

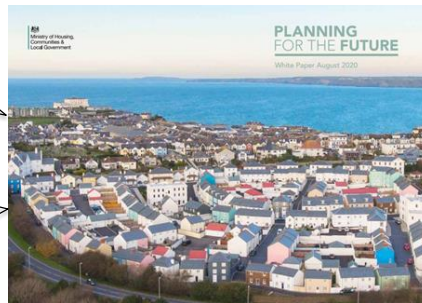


Historic England – formerly English Heritage – is the Government’s statutory adviser on all matters relating to the historic environment in England.

Planning Reform

The [planning system] is beginning to crumble...

... the time has come to... tear it down and start again.



Radical reform unlike anything we have seen since the Second World War...

... levelling the foundations and building, from the ground up, a whole new planning system for England.

Planning reform is very much back on the agenda. The Planning White Paper – Planning for the Future – was issued on 6 August, and consultation closed on 29 October.

What did it propose? A lot. The key message at the outset is the scale of change that's proposed to the system we've been used to in England – in one form or another – since the Town and Country Planning Act of 1947.

The statements here are taken from the Prime Minister's Foreword to the White Paper, and certainly set the scene for substantial change: we are looking at 'radical reform unlike anything we have seen since the Second World War'.

Planning Reform Objectives

- Housebuilding
- A simpler, faster and more predictable system
- Cutting red tape, but not standards
- Greater emphasis on quality, design and local vernacular
- Enhancing local democracy & accountability through technology & transparency



In his own foreword, the Ministry of Housing, Communities and Local Government's Secretary of State, Robert Jenrick, outlines the objectives for this reform. As you will see from this selection, the stated objectives include delivering housing, streamlining the system, ensuring high-quality design, and enhancing local democracy and community engagement in the planning process.



How Is All This Going To Work?

- Currently a high-level vision: detail still to be developed, and implemented via new primary and secondary legislation/revised NPPF
- Three 'pillars', namely planning for:
 - Development
 - Beautiful and Sustainable Places
 - Infrastructure and Connected Places
- Themes explored across 24 proposals
- More to come....

PILLAR 1: PLANNING FOR DEVELOPMENT Proposal 1: The role of land use plans should be simplified. We propose that local plans should identify three types of land – growth areas suitable for substantial development, renewal areas suitable for development, and areas that are protected and should not be developed. Proposal 2: Development management policies established at national scale and an agreed set of local plans. Proposal 3: Local development plans. Proposal 4: A stand-alone development plan. Proposal 5: Areas of local development. Proposal 6: Areas of local development. Proposal 7: Local development plans. Proposal 8: Local development plans. Proposal 9: Local development plans. Proposal 10: Local development plans.	
PILLAR 2: PLANNING FOR BEAUTIFUL AND SUSTAINABLE PLACES Proposal 11: To make design expectations more visible and predictable, we will expect design guidance and codes to be prepared locally with community involvement, and ensure that codes are more binding on decisions about development. Proposal 12: To support the transition to a planning system which is more visible and rooted in local preferences and character, we will set up a body to support the delivery of privately locally popular design codes, and propose that each authority should have a chief officer for design and place-making. Proposal 13: To further embed national leadership on delivering better places, we will consider how Homes England's strategic objectives can give greater emphasis to delivering beautiful places. Proposal 14: We intend to introduce a fast track for beauty through changes to national policy and legislation, to encourage and accelerate high quality development which reflects local character and preferences.	
PILLAR 3: PLANNING FOR INFRASTRUCTURE AND CONNECTED PLACES Proposal 15: The community infrastructure levy should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished. Proposal 16: The scope of the infrastructure levy could be extended to capture changes of use through permitted development rights. Proposal 17: The reformed infrastructure levy should deliver affordable housing provision. Proposal 18: More freedom could be given to local authorities over how they spend the infrastructure levy. Proposal 19: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms. Proposal 20: We will seek to strengthen enforcement powers and sanctions.	

So, how is all this going to work? The very short answer is that we don't know, yet.

The White Paper sets out what is still just the Government's vision for the basis of a reformed planning system. It explains that:

Subject to the outcome of this consultation, we will seek to bring forward legislation and policy changes to implement our reforms. We have not comprehensively covered every aspect of the system, and the detail of the proposals will need further development pending the outcome of this consultation. We will continue to develop the proposals as we gather feedback and views on them.

