

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

18 November 2009

Report of the Director of Planning Transport and Leisure

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 DRAFT PLANNING POLICY STATEMENT 15 (PPS 15) PLANNING AND THE HISTORIC ENVIRONMENT

Summary

As promised in the Heritage White Paper, a new single draft PPS on Planning and the Historic Environment has been produced to incorporate all aspects of the historic environment and replace PPG15 as well as PPG16 on Planning and Archaeology.

1.1 Background

1.1.1 Members will recall that the draft Heritage Protection Bill was prepared in spring 2008, setting out ways in which the government would translate the Heritage White Paper (2007) into legislation. However, the Bill was not included in the list of Bills to go through Parliament this year and its future (in its current form at least), remains uncertain.

1.1.2 Nevertheless, the consultation draft of PPS15 Planning and the Historic Environment has now been prepared with a view to it replacing both PPG15 and PPG16. The government is keen to streamline all new policy and to make a clearer distinction between policy and guidance, and the consultation draft of PPS15 is significantly shorter in length than PPG15 and 16, even with the accompanying guidance that has been produced by English Heritage.

1.2 Proposed changes to the planning regime for the historic environment

1.2.1 The current consultation "takes account of the commitment in the 2007 white paper, Planning for a Sustainable Future, to streamline existing PPGs and PPSs and separate out policy from guidance". This has led to two publications: draft PPS 15 which contains the policy element, and a "living" draft Historic Environment Planning Practice Guide which contains the guidance as to how this policy should be implemented. The draft PPS has been published jointly by two government departments, DCLG and DCMS. The guidance has been prepared by English Heritage. The draft PPS has adopted a completely new format in that it

contains 13 numbered heritage policies. The first six are Plan Making policies covering regional and local plan making. The following seven relate to the Development Control process.

- 1.2.2 The draft PPS proposes a departure from the current distinction between buildings and archaeology with the separate treatment of listed building control, conservation consent and so on as outlined in PPG15 and archaeology as outlined in PPG16. PPS15 seeks to create a unified register of "heritage assets". Heritage Assets are defined as "a building, monument, site or landscape of historic, archaeological, architectural or artistic interest whether designated or not. Heritage assets are components of the historic environment". **The Historic Environment comprises** "All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and deliberately planted or managed flora. Those elements of the historic environment that have significance are called heritage assets."
- 1.2.3 Designated Assets are describes as "a world heritage site, a scheduled monument, listed building, protected wreck site, registered park or garden, registered battlefield or a conservation area designated as such".
- 1.2.4 The implications for local planning authorities will be greater than those for previous PPGs or PPSs if there is a statutory obligation to implement the policy in accordance with the English Heritage Guidance. As an example, Policy HE1 states that Regional and Local Planning Authorities should ensure that they have an evidence-base concerning the historic environment and significant heritage assets in their areas, and that this is publicly maintained in a Historic Environment Record (HER). Annex 1 of draft PPS15 defines HERs as "information services that seek to provide access to comprehensive and dynamic resources relating to the historic environment of a defined, geographic area for public benefit and use. Typically they comprise databases linked to a geographic information system (GIS), and associated reference material, together with a dedicated staffing resource."
- 1.2.5 While the Council already holds records on most elements of the historic environment (Listed Buildings, Conservation Areas, Historic Parks and Gardens, and Ancient Monument), the definition of "Historic Asset" is so vast and subjective that there are likely to be major resource implications if any one Council is to provide a full HER. Kent County Council currently own and maintain a Historic Environment Record but that contains information on archaeology only. It is not clear whether the proposed HER would be maintained and managed by district authorities or by Kent County Council in partnership with the districts. Policy SQ2 of the emerging Managing Development and the Environment Development Plan Document commits the Council to preparing a compendium of Locally Listed Buildings in consultation with local groups and organisations.

1.2.6 A main thrust of the draft PPS15 is the principle that local authorities should consider and consult on potential new uses for under-used heritage assets, and to assess the contribution the setting makes to a heritage asset to ascertain its potential to accommodate new development.

1.3 Plan making policies.

1.3.1 **Policy HE1:** Local Planning Authorities (LPAs) should compile and hold comprehensive, publicly available heritage asset evidence bases known as Historic Environmental Records (HERs).

1.3.2 **Policy HE2:** Relates to Regional Spatial Strategies. The RSS should identify landscapes, groupings or types of heritage assets that give a region or area its distinctive identity.

1.3.3 **Policy HE3:** LPAs should create a heritage asset strategy, the main focus of which is to understand what is significant about a building, site or landscape in order to better determine the impact of any proposed changes. The historic environment should inspire new buildings of high quality design which both complement and respect their setting. The 'values' approach of English Heritage's *Conservation Principles* is used as a core philosophy to inform decision-making.

1.3.4 **Policy HE4:** LPAs should seek to reuse and sympathetically modify heritage assets to reduce carbon dioxide emissions, and install sustainable drainage systems and renewable energy systems.

1.3.5 **Policy HE5:** LPAs should make use of article 4 directions if permitted development rights undermine any heritage assets.

1.3.6 **Policy HE6:** identify the heritage assets most at risk and how they propose to respond to that risk, and monitor the impact of policy and planning decisions.

1.4 Development management policies

1.4.1 **Policy HE7:** early pre-application discussions to fully understand the significance of an asset before design of a development.

