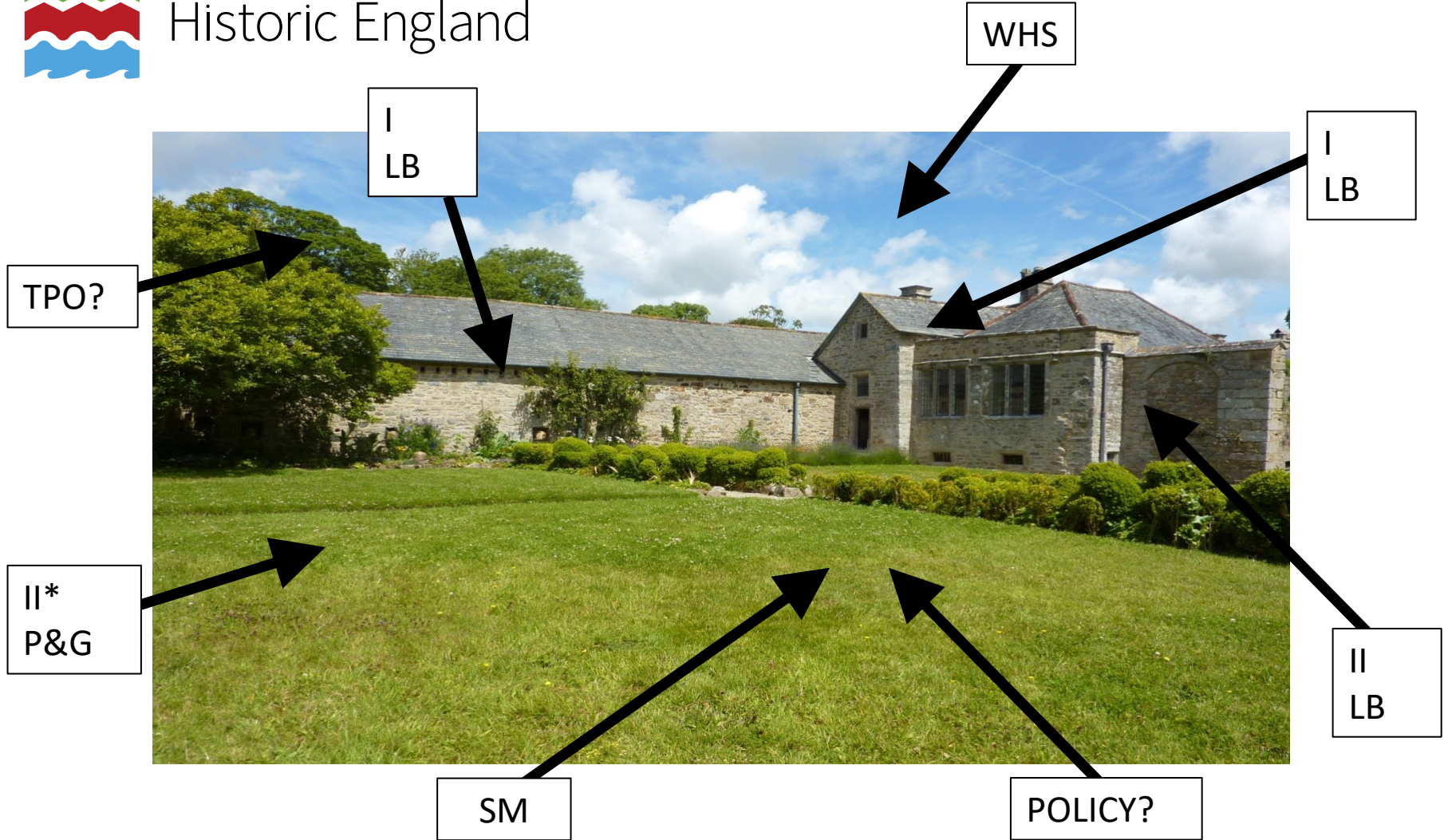
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# **How to Make the Planning System Work for You**

- Be creative



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# How to Make the Planning System Work for You

- ✓ Be creative
- ✓ Engage (constructively)
- ✓ Don't worry (too much) about knowing planning: know gardens!