We do know that primary legislation – probably in the form of a new Planning Act – will be needed, and secondary legislation in support of that, along with 'updating the National Planning Policy Framework'.

What else do we know? For now, only what's in the White Paper.

The consultation document presents three 'pillars', namely planning for:

- Development
- Beautiful and Sustainable Places
- Infrastructure and Connected Places

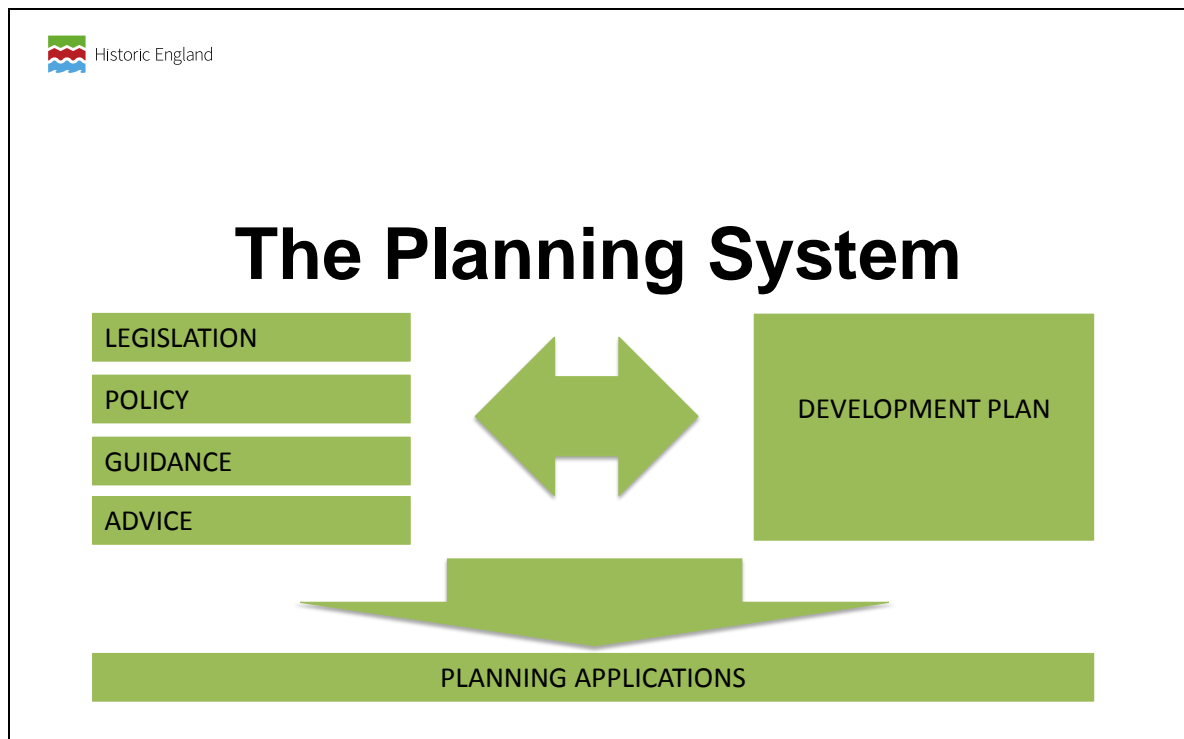
These themes are explored across 24 high-level proposals, with very little detail. The detail will be filled in over coming months, in response to the recent consultation, but also through further consultation on various elements of the vision. We have already seen a consultation on 'changes to the current planning system', launched on the same day as the White Paper. This is therefore the beginning of a long process: lots of work on the detail is needed, and then lots of work on implementing the agreed changes. But nothing is fixed yet.

‘Before and After’

- The plan today is to:
 - Revisit some of the topics covered in this series
 - Consider what might change



It is important to stay engaged in the process – the Government has a lot of work to do, and there is considerable scope for us all to support Government in working up the detail. This presentation seeks to outline what might change if the planning system is amended as currently outlined, with particular reference to historic parks and gardens. It would be impossible to cover all that's in the White Paper and so this just covers the most relevant elements, in a 'before and after' format, with reference to the topics covered in other webinars within this very helpful series.



