



# Protecting our historic environment: Making the system work better

July 2003

# Contents

---

	page
Foreword	2
Introduction	4
Scope and parallel work	6
The present systems	8
Suggestions for change	10
The List of Historic Sites and Buildings of England	10
Who should be responsible for national designation?	11
Criteria and discretion	11
Making listing more transparent and removing uncertainty	13
Openness and protection	14
Better information for owners and tenants	14
Appeals	15
Management and control for items on the List	15
Management agreements	17
The rural historic environment	17
Protection at regional and local level	18
Regional responsibilities	18
The local historic environment	18
Regeneration	20
Incentives for owners	21
Resources	21
Pooling resources	21
Training	22
Overall resource impact	22
How to respond	23
Summary of suggestions for change	24
List of questions for consultation	26
Annex 1: The present systems	28
Annex 2: International obligations	30
Annex 3: Some facts and figures	31
Annex 4: List of ODPM reviews and initiatives	34
Annex 5: Regulatory Impact Assessment	35
Annex 6: Steering Committee membership	36

This paper is about England. Wales shares some of the same legislation; the Welsh Assembly Government, a partner in this Review, intends to issue a separate consultation paper. Scotland and Northern Ireland have their own legislation.

## Foreword

---

### By the Rt Hon. Tessa Jowell MP, Secretary of State for Culture, Media and Sport

When we published *The Historic Environment: A Force for Our Future*<sup>1</sup> I said that it was only the beginning of a major drive to unlock the full potential of our historic assets for the benefit of our communities, for our economy, for quality of life, education and regeneration. In November 2002 I announced that we would be carrying out a Review to improve and refocus the way in which England's historic assets receive statutory protection.

This consultation paper marks a further step in engaging wide public interest in the systems we use for deciding what we value most in our historic environment. The statutes which protect ancient monuments and historic buildings have stood the test of time but they need refreshing. The proposals in this paper are designed to ensure that we have a respected means of deciding what needs protecting which reflects not only the knowledge of experts but also the values of our diverse communities.

We owe much to English Heritage, our partners in this Review, and to all those who have participated in the production of this paper with their ideas and views. Since November 2002 officials have consulted very widely among those affected by the present arrangements for protecting our heritage and those responsible for implementing them. We have heard from owners, local authorities, communities, developers, the architectural profession and amenity societies, academics and advisers. I would like to thank all of them for their contributions and especially the members of the Steering Committee which is overseeing the work of the Review, and its Chair, Geoffrey Wilson.

These consultations leave no doubt of the solid support for maintaining protection and seeking ways of improving it. There is broad consensus that it is time for reform to create a more simple, open, flexible but rigorous system, which engages the imagination and will encourage owners and the community to invest in the fabric of their history.

Legislation must be sufficiently robust to protect what is fragile and sufficiently flexible to allow change. It must enable us to sustain what we value from the past both for its own sake and as a stimulus to creative new architecture and good design. It must enable our heritage to be a force for regenerating our cities, towns and villages.

---

<sup>1</sup> PP378. DCMS and DTLR. December 2001

The paper sets out a package of suggestions for change. Some of the proposals would require primary legislation, some would not; some reforms can begin quickly, other changes would need gradual introduction over a period of years.

The package is designed to bring benefits to all who use the system. Citizens would have greater opportunity to participate; owners would benefit from greater openness and information and from the ability to challenge decisions; developers would have greater certainty and efficiency of decision-taking; local authorities would have clearer guidance; and everyone would benefit from a simpler system.

I look forward to more debate between now and the end of October and to hearing your thoughts and ideas. Our plan is for a White Paper early in 2004.

A handwritten signature in black ink that reads "Tessa Jowell". The signature is written in a cursive, slightly slanted style.

TESSA JOWELL

## Introduction

---

***“Memory has true value only if the traces of the past and the project for the future are held together”<sup>2</sup>***

1. Over the last one hundred and twenty years Parliament has recognised the value of the historic environment by enacting laws to protect it from loss and damage. In the late nineteenth century the perceived need was to save ancient monuments – archaeology and buildings – from falling into ruin. After the Second World War the loss of so many buildings to bombing and new development showed the need to extend protection to buildings from all eras. Since then, the importance of the wider historic environment – landscapes, parks, gardens and battlefields – has been recognised in the non-statutory registration schemes of English Heritage. Since 1967 local authorities have had powers to designate conservation areas reflecting local values. Underwater archaeology is also protected. Wider policies have also been developed within the planning system to guide local authorities in judging how best both to conserve their historic environment and to enable new development.
2. There is much that works very well in these systems but taken as a whole the Government believes that there is scope for improvement to ensure the law is fit for purpose for the twenty-first century, with benefits for all those involved.
3. In November 2002 the Government announced its intention to carry out a Review of the legislation which protects the historic environment. The aim of the Review is to recommend changes which will produce:
  - a positive approach to managing the historic environment which will be transparent, inclusive, effective and sustainable, and central to social, environmental and economic agendas at a local as well as national level;
  - a legislative framework that protects the historic environment but enables appropriate change.
4. Any system for protecting heritage must have a respected and robust means of determining what is worthy of protection. To be respected and robust it must use knowledge and skill recognised by others in the field and understood by the public, make decisions against known criteria, and be open to challenge and review. Its cost must be proportionate to the benefits and it must be efficiently run within acceptable time limits and according to the standards of good regulation.
5. It must work with the grain of our democracy at national, regional, local and community level and with policies about conserving the environment and sustainability. It must reflect developments in thinking about cultural heritage both in this country and elsewhere, recorded in the international conventions to which this country is a signatory. It must not only command broad support from a public of different backgrounds and cultures but it must also engage and enthuse citizens and property owners alike.

---

<sup>2</sup> Italo Calvino quoted in *The Modern Movement in Architecture/Selections from the Do.Co.Mo.Mo Registers*

6. In the first stage of this Review the Government, with English Heritage, has looked at how well the present systems for designating historic assets measure up to these requirements. One hundred stakeholders, representing a wide range of views, have been interviewed and some two hundred more have debated the key issues in eleven regional focus groups. Stakeholders have included owners of historic buildings and monuments, conservation experts, archaeologists, historians, architects, developers, local authorities, planners, consultants, people involved with regeneration and community development, estate agents and surveyors, builders and church representatives.
7. This paper sets out some possible changes to improve the way the historic environment is protected and invites views from anyone who is affected. Details of how to respond are in paragraphs 81 and 82. The responses will be analysed in a report to Ministers in December. A White Paper is planned for early 2004.
8. The Review has identified four major areas for improvement:
  - **Simplifying** The protection systems are complex. New protections have been added in a piecemeal fashion. Few people have a grasp of all parts of the legislation. There are overlaps. Unsurprisingly there are inconsistencies in interpretation.
  - **Openness** Processes are often inaccessible, even secretive. The reasons for designating a particular site or building are not made clear. There is little encouragement to owners to feel involved. Restrictions are placed on owners of protected assets, which sometimes serve to alienate them rather than to engage their enthusiasm for looking after their properties. Opportunities for positive dialogue, community involvement and good planning can be lost.
  - **Flexibility** The present systems require individual designations for each structure and individual consents for each alteration. Where there are complex sites, such as a large military establishment or a housing estate, this is laborious. There are lessons from the more flexible regimes for managing the natural environment which have not fully fed through into heritage protection.
  - **Rigour** In 1970 there were some 90,000 listed buildings and an unknown number of scheduled monuments. There are now about half a million. This is a rich inheritance but a huge stock to manage. Looking ahead we know that only some 3% of the total of listed buildings are from the twentieth century yet about 80% of the nation's stock is post-1900. The system must be robust enough to conserve the best and to continue to take on board changes in what people value without devaluing the currency.
9. The proposals and questions set out in this paper are not designed to undercut the protections which have been carefully built up over time. They are designed to improve the way the system operates and its efficiency, for the benefit of all. The suggestions for change would better inform owners about why their property has been protected, what is considered important about it and how they can best look after it; local authorities would have clearer guidance about how to enable change and apply controls; developers would enjoy greater certainty; amenity societies and others concerned locally or nationally with conserving the historic environment would be better able to obtain information and participate; everyone would benefit from a simpler system and from the proposed new responsibilities and disciplines on English Heritage.

