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Dear Sir

**Ministry of Housing, Communities & Local Government  
Reforms to the statutory consultee system**

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:

**Question 6**

**In light of the proposed mitigations, do you support the proposals to remove The Gardens Trust as a statutory consultee?**

support

**oppose**

neutral

**Question 7**

**Are there impacts of the removal of The Gardens Trust as a statutory consultee, or the proposed mitigations, that you think the government should take into account in making a final decision?**

The Institute is extremely disappointed to see the proposed removal of the Garden's Trust from statutory consultees for planning applications. Statutory consultees are key to shaping planning decisions by providing expert advice and

guidance. Their insights help drive sustainable development whilst protecting our cultural heritage, and promoting community pride and well-being.

Removing heritage bodies from the list of statutory consultees will do nothing to 'promote growth and unblock building' but it is likely to accelerate the loss of or harm to irreplaceable heritage assets.

The implication of the consultation and especially the Ministerial foreword is that "statutory consultee engagement with planning applications is not proactive or proportionate, and advice and information provided is not timely or commensurate with what is necessary to make development acceptable in planning terms". But throughout the development of these proposals there has been no detailed robust evidence provided to support these assumptions. The consultation claims that the Gardens Trust makes 90% of their responses within the 21-day deadline which is far from being not timely. However the evidence provided for the Theatre's Trust is not comparable. The Government should provide convincing evidence before dispensing with the valuable service that these and other voluntary sector Trusts and amenity bodies provide.

The Mitigation proposals appear unnecessarily complex.

The consultation does not seek opinion on the consequent commencement of Section 102 of the Levelling Up and Regeneration Act to introduce a statutory obligation for special regard to heritage assets and their settings when making planning decisions, in relation to scheduled monuments, registered parks, gardens and World Heritage Sites. This should be commenced and should not commensurate on the decision on consultees.

As described under Question 19 many Local Planning Authorities do not have in-house Conservation advice and even if they do few have in-house expertise on historic designed landscape conservation or anyone skilled to make a detailed specialist assessment of the impact of development on a designed landscape. The contribution of independent specialist advice to decision making should not be underestimated. The Gardens Trust offers essential detailed support that complements more generalist statutory heritage services and helps ensure that decisions affecting designed landscapes fully evaluate the impacts of development proposals.

There is no duplication of roles between Historic England, local authority conservation staff and the Gardens Trust. If the Gardens Trust is removed as a statutory consultee, there is no other body able to offer similar expert advice to LPAs on applications affecting historic landscapes. As Historic England does not have the remit to comment on Grade II registered parks and gardens there will be no advice available for the almost two-thirds of registered parks and gardens which are Grade II. This does not put registered parks and gardens on the same footing as listed buildings for planning consent which are better protected and better understood; the significance and conservation needs of registered parks and gardens are not widely understood. Decision making without this specialist input could result in the loss of irreplaceable heritage assets which are also important green spaces contributing to the health, wellbeing and community.

In some Local Authorities validation teams are sometimes confused by consultation requirements. The Theatres Trust and the Gardens Trust can be overlooked completely, or added to the consultation process much later on, and the sudden urgency possibly giving the impression of delay.

### **Question 8**

**In light of the proposed mitigations, do you support the removal of Theatres Trust as a statutory consultee?**

support  
**oppose**  
neutral

### **Question 9**

**Are there impacts of the removal of Theatres Trust as a statutory consultee, or the proposed mitigations, that you think the government should take into account in making a final decision?**

The Institute is extremely disappointed to see the proposed removal of the Theatre's Trust from statutory consultees for planning applications. Statutory consultees are key to shaping planning decisions by providing expert advice and guidance. Their insights help drive sustainable development whilst protecting our cultural heritage, and promoting community pride and well-being.

It is difficult to see why changes to Theatres have any impact on the speed or delivery of housing. Added to this the Theatre's Trust reports that it only comments on planning applications related to theatres which is only around 100 applications each year - the equivalent of 0.03% of planning applications submitted in England.

Removing heritage bodies from the list of statutory consultees will do nothing to 'promote growth and unblock building' but it is likely to accelerate the loss of or harm to irreplaceable heritage assets.

