



## IHBC GUIDANCE NOTES

### **1/14: Planning Authority duties in the provision of appropriate specialist conservation advice in England**

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*This is one of a series of occasional IHBC Guidance Notes published by the Institute of Historic Building Conservation (IHBC). IHBC Guidance Notes offer advice on topics that we consider crucial to the promotion of good built and historic environment conservation policy and practice.*

*The IHBC welcomes feedback, comment and updates on our Guidance Notes to our consultant editor Bob Kindred, at [research@ihbc.org.uk](mailto:research@ihbc.org.uk)*

#### **1. Summary**

Local planning authorities have substantial statutory and non-statutory duties to provide specialist conservation advice, especially in delivering **sustainable development and growth**. This IHBC Guidance Note addresses key duties, threats, opportunities and solutions.

#### **2. Duties in law and policy**

Local planning authorities (LPAs) play the central and vital role in conserving England's heritage. Through planning, LPAs have statutory responsibility for decisions on how places change and how local heritage resources are conserved and developed.<sup>1</sup>

2.1 To deliver on an LPA's statutory duties, legislation also confirms that they need properly informed input of specialist conservation advice and judgement. For example the **Planning (Listed Buildings and Conservation Areas) Act 1990** empowers the Secretary of State to approve 'the arrangements which the authority propose to make to obtain specialist advice in connection with their functions...'.<sup>2</sup>

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<sup>1</sup> Planning (Listed Buildings and Conservation Areas) Act 1990 C9, e.g. S16(2) & S71(1).

<sup>2</sup> *Ibid.*, Sch. 4, para. 7.

2.2 England's **National Planning Policy Framework (NPPF)** also confirms the importance of appropriate and targeted specialist input as part of the LPA's duties to conservation across the entire built and historic environment. Through the NPPF planning authorities have specific corporate duties to make informed planning decisions on how 'special interest' (127) and 'significance' (17; 126 *etc*) are managed as all of their places develop, following the statutory duties cited above.

2.3 With a 'Core Planning' principle of the NPPF being to: 'conserve heritage assets in a manner appropriate to their significance' (17), it also highlights areas where specific conservation skills are essential to informed decisions. These include determining proportionality in heritage values (128) & evidence (129); assessing 'substantial' harm and mitigation to heritage works (e.g. 132; 133, 134 & 141), and character in new design in the historic environment (58, 80 & 126) among others.

2.4 Through **Building Regulations** specialist conservation advice is needed also to help LPAs meet climate change challenges in traditional buildings.<sup>3</sup>

### 3. Threats to economic and environmental planning

Statute and policy recognise that if a local authority does not have access to skilled advice at the right level, or its advisory process is not functioning, then decisions cannot be properly informed. This threatens the built and historic environment by putting resources and assets at risk. Also it undermines confidence in the competence of the authority. Decisions also are more open to ombudsman's review and challenge in the courts.<sup>4</sup> The 2010 '**Penfold review of non-planning consents**' highlighted how failings here slowed planning processes, development and growth.<sup>5</sup>

### 4. Opportunities

Extensive research confirms that effective conservation services play a positive role in local enhancement and regeneration, generating inward investment, sustainable jobs and growth.<sup>6</sup> Clearly such conservation services are not only a legal and operational duty, but they offer affordable and invaluable ways to underpin local jobs and growth.

### 5. Solutions

The best way for LPAs to address statutory and corporate duties to conservation is to have an appropriate level of informed professional conservation advice

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<sup>3</sup> Building Regulations Parts L1B and L2B 2010 para. 3.13; DECC's Green Deal Provider Code of Practice version 3, 2013, Annex B para. 44

<sup>4</sup> Consequences are outlined at [www.ihbc.org.uk/skills/england/](http://www.ihbc.org.uk/skills/england/)

<sup>5</sup> [www.bis.gov.uk/penfold](http://www.bis.gov.uk/penfold)

<sup>6</sup> [www.ihbc.org.uk/skills/england/](http://www.ihbc.org.uk/skills/england/), Appendix 3 & [www.ihbc.org.uk/skills/page7/](http://www.ihbc.org.uk/skills/page7/)

accessible across its planning service. A simple way to demonstrate a commitment to those duties is to employ suitably qualified conservation specialists such as Conservation Officers. **Penfold** particularly recommended the skills sets of IHBC members.<sup>7</sup>

## 6. Recommendation on publicising conservation resources

The IHBC strongly encourages all planning authorities to specify how they are addressing their statutory and corporate duties to conservation. *A prominent and accessible description of the resources allocated and processes adopted may be a simple and economic service improvement.* Such practice also aligns with the recommendations of **Penfold**.<sup>8</sup>

## 7. Advice & contact

The IHBC is keen to assist in providing support and advice on conservation services through offering our own expertise. If you or your local authority have any queries on this advice, or would like to discuss the quality of your service in more detail, contact the IHBC's director and lead author of this note at [director@ihbc.org.uk](mailto:director@ihbc.org.uk).

*Seán O'Reilly BA, PhD, MURP, FInstLM, FSA Scot, IHBC  
Director, The Institute of Historic Building Conservation*

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<sup>7</sup> Penfold, 2.46.

<sup>8</sup> Penfold, Annex D: 'Framework for 'Quality Development Code', for example.