## Scope and parallel work

---

10. The Review covers the designation of ancient monuments, listed buildings, registered parks and gardens, registered battlefields, World Heritage Sites and conservation areas and how the land-use planning system protects the historic environment. The parallel regimes for the natural environment have been considered for comparison. The various heritage designations are described in Annex 1 and international obligations in Annex 2. Some key facts and figures are given in Annex 3.
11. This document is concerned with England. The results of this consultation and of the separate exercise to be carried out by the Welsh Assembly Government will be considered together in the Autumn. The Scottish Executive and Northern Ireland Office have been and will be kept in touch.
12. A separate consultation on the future of Sites and Monuments Records is being launched in parallel. The results will be announced with the results of this consultation at the end of the year.
13. Protection of underwater sites will be the subject of a further consultation document in the Summer.
14. This Review is not considering the future of the Ecclesiastical Exemption (under which ecclesiastical buildings are, in certain circumstances, exempted from the need to obtain listed building and conservation area consent). The Exemption will be examined in the light of the conclusions of this Review.
15. At present the Crown is generally exempt from the requirements of listed building, scheduled monument, and conservation area controls. The Government has announced that it will be introducing amendments to the Planning and Compulsory Purchase Bill now before Parliament to remove some of these exemptions.
16. The Government is separately taking forward a number of other initiatives that are likely to have implications for the historic environment. These arise from commitments in the Planning Statement *Sustainable Communities: Delivering through planning* published in July 2002 by the Office of the Deputy Prime Minister (ODPM). These include the review of Planning Policy Guidance Notes 15 and 16, a review into the scope for integrating the present array of controls in a single consent regime (the unification exercise) and a review into the scope for standardising the existing administrative procedures relating to applications for planning permission, listed building consent and conservation area consent (the standardisation exercise). A full list of current ODPM reviews and initiatives is at Annex 4.
17. ODPM is aiming to go out to public consultation early next year on a draft Planning Policy Statement 15 *Planning for the Historic Environment* and supporting Guidance which are designed to replace the existing PPGs 15 and 16. Research commissioned by ODPM into the unification exercise is currently underway, although the final report is not expected until early 2004. Some changes to secondary legislation are in hand to standardise administrative procedures. A further consultation paper will be published later this year by ODPM on possible changes to the existing publicity arrangements for listed building consent and conservation area consent to bring them into line with the planning arrangements.

18. DCMS is working very closely with ODPM and other stakeholders to ensure that work on this Review is informed by these other initiatives, and vice versa.

## The present systems

---

19. The main planks of the present legislation are:

- *The Ancient Monuments and Archaeological Areas Act 1979* – a consolidation of measures to protect ancient monuments dating back to 1882;
- *The Planning (Listed Buildings and Conservation Areas) Act 1990* which governs the listing of buildings of special architectural or historic interest; and
- *The Town and Country Planning Act 1990* which sets out the planning powers of local authorities and provides for guidance to be given by the Secretary of State.

In addition:

- Guidance on listed buildings and conservation areas has been given in *Planning Policy Guidance note (PPG) 15*. This contains the criteria to be used by the Secretary of State for listing buildings and the principles to be used by local authorities for dealing with applications for consent to make alterations which might affect the character of a listed building.
- Guidance on archaeology is given in PPG 16.

Details of the legislation are in Annex 1.

20. Scheduled monuments – essentially sites and structures, whether above or below ground, which may have no economic use – are expected to be preserved as they are, whereas listed buildings (almost all above ground) are expected to stay in use and hence may need to be adapted to accommodate that use. There is no hard and fast boundary between the two so that some things can be both listed and scheduled. The decision to schedule a monument is a much more discretionary affair than listing but, once in place, scheduling applies much tighter controls over demolition or alteration. Almost no monuments are now scheduled in urban areas, archaeological remains being protected through the requirements of the planning system (PPG 16).
21. Listing applies only to individual structures, scheduling to a site. Wider areas of historic, landscape, townscape or architectural interest, where it is the whole not just the parts which is worthy of conservation, can be protected only by the weaker regime of local authority-designated conservation areas, or as a registered park, garden or battlefield. Registration and conservation area status are a material consideration to be taken into account in land-use planning and development control. (The Secretary of State also has the power to designate conservation areas but has not exercised it.)
22. Works which would affect the character of a listed building require consent from the local authority which must notify English Heritage for grade I and II\* and certain other listed buildings. The First Secretary of State (the Secretary of State at ODPM) is responsible for policy on listed building consent and may call in exceptional cases for his decision. Scheduled monument consent is given by the Secretary of State for Culture, Media and Sport who is advised by English Heritage.

23. The system is now so complex that few people fully understand all parts of it. It is not apparent that monuments, buildings and landscapes need separate regimes.

## Suggestions for change

---

### The List of Historic Sites and Buildings of England

24. **To simplify the present systems, the Government sees benefit in bringing together the different regimes for protecting the historic environment into a single “List of Historic Sites and Buildings of England” (“the List”).** This might cover any type of historically, archaeologically or architecturally important site such as would now come within the various statutory protection or registration regimes. It might also cover important historic areas, such as World Heritage Sites. Purely local designations – conservation areas and locally listed buildings – could be included in a local section of the List. The List would provide a comprehensive database of the historic environment of England but responsibility for creating and managing items in the local section would stay with local authorities. A few conservation areas considered of special historic importance in a national context could be entered on the main List and benefit from more flexible protections (see paragraphs 53-55 below).
25. The management arrangements and controls that would flow from being on the List would depend on the type of asset, its importance, its condition and use. The appropriate regime would be decided at the time of designation and reviewed from time to time. In practice the Government envisages a suite of standard controls being used, but with flexible powers to adapt the requirements to fit the circumstance.
26. Some 500,000 buildings, monuments and landscapes are already listed, scheduled or registered. These would need to be brought onto the List from the start, without amendment. Any new provisions for management would be available for these items but it would be a vast task and a poor use of resource to carry out a comprehensive review of everything which is already designated. As now, there would be provision to review and modify the List from time to time.
27. There are some important differences between how legislation currently deals with monuments and with listed buildings (Annex 1). Both monuments (whether scheduled or not) and listed buildings can be the subject of compulsory purchase orders in the interests of their preservation. Urgent works can be carried out to monuments by the Secretary of State or by English Heritage but the costs cannot be recovered from the owners. For listed buildings, urgent works can be carried out by local authorities or by English Heritage, both of which can then recover the costs from the owner. There are provisions for management agreements for monuments but not for listed buildings. A unified system would need to retain the protection now afforded to unscheduled monuments. Similarly the provisions for guardianship – the taking of important monuments into public care – would be retained.