1.4.2 **Policy HE8:** applicants must provide a description and expert assessment before an application is validated.

1.4.3 **Policy HE9:** In considering applications LPAs must:

- 1) seek the views of the local community;
- 2) weigh public benefits against any harm to an asset;
- 3) where loss of significance justified by merits of new development, use best endeavours that the development will proceed before approving the application.

- 1.4.4 **Policy HE10:** Additional considerations of applications for developments relating to designated heritage assets:
- 1) prove alternative uses and owners have been sought;
 - 2) take into account the desirability of enhancing the asset or its setting through development.
- 1.4.5 **Policy HE11:** Additional considerations of applications for developments affecting the setting of a heritage asset:
- 1) treat applications that preserve or enhance an asset favourably;
 - 2) high quality designed new development that enhances an asset should be seen as a public benefit.
- 1.4.6 **Policy HE12:** ensure the public benefits in determining enabling development outweigh the dis-benefits. The criteria for determination includes an assessment of the potential impact on the asset and its setting, avoidance of asset fragmentation, and the development should be the minimum necessary to ensure long term survival of the asset.
- 1.4.7 **Policy HE13:** Archived investigation of an asset should be a planning condition fulfilled before commencement of development.

1.5 Commentary

- 1.5.1 We are aware that a number of bodies such as the Royal Town Planning Institute, the Institute of Historic Building Conservation and the Kent Conservation Officers' Group have expressed concern at the tone of the document. The RTPI has commented that the document appears to treat heritage assets as a burden rather than the asset that a well maintained feature can have in enhancing the quality of a scheme. I think that the approach adopted by these bodies is a wise one – especially given that the heritage aspects of a proposal are seldom the sole consideration to be balanced in a decision. I believe that the Council; should support the principle adopted by these bodies.
- 1.5.2 We are also aware that the County Council has a sustainable body of data that is held in a form close to that expected for the HER (draft policy HE1). The aim should be to complete the data collection/entry to allow that to be completed and to find a way to agree with KCC how that data can be shared across the Districts to allow its use on a day to day basis for casework.
- 1.5.3 Should the Council decide to maintain its own Historic Environment Record (HER) (draft policy HE 1) there will be additional staffing costs, acknowledged in an Annex to the draft statement. DCLG identifies additional costs of c. £90,000 p.a. for local authorities in relation to the creation and updating of additional HER records and c. £3.35m p.a. for developers/owners in relation to recording historic buildings. However, DCLG off-set these increased costs against anticipated efficiency savings of c£3.52m p.a. for local authorities in the processing of applications. The net impact is suggested by DCLG to be cost-neutral, however

as the County archaeological officer has noted there will be new costs arising from the assessment of assets in terms of “artistic value” – and new criterion for addition to the HER.

- 1.5.4 Although the generic term “heritage asset” used in this draft PPS15 makes no distinction between archaeology and the remainder of the historic environment, the draft document does distinguish between designated assets and non-designated assets.
- 1.5.5 The term “heritage asset” could open the door to unpredictable requirements for further information from the developer on any building, site, or “unspoilt” landscape which could complicate and therefore slow down the planning process.

1.6 Legal Implications

- 1.6.1 PPS15 seeks to greatly extend the categories of heritage asset given formal protection. However, there is no primary legislation to back this up, and the future of the Heritage Bill is uncertain bearing in mind it was not included in the list of Bills to go through Parliament this year.

1.7 Financial and Value for Money Considerations

- 1.7.1 Although PPS15 considers its implications to be cost neutral, there is likely to be significant resource implications and the need for staff training on heritage matters.

1.8 Risk Assessment

- 1.8.1 There is risk that the Heritage Bill will not survive the general election, in which case there could be implications for how heritage protection is brought forward by the future administration. Between this Council and KCC, the majority of information that would be contained in a HER is available. However, there is a potential risk that the burden of expectation placed on local authorities may not be realistic.

1.9 Conclusion

- 1.9.1 The proposed PPS15 would shift the focus from the preservation of historical assets to how the heritage assets can contribute to modern living. It invites community involvement in deciding what constitutes a heritage asset, and recognises the contribution the historic environment can make to the economy in terms of tourism and attracting inward investment. The main criticism of the draft PPS15 is that it lacks the clarity of PPG15 and the definition of “heritage assets” is broad and open to interpretation.
- 1.9.2 The Royal Town Planning Institute, the Institute of Historic Building Conservation and the Kent Conservation Officers' Group share the same view that the tone of this draft PPS15 implies that the historic environment has been seen as a hurdle

to development and protecting it is mainly a burden. This view is not supported by these organisations or by the Council. The RTPI believes that the proposed reforms do not address their original aims to create a simpler, clearer and more accessible system for heritage protection. The draft PPS fails to recognise the positive role that heritage can play in creating jobs, growing the economy and making better places.

1.10 Recommendations

1.10.1 That the concerns outlined in this report and any other matters raised by Members **BE FORWARDED** to the DCLG.

The Director of Planning Transport and Leisure confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Jill Peet

Consultation paper on a new Planning Policy Statement 15:
Planning for the Historic Environment *DCLG & DCMS*

PPS Planning for the Historic Environment: Historic
Environment Planning Practice Guide – Living Draft 24 July
2009 *English Heritage*

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