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Dear Sir

Revised National Planning Policy Framework consultation

The Institute of Historic Building Conservation 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.

We are very pleased to have the chance to comment on the consultation document. The Institute's comments are as follows:

General comment

Throughout the revised document many general references to the historic environment have been removed. This creates a strong perception of a lack of a wider concern for the protection of the historic environment, notwithstanding the government's frequently expressed public position that 'heritage is at the heart of planning'. Such examples by omission now include paragraph 9 on sustainable development to improve the quality of the built, natural and historic environment, paragraph 17 on conserving heritage assets so they can be enjoyed for their contribution to quality of

life; and paragraph 157 on identifying land where development would be inappropriate because of its environmental and historic significance.

Q1 - Chapter 1 - Introduction

The IHBC notes with dismay that the twelve core planning principles are omitted from the draft Introduction chapter. The IHBC considers it absolutely essential to set out the purpose of the planning system. In particular it must demonstrate that conservation of heritage assets is an integral part of good planning. The IHBC urges that the core planning principles are retained in the revised document

Q2 - Chapter 2 – Achieving Sustainable Development

The draft NPPF may allow different weighting to be given to its various policies. The relative status of heritage policy is reduced preventing successful sustainable development and damaging heritage protection. Despite Government commitments to maintaining levels of protection these changes are likely to cause harm to heritage.

Q6 - Chapter 3 - Plan-making

The new draft excludes paragraphs 169 & 170 from the previous NPPF, which sets out a requirement that local planning authorities should have up-to-date evidence about the historic environment. This is essential if the significance of heritage assets is to be properly assessed, the contribution they make to their environment identified ensure that currently unidentified heritage assets, particularly sites of historic and archaeological interest, may be uncovered in the future. The current version of the NPPF also required local planning authorities to maintain or have access to a historic environment record, a requirement, which has now been moved to the glossary where it lacks strength and impetus. The IHBC strongly recommends that paragraphs 169 and 170 be reinstated at the appropriate point within the main text.

The IHBC supports the emphasis in Paragraph 16 on 'early, proportionate and meaningful' engagement for local plans. A similar parallel reference could usefully be added to paragraph 27.

In the list of strategic policy areas (Paragraph 20), the retention of reference to policies to conserve and enhance the natural, built and historic environment is welcomed. Paragraph 20 (f) - historic environment conservation is not just about preservation, but also about the considered management of change and its frequent catalytic function

including heritage contribution to economic development and regeneration.

Paragraph 23 needs to take a balanced approach, relevant to all parts of the country. Not to do so will be to fail to address the needs of many parts of the country. The draft is clearly too London focused. Housing delivery aims will fail if the associated employment is not also recognised. Economic development is a key issue in many parts of the country and housing delivery depends on widely dispersed employment opportunities being created.

In Paragraph 27 it should be noted that building preservation trusts and other voluntary organisations can deliver high impact projects.

Paragraph 30 - The use of local design polices which set design principles at the local level may help to retain and develop local distinctiveness.

Paragraph 36(a) – the test for soundness must include a balanced approach to housing, employment and community facilities.

Parts of the previous Paragraph 157 which limited the change the use of buildings, and identified land where development would be inappropriate, including owing to its historic significance could be reinstated, and would assist with both conservation of the historic environment, and in assessing environmental capacity.

Q10 - Chapter 4 - Decision-making

It would be helpful to set out where viability assessments will be acceptable. Viability is a major problem in some areas and the diverse nature of local land economies needs to be emphasised.

The concern with revisiting contributions later in the development process is that it could create uncertainty and undermine business and community confidence, so that development does not happen. There needs to be far greater recognition in the document that there are parts of the country where development viability is marginal, or demonstrably unviable.

While there is often emphasis on the importance of the speed of decision-making (Paragraph 48) there must be an equal emphasis on the quality of decisions, sufficient time for negotiation of the best outcomes for local economies and communities as it is they who must live with the long term, consequences of those decisions. The previous text dealt with this better 'The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground'.

Paragraph 54 describes the use of Article 4 directions for situations where this is necessary to protect local amenity or the wellbeing of the area but should also have a specific mention of their use to protect conservation areas from unsympathetic permitted development that would undermine the statutory duty in S.72 of the P[LB&CA] Act 1990.

