



INSTITUTE OF HISTORIC BUILDING CONSERVATION

Planning Reform Team
Communities and Local Government
Zone 3/J2
Eland House
Bressenden Place
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Dear Sir/Madam

PLANNING WHITE PAPER

The Institute of Historic Building Conservation (IHBC) is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

The Institute welcomes the opportunity to comment on the White Paper.

The Institute supports the Government's wish to improve the workings of the planning system and is broadly supportive of many of the detailed proposals. Our detailed comments on the specific questions in the White Paper are set out below. We shall also be responding to the other current consultations. We do, however, have some general points which we would like to make.

1. While the White Paper does mention heritage issues in a number of places, it is disappointing that the opportunity has not been taken to relate content of the White Paper to that of the Heritage White Paper in which heritage was seen as a major contributor to the Government's quality of place agenda. It would have been appropriate, in our view, for the DCMS to have been more closely involved in the White Paper and for the Secretary of State for Culture, Media and Sport to have been a signatory to it.

2. Over the past few years, despite welcome direct injections of Government money, LPAs have been very short of the suitably qualified staff to carry out the rapid rate of change which the Government has been promoting. The Institute believes maintaining high standards in new developments will be difficult to achieve, with or without the currently proposed reforms, unless more structured approach is taken to improving the strength and depth of skills in LPA planning, urban design and conservation departments.

3. In the Institute's view, there are 3 areas, not properly covered in the White Paper in which improvements could be made to the system that would deliver quality outcomes **as well as** (when embedded) procedural improvements and, therefore, time and cost savings. These are:

- Creating a structured procedure for pre-application discussions and negotiations. Enormous amounts of resource are wasted by both applicants and LPA's because neither give this adequate resources and both mistrusts the other. Yet everyone seems to agree that early talks avoid abortive expenditure on proposals. The recent PAS/CABE/HBF and partners' publication *Constructive Talk* is a good starting point but the best practice contained in it should be in widespread practice but won't be without it being a required part of the process. This approach allows expert advice (including

conservation advice) and wider consultation early in the process. Both heritage and urban design are core issues for the planning system and neither are adequately recognized in the White Paper.

- Removing the muddle over the status of conservation areas. Conservation areas are designated for their special character but, because of the lack of control over permitted development in them, many are constantly under threat of losing their character. The route to deal with this, article 4, is time-consuming, costly and repetitive to the extent that often it is not used when it should be. In the Institute's view, conservation areas would be best served with a specific permitted development regime of their own that reflects their general sensitivity. This is not to suggest that conservation areas should not accept new development, merely that it should be seen to be to a high standard through the scrutiny of the planning application process. We would be happy to give more detailed evidence on this if required.
- Introduce a structured regime of national guidance on all planning and conservation issues. This should be web based and would make life easier for applicants and LPAs alike.

The Institute's responses to the questions in the White Paper are:

Q.1 The proposed package of reforms

The Institute is broadly supportive of the proposals. It is pleased to note that they contain references to heritage which indicate a strong Government commitment to ensure that the cultural, social, economic and environmental benefits of heritage are not undermined by insensitively sited and designed infrastructure projects. However, the Institute would wish the outline of the proposals in the White Paper to be carefully developed into a system that delivers a high quality decision-making process that carries respect across all sectors of public interest. The Institute is keen to participate in this process.

The Institute welcomes the proposal for national policy statements, provided that they contain robust policies on environmental protection and are subject to meaningful community engagement.

However it is also essential that decision-making under the proposed system is robust. The Institute considers it essential that the proposed commission includes historic building conservation and urban design experts and that all decisions are informed by expert advice.

Q.2 Introduction of national policy statements

The Institute agrees in principle with this proposal. NPS should be broadly analogous with the Development Plan in the planning system as a whole. Within the overall context of PPS1, they should take into account all relevant Government policy, including heritage and urban design policy, in their preparation. They should be subject to meaningful public engagement and detailed examination before adoption. They should be definitive in use except where clear material considerations, whether national or local ones, including heritage and urban design issues, indicate otherwise.