**Q1.1** *Would a unified List for England improve existing arrangements?*

**Q1.2** *Is a power at national level to designate areas of historic importance necessary or useful? What would it add to the present conservation area designation? What issues would need to be resolved?*

## Who should be responsible for national designation?

28. At present the Secretary of State takes the decision to list a building or schedule a monument. English Heritage decides on the non-statutory registrations of parks, gardens and battlefields.
29. In deciding whether to list a building the Secretary of State is constrained by the criteria set out in PPG 15, by precedent and by the advice she receives from her statutory adviser, English Heritage. (She also takes advice from the Commission for Architecture and the Built Environment (CABE) in the case of post-war buildings.) She is not obliged to take that advice but in the vast majority of cases she does so. The Secretary of State is not able to weigh up different kinds of evidence and apply Ministerial judgement to take account of wider factors.
30. **The Government believes that Ministers' role in designation should be to make policy rather than to decide each case. The Government therefore invites views on the merits of giving English Heritage the statutory responsibility for maintaining the List. The transfer of responsibility would be subject to four important safeguards:**
- **English Heritage would be required to act within published Government policies and criteria for listing;**
  - **the Secretary of State would retain a power to call in exceptional cases for her decision;**
  - **owners and applicants would have a new right of appeal (see paragraphs 48-50 below); and**
  - **English Heritage would be required to give an annual account of its stewardship of the List against the published policies and criteria.**

*Q2.1 Are the suggested safeguards sufficient to allow English Heritage to become responsible for maintaining the List?*

*Q2.2 What other options might there be? For example, might English Heritage establish some form of independent committee to make the designation decisions? How would CABE's advice on post-war buildings be factored in?*

## Criteria and discretion

31. The processes and practices of listing and scheduling have grown up differently over time. Whenever the criteria for listing are met, the Secretary of State will list that building. The criteria are set out in PPG 15. They are concerned purely with assessing the special interest of the building. They allow for a more selective approach to the listing of twentieth-century buildings than to those from earlier periods.
32. More discretion is possible in deciding whether to schedule a site or monument. It is possible to consider whether scheduling would help to protect, or simply add unnecessary requirements, or whether there are other, better means of protection – notably the requirements of PPG 16 which place responsibilities on developers to carry out archaeological work and if necessary ensure the preservation of remains. In some cases a management agreement with an owner will secure the future of the site.

33. **The Government sees the case for allowing English Heritage some discretion and discernment in deciding what will be on the List.** The List would include the most important sites and items from the past, according to certain broad statutory criteria, including sites valued for their archaeological importance, their architectural significance, their association with major historical events or because they represent a type of building or social use from a particular period. Wider cultural considerations could be taken into account, such as the importance of an area to a particular community in a national context.
34. Some have argued that the listing criteria should not be limited purely to historical or architectural significance, but should allow consideration of the condition of the property and its possible uses. They also feel that the criteria should place the listing in the context of the future of the area in which the building stands. Little brings the system into more disrepute than a contentious decision to list a property, followed weeks or months later by a decision to allow demolition taken by the Minister responsible for listed building consent who is legally able to weigh up all the factors involved.
35. Others have argued just as vehemently that there must be a stage at which the worth of a site or structure is established free of any other factors. They fear in particular that, were economic considerations to be brought into the equation, those considerations would tend to dominate. Economic factors can change rapidly: conservation is for the long term. Equally, a property may be in poor condition with no obvious means of rescue, yet the very action of establishing its importance through listing may activate local campaigns or attract the interest of a building preservation trust which can transform its future. A listing gives a valuable pause for reflection. Other factors can be weighed up at the consent stage, as now.
36. **The Government sees strength in the argument that purely economic considerations should not affect the listing decision. It feels, however, that there should be discretion within published policies, much as there is now for scheduling, to decide that a site or building will not be listed because listing will not help to secure its future or that some other protection, such as development control, is more appropriate. The Government also sees the case for enabling English Heritage to consider at the outset whether the site or property is one which should be recorded rather than listed.**

**Q3** *What criteria should be used to determine what items should be placed on the List?*

37. The present system of grading listed buildings and registered parks and gardens into I, II\* and II has proved useful as a means of focussing resource and expertise on the most important assets.
38. **The Government would welcome views on the value of continuing these gradings. The Government will discuss with English Heritage the practicalities of reviewing over time whether all those buildings listed at grade II rightly belong on the List or might instead be migrated to local lists. This would depend on how robustly local authorities had developed their policies for protecting the historic environment and how they were implementing them.**

**Q4.1** *Should the present gradings of I, II\* and II be retained?*

**Q4.2** *Should some of the items at grade II move onto local lists? What safeguards would be needed?*

## Making listing more transparent and removing uncertainty

39. Once a building is listed, important constraints are imposed on the owner's ability to do works to that building inside or out, yet the terms of that constraint are imprecise. First, the Planning (Listed Buildings and Conservation Areas) Act 1990 states that the building which is listed includes:

(a) any object or structure fixed to the building;

(b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948.

It is often unclear whether objects or structures are included in the listing, curtilage can be difficult to pin down and the local authority cannot settle the matter by issuing a certificate.

40. Second, the control applies to any works which would "in any manner...affect its character as a building of special architectural or historic interest" (1990 Act). What that character might be is not defined in the list nor is guidance given to the owner. The Secretary of State is not required to state the reasons for including a building on the list though she does receive expert statutory advice.

41. It is not good regulatory practice to impose a constraint which leaves an owner uncertain about its effects, nor for the Secretary of State to have powers which can be exercised without reasons being given for the decision. **The Government therefore sees the case for requiring the following for all items on the List:**

- **a map showing exactly what area and structures are covered by the listing**
- **a "statement of significance" in the List entry showing the reasons for the listing, what is significant about the asset and indicating the works for which consent would be needed (see paragraphs 54 and 55 below).**

**A similar statement of reasons could support each decision not to list.**

42. Statements of significance could be introduced for new listings straightaway – English Heritage already produces the necessary evidence as part of its advice to the Secretary of State. On the other hand, while a map on the List entry might be helpful, a move to defining the protected area by way of a map rather than by reference to curtilage will require primary legislation.

43. The impact of introducing statements of significance will be limited if they are created only for new listings, but the work of reviewing the half a million List entries is formidable. One option is to create statements of significance for existing listings only when an application is received for consent to carry out works. This would be a logical trigger since the information in the statements is designed to be of use in deciding what changes can be made in a site or building. However, that could be a cause of delay. Owners might choose or be required to produce their own draft statement of significance. Alternatively English Heritage could agree with Government a programme of review over time, perhaps prioritising particular types of building or site.

- Q5.1 Would a requirement for statements of significance help to establish for owners and local authorities what was important to conserve? How could the statements take account of the inevitable changes in values over time?*
- Q5.2 What should be the process for drawing up statements of significance for existing listings?*
- Q5.3 Should maps take the place of the present definition based on curtilage?*

## Openness and protection

44. Listing and scheduling are semi-secret processes. Owners are not informed that their property is being considered (though they may find out, for example, when an Inspector seeks entry to view it). There is a fear, fuelled by a few notorious cases, that if owners knew their property might be listed or scheduled they might take precipitate action and demolish it. The only protection available to prevent demolition in these circumstances is the power for local authorities to issue a building preservation notice. They rarely do so because if the building is not eventually listed the local authority may have to compensate the owner for any losses directly attributable to the notice.
45. If protection were automatically applied during the consideration period, the whole process could become an open one with owners and communities informed and public debate encouraged. **The Government is minded to require owners, local authorities, amenity societies, parish councils and the public to be informed and consulted when an application is made to place an asset on the List and to provide protection during the consideration of listing as if the asset were already listed.** There would have to be measures to limit the time taken to reach a decision and to avoid vexatious or frivolous applications for listing.
- Q6.1 Should the listing process become open and who should be consulted on an application?*
- Q6.2 Might there be different requirements for private properties which are lived in?*
- Q6.3 Should protection be applied during the period when listing is under consideration?*

## Better information for owners and tenants

46. Owners and tenants are more likely to take pride in conserving their property if they are better informed both about what makes it important and also about how best to keep it in good condition. They could be given more information when their property is listed about how to maintain, repair or enhance it, how to keep up-to-date with new building and repair techniques for older properties, how to apply for grants where these are available and about any tax advantages for owners of listed buildings. They could be guided to websites where more information can be found about the requirements for planning permission and given details of relevant organisations and amenity societies. The best local authorities do this already but centrally produced information could avoid duplication of effort. **The Government proposes to supply owners with a more comprehensive pack explaining what listing means and what they can do to protect and enhance their asset.**

47. The Consultation Draft Housing Bill contains a requirement for all those selling a property to compile a seller's pack, containing information about their property, to give to prospective buyers. This might be extended to create "log books" for historic assets so that someone who buys a property inherits a record of the listing, any information the owner has been sent by English Heritage or the local authority and details of any subsequent works to the property. The Government is interested in this idea but will await responses to the Consultation Draft.