Paragraph 56 suggests further restrictions on pre-commencement conditions which are unnecessary as it says in Paragraph 55, that all conditions should already only be imposed where necessary or relevant.

In Paragraph 59 the IHBC is concerned that effective enforcement can only take place when adequate resources are made available. This is commonly not the situation and if enforcement is to be effective adequate resources need to be dedicated to it.

Q14 - Chapter 5 - Delivering a wide choice of high quality homes

The NPPF is based on assumptions of high growth areas that the whole country has the same economic profile and takes no account of areas where poor viability is the main issue. The NPPF needs to address the needs of the whole country, including areas where attracting employment is the primary issue and should be worded to account for flexibility of regional circumstances and disparities of performance. Viability is a key issue missing throughout the document. Policy needs to work hard to address the viability challenges in some areas for both new-build development and building conversions. The NPPF refers to development in the right places but we would question whether areas suffering from serious land inflation are the right places for development. Instead a clearer focus should be made on employment in under-performing areas, as a means to attracting growth and demand for housing where prices are too low to make new housing viable. It is essential that new employment and housing be distributed across the country in a sustainable way, so as to address the current situation where housing is unaffordable in some areas, whilst other areas have viability challenges. This needs to be part of a cross-Government approach, not just through the NPPF.

It is essential to understand the nature of the housing market. Multiple sites with planning permission for housing leads to stagnation, developers concerned over the possibility of market saturation lead to sites remaining undeveloped. Over supply of land creates market uncertainty.

A countrywide approach to affordable housing is unrealistic. Housing prices are too cheap to make development viable in some areas (new build and building conversions). Whilst so-called affordable housing, based on proportion of market value, is anything but affordable in places like London.

The importance of good design for housing needs to be emphasised.

Building conversions have major potential to provide accommodation in the right locations, including the use of underused upper floors of town centre commercial premises. The IHBC welcomes Paragraph 64 supporting the re-use of brownfield land through reductions in affordable housing contribution where vacant buildings are being reused. But footnote 22, which does not then apply this to vacant buildings which have been abandoned, could be detrimental to the re-use of historic buildings, preventing the delivery of new housing and the conservation of derelict heritage assets.

The NPPF will fail on housing delivery if the needs of underperforming areas are not recognised. The importance of incentivising employment must be recognised, to create demand for housing in under-performing areas.

The DLGL Locally-led Garden Villages statement (2016) is now being used by developers and agents to promote development, often in places and settlement configurations that do not fulfill the DLGL criteria or the now expired time limit. If Garden villages should be assessed against Green criteria it makes such developments feasible within the foreseeable future. This could create a problem for Local Plans Part II and for the NPPF claiming to be comprehensive.

Q18 - Chapter 7 - Ensuring the vitality of town centres

The emphasis this NPPF puts upon retaining and enhancing the vitality of town centres is welcomed on town centre and edge-of-centre sites is welcomed.

The IHBC supports encouragement of mixed use, but careful management is needed so new residential use does not undermine established commercial use on ground floors, and both uses do not negatively impact on each other. More clarity is needed to the text.

Paragraph 87 should highlight the harm caused to traditional town centres by out-of-town developments.

Q20 - Chapter 8 - Promoting healthy and safe communities

Paragraph 92 (a) should mention the importance of flexible and attractive public spaces and the public realm in the interests of attracting inward investment and for general health and well being of local communities,

emphasising the significance of the historic environment, historic parks and gardens health.

In Paragraph 94 the regeneration of estates should be delivered to “high design standards” and not simply high standards. The NPPF should widen the scope of regeneration in Paragraph 94 to include commercial, industrial and rural areas, not just failing housing estates.

Q23 - Chapter 9 - Promoting sustainable transport

The IHBC welcomes the balanced approach to transport. The key issue must be quality of place and that transport infrastructure should be part of a well balance and well managed public realm for all types of user but with the emphasis on sustainable transport, particularly walking and cycling to encourage healthy lifestyles.