The Government should provide convincing evidence before dispensing with the valuable service that these and other voluntary sector Trusts and amenity bodies provide.

### **Question 17**

**Do you support the changes to Historic England's proposed notification criteria?**

We do not support the raised threshold for consultation in conservation areas from development of 1,000m<sup>2</sup> to development of 2,000m<sup>2</sup>. Changing the criterion would remove consultation with Historic England on the vast majority of conservation area development proposals. Development of small site areas can be as damaging as larger ones. For example a high-rise proposal can occupy a very small site.

### **Question 18**

## **Do you support changes to align the listed building consent process in London with the process that applies elsewhere?**

### **Question 19**

#### **Is there anything else we should consider in relation to the role of Historic England as a statutory consultee?**

“Given that local planning authorities must already decide nine tenths of these applications relying on in-house expertise, the government believes that this could be extended, and the notification requirement removed.” In-house expertise is not sufficient to rely upon in the way suggested in this consultation. The IHBC, and others within the heritage sector, have long been concerned at the erosion of conservation expertise and capacity within Local Planning Authorities since 2006. Heritage building owners have increasingly, in recent years, reported significant and unacceptable delays in obtaining consents and permissions.

It is crucial that before additional expert advice is removed to ensure that Local Authorities have sufficient conservation skills available, conservation functions within Local Authorities are adequately resourced, and that this provision is consistent countrywide and whether additional heritage resources need to be provided.

It is important to establish whether there are enough Local Authority staff with appropriate training and skills to regulate and process adequately the impact of interventions to historic building stock.

In 2020<sup>1</sup> 6% of Local Authorities had no access to conservation advice and many others had limited part time access to advice. This lack of advice exposes the nation’s heritage to the real risk of harm. The loss of 48.7% of conservation provision across England since 2009 can only have had a devastating effect on local authorities and some may be no longer even able to carry out even their statutory conservation duties.

Local Authorities with a limited number of historic assets and no conservation capacity, have been reported as saying that no in-house capacity is required because Historic England will provide advice when it is necessary. For example in interviewing Local Authorities for the Institute’s research into Local Authority Conservation Staffing Resources in England 2020<sup>2</sup> one local authority stated “At present, the Council doesn’t have an in-house heritage officer. We consult Historic England if we need specific heritage advice before submitting responses to planning applications” despite the fact that Historic England, for its own capacity reasons, rarely, advise on Grade II listed buildings which make up the majority of listed buildings (92%) and not carrying out their statutory duties in this regard.

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<sup>1</sup> <https://newsblogs.ihbc.org.uk/wp-content/uploads/2020/10/Local-Authority-Conservation-Staffing-Resources-in-England-2020-v261020.pdf>

<sup>2</sup> <https://newsblogs.ihbc.org.uk/wp-content/uploads/2020/10/Local-Authority-Conservation-Staffing-Resources-in-England-2020-v261020.pdf>

The planning system does not have access to sufficient skilled heritage professionals and ensuring it does have should be a priority.

Even where authorities have staff in place, they are often limited in experience and knowledge of specialised areas and greatly appreciate the assistance that Historic England can provide. They are also very useful in providing unbiased, objective specialist advice where in-house staff have a political or internal pressure put upon them.

**Question 28**

**Is there anything else the government should be doing to support local planning authorities in their engagement with statutory consultees?**

The Government might consider developing guidance or training to improve the awareness of Local Authority planning decision makers on the valuable specialist role of statutory consultees so that their advice is valued and appreciated for the significant contribution it can make to informed decision making and not seen as an unnecessary hinderance.

**Question 30**

**How might best practice be expanded to support statutory consultees, including through reducing the volume of material which developers have to produce?**

Taking advice from specialist consultees in advance of submitting a planning application enable consideration to be given to concerns before submission, can help with project certainty and prevent delays during the determination period.

**Question 33**

**Should the government maintain the moratorium, subject to periodic review, or adopt criteria for consideration of new statutory consultees?**

The policy should be reviewed regularly to ensure that emerging issues or priorities, and the specialist bodies concerned with these, can be addressed.

Yours sincerely

Fiona Newton  
Policy & Membership Executive Officer