In providing the policy context or specific locations for major infrastructure projects, national policy statements should seek to avoid causing harm to buildings, areas and landscapes of heritage importance.

Q.3 Content of national policy statements

The Institute is concerned that the core issues should deal not only with technical aspects of the proposal but also possible impacts. It will be important to ensure that local social, economic and environmental impacts are properly dealt with in SEA including heritage interests with specific reference to PPGs 15 and 16. The more locationally specific a statement is, the more detailed it can be. But this should not be a substitute for critical analysis based on the context of individual proposals as they arise, and NPS must be clear about how such issues will be tackled. However, different levels of decision making will take place against the context of the national policy statements, including the principle of development, the detail of actual schemes, and amelioration measures required to make schemes acceptable in their

impacts, however difficult this may be. NPS needs to be drawn up to allow for this.

Q.4 Status of national policy statements

NPS should be broadly analogous with the Development Plan in the planning system as a whole. The should be definitive in use except where clear material considerations, including the Development Plan, PPSs, and site specific considerations, including heritage ones, indicate otherwise.

NPS should not be superior to other Government planning policy. NPS should be prepared in the light of PPSs but should not become a definitive representation of PPS policy matters once adopted.

It is not clear what the relationship of NPS to general planning policy in Wales or to who will have jurisdiction over this. The Institute feels that any NPS applying to Wales should be drawn up in conjunction with the Welsh Assembly Government.

Q.5 Consultation on national policy statements

The Institute agrees with this proposal subject to there being no imposed limitation on the breadth of the consultation which needs to be as broad as possible. The Institute would wish to be consulted on all NPS.

We are especially concerned that local communities and national bodies with heritage expertise to share have the opportunity to influence outcomes at both policy and detailed decision levels.

Q.6 Parliamentary scrutiny

The Institute agrees with this proposal. Reference to a Select Committee seems appropriate as there may be a need to take independent evidence before informed advice can be given to the Government.

Q.7 Timescale of national policy statements

The Institute is content that the time horizon for NPS should be determined in relation to the planning period for the infrastructure concerned, subject to its being capable of review should this be required.

Q.8 Review of national policy statements

The Institute believes that all policy should be kept up to date. Currently PPSs take too long to review and the Government is urged to consider the same sort of periodic review regime that they advocate for local authorities' development plans. NPS should be in a form that allows partial review if required. Changing climate patterns and energy sources may necessitate this.

Q.9 Opportunities for legal challenge

The Institute agrees with this proposal subject to the transparent arrangements for examination and adoption that the Government proposes. This equates to the parallel remedy under the planning acts.

Q.10 Transitional arrangements

*The Institute objects to the proposals for transition to the new system. The essential feature of the NPSs is that they will have been subjected to consultation **and** SEA. The Institute would have no objection to existing policy being subjected to these under an expedited procedure and being adopted following any necessary amendment.*

Q.11 The preparation of applications

The Institute agrees with this proposal. Applications should not be accepted under a fixed timetable for determination, unless all the information necessary to make the decision is available at the start of the process. The process should also allow for the application where there may be an effect on a Heritage Partnership Agreement.

Q.12 Consultation by promoters

Pre-application discussion is promoted by the Government as best practice for major planning applications. It would be strange if the same standards did not apply to the largest of proposals and those with the greatest impacts. The nature of the consultation will vary from case to case. It would seem advisable for the extent and nature of the consultation to be agreed with the IPC before the process starts. In any event, consultation should be iterative so that consultees can see how their input assists in the development of the proposal.

Where pre-application discussions take place, it is essential that community engagement be part of the process. Negotiations should not be undertaken in isolation and then a 'done-deal' be presented to the public at the submission stage. The national amenity societies can also be a source of constructive advice at the pre-application stage.

Q.13 Consulting local authorities

Local Authorities have a key role in their community not least through their co-ordination of Community Strategies. They also have responsibility for the Local Development Framework, the content of which could be at odds with a particular infrastructure proposal. It seems right, therefore, that Local Authorities be consulted early in the development of a proposal.