The references to patterns of movement, streets, parking and other transport considerations being integral to the design of schemes, and contributing to making high quality places (Paragraph 103e) are welcomed.

The references in Paragraph 110 to the avoidance of unnecessary street clutter, and the need to respond to local character and design standards, are welcomed. However Paragraph 110 could include more on the value of pedestrian permeability to the usability of public space.

Q27 - Chapter 11 - Making effective use of land

The IHBC is very concerned about the reference in Paragraph 118e to using the space above existing properties for new homes, allowing ‘upward extensions’ and giving new permitted development right for upwards extensions due to potential impact this would have on the character of the local built environment and in particular historic areas, whether designated or not.

In Paragraph 120 – it is necessary to plan for long-term economic growth and to understand the needs of whole country, including those areas outside London and other high growth areas, where attracting employment is the primary challenge.

In Paragraph 122(a) – more emphasis is needed not just on employment but on the anticipated structural changes to the workforce, automation, AI etc. in the longer term.

The document needs to show an understanding of the requirements of different parts of the economy, the types of employment that need to be attracted and how this will relate to the demand for housing.

We would generally support higher density near to transport hubs including its contribution to the local economy but with a clear recognition that local character and quality of place important. Historic areas are often already high density and so will continue to take higher density development but sensitivity is still needed in historic areas. Higher density should not necessarily equate to ill-considered high-rise in existing areas.

Paragraph 123c which suggests 'a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site', even with the caveat that it should still 'provide acceptable living standards', appears to contradict policy elsewhere in the draft NPPF about healthy living and good design.

Q29 - Chapter 12 - Achieving well-designed places

Clear guidance on design is welcomed. More emphasis on townscape and urban design is essential if development is to be about place shaping.

The IHBC would like a clearer statement that guidance on design should focus on layout and townscape, not use stylistic prescription, imitation or parody. The wording of paragraphs 60 and 137 of the existing NPPF should be woven into this narrative. Historic environments do offer a basis for creative design not a restriction on design or a need for poor copies.

With the emphasis on good design in the draft NPPF, the loss of the phrase from the old Paragraph 56 to good design being indivisible from good planning is disappointing and could be usefully. This statement made design central to planning and not something separate and distinct from planning.

In Paragraph 126d the references to the importance of a strong sense of place is welcomed and in particular the desire to "establish or maintain" the sense of place. The reference to requiring a high standard of amenity (Paragraph 126f) whilst dealing with crime and fear of crime is welcomed, this allows responses to be well designed rather than target hardening areas and increasing fear. The reference to responding to 'local character and history' is particularly important to the application of this policy.

At Paragraph 129 the NPPF does not need to state "where the design of a development accords with clear expectations in local policies, design should not be used by the decision-maker as a valid reason to object to development".

The IHBC urges that an explicit statement should be added that being sensitive to context is about analysis and creative solutions, not imposing

imitation. The statement should be omitted as the Presumption in favour of sustainable development already states that “development proposals that accord with an up-to-date development plan” should be approved.

Q36 - Chapter 16 - Conserving and enhancing the historic environment

The existing Chapter 12 of the NPPF is based on policies for the historic environment set out in PPS5 (March 2010), which had been conceived, to relate to emerging heritage legislation that never came to pass. As a result the content of Chapter 12 is out of kilter with and has an unsatisfactory relationship with the statutory duties imposed by S.16, S.66 and S.72 of the 1990 P [LB&CA] Act. This is further reflected in a substantive body of court judgments that have been made since publication of the present NPPF, trying to rationalise the language and implementation of Chapter 12 and the enormous amount of wasteful time that has been taken up during the consent process and in planning inquiries debating the meaning and application of the precise wording of the policy statements in Chapter 12.

In contrast to other parts of the NPPF (which successfully streamlined and simplified planning policy across the board), Chapter 12 made the practical application of planning policy relating to the historic environment more complex and difficult. The revised Chapter 16 fails to address the fundamental flaws in the existing Chapter 12, as set out below.