## Appeals

48. At present there is no formal appeal against a listing, scheduling or registration decision. An owner who feels aggrieved can ask to have their property de-listed. There is a similar informal appeal process for registration. If the decision is not to designate, the applicant can put in another application if they have new evidence or can point to a factual error in the previous decision. Mistakes, therefore, can be rectified but the process is not open to challenge. The justification for this lack of appeal has been twofold. First, the listing decision is in itself no more than a marker of a structure's significance. It is reached according to limited criteria based on expert evidence and can be reviewed if new evidence comes to light. Second, the legislation does allow for an appeal against listing if listed building consent is refused.
49. The more open process suggested in paragraph 45 should allow evidence from owners and others to be put forward before the decision is taken but the Government recognises that there will be times when there has been a fault in the process. An appeal system would help maintain confidence in the system and ensure initial decisions are taken in accordance with good regulatory practice.
50. **The Government invites views on the provision of a new right of appeal against listing decisions.** The grounds of appeal would be limited to challenging whether the designating authority had reached its decision through correctly applying the statutory process and criteria and any published policy guidance.
- Q7.1 Should there be a right of appeal? In what circumstances would a right of appeal be justified?*
- Q7.2 Should the suggested right of appeal apply just to owners or to other interested parties as well?*

## Management and control for items on the List

51. Under the current system, owners of listed buildings are required to obtain consent for demolition or for any works which alter their property in a way which might materially affect its character. Local authorities are responsible for deciding such applications and deciding whether particular works require consent (subject to consultation with English Heritage for grade I and II\* buildings). They are guided by the policies set out in PPG 15. The objective is to maintain the character of the building but to enable change to keep the building in use. Interpretation and approach may vary from one authority to another. It is widely believed –

though the evidence has not been collected – that large numbers of owners simply go ahead with alterations without permission because they do not realise they need it, because they dread the bureaucracy and delay or because they think they would be stopped from making the change they want. On the other hand the VAT concession for authorised alterations to listed buildings is a powerful incentive for owners to apply for consent.

52. Consent for works to scheduled monuments is given by the Secretary of State for Culture, Media and Sport and is not part of the planning process. Unlike listed buildings, the starting point is that the monument may not be damaged but the Secretary of State may grant either general or specific consent for certain damaging works.
53. **The Government sees the case for establishing a single flexible consent regime for all items on the new List, apart from the local section of the List (local conservation areas and locally listed buildings).** Local authorities would be responsible for dealing with all applications for consent (including applications for what are now scheduled monuments), consulting English Heritage on the most important items, as they do now for grade I and II\* buildings. The need for consultation with English Heritage could be written into the List entry. There would be a small amount of additional work for local authorities in dealing with what is now scheduled monument consent (see Annex 5).
54. English Heritage would signal at designation the scope of works for which the owner would need to obtain consent. The purpose would be to assist both local authorities and owners by identifying what changes might affect the special character of the site or building and if possible removing the need for consent for certain changes. This would most likely be in the form of a generic control for particular types of site or building. For example, individual buildings and monuments might require detailed consents whereas landscapes might have no specific controls (other than over demolition of built elements) but their entry on the List would become a material consideration in any planning application affecting them.
55. **The Government welcomes views on whether English Heritage might be able to specify more precisely what works would and would not need consent.** This would be the equivalent of the “potentially damaging operations” which are set out when a Site of Special Scientific Interest (SSSI) is established. That might provide greater clarity for the owner and avoid wasting the time of local authorities on unnecessary or insignificant applications for consent. It would make the most of English Heritage expertise and ensure that the thinking which led to the designation informed what happened to the asset thereafter (as to some extent already happens with scheduled monuments). However the additional work would be considerable and could delay designation and it is not easy to predict and define the impact of works before there are any concrete proposals to look at.

**Q8.1** *What kind of consent regime will be most appropriate for a unified List? Should English Heritage seek to define individually at the time of listing what works will or will not require consent or should only generic rules be applied?*

**Q8.2** *What generic arrangements would be suitable for historic areas?*

## Management agreements

56. **The Government also invites views on providing, for items on the new List, the opportunity for some owners to enter into a management agreement with English Heritage and, in appropriate cases, the local authority as an alternative to the consents regime.** This option has already been adopted for a number of ancient monuments, has been experimentally applied to extensive modern buildings and was the subject of the joint ODPM/EH research publication *Streamlining Listed Building Consent*.<sup>3</sup> Statutory management agreements would particularly suit large sites in single ownership such as universities, military sites, NHS hospitals, large farms or housing estates where an agreed approach to maintenance and change could avoid multiple applications for consent. Agreements would need to be subject to audit and review. If an agreement were not kept, the normal controls would come back into play.

*Q9.1 How feasible are management agreements as an alternative to statutory consents and in what circumstances could they be most useful? What would be the essential components of such agreements?*

*Q9.2 What safeguards are needed to ensure openness and rigour?*

## The rural historic environment

57. There is much experience of using agreements as the form of protection for the natural environment, for example in the management of Sites of Special Scientific Interest. English Heritage also has experience of negotiating agreements with farmers to limit damage to monuments from farming operations and any works carried out in accordance with such agreements are deemed to have scheduled monument consent. Environmental farming schemes such as the Countryside Stewardship and Environmentally Sensitive Area Schemes already encourage integrated management of natural and historic features and some rural owners have also asked the Government to consider whether a single agreement could cover all the heritage and environmental protections affecting their property. This is already happening in some areas e.g. National Parks. **The Government is keen to encourage such joint agreements.**

*Q10 Should the Government provide for joint agreements covering the natural and historic environment (such as are now available under agri-environment schemes) to be recognised in statute as an alternative to consent requirements?*

58. Many have spoken of the need to develop better means of protection for archaeological sites where cultivation can cause the destruction of known sites of significance. This includes ancient monuments scheduled in recognition of their national importance, where continued ploughing is nonetheless permitted under the Class Consents Order. Although works which are not covered by the class consent and which damage a scheduled monument are illegal, enforcement can be difficult.

*Q11 How can the national interest in protecting important archaeological sites best be reconciled with the needs of farmers?*

---

<sup>3</sup> Paul Drury and Anna McPherson of the Paul Drury Partnership with Ron Allen of the Environment Project Consulting Group, June 2003

59. Current agri-environment schemes provide land managers with incentives to enhance management and reduce damage to environmental assets including historic buildings, archaeological sites and landscape features. This has had some success but is on a relatively small scale. There should be an opportunity to achieve more on a much broader scale with the planned introduction of the “Entry Level Scheme” in 2005, provided the pilot schemes are successful. The scheme, which is designed to be taken up by a high proportion of farmers, will provide them with incentives to conserve the historic environment. In this and the Higher Tier schemes (which will replace the current Countryside Stewardship and Environmentally Sensitive Areas schemes), the Department for Environment, Food and Rural Affairs (Defra) is proposing to provide greater emphasis on conservation of the historic environment wherever the information can justify it and will be putting new resource into enforcement. DCMS is discussing with Defra how the new schemes can best be framed to encourage take-up of the options which will benefit the historic environment.