Q.14 Consulting other organisations

The Institute accepts that the list of statutory consultees needs to be limited. However it would urge the Government to introduce a requirement for wider statutory **notification** of proposals. We envisage a standing list of interested parties' e-mail addresses specifically held for the purpose (perhaps by CLG) which promoters would be required to use to send outline particulars of the proposal and web links to the published documentation. This would widen the scope of the consultation at very little cost and overcome the Institute's concern that the expertise of the statutory amenity societies might often be beneficial.

Q.15 Statutory consultees' responsibilities

The Institute agrees with this proposal. *12 weeks is suggested in line with best practice but, in any event, the period should not be less than 28 days.*

Q.16 The infrastructure planning commission's guidance role

The Institute agrees with this proposal. There are significant amounts of sound guidance available from a wide variety of sources. One approach would be for the IPC to seek advice from bodies such as CABE and English Heritage on advice that it would be appropriate to refer promoters to in particular circumstances.

Q.17 The infrastructure planning commission's advisory role

The Institute agrees with this proposal, but would be concerned if there were no arrangements to review specific decisions or to provide local authorities with guidance on how to identify proposals that should properly be referred to the IPC.

Q.18 Rules governing propriety

There are a number of possible models for this including the Code of Practice for members of local authorities.

Q.19 The commission's role at the point of application

The Institute would wish to avoid applications being accepted by the Commission for which further information had to be sought subsequently. For this reason the Institute believes that the requirements for applications should be strict and that promoters should be encouraged to explore every possible implication of their proposal at the pre-application stage to avoid this.

Q.20 Scope of infrastructure planning commission

The Institute has no comments on the thresholds, other than to say that it thinks the largest possible number of proposals should be dealt with by local authorities under normal planning authorities and that, consequently, thresholds for reference to the commission should be as high as is consistent with its objectives.

Q.21 Electricity system

The Institute would urge as high as possible a threshold as is consistent with the commission's objectives.

Q.22 Gas infrastructure

The Institute has no comment on this proposal.

Q.23 Other routes to the infrastructure planning commission

The Institute would not wish to see arbitrariness in the operation of the system. Changes to the scope of the IPC's remit should not be made in NPS but should be subject to proper parliamentary scrutiny. In cases where Ministerial intervention in a particular case before a planning authority has been necessary, the Institute accepts that reference to the IPC would be appropriate. In such cases, the Institute feels that the normal timescales for determination should be altered to allow the production of absent application material and proper consultation.

Q.24 Rationalization of consent regimes

The Institute accepts that this proposal has a lot of merit. Its concern is that interests of importance might be overlooked or undervalued in the process. So, the Institute urges the Government to ensure that the IPC, in granting, say, a listed building consent, is subject to the same process in weighing material considerations on the basis of firm evidence that a local authority would be subject to if they were determining it. In order to do this adequately, it is essential that the Commission has access to qualified experts in historic building conservation and urban design in making its decisions.

Q.25 The commission's mode of operation

The Institute feels that the number of members of a panel is less important than the fact that they should have between them the expertise to evaluate the proposal in front of them. Given the likely complexity of cases, it will also be necessary for the commission to have access to a range of professional experts, including specialist in historic building conservation and urban design. IHBC would be pleased to advise further on this.

Q.26 Preliminary stages

The Institute accepts that the list of statutory consultees needs to be limited. However it would urge the Government to introduce a requirement for wider statutory **notification** of proposals. We envisage a standing list of interested parties' e-mail addresses specifically held for the purpose (perhaps by CLG) which the Commission would be required to use to send outline particulars of the proposal and web links to the published documentation. This would widen the scope of the consultation at very little cost and overcome the Institute's concern that the expertise of the statutory amenity societies might often be beneficial.

Whilst accepting the weight given to national policy statements, the scope for community engagement on proposals should not be limited to matters covered by those national policy statements and EC law but on the wide planning merits of the case. These should also be subject to expert advice and the views of the statutory amenity societies.

Q.27 Examination

The Institute has reservations about this aspect. It feels that there should be a mechanism for impacts of the proposal to trigger a hearing into it. To avoid undermining the drive for written submissions to be the norm, this could perhaps be limited to statutory consultees.