The policies in the draft Chapter 16, repeating those of the existing Chapter 12, adopt a ‘one-size-fits-all’ approach related to the non-statutory umbrella concept of the ‘heritage asset’. This means that assets such as listed buildings and conservation areas, which are subject to specific statutory requirements and duties that we refer to above are subject to the same policies as assets such as registered parks and gardens and archaeological remains which have no such similar statutory protection. The IHBC considers that this fundamental flaw should be addressed in the revised document by making this disparity explicit in the absence of a change of legislation. The IHBC considers that the ‘one-size-fits-all’ definition of heritage asset approach fails to recognise the fundamental differences between such assets as scheduled monuments, listed buildings, and conservation areas.

In simple terms, scheduled monuments are assets that are not normally in beneficial use and preservation is usually the priority. Furthermore approval of works to scheduled monuments is the responsibility of the Secretary of State (as delegated to Historic England), not through the planning system as administered by local authorities. In contrast, most listed buildings require beneficial use to secure their long term conservation and this will inevitably require a reasonable approach to adaptations to facilitate such use.

Conservation Areas are different again. They are invariably dynamic, living places, and in commercial conservation areas in particular, the pressure for change is constant. As a result planning policy for conservation areas needs to encourage sensitive management of change. These fundamental differences between asset types were long recognised in government Circulars from c.1967 onward and in the carefully crafted wording of PPG15 addressing a receptive audience beyond local planning authorities were abandoned in 2010. The IHBC believes that the revised Chapter 12 of the NPPF should return to a recognition of these fundamental differences. The IHBC notes that Planning Policy Wales maintains the longstanding approach of different policies for the various categories of historic asset and that there is no intention to change this in the emerging Edition 10 that has been published in draft. This is a commendable approach best attuned to the needs of appropriate heritage management.

The policies in the draft Chapter 16, repeating those of existing Chapter 12, are predicated on the concept of the harm to significance. The key current 'harm' policies' (paragraphs 132-135) are repeated almost verbatim in the revised draft with only minor amendment. The IHBC believes that the policies in Chapter 16 should take a more positive stance and should emphasise sensitive, well-informed management of change, rather than the negative approach of avoiding harm. In practice virtually all alterations and adaptations to historic buildings and areas will constitute some degree of harm yet may facilitate beneficial use. Under the current and proposed policies, such proposals should be refused permission/consent in cases where the harm cannot be counter-balanced by wider public benefit, notwithstanding that it is the Institute's experience that the vast majority of applications for listed building consent amount to less than substantial harm. There is also a lack of clarity about the interpretation of public benefit v. private benefit that should more closely align with or incorporate the wording in the relevant section of National Planning Practice Guidance (Paragraph: 020 Reference ID: 18a-020-20140306). The policies do not allow for a sensitive balanced judgment to be made of the inherent merits of a proposal. The IHBC considers that existing paragraph 137 (repeated in the draft as paragraph 196 with only minor change of wording) should be reworded to provide a stronger requirement for positive planning that results in enhancement.

The policies in the draft Chapter 16, continue to include the distinction in the existing Chapter 12, between 'substantial harm' and 'less than substantial harm'. The IHBC considers that this distinction has proved to be extremely unhelpful since its introduction in 2010 and has not been (and cannot be) adequately refined by the courts, being so particular to the nature of every individual proposal. Harm to the importance of a

heritage asset can range from extremely minor alteration to total destruction but there is no logic to having a different policy basis once a critical point along the spectrum of possible harms is reached. The lack of a definition of the two terms in the existing NPPF has resulted in an enormous amount of unnecessary and costly argument in relation to planning decision-making. The IHBC considers that the policies in Chapter 16 should be re-formulated to omit the distinction between 'substantial harm' and 'less than substantial harm' and reconsider the question of public benefit. Again, the IHBC notes that the Welsh Government has sensibly not found it necessary or appropriate to make the distinction between 'substantial harm' and 'less than substantial harm' in its Planning Policy Wales document.

The policies in the draft Chapter 16, continue to treat 'setting' as an add-on extra. There are just four references to setting all of which are included with broader statements of policy relating to heritage assets. The IHBC believes that the current policies have made it difficult for planning authorities to resist poor and inappropriate development in the surroundings of heritage assets. The IHBC considers that there should be a free-standing policy relating to development within or affecting the setting of a heritage asset and that this should follow the 'preserve or enhance' approach, as appropriate i.e. those settings that clearly contribute to the significance of the related asset should be preserved whilst settings that degrade the related asset should be enhanced by new development proposals. As things stand, development within a setting that makes no contribution to the significance of the related asset cannot cause any harm. It is the nature of the setting that matters. The desirability of preservation or enhancement of a setting should be a professional judgment stemming from its nature.