*Q12 What would be the most helpful ways within the new Entry Level and Higher Tier schemes of encouraging farmers to protect the historic environment?*

## Protection at regional and local level

### Regional responsibilities

60. Over the last five years important responsibilities for regeneration, planning, transport and the environment have migrated to regional institutions but there has been little overt recognition of the importance of the historic environment in new development and regeneration. The Government is keen to develop the role of the Regional Historic Environment Forums and to grow, within regional planning bodies and Regional Development Agencies, the expertise and capacity to participate in the management of the historic environment which is so often a key element in regeneration. Maintaining the character of the region and enhancing access to historic sites is vital for the tourist industry and for attracting inward investors. This needs to be appropriately reflected in the allocation of national and European funds for regeneration and economic and social development.
61. **The Government also believes that protection of the historic environment, where appropriate at the regional level, will be a vital part of the regional spatial strategies which regional planning bodies will be required to produce under the Planning and Compulsory Purchase Bill. Regional spatial strategies will set out policies for each region reflecting any government strategy for the protection and management of the historic environment.**

### The local historic environment

62. The Government already encourages authorities to make the protection of the historic environment a key plank in their Community Strategies, involving local communities in expressing what they find of value about the place they live in. The Planning and Compulsory Purchase Bill’s proposal to place a duty on district and unitary authorities to produce a Local Development Framework (LDF) and a Sustainability Statement provides an opportunity to

place the protection of the historic environment at the heart of local plans, reflecting the values set out in Community Strategies. It will ensure that impact on the historic environment is given due weight in development control decisions. It also provides a new opportunity to engage local communities, civic societies and parish councils in deciding what is most important in their areas. **The Government is considering the issue of guidance to make clear what plans district and unitary authorities will be expected to develop for the protection and enhancement of the historic environment as part of their LDF and sustainability planning.**

*Q13 What planning guidance on protection of the local historic environment would be of most value to local residents, authorities and developers?*

63. Conservation areas are a key part of the local historic environment. Local authorities have designated some 9000 conservation areas since 1967. Some areas are thought to provide some of the best examples of good conservation, with the local community committed to looking after the character or appearance of its area and to making sure that it is enhanced by imaginative new buildings which respect that character or appearance. Other areas are believed to have been designated merely to stop a particular development. Many have no plan for management or enhancement. Although there is a statutory requirement for local planning authorities to publish proposals for the preservation and enhancement of their conservation areas it is ineffective; only some 25% of areas have such proposals and the quality of those is variable.

64. **The Government wishes to find new ways to encourage local authorities to provide such appraisals for their conservation areas and to involve the community in expressing what it values in its conservation area and how the area could be enhanced. Authorities may wish to invite residents to take the initiative in drawing up those appraisals. That information would then become an important building block in the new Local Development Frameworks.**

*Q14 What would be the most productive way of encouraging local authorities to undertake conservation area appraisals? What might be done to encourage them to set out bolder policies for enhancing rather than just preserving their conservation areas?*

65. Since the judgement in the Shimizu case (*Shimizu (UK) Limited v Westminster City Council* [1997] All E.R.481), owners of most unlisted buildings in conservation areas have been able to demolish a part of their building without the consent of the local authority. Consent is only required for demolition of the whole building. **Existing controls over demolition are being considered as part of the research currently underway for the ODPM review of the General Permitted Development Order (GPDO).**

66. Local authorities have the power to withdraw certain permitted development rights in conservation areas but they can be reluctant to use this power. This is because local authorities may have to pay compensation if a planning application made before the right was withdrawn is subsequently refused, or granted subject to conditions different from those in the GPDO. These are also applications for which no fee can be charged. **The Government will consider these issues as part of the current ODPM reviews of the GPDO and of planning fees.**

67. About 44% of local authorities maintain local lists of historically important sites or buildings. These do not have the statutory force of the national designations but where the authority has local plan policies for locally listed buildings the effect is to add weight – in planning decisions – to arguments for protecting listed items. Locally listed buildings also enjoy certain exemptions from the building regulations.
68. At present there is no power for authorities to prevent demolition of a locally listed building unless it is in a conservation area. One suggestion made in the context of the GPDO review is that a planning application should be required for the demolition of locally listed buildings unless planning permission has already been granted for the redevelopment of the site and a contract let for the start of the works. The Government wishes to invite views on this.

*Q15 Should there be a mechanism for preventing demolition of locally listed buildings without consent? Should this be linked to development proposals? What safeguards would be needed to ensure the quality of local lists?*

## Regeneration

69. By its very nature regeneration is about creating future prosperity by building on the past. The buildings, townscape and rural landscape created by previous generations can play a key role in the future. Yet actions to conserve particular sites or structures have sometimes been misconstrued or misused to impede plans for economic and social revival which already have local and regional support, instead of being recognised as opportunities to contribute to and strengthen that same future. It is not difficult to give heritage protection a negative and obstructive image. But experience of timely reasoned appraisal demonstrates that historic buildings discerningly treated can and should be forming a vital part of a changing city.
70. It will always be possible that a proposal to list a building or monument crops up during a redevelopment or regeneration scheme. However frustrating this may seem, it would defeat the purpose of designation if a proposal to list a nationally important building or monument could be set aside because of development plans.
71. The proposals in this paper for a more rigorous and open system set a clearer framework for local authorities to reach their consent decisions more quickly. Regional planning bodies and local authorities can also do much to anticipate issues by producing local characterisations of their areas to identify what is historically important and by developing plans and policies for enhancing or adapting it. Developers seeking certainty should always consult English Heritage and local and national amenity societies so that they know what the area holds and what is considered of value within it, whether designated or not. The Government wishes to encourage discussions between developer and local authority before a planning application is made. Such early discussion should be part of the culture of careful preparation and research that is needed where there are historic sites of value. The best developers already work with the grain in this way, forming plans which will take in historic assets and use them to enhance the new.
72. In the end there is only one way to have absolute certainty at an early stage in the planning process – to obtain a certificate of immunity from listing or to apply for listing to test the case. The proposals for management agreements in paragraph 56 may also be helpful in defining how conservation and development can best work to mutual benefit.

## Incentives for owners

73. The principal incentive for owners to look after their property and respect its special character is the impact on its value. Grants for repair and improvement of certain historic properties are available from English Heritage, the Heritage Lottery Fund, some local authorities, civic societies, private trusts and other bodies. Owners of listed buildings also benefit from reductions in VAT on alterations to their property. The Government has received a range of representations on the VAT treatment of repairs to historic properties and keeps the matter under review taking account of longstanding agreements with our European partners on the use of reduced rates of VAT.

## Resources

### Pooling resources

74. The recent (February 2003) report *Local Authority Conservation Provision in England* by Oxford Brookes University, commissioned by English Heritage and the Institute of Historic Building Conservation (IHBC), demonstrates the pressures faced by local authority officers working on conservation, their increasing development control workload and the considerable differences between authorities in the resources made available. Demand-led work frequently forces out effort on enforcement and conservation area character appraisals let alone commissioning new work on characterisation. English Heritage has been working with the IHBC and the Association of Local Authority Archaeological Officers (ALGAO) to develop Best Value indicators to establish a benchmark for the main areas of historic environment protection work.
75. The great majority of authorities have only one or two staff working on conservation. They are not only isolated but also required to try to be experts across an unrealistically wide canvas.
76. One solution might be to create a unified or pooled resource at sub-regional level to provide critical mass and share a wider range of knowledge and experience. This could be a jointly owned local authority body, bringing together staff in counties and districts to provide advice on archaeology, consents, listing, enforcement and appraisals, carry out proactive conservation work, and keep Sites and Monuments Records on behalf of all the authorities in a sub-region. Such a team could be a management unit or a looser network to provide mutual support and share best practice. English Heritage regional staff could have very close links with sub-regional teams. **The Government would welcome views on how to strengthen local authority expertise and capacity.**
- Q16** *How could an effective sub-regional team be created? Should it be primarily about developing guidance and sharing best practice or about facilitating casework and providing support to local authorities? What would be the benefits and downsides?*

## Training

77. The Deputy Prime Minister has asked Sir John Egan to conduct a review of the skills and training that built-environment professionals require to deliver sustainable communities. The review will consider the skills and training required by developers, professionals (architects, planners, surveyors etc) and planning authorities so that they can co-operate in achieving measurable improvements to the communities they serve. It will also consider how any skills gap can best be bridged. Further information on the review is available from the ODPM website [www.odpm.gov.uk](http://www.odpm.gov.uk).
78. The proposals in this paper demand changes in the way English Heritage, local authorities and the Government will work together. Different combinations of skills will be needed as well as changes in culture and expectation. This need for change has been anticipated by the IHBC and others in their programme to promote training and qualifications among those working in local authorities.
79. **The Government wishes to animate a debate about the skills, knowledge and experience needed across the whole sector to achieve the improvements anticipated in this paper. This will need to involve architects, archaeologists, conservation specialists, planners, developers and others affected.**
- Q17 What are the important skill gaps and what action would be most effective to bring about swift change?*

## Overall resource impact

80. It is too early to determine the overall resource impact of the suggestions in this paper. That impact will be as much about using resource differently as about volume. Annex 5 sets out the main areas where information will be needed for the Regulatory Impact Assessment.

