

Gardens Trust Training Handout: Designations protecting the historic designed landscape

A. Key national designations affecting the historic environment

1. Listed buildings
2. Scheduled Monuments (generally archaeology)
3. Registered Battlefields
4. Registered Parks and Gardens (and other designed landscapes)

Designations frequently overlap; so, for example, you may have a registered landscape which includes one or more listed buildings, a Scheduled Ancient Monument – and it might even relate to a registered battlefield. Use the different protections afforded to each type of asset intelligently to gain maximum protection for the landscape!

- 1. Listed buildings** are statutorily protected – in terms of planning, any proposal for change must be accompanied by an application for listed building consent. When considering an application for works either *to* or *affecting* a listed building must take into account impact on its setting (which may be a nationally or locally designated designed landscape). NPPF Paras 189, 190 and even 197 underpin this. This can be immensely helpful in protecting historic landscapes which so often provide the setting for a principal listed building, or subsidiary listed structures such as kitchen garden walls, gates, gatehouses, temples and follies etc. See also para 194.

Where **undesigned buildings or structures** in the landscape are affected, the applicant must still consider significance: NPPF para 197 states that “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application...a balanced judgement will be required having regard to the scale of harm or loss...”.

Objects or structures within the curtilage of a listed building prior to 1st July 1948 are protected by the listing and are known as “curtilage listed structures”. These might include statuary, garden walls, steps, terraces, fountains, ha-has. However in some cases features of this kind may be listed structures in their own right, especially if they are of particular aesthetic or historic significance. Check the entries on the



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on-line **National Heritage List for England** to see what is listed at a particular place (see below for the web link).

- 2. Scheduled monuments** are statutorily protected – these tend to be earthworks, ruins and other archaeological sites, but will also include substantial built structures. Any works which affect them must receive scheduled monument consent from the Secretary of State for Culture Media and Sport via English Heritage, aside from the process of planning permission. Consent is an entirely separate matter from the need, or not, to obtain planning permission.

Earthworks as evidence of past features in a historic park or garden could be eligible for scheduling (see EH website). We may tend to think of Scheduled Monuments as “pure” archaeology, but they can sometimes have an intimate connection to a designed landscape. Think, for example, of the ruins of Fountains Abbey and the landscape of Studley Royal; or Warwick Castle and the registered Castle gardens and park. Even relatively small Scheduled archaeological features can sometimes be found incorporated into a landscape design: at Pencarrow, Cornwall, the C19 drive passes through an Iron Age fort which serves as a picturesque ‘incident’ on the approach to the house.
- 3. Registered Battlefields** have no statutory protection in England. They are, however a material consideration in the planning process, as are proposed developments which may affect their setting. Some designed landscapes are closely related to, and may form the setting for historic battlefields. In such cases, check the Local Plan for relevant policies and see whether the applicant has demonstrated that the proposals will not adversely affect the battlefield or its setting.
- 4. Parks and gardens** are afforded no statutory protection in England, whether Registered or not (it is a *Register* rather than a listing or a scheduling) BUT the fact that a park or garden is Historic England Registered is a *material consideration* in the planning application decision-making process AND if the Local Plan includes a clause in which the local planning authority undertakes to protect Registered parks and gardens and those on the Local List (as it should), or even more generically ‘historic landscapes’, this affords these sites a level of statutory protection as LPAs are required by law to make decisions in accordance with their plans “*unless there are exceptional*”



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circumstances” (author’s italics; Section 54 Town and Country Planning Act 1990).

B. Other designations relevant to historic designed landscapes

These include:

5. Conservation Areas
6. Tree Preservation Orders (TPO)
7. National Parks /Areas of Outstanding Natural Beauty (AONB) / Green Belts
8. World Heritage Sites

These may overlap with some of the national designations applied to heritage assets described above, so a degree of cumulative protection may be gained for the historic landscape.

- 5. Conservation areas** are designated (largely by local authorities) for “their special architectural or historic interest in the character or appearance of which it is desirable to preserve or enhance”. Permitted development rights can be withdrawn in conservation areas (known as an Article 4 direction), and developers are required to seek the advice of their local conservation officer on proposed alterations within a conservation area; these will often require planning permission. An increasing number of Registered parks and gardens now fall within conservation areas.

Local authorities are advised to develop Conservation Area Appraisals for these areas, reflecting what features contribute to the special character of an area and there are opportunities for public comment on these. Some areas within the Conservation Area, therefore, are considered more important than others and this is likely to influence the planning decision. Also, the developer might argue that the proposal enhances the character of an area through high quality design so conservation area status does not afford blanket protection. In fact, para 200 of the NPPF suggests that LPAs “should look for opportunities for new development within Conservation Areas...and within the setting of heritage assets to enhance or better reveal their significance. Proposals...should be treated favourably.”