The requirement for what has generally become known as "heritage statements" (185) has greatly added to our understanding of historic buildings. However, the sentence "*As a minimum the relevant historic environment should have been consulted and the heritage assets assessed using appropriate expertise where necessary*" is a potential loophole. Firstly, the greater research facilitated by heritage statements has shown the HER / listed building descriptions are not always adequate or correct (particularly for rural farm buildings) and secondly "*appropriate expertise*" is not defined. This expertise should be linked to professional accreditation including that provided by the IHBC and those schemes defined in BS 7913:2013 and elsewhere. It would be beneficial for some standardization of terms as heritage statements and heritage impact assessments are both used in practice but are not always considered to cover the same ground.

We would support other organisations including Historic England and the Historic Environment Protection Reform Group, a sub-group of the Historic

Environment Forum, who, in commenting on this draft have suggested the rewording of the new Paragraph 185 to incorporate the staged approach to changes to heritage assets, carrying out a proportionate initial analysis of heritage significance and setting, leading to a further analysis of significance, setting, and impact. Revised wording has been suggested which we would endorse "Before considering change to heritage assets or developing proposals, applicants should first analyse their significance. In determining applications, local planning authorities should require an applicant to provide an analysis of the significance of any heritage assets affected, including any contribution made by their setting, and the potential impact of the proposal on their significance. The level of detail in this analysis should be proportionate to the assets' importance and no more than is sufficient to understand significance and impact. As a minimum the relevant historic environment record should have been consulted for sites with archaeological interest and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

As noted above definition of "*public benefit*" (192) is necessary. There are differing approaches to this, whilst many may be interpreting it as if it is good for the building (for instance to facilitate a sustainable use), this constitutes public benefit, some local authorities' are interpreting public benefit (incorrectly in the Institute's interpretation) as community benefit - a quite different concept.

The economic value of heritage needs to be emphasized and this includes:

- urban and rural diversification
- regeneration of industrial, commercial and rural areas
- creating facilities for enterprise, creative industries and community facilities
- tourism and the visitor economy
- profile and image
- diversity of housing

The NPPF uses the term 'significance'. This is now a very ambiguous and ill-defined term, with differing interpretations by the courts and the Planning Inspectorate. A more practical 'planning' approach to the use of the terminology is needed that is less vague and academic and more consistent with the statutory duties in the existing legislation.

Despite all heritage assets being dealt with collectively including conservation areas, the wording implies only buildings, not areas. This is not just about significance, but about good place making, as enshrined in

the legislation and has marked a clear and consistent direction in government policy for at least half a century.

Paragraph 190 has been reordered and in doing so important elements have been removed. The reference is now to any harm or loss to a *designated* heritage asset, whereas the previous paragraph 132 required a clear and convincing justification for harm or loss to *any* heritage assets. The statement that heritage is irreplaceable has been moved to Paragraph 182 but in that position is no longer linked to the statement that harm or loss require clear and convincing justification.

The loss of the phrase 'including securing its optimum viable use' from Paragraph 192 loses a well-understood concept. The phrase 'optimum viable use' is still used elsewhere in the draft NPPF and 'viable use' is still used elsewhere in this Chapter and so the loss of the phrase at this point is not consistent or useful.

Paragraph 197 needs to recognise those elements that harm universal value or special interest.

Q43 - Glossary

'Setting of a heritage asset' – setting is not part of significance in legislation and so this definition is incorrect and misleading

'Significance' – this needs to relate to 'special architectural or historic interest'. Also, setting not part of significance in legislation.

There are no longer descriptions of Article 4 Directions which are referred to in the policies.

We hope these remarks are of assistance,

Yours sincerely

A handwritten signature in black ink, appearing to be 'M. G.', written in a cursive style.

IHBC Operations Director