## How to respond

---

81. Responses, in the form of answers to the questions on pages 26 and 27 of this paper, should be sent to [he.consult@culture.gsi.gov.uk](mailto:he.consult@culture.gsi.gov.uk) or to Eve Trueman at 2-4 Cockspur Street, London SW1Y 5DH by October 31 2003. This paper can also be accessed at the DCMS website, via which responses can also be sent.
82. We aim to respond to all contributions acknowledging receipt. If you do not receive a response within fifteen working days, please call us on 020 7211 2357 to check that your contribution has been received. Unless a respondent requests otherwise, all responses will be available for public scrutiny.

## Summary of suggestions for change

---

### The List of Historic Sites and Buildings of England

- Bring together the different regimes for protecting the historic environment into a single List (the “List of Historic Sites and Buildings of England”). (Paragraph 24)

### Responsibility for designation

- Give English Heritage the statutory responsibility for maintaining the List subject to four safeguards: English Heritage required to act within published Government listing policies and criteria; a power for the Secretary of State to call in exceptional cases for her decision; a new right of appeal for owners and applicants (see below); and a requirement for English Heritage to give an annual account to the Secretary of State of its stewardship of the List. (Paragraph 30)

### Criteria and discretion

- Allow discretion and discernment in deciding what shall be on the List, other than economic considerations. Enable consideration, at the outset, of whether a site or building should be recorded, rather than listed. (Paragraphs 33 and 36)
- Continue the grading into I, II\* and II but consider over time whether all those buildings listed at grade II rightly belong on the unified List or might migrate to local authority lists, with appropriate safeguards. (Paragraph 38)

### Making listing more transparent and removing uncertainty

- Show in the List entry on a map exactly what area and structures are covered by the listing. (Paragraph 41)
- Provide a “statement of significance” in the List entry showing the reasons for the listing, what is significant about the asset, and indicating the works for which consent would be needed. (Paragraph 41)
- Provide a statement of reasons for each decision not to list. (Paragraph 41)

### Openness and protection

- Require owners, local authorities, amenity societies, parish councils and the public to be informed and consulted when a proposal is made to place an asset on the List and provide protection during the consideration of listing as if the asset were already listed. (Paragraph 45)

### Better information for owners and tenants

- Supply owners with a more comprehensive information pack explaining what listing means and what they can do to protect and enhance their asset. (Paragraph 46)

### Appeals

- Provide a new right of appeal against listing decisions. (Paragraph 50)

### Management and control

- Establish a single flexible consent regime for all items on the new List (apart from the local section of the List). (Paragraph 53)
- Specify more precisely at the designation stage what works would and would not need consent. (Paragraph 55)

- Provide, for items on the new List, the opportunity for some owners to enter into a management agreement with English Heritage, and, in appropriate cases, the local authority as an alternative to the consents regime. (Paragraph 56)
- Promote joint agreements covering both environmental and heritage protection in rural areas. (Paragraph 57)

### **Planning**

- Provide for regional spatial strategies to set out policies for each region, reflecting any government strategy for the protection and management of the historic environment. (Paragraph 61)
- Issue guidance to make clear what plans district and unitary authorities will be expected to develop for the protection and enhancement of their historic environment as part of their LDF and sustainability planning. (Paragraph 62)
- Encourage local authorities to provide appraisals for their conservation areas and to involve the community in expressing what it values in its conservation area and how the area could be enhanced. Invite residents to take the initiative in drawing up appraisals. (Paragraph 64)
- Consider existing controls over demolition as part of the research currently underway for the ODPM review of the General Permitted Development Order. (Paragraph 65)
- Consider, within the ODPM reviews of the General Permitted Development Order (GPDO) and of planning fees, the issue of compensation to owners in conservation areas where permitted development rights have been withdrawn and the payment of fees for planning applications. (Paragraph 66)

### **Resources**

- Examine further how to strengthen local authority expertise and capacity, perhaps through the development of a pooled sub-regional resource. (Paragraph 76)
- Animate a debate about the skills, knowledge and experience needed to achieve the improvements anticipated in this paper. (Paragraph 79)

## List of questions for consultation

---

- Q1.1 Would a unified List for England improve existing arrangements?*
- Q1.2 Is a power at national level to designate areas of historic importance necessary or useful? What would it add to the present conservation area designation? What issues would need to be resolved?*
- Q2.1 Are the suggested safeguards sufficient to allow English Heritage to become responsible for maintaining the List?*
- Q2.2 What other options might there be? For example, might English Heritage establish some form of independent committee to make the designation decisions? How would CABE's advice on post-war buildings be factored in?*
- Q3 What criteria should be used to determine what items should be placed on the List?*
- Q4.1 Should the present gradings of I, II\* and II be retained?*
- Q4.2 Should some of the items at grade II move onto local lists? What safeguards would be needed?*
- Q5.1 Would a requirement for statements of significance help to establish for owners and local authorities what was important to conserve? How could the statements take account of the inevitable changes in values over time?*
- Q5.2 What should be the process for drawing up statements of significance for existing listings?*
- Q5.3 Should maps take the place of the present definition based on curtilage?*
- Q6.1 Should the listing process become open and who should be consulted on an application?*
- Q6.2 Might there be different requirements for private properties which are lived in?*
- Q6.3 Should protection be applied during the period when listing is under consideration?*
- Q7.1 Should there be a right of appeal? In what circumstances would a right of appeal be justified?*
- Q7.2 Should the suggested right of appeal apply just to owners or to other interested parties as well?*
- Q8.1 What kind of consent regime will be most appropriate for a unified List? Should English Heritage seek to define individually at the time of listing what works will or will not require consent or should only generic rules be applied?*
- Q8.2 What generic arrangements would be suitable for historic areas?*
- Q9.1 How feasible are management agreements as an alternative to statutory consents and in what circumstances could they be most useful? What would be the essential components of such agreements?*
- Q9.2 What safeguards are needed to ensure openness and rigour?*
- Q10 Should the Government provide for joint agreements covering the natural and historic environment (such as are now available under agri-environment schemes) to be recognised in statute as an alternative to consent requirements?*

- Q11 How can the national interest in protecting important archaeological sites best be reconciled with the needs of farmers?*
- Q12 What would be the most helpful ways within the new Entry Level and Higher Tier schemes of encouraging farmers to protect the historic environment?*
- Q13 What planning guidance on protection of the local historic environment would be of most value to local residents, authorities and developers?*
- Q14 What would be the most productive way of encouraging local authorities to undertake conservation area appraisals? What might be done to encourage them to set out bolder policies for enhancing rather than just preserving their conservation areas?*
- Q15 Should there be a mechanism for preventing demolition of locally listed buildings without consent? Should this be linked to development proposals? What safeguards would be needed to ensure the quality of local lists?*
- Q16 How could an effective sub-regional team be created? Should it be primarily about developing guidance and sharing best practice or about facilitating casework and providing support to local authorities? What would be the benefits and downsides?*
- Q17 What are the important skill gaps and what action would be most effective to bring about swift change?*

## Code of Practice for Consultation

This consultation is being carried out in accordance with the Government's Code of Practice for written consultation, available on the Cabinet Office website. It meets the following criteria in the Code:

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.
6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.
7. Departments should monitor and evaluate consultations, designating a consultation coordinator who will ensure the lessons are disseminated.