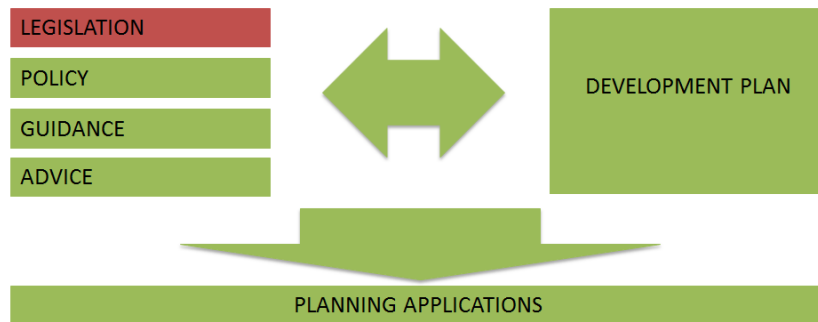
Here's an attempt to describe the planning system in one image. On the left-hand side we see the national elements, which are broadly hierarchical. In general terms, the level of detail of the different elements increases as you move down this part of the diagram, but the weight to be applied to them decreases.

The development plan is where local policies are set out, for specific areas. Planning applications, such as those affecting registered parks and gardens, are determined in light of the development plan, and legislation, policy, guidance and advice.

Will the new planning system still look this? As far as we know, yes, though perhaps with some changes to the shape and size of the different components. The next slides will work through these components in turn.

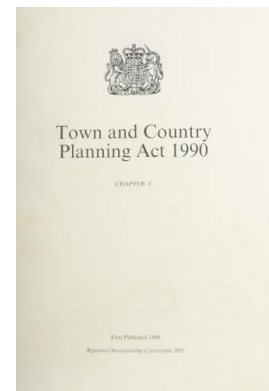


Legislation



Legislation

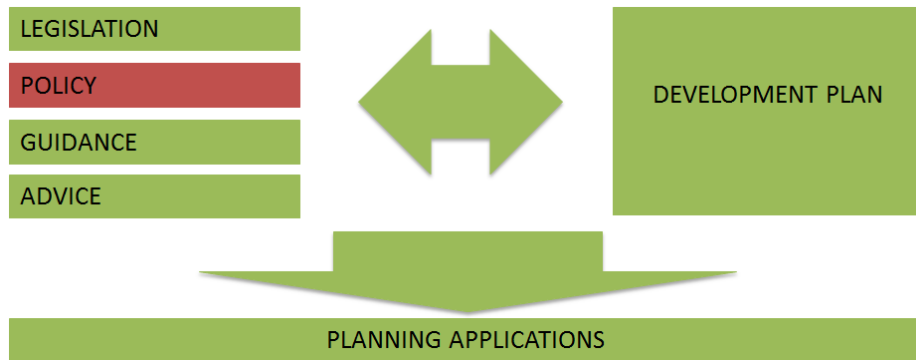
- Legislation is inflexible, high-level and binding
- Planning and other Acts/related regulations set the rules within which the planning system operates
- New planning legislation is expected
- An attempt at consolidating planning legislation is likely



Starting with legislation, which is at the top of the planning system hierarchy, and sets the rules within which planning system operates, we know that:

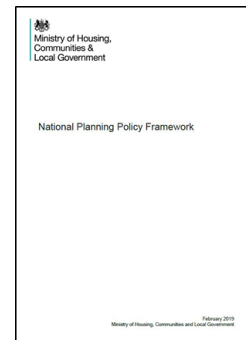
- New planning legislation is expected
- An attempt at consolidating planning legislation is likely, as was last attempted in 1990. Though the 1990 Town and Country Planning Act was accompanied by the Planning (Listed Buildings and Conservation Areas) Act 1990, and soon followed by the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Housing and Planning Act 2016, and many more – it's not straightforward to encapsulate a whole system in one piece of legislation.

Policy



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), which:
 - Covers a wide range of policy areas (including historic environment)
 - Must be reflected in the preparation of development plans/planning decisions
- The NPPF is likely to be retained, though 'updated'
- Its role is likely to increase, as the NPPF may become the primary source of policies for development management
- Will historic environment policy be retained?