Q.28 Hard to reach groups

Hard to reach groups are by definition difficult to engage with. The Institute feels that the right approach is a facilitated one. Both promoters (at the pre-application stage) and the IPC (at the application stage) should be expected to employ specialists in community involvement, such as Planning Aid, to facilitate this process. It is essential that community engagement be undertaken by an independent and impartial organisation.

Q.29 Decision

The Institute argues that the broad principle should be that the determination shall be in accordance with the NPS unless there are material considerations which indicate otherwise. The Institute has grave concerns, however, about the wording that is used in the White Paper to describe what is material to a decision by the Commission, in particular the word "law". While the law often prescribes a general duty, it is also sometime framed in relation to specific legislation. Thus legal provisions in the planning acts designed to protect heritage interests do not have general application. This means that, as framed, the proposed arrangements could actually exclude heritage issues from the decision. It is essential, therefore that the Commission has the discretion to weigh all the evidence on a case by case basis.

Q.30 Conditions

The Institute accepts that conditions will need to be used widely to make the system workable. They should satisfy the usual tests of soundness specified in the White Paper. However, the Institute is concerned about enforcement. It will be necessary for the enforcement body on any specific condition to have the remit and expertise to undertake the work. Consideration should therefore be given to a requirement that each condition should specify the appropriate enforcing body and have been subject to consultation with them as to its enforceability before being included in the permission.

Q.31 Rights of challenge

The Institute agrees with this proposal.

Q.32 Commission's skill set

The Institute thinks it important that there is significant heritage and urban design expertise on the commission. Many IPC projects will have significant potential local disbenefits, which will need to be reduced as far as possible by high quality design and mitigation.

But it will not be possible for commission members themselves to have the full range of expertise, given the likely complexity of many cases. Therefore, it will be necessary for the Commission to have access to a range of professional advice, including historic building conservation and urban design.

Q.33 Delivering more renewable energy

In the Institute's view, it is not clear why this needs to be done by building type or land use class. Rapid progress should be maintained and this will best be served by ensuring that all sectors have best practice advice.

The Institute believes that Conservation Areas and the setting of listed buildings need special protection which cannot be adequately provided with blanket extensions to PD rights

Q.34 Joined up community engagement

Far too much of recent planning legislation has focussed on process rather than results. The public is overwhelmed by the volume of consultation it is subjected to, much of which is poorly conceived. Consultation should be a requirement, but needs to be focused and effective, and should only be undertaken where people have a genuine opportunity to affect outcomes. The general duty to consult proposed by the Local Government White Paper will need careful definition. Much work is required to improve skills in community engagement.

Q.35 More flexible response to a successful legal challenge

The Institute agrees with this proposal.

Q.36 Removing the requirement to list Supplementary Planning Documents in Local Development Schemes

The Institute agrees with this proposal. In the Institute's view it has never been clear why all components of an LDF need to be detailed long in advance.

Q.37 Sustainability appraisal and Supplementary Planning Documents

The Institute agrees with this proposal

Q.38 Permitted development for non domestic land and buildings

The Institute is concerned that poorly considered extensions to permitted development regimes might undermine the Government's quality of place and design improvement agendas which it strongly supports. It has no view on which extensions to PD rights might be most appropriate, but urges the Government to be aware of the quality issues when considering the extent of these.

The Institute would like to see stronger controls over developments in Conservation Areas and sees the proposal to rely on Article 4 directions to achieve this as a recipe for an enormous diversion of resources as individual LPAs have to introduce stronger control on a conservation area by conservation area basis.

Q.39 Neighbour Agreements

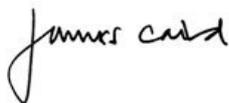
The Institute is concerned that agreements between neighbours will seldom recognise wider environmental issues such as townscape impact, the setting of listed buildings, and the impact on the character or appearance of conservation areas. The process is also, potentially, susceptible to undue pressure and other malpractice. The Institute strongly objects to the proposal.

Q.40 Minor amendments of planning permission

The Institute agrees with this proposal. It is widely practised by local authorities in any event.

We would be grateful if these comments could be taken into account.

Yours faithfully



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