## Annex 1: The present systems

Designation	What does the designation mean, and to what does it apply?	Legislative/regulatory basis for designation	Statutory?	Designated by...	Principal control regime	Controls administered by...
Listing	Individual buildings and structures of special architectural or historic interest are assessed individually and thematically against national criteria, considering factors such as age, rarity and architectural merit. Listing is generally used to ensure the preservation of buildings and structures of historic interest and to that end policy advice is directed towards keeping them in active use	Planning (Listed Buildings and Conservation Areas) Act 1990  PPG 15 (gives listing criteria and guidance on planning considerations and enforcement relating to the historic environment)	Yes	Secretary of State, DCMS	Listed building consent	Local authority and First Secretary of State (ODPM) for listed building consent  Secretary of State, DCMS for urgent works and CPOs
Local listing	Buildings which may not be of sufficient architectural or historic merit to meet the national criteria for listing, but which are of local interest, contribute to the area, or are valued by the community	None, but recognised in other statutory regimes e.g. Building Regulations	No	Local authority	None, other than planning system	Local authority
The Schedule of Monuments	The schedule (or list) is of sites of national importance and its existence ensures that the case for preservation is considered where works that may affect the monument are proposed. Sites range from standing stones to deserted medieval villages and include more recent structures such as collieries and wartime pillboxes	Ancient Monuments & Archaeological Areas Act 1979  PPG 16	Yes	Secretary of State, DCMS	Scheduled monument consent	Secretary of State, DCMS
Archaeological areas	Any area which appears to merit being treated as an area of archaeological interest may be so designated. There are five such areas. However no designations have been made since 1984 as the guidance set out in PPG 16 is considered to be comprehensive	Ancient Monuments and Archaeological Areas Act 1979  PPG16	Yes	Secretary of State, DCMS  English Heritage in London (subject to Secretary of State's confirmation)  Local authorities (subject to Secretary of State's confirmation)	Notification procedures	Local authority

Designation	What does the designation mean, and to what does it apply?	Legislative/regulatory basis for designation	Statutory?	Designated by...	Principal control regime	Controls administered by...
Conservation areas	Areas 'of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance'. These areas promote the appreciation and conservation of local identity, and are characterised by architectural or historic features of an area (rather than an individual building or structure) that are worth preserving or enhancing. Many other elements can contribute to an area's character, including the historic layout of its roads and the use of distinctive building materials	Planning (Listed Buildings and Conservation Areas) Act 1990  PPG 15	Yes	Local authority  English Heritage in London  Secretary of State, DCMS (her policy is to use this power only in exceptional circumstances: to date she has not exercised the power)	Conservation area consent	Local authority  First Secretary of State (ODPM)
Register of Parks and Gardens	Protection of parks and gardens of specific historic interest. These can range from the gardens of country houses to hospital grounds. The main purpose of this register is to help ensure that the features and qualities which make the landscapes of national importance are safeguarded during ongoing management or if any change is being considered which could affect them	Historic Buildings and Ancient Monuments Act 1953  PPG 15	Yes  (Statutory power to compile a register but no statutory controls or enforcement powers)	English Heritage	Material consideration in planning system	Local authority
Register of Historic Battlefields	Identifies the sites where the country's most significant armed conflicts took place	Historic Buildings and Ancient Monuments Act 1953  PPG15	Yes  (As for Parks and Gardens there is a statutory power to compile a register but no statutory controls or enforcement powers)	English Heritage	Material consideration in planning system	Local authority
Historic wrecks	Designates remains of historic ships/sites of historic shipwrecks and regulates all diving on designated sites	Protection of Wrecks Act 1973	Yes	Secretary of State, DCMS	Licence for all site activity	Secretary of State, DCMS
World Heritage Sites	Special status for sites that are of "outstanding universal value" according to the World Heritage Committee criteria. They add a global dimension to our understanding of the historic environment	Convention concerning the protection of the World Cultural and Natural Heritage (1972)	No	UNESCO	Agreed management plans	UNESCO, World Heritage Committee

## Annex 2: International obligations

---

A summary of the key international agreements relating to the conservation of the historic environment to which the UK is signatory.

### 1. United nations conventions

#### *UNESCO: Convention for the Protection of the World Cultural and Natural Heritage 1972 – “The World Heritage Convention”*

The purpose of the convention is to set a framework for the identification and conservation of important sites of both natural and cultural heritage so that they can be protected for future generations. The convention defines the nature of such sites and sets out the state parties' role in identifying and protecting them. It also establishes a list of “World Heritage Sites” which are properties forming part of the natural or cultural heritage that are of outstanding universal value, and a list of “World Heritage Sites in Danger”. The operation of the convention, including the state parties' stewardship of their World Heritage Sites is overseen by the UNESCO World Heritage Committee, also set up by the convention.

#### *UNECE (United Nations Economic Commission for Europe): Convention on Access to Information, Public Participation in Decision-making and Access to Justice on Environment Matters – “The Aarhus Convention”*

The parties are required to guarantee the public rights of access to environmental information, which includes information about actions which affect the landscape, cultural sites and built structures. The convention also requires that there be appropriate provision for the public to participate in the preparation of plans and programmes relating to the environment.

### 2. Council of Europe conventions

#### *European Cultural Convention 1954 – “The Paris Convention”*

Principally concerned with developing mutual understanding among the peoples of Europe and reciprocal appreciation of their cultural diversity, with particular emphasis on encouraging the study of languages, history and civilizations of the parties to the convention. The parties are also required to regard objects of European cultural significance as an integral part of a common European heritage and to safeguard them and promote access to them where possible.

#### *Convention for the Protection of the Architectural Heritage of Europe 1985 – “The Granada Convention”*

The main purpose of the convention is to promote policies for the conservation and enhancement of Europe's architectural heritage. The parties undertake to identify buildings worthy of protection and to provide statutory protection (with appropriate enforcement measures) for the architectural heritage. Each party also undertakes to adopt integrated conservation policies which, inter alia, include the protection of the architectural heritage as an essential town and country planning objective and make the conservation, promotion and enhancement of the architectural heritage a major feature of cultural, environmental and planning policies. The convention also affirms the need for unity in Europe over heritage conservation and it aims to foster practical co-operation among the state parties. It establishes the principle of “European co-ordination of conservation policies” and promotes consultation about the policies to be formulated and implemented across Europe as a whole.

#### *European Convention on Protection of the Archaeological Heritage 1992 – “The Valletta Convention”*

The conservation and enhancement of the archaeological heritage is made one of the goals of urban and regional planning policies. There are provisions about the arrangements to be made for co-operation between archaeologists and town and regional planners in order to ensure optimum conservation of archaeological heritage. The convention also sets guidelines for the funding and publication of excavation and research work and findings. There are also provisions encouraging public access and education to develop public awareness of the value of the archaeological heritage. The convention also acts as an institutional framework for pan-European co-operation on the archaeological heritage.

## Annex 3: Some facts and figures

---

### Main Sources:

*State of the Historic Environment Report 2002* (English Heritage)

*Power of Place 2000 (PoP)* (English Heritage)

*The Historic Environment: A Force For Our Future (AFFOF)* (DCMS, 2001)

*Local Authority Conservation Provision in England* (Oxford Brookes University, 2003)

*Monuments at Risk Survey of England 1995* (English Heritage)

### Planning applications

- About 30% of all applications for planning permission have heritage implications.
- Conservation officers advise on an average of 325 planning applications a year, 17% of all applications, but about half of all authorities advise on less than 250 applications a year.