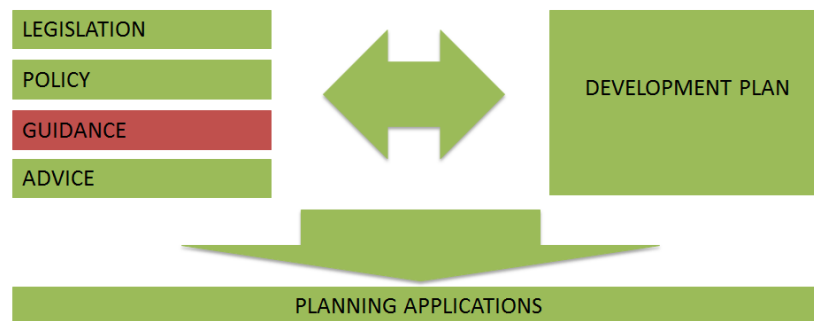


Turning to policy, which is a very important part of the planning system (as outlined here), the White Paper makes repeated reference to the National Planning Policy Framework (NPPF), and so it seems likely to be retained, though in 'updated' form.

Its role is likely to increase, as the NPPF may become the primary source of (generic) policies for development management, rather than local plans, although the White Paper presents a number of options in this regard, so this is far from certain.

Will historic environment policy be retained (as currently set out in Chapter 16)? In some form, certainly. It has been suggested by Government that the intention is to maintain current levels of historic environment protection. Current policy – focused on the definition and protection of significance – is long-established, and works well when properly applied, so would seem to be a strong candidate for retention.

Guidance



Guidance

- Guidance is also produced by Government, and provides more detail on the implementation of legislation and policy, e.g.:
 - Planning Practice Guidance
 - National Design Guide
 - Forthcoming National Model Design Code
- Retention implied

Planning practice guidance categories

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

Advertisements

22 July 2019

Guidance

Air quality

1 November 2019

Guidance

Appeals

3 March 2014

Guidance

Appropriate assessment

22 July 2019

Guidance

Historic environment

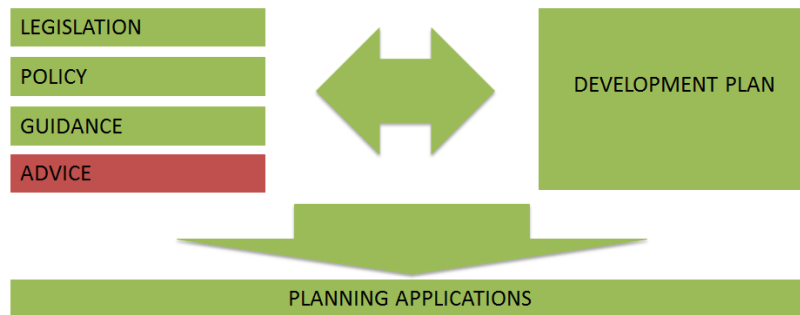
23 July 2019

Guidance

Guidance is also produced by Government and provides more detail on the implementation of legislation and policy. The main current example is the Planning Practice Guidance, or PPG, which is very useful in helping to interpret NPPF policy, particularly. Other examples include the National Design Guide of 2019, and the forthcoming National Model Design Code.

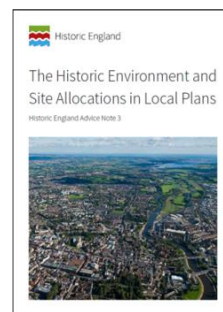
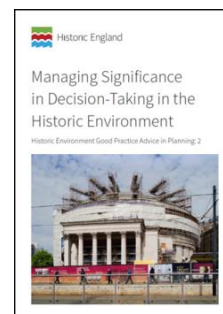
The retention of the PPG is implied within the White Paper.

Advice



Advice

- Historic England produces two series of planning advice:
 - **Good Practice Advice notes** (GPAs) are produced with the heritage sector, and provide high-level advice on the application of national policy and guidance
 - **Historic England Advice Notes** (HEANs) are produced by Historic England, and provide more detailed, practical advice on the application of national policy and guidance
- Historic England proposes to continue to provide this form of advice

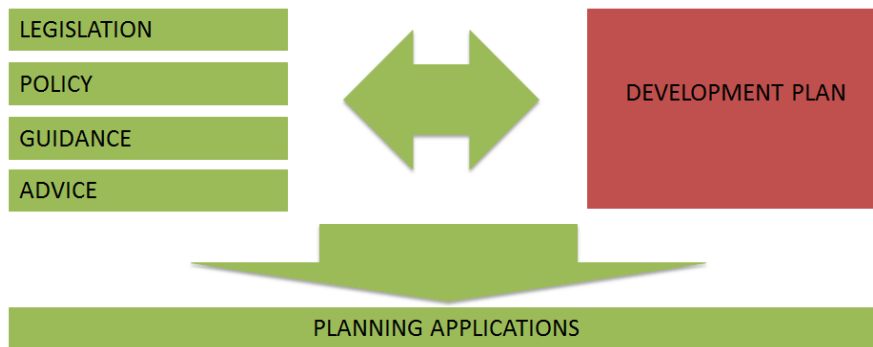


Historic England produces two forms of published planning advice:

- Good Practice Advice notes (GPAs) are produced with the heritage sector and provide high-level advice on the application of national policy and guidance. There are four of these.
- Historic England Advice Notes (HEANs) are produced by Historic England, and provide more detailed, practical advice on the application of national policy and guidance. There are currently fourteen of these, with two more currently out for consultation, and more in the pipeline, covering topics like harm and public benefit, permission in principle, archaeology, design, and so on.

Historic England proposes to continue to provide this form of advice.

Development Plan



Current System

- 'Plan-led' system since 1991
- Therefore important to:
 - Influence plan content at outset
 - Understand wider policy context to proposals
- Two key components of the development plan are:
 - Local Plan
 - Neighbourhood plans
- Significant change proposed

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)

Turning to the development plan, we've had a 'plan-led' system since 1991, meaning that, if regard is to be had to the development plan for planning purposes, decisions must be made in accordance with the plan unless material considerations (such as national policy, or specific local circumstances) indicate otherwise.

It's therefore important to:

- Influence plan content at the outset – this is where the principle of development is established, and where policies for the conservation of parks and gardens may be included
- Understand the wider policy context to proposals: what are the other policies against which parks and gardens policies, or proposals in parks and gardens, will be considered?

Two key components of the development plan are:

- The Local Plan
- Neighbourhood plans

This is an area where the Planning White Paper proposes significant change....

New System

- Greater emphasis on local plans, but shorter and more standardised
- More definitive in what they permit, particularly with regard to the proposed areas/zones':
 - Growth
 - Renewal
 - Protected
- Local plans may contain specific development standards
- Frontloading of (and reduction in) evidence requirements
- Streamlining of local plan processes (overall timescales/consultation)
- Neighbourhood plans likely to be retained



The structure of the planning system is set to fundamentally change. The primary example of this is the much greater emphasis on local plans (and an associated reduction in development management, of which more later).

In addition, local plans are to be shorter ('we expect a reduction in size of at least two thirds'), as they will not replicate national policy, nor contain general policies. Instead, they will just contain a core set of local standards and requirements for development, possibly within a standard local plan template.

Plans will also be more definitive in what they permit, particularly with regard to the three proposed areas, or zones, which will be used to identify land:

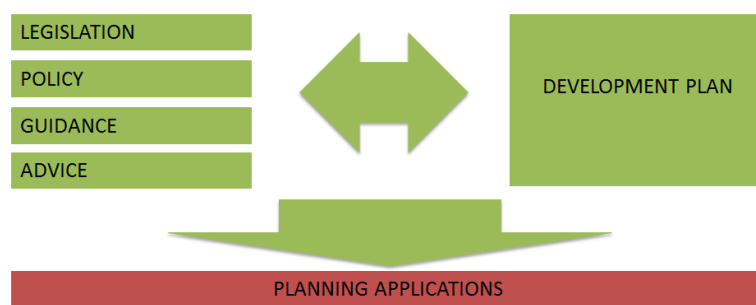
- *Growth* areas: suitable for substantial development, and where outline approval for development would be automatically granted for forms and types of development specified in the Plan
- *Renewal* areas: suitable for some development, such as 'gentle densification'
- *Protected* areas: where development is restricted (it's not yet clear whether registered parks and gardens are to be identified as protected areas, but Historic England has pressed for this). The operation of the planning system in relation to protected areas is likely to be more closely aligned with the current system than that outlined for growth and renewal areas.

Greater emphasis on local plans means a greater need for information about the historic environment to be made available 'upfront', from the outset.

There is a proposed reduction in the evidence required (and its length): requirements for 'unnecessary assessments' will be removed. There 'may still need to be site-specific information to mitigate wider impacts', and, for these, 'there should be clear national data standards and templates'.

The stages in local plan production will be reduced in number and the overall timescales reduced. There will no longer be a draft plan for public comment ahead of formal submission to the Planning Inspectorate for examination; the proposed greater emphasis on community engagement in local plan preparation is to be delivered instead through greater use of technological tools. Neighbourhood plans are likely to be retained.