Conservation Areas tend to have been designated principally in urban areas. In such locations a designed landscape, perhaps a public park, town walk or cemetery (whether registered or not) may provide an



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aesthetic focal point to the locality and make a very significant contribution to the “special architectural or historic character” of the place.

Of course some rural conservation areas have been designated. These might include estate villages, such as the C18 model village at Milton Abbas, Dorset which adjoins the Grade II* registered landscape of Milton Abbey and forms part of the overall C18 aesthetic concept.

Local authorities are required to periodically review the boundaries of Conservation Areas from time to time and this can be a good time to request amendment eg to include a park or garden that has been previously excluded. Check with your local authority website for more details of this.

- 6. Tree Preservation Orders (TPO)** are a locally imposed designation which can be intended to protect individual trees, groups of trees, or in some cases whole areas of woodland (known as a “blanket TPO”). The local authority will usually have a Tree Officer who is responsible for monitoring and enforcing TPOs in that area. The designation allows the local authority to fine owners if they carry out unauthorised tree works (pruning, lopping or felling), and re-planting can be made obligatory. The effectiveness of TPOs depends, of course, upon the willingness and resources of the local authority to monitor and enforce them. TPOs require a note of caution. Where they have been inappropriately designated (without, for example, a thorough understanding of the historic significance - or insignificance - of the tree or trees in question), they can inhibit the proper management of the historic environment. Be careful what you wish for!
- 7. Green Belts/National Parks/Areas of Outstanding Natural Beauty (AONBs)** are designated in order to prevent urban sprawl. New developments are not normally allowed in Green Belt areas and any new structure will come under considerably scrutiny in any planning proposal. Paras 136 and 137 of the National Planning Policy Framework (NPPF) lay out how exceptional any development would be. For National Parks and AONBs, the NPPF states that major developments should be refused except in particular circumstances, and that the conservation of wildlife and cultural heritage are of considerable weight in any proposal in these areas (NPPF para 172).



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National Parks act as their own planning authority. One of the aims of National Parks laid down in legislation is to Conserve and enhance the natural beauty, wildlife and cultural heritage.

AONBs do not have a separate planning authority but do have a management board comprising representatives of the local authority and the local community. These can be very useful allies for CGTs, especially when faced by major development proposals – e.g. HighSpeed2 which affects the Chilterns AONB as well as several registered landscapes such as Hartwell House. AONBs have statutory protection in order to conserve and enhance the natural beauty of the landscape.

- 8. World Heritage Sites** – are not afforded any statutory protection in England, but obviously there is considerable moral pressure which can be brought to bear to head off inappropriate development. Many World Heritage Sites include registered landscapes and other nationally designed heritage assets and local designations. Much of central Bath is covered by a World Heritage Site designation; it also includes several registered public parks, many listed buildings and a Conservation Area.

C. National Planning Policy Framework (NPPF) and designation

Designation of the historic environment forms part of overall national planning policy. While the NPPF gives overall important guidance for consideration of heritage assets, parts of it can be particularly useful in addressing issues that arise when considering historic landscapes. Pay particular attention to the following paragraphs in Section 16 (this is guidance only – make sure you look at the whole section at some point to check you’ve drawn on all possible clauses):

- **Para 189** describes how applicants should be required to describe the significance of any heritage assets affected, including any contribution made by their setting, in detail proportionate to the requirement to understand the potential impact of the proposal on this significance. It requires that, at the minimum the HER should have been consulted, with expertise brought in as necessary. LPAs are expected to require developers to undertake desk-based study or field survey where a site has archaeological interest.
- **Para 190** underlines that LPAs should identify and assess significance of heritage assets potentially affected (including setting) and take this assessment into account when considering the impact of a proposal.



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- **Para 191** Just because a heritage asset is deliberately neglected or damaged, this should not make a difference in the decision i.e. a developer can't just leave something to deteriorate and then argue it's beyond repair in order to get permission to redevelop a site
- **Para 192** is concerned partly with seeking good design that makes a positive contribution but don't get into too much detail, rather largely considering local context.
- **Para 197** describes how balanced judgements should be made on the scale of the impact of a development on the significance of a non-designated heritage asset.
- **Para 194** lays out that "great weight" should be given to the conservation of designated heritage assets, and substantial harm or loss be "exceptional" or "wholly exceptional". The benefits of the development that causes substantial harm or loss must outweigh the harm or loss and sets out conditions that must be met for this. This is particularly useful to draw on when considering potentially damaging developments.
- **Paras 189, 190, 194 and 200** all include the setting of heritage assets as part of the consideration of impact on significance of a heritage asset.

D. On-line sources of information on heritage designations

To consult the **National Heritage List for England** which includes details of all listed buildings, scheduled monuments, registered battlefields and sites on the Register of Parks and Gardens of Special Historic Interest, go to: www.historicengland.org.uk/listing/the-list

For further information on specific historic environment designations, go to www.historicengland.org.uk/listing/selection-criteria

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