### Ancient monuments

- In 2002 there were 300,000 recorded monuments in England of which 6% (19,347) were scheduled and a further 12% had some form of protection, usually listed status.
- The monuments were divided into three categories:
  - Earthworks 29%
  - Buildings and monuments 35%
  - Landcuts 36%

### Scheduled monument consent

- The total number of scheduled monument consent applications logged in 2001-2 was 790, about 4% of all scheduled monuments.

### Listed buildings

- In 2002 there were 376,094 listed building entries covering an estimated 500,000 individual properties or items. These break down into Grade I 2.5%, Grade II\* 5.7%, Grade II 91.8%.
- The number of entries has risen by less than 5% since 1996.
- It is estimated that 1% of dwellings are listed.
- 38% of listed buildings are domestic dwellings, 12% agricultural buildings.
- 15% of listed buildings date from before 1600, nearly 20% from the seventeenth century, 31% from the eighteenth century, 32% from the nineteenth century, 3% from 1900-1944 and just 0.2% from 1945 or later.
- In 2001-2 English Heritage made 681 recommendations to 'spot list', 50 recommendations to upgrade and 246 to de-list or downgrade. 11 post-war buildings were listed.
- 44% of the local authorities which responded to the Oxford Brookes survey Local Authority Conservation Provision in England have a local list of buildings, containing an average of 218 buildings.
- Nearly one third of local authorities do not keep registers of listed buildings at risk.
- English Heritage's Buildings at Risk Register identified 3.7% of Grade I and II\* entries at risk in 2002.

### Listed building consent

- Local authorities receive some 32,000 applications a year for listed building consent.
- Approximately 90% of applications for listed building consent are approved.

- Complete demolition of the principal building on a list entry is rare and decreasing and probably affects less than 0.1% of all listed buildings in a year.
- A recent poll (MORI 2002) showed that nearly half of owner-occupiers had applied for listed building consent. 17% had been refused. 77% were fairly or very satisfied with the process, 20% were fairly or very dissatisfied.

### Owners

- A large majority of listed buildings are in private ownership.
- The most significant owner of listed buildings is the Church of England with some 12,000 entries. Central Government owns about 1000.
- The 2002 MORI poll showed that 59% of owners were pleased their homes were listed, while 16% thought that it was a bad thing.
- 47% of listed building owners were in social classes A or B; 26% in social class C1 and 24% in social classes C2, D and E.
- When asked if they would live in a listed building in future 11% of owners thought it unlikely, 4.5% because of extra costs and 6.5% because there was too much red tape.

### Conservation areas

- In June 2002 there were 9027 designated conservation areas, an increase of about 10% in the last decade.
- The average size of conservation areas is 25.7 hectares.
- The average number of conservation areas per local planning authority is 28.
- Only 25% of conservation areas have appraisals.
- In 2001 75% of authorities adopted 3 or fewer appraisals.
- 65% of local authorities do not have a budget for conservation area enhancement.
- 85% of authorities made no Article 4 directions in 2001.
- 75% of local authorities do not have conservation area advisory committees.

### Post-designation development

- The number of large-scale planning applications in conservation areas increased by 12% between 2000-1 and 2001-2.
- 32% of local authorities have at least one Article 4 Direction (which restricts the rights of owners to make changes to their properties without the need for planning permission) covering an average of 680 buildings.
- Only about 1 in 10 historic towns makes use of Article 4 Directions.

### Historic Parks and Gardens

- Over 1500 sites are included on the Register. There are thought to be a further 6000 or so sites of local importance that do not merit inclusion on the Register.
- Of those on the Register, 60% are classified as grade II, around 30% as grade II\* (exceptional historic interest) and a further 10% as grade I (international importance).

### Post-designation development

- The Garden History Society recorded 124 planning applications that affected Grade I and 171 that affected Grade II\* parks and gardens in 2001. These figures are proportionately much higher than for any other designation.

### Battlefields

- There are currently 43 sites on the Battlefields Register.

### World Heritage Sites

- There are currently 15 World Heritage Sites in England and a further 11 on the Tentative List.

### Post-designation development

- The UK government has decided that every World Heritage Site will have a management plan.

### Statutory Monuments Records

- There are now over 100 Statutory Monuments Records (SMRs) in England holding around 1 million sites. About half of these are formally protected.
- 88% of SMRs use GIS systems although up to 10% of these are obsolete or unsupported database packages.

## Annex 4: List of ODPM reviews and initiatives

---

- Review of Town and Country Planning (General Permitted Development) Order 1995
- Review of Planning Fees
- Development of Prescribed Application Form
- Enforcement Review (covering planning enforcement only)
- Amendment and Consolidation of Advertisements Regulations
- Review of Satellite Dish Regulations
- Unification of Consent Regimes
- Review of Statutory Consultees (for planning applications)
- Development of Quality PI for Planning
- Amendments to Town and Country Planning (General Development Procedure) Order 1995 and the Planning (Listed Buildings and Conservation Areas) Regulations 1990

## Annex 5: Regulatory Impact Assessment

---

It is now mandatory to undertake a business impact analysis of all proposed policies to ensure that the regulation is both necessary and soundly based. This requires an assessment of the costs and the benefits of the proposal to all participants in the process, including small and medium sized enterprises. This might include, for instance, information on:

- The costs to industry, central government, the local authorities, the statutory agencies and others of administering the existing approach to protection of the historic environment;
- The benefits of the existing system;
- New or additional costs which might arise from modifications to the existing approach suggested in this paper; and
- New or additional benefits or savings which might arise from any proposed modified approach.

The Department has prepared a partial Regulatory Impact Assessment (RIA) to accompany this consultation paper. The partial RIA identifies the potential costs and benefits relating to the issues raised in this document, and can be found on the DCMS website. Although the initial impact on businesses, charities and the voluntary sector appears to be small, we would welcome further information which the Department can use in preparing a Regulatory Impact Assessment to accompany future proposals for protecting the historic environment. It would be helpful to have access to both quantitative and qualitative information for this purpose. Where monetary costs and benefits are suggested, please indicate briefly the basis on which they have been calculated.

The main areas of impact on which the Department would welcome information on likely costs and benefits are:

- Making overt the reasons for listing and stating precisely what structures are covered
- Transparency and openness – the suggestions for making it public that a site or building is under consideration for listing and protecting it during that period
- Making consent procedures more flexible to suit each case
- The costs to local authorities of taking on scheduled monument consent
- Promoting management agreements as an alternative to the consents process
- Promoting joint agreements to cover the natural and historic environment
- Clearer guidance in Regional Spatial Strategies and Local Development Frameworks about policies and plans for protecting the historic environment
- Encouraging local authorities to carry out appraisals of their conservation areas
- Creating new sub-regional teams to strengthen local authority capacity.

## Annex 6: Steering Committee members

---

Our thanks go to all those who contributed to the production of this document with their views and ideas and in particular to the Chair and members of the Steering Committee (below) and to Bob Kindred (representing the Institute of Historic Building Conservation) and Ken Smith (representing the Association of Local Government Archaeological Officers) who served on the Project Board.

**Chair:** Geoffrey Wilson, former Chairman, Greycoat PLC

**Members:**

Robin Broadhurst, European Chairman, Jones Lang LaSalle

David Fursdon, Vice President, Country Land and Business Association (CLA)

Nicholas Johnson, Historic Environment Service Manager, Environment and Heritage Unit, Cornwall County Council

Deborah Lamb, Director of Policy, English Heritage

Mike McGuinness, Development Director, Land Securities PLC

Clare Pillman, Head of Architecture and Historic Environment Division, DCMS

John Sell, Chair of Joint Committee of National Amenity Societies

Yasmin Shariff, Partner in Dennis Sharp Architects and a Non-Executive Director of the East of England Development Agency

Les Sparks, Commissioner of English Heritage and the Commission for Architecture and the Built Environment

John Stambollouian, Divisional Manager, Planning and Development Control Division, ODPM

Peter Studdert, Director of Environment and Planning, Cambridge City Council