Planning Applications



New System

- Much will be taken out of the development management process:
 - Further increases in permitted development rights
 - In growth areas, local plans will give automatic outline approval for specified forms of development (with 'streamlined' consent routes thereafter)
 - Automatic approvals will also be available for pre-established development types in other areas suitable for building (e.g. Development Corporations)
 - Extension of 'permission in principle' consent regime
 - Some types of application may be deemed to have been granted planning permission if speed-related targets are not met



Much is to be taken out of the development management process altogether. Further permitted development rights are to be considered, on top of those already introduced over the summer, and those announced this month.

Growth areas will be automatically granted outline planning permission for the principle of development (with 'streamlined' consent routes thereafter), 'while automatic approvals would also be available for pre-established development types in other areas suitable for building' (e.g. Development Corporations).

The existing permission in principle consent regime is to be extended (the recent consultation proposed its application to major as well as minor developments).

Some types of application may be deemed to have been granted planning permission if speed-related targets are not met by local planning authorities.

New System

- Changes in information handling:
 - Validation of applications is to be integrated with the submission of applications
 - Applications are to be shorter and more standardised
 - Supporting information is also to be standardised
 - Application data is to be made more available, as is the information submitted in support of applications.
- Development management processes are to be 'streamlined', in terms of both:
 - Overall timescales (there will also be additional fast-tracking for some types of proposal)
 - Consultation



The requirements for information, and the format in which it is presented, will change in relation to applications as they will in relation to local plans.

Validation of applications is to be integrated with the submission of applications so that the right information is provided at the right time – this is particularly welcome in relation to heritage-related applications.

Applications are also to be shorter and more standardised, with only one key standardised planning statement of no more than 50 pages to justify the development proposals. The related supporting information – including in relation to heritage – is also to be standardised. Much about the process is also to be digitised and made available online.

As with local plans, procedural streamlining is also proposed, with regard to both timescales and consultation:

- Overall timescales – these are to be reduced (with additional fast-tracking for some types of proposal – there is a proposal for a fast track for beauty, and for some other, as yet unconfirmed, forms of development).
- Consultation: the degree to which input is sought at all (the 'opportunity for consultation at the planning application stage' is to be streamlined, because it 'adds delay to the process').

What Else Does the White Paper Propose?



Heritage-Specific Proposals

- Value of heritage recognised, and the role of the planning system in heritage protection
- No reference to registered parks and gardens
- Planning framework for listed buildings and conservation areas to be reviewed and updated
- Exploration of 'new and better ways of securing consent for routine works'
- All new streets to be tree-lined



The value of heritage, and heritage protection, is recognised in the White Paper. The NPPF 'already sets out strong protections for heritage assets where planning permission or listed building consent is needed. We want to build on this framework as we develop the new planning system'.

Nevertheless, there remain some concerns:

- The historic environment does not appear to be well understood - there is no reference at all to archaeology, nor to registered parks and gardens (though non-historic parks are mentioned frequently). Some of the procedural changes do appear to run the risk of missing the information and professional judgement needed to deal with the nuances of the historic environment: the discretionary approach in the current planning system works well in respect of heritage, and a more rules-based approach presents a number of challenges.
- The zoning proposals appear to assume that heritage is a constraint, and that growth can only happen elsewhere: this characterisation potentially underplays the role that the historic environment can play in society and the economy.

Proposals of particular relevance include:

- The planning consent framework is to be 'sufficiently responsive to sympathetic changes', with 'timely and informed decisions' made – all with particular references to seeing 'more historical buildings [with] the right energy efficiency measures'. The planning framework for listed buildings and conservation areas will therefore be reviewed and updated 'to ensure their significance is conserved while allowing, where appropriate, sympathetic changes to support their continued use and address climate change'. There is no related reference to the planning framework for other designated heritage assets, such as parks and gardens.
- MHCLG will explore whether there are new and better ways of securing consent for routine works (e.g. suitably experienced architectural specialists earning 'autonomy' from routine listed building consents): we have already considered this issue in some detail, and it does raise some challenges.
- More generally, there will be a 'deep dive' regulatory review to identify and eliminate outdated regulations 'which increase costs for local planning authorities, especially to the decision-making process'.

As an aside, the White Paper also states that all new streets will be tree-lined, through changes to the NPPF.



Local Heritage

- Not addressed in the White Paper
- Growing in profile

Guidance
Local heritage list campaign: guidance
Published 16 October 2020



There are no direct references to locally designated, or 'locally listed' heritage in the PWP (in NPPF terms the term is 'non-designated heritage asset', and NDHAs are subject to specific policy).

But local heritage has had something of a boost recently, with MHCLG's local heritage list campaign, which is offering funding to ten county areas to produce new or improved local heritage lists (one of the many ways in which NDHAs can be identified).

Historic England has recently issued an update of its advice on producing local heritage lists, on which consultation closes on 18 December. This emphasises that local heritage lists can and should cover all sorts of heritage asset, including historic parks and gardens, and also the importance of community engagement in local heritage listing.

The profile of local heritage is therefore increasing, which suggests that it may be more actively considered as planning reform continues. Historic England's own response on the White Paper notes the importance of NDHAs and calls for a strengthening of their protection within the planning system.



Statutory Consultees

- General implications
- Specific proposals:
 - Transform operation
 - More responsive/outward looking
 - More self-financing
 - New performance targets
 - Involvement in training/skills development
 - Development of standards/templates for information



The White Paper makes specific reference to statutory consultees, such as Historic England and the Gardens Trust, including a recognition of their 'critical role supporting the preparation of Local Plans and decision-making'. There is no suggestion that the statutory consultees themselves will be changed.

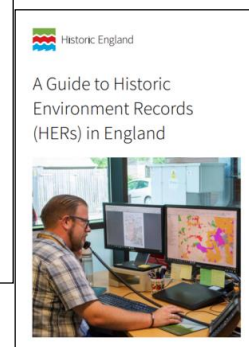
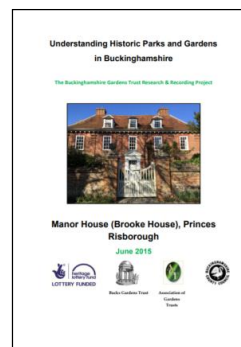
There are of course implications for statutory consultees from the more general proposals, including a reprofiling of casework as local plans are emphasised, and procedures are streamlined. But the specific proposals are also of interest and suggest a broadening of responsibility which leads to important considerations around capacity. There are proposals for statutory consultees to:

- 'Transform the way they operate in response to these reforms'
- 'Be more responsive and outward looking and have the necessary skills and resources to undertake their new roles'.
- Become more self-financing, through new charging mechanisms
- Be subject to new performance targets to improve their performance
- Work with LPAs on workforce planning and skills development
- Support the development of clear national data standards and templates where supplementary information is still needed on site-specific matters, such as in relation to heritage.

There is no detail on this yet, but it presents both opportunities and challenges.

Information

- Evidence and information very important
- Digital agenda
- Historic Environment Records



As we have seen, evidence requirements are being reduced, and the volume of evidence to be submitted is also to be limited, but information in support of planning activity will be more important than ever before, and particularly in relation to local plans.

Research and recording work by the Gardens Trust and the County Gardens Trusts on parks and gardens will have a real part to play in all this, as it can ensure that parks and gardens are considered very early in the planning process, and parks and gardens therefore properly taken into account from the outset.

The availability of information will also change, for county gardens trusts and others, due to the emphasis throughout the White Paper on making information available in digital form, and ensuring it is widely available.

Linked to this is the issue of Historic Environment Records – Historic England, and many other organisations within the sector, have called for the transformation of the current policy requirement for local planning authorities to maintain an up-to-date Historic Environment Record (HER) to be made into a statutory duty.

Next Steps

- Read the White Paper
- Have a look at consultation responses:
 - Gardens Trust
 - Historic England:
<https://historicengland.org.uk/content/docs/consultations/response-planning-for-the-future-oct20/>
- Prepare to engage in further consultations
- Consider what the opportunities may be....



So, what happens next? Well, if you haven't yet read the White Paper, it's definitely worth having a look. It's also worth having a look at the responses submitted by various organisations, such as the Gardens Trust, and Historic England (the link to our response, which is on our website, is shown here).

There's a long road ahead, as MHCLG works towards new legislation and policy, and there will be a number of further consultations to consider and respond to along the way.

This may all sound challenging, but it's worth getting involved in it, to try to ensure that appropriate protection for historic parks and gardens is retained, but also because there are opportunities to be grasped, to try to make the new planning system do more of what you want it to do.