

## Agenda Item 6

Development Management Committee

20 October 2009

SMG/C5



### Consultation paper on a new Planning Policy Statement 15: Planning for the Historic Environment.

#### Summary

Planning Policy Statement 15 will set out the Government's national policies on the conservation of the historic environment through the planning system. PPS15 will supersede Planning Policy Guidance Notes 15 and 16 (PPG15 and PPG16) and has been developed following a White Paper published after consultation in 2007. The Department of Culture, Media and Sport has published a consultation document (paper A) with an accompanying Practice Guide produced by English Heritage (paper B). This report outlines a summary of the proposals and the consequences to the Council should this become legislation. Papers A and B are available in the Members room. The documents can also be accessed online through the Communities and Local Government, and English Heritage web sites at

<http://www.communities.gov.uk/publications/planningandbuilding/consultationhistoricpps>

<http://www.english-heritage.org.uk/server/show/nav.20037>

#### Recommendation

It is recommended that Members endorse the answers to questions outlined in sections 4.8 and 5 of this report.

#### a) Reasons for Recommendation

It is considered that the draft PPS15 and the Practice Guide do not offer the same level of protection and clarity currently given by PPG15 and PPG16. While the Council has already supported the principle of policy review and the proposed principal changes outlined in the White Paper the draft PPS does not offer a sufficiently comprehensive mechanism for managing control within the historic environment.

#### b) Alternative Options

The Council objects to the proposals in the consultation paper and recommends that the review does not proceed. On this basis this would send a message that the existing legislation is satisfactory and offers an appropriate degree of statutory protection, and that the system does not require review or streamlining. While PPG15 and PPG16 offer clearer and more thorough guidance they do not address issues such as climate control which is now high on the agenda of central and local government. It is now more fully recognised that the historic environment has a greater role in place shaping and steering local plan policies through the Local Development Framework and this would remain absent from policy if the draft PPS15 were rejected.

### c) Risk Considerations

By fully supporting the draft PPS15 and Practice Guide without any recommendation for change or augmentation of the policies the Council may incur additional costs through the production of a Heritage Environment Record and non fee planning applications in Article 4 Direction areas where these are more vigorously encouraged through the proposed policies.

### d) Policy and Budgetary Considerations

The proposed response is in line with policies contained within the Adopted East Devon Local Plan 1995 – 2011.

### e) Date for Review of Decision

The deadline for comments for the consultation is 30<sup>th</sup> October 2009. The government will publish a summary of responses by 31<sup>st</sup> January 2010. When the final document has been finalised and published a report will be prepared for Committee.

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## 1 Main Body of the Report

### Background and Principles.

- 1.1 A government White Paper; *Heritage Protection for the 21<sup>st</sup> Century* was published in March 2007 on policy relating to heritage protection and the historic environment. This paper outlined the proposed principle changes to policy and was given support by the Council although concern was expressed over the failure to make provision for additional resources needed for the production of a Heritage Environment Record (HER) which would be a GIS-based database made available to the public. The other aspect of concern that the Council expressed was that there was no additional statutory protection offered for Locally Listed Buildings. The White Paper contained some positive streamlining of the planning system regarding the historic environment including reinstating pre-Shimizu ruling protection of unlisted buildings in conservation areas (this court ruling altered the legislation so that consent is currently only required for total or substantial demolition of an unlisted building or wall in a conservation area. The White Paper proposed that planning permission would be required for full or partial demolition), impressing the importance of pre-application discussion, and the merger of Conservation Area Consent with Planning Permission. The outcome of the White Paper consultation informed the draft PPS which is subject to the current consultation (paper A).
- 1.2 The principles for policy reform are the result of a need to develop a unified approach to the historic environment, maximising opportunities for inclusion and involvement and supporting sustainable communities by putting the historic environment at the heart of an effective planning system. PPS15 aims to makes clear how the historic environment is to be viewed in the context of today's challenges such as regeneration, housing supply, economic development and climate change.
- 1.3 PPS15 will supersede PPG15 and 16, and will introduce planning policies that would have greater weight than the 'guidance' of the existing PPG's. The PPS is 92% shorter then the existing PPG's although it is supported by a Practice Guidance produced by English Heritage (paper B). PPS15 will amalgamate Listed Buildings, Conservation Areas, Scheduled Ancient Monuments, Protected Wreck Sites, Registered Parks and Gardens and Registered Battlefields and refer to these as '**designated heritage assets**'.
- 1.4 One of the new over-arching principles of PPS15 is the measure and definition of the '**significance**' of the heritage asset. This is defined in terms of historic, archaeological, architectural or artistic interest. The significance is also the value of a place to this and future generations because of its heritage interest. The new policies are based around identifying and agreeing the significance of an asset then applying principles to the assessment of any proposals upon the significance of the asset.

## The Policies: Plan Making Policies.

- 2.1 This section of PPS15 includes six policies (HE1-6) that cover aspects of evidence bases, regional and local planning approach, sustainable development, article 4 directions and monitoring indicators. The policies require regional and local planning authorities to have a publically available database of their heritage assets including the extent, significance and condition of heritage assets. While a Heritage Environment Record (HER) is held by Devon County Council this is presently archaeology based and while this record could be augmented with county-wide assets the onus may be on individual local planning authorities to provide their own HER. The Council already has a database which includes details of each listed building, photographs and the result of a 2004/5 condition survey. While the significance of an asset can be partially informed by the list description there is concern over the requirement to define the extent of an asset particularly regarding listed buildings. The 'curtilage rule' outlined in Section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 prescribes the same statutory protection for all pre 1948 curtilage structures, including outbuildings, walls etc. A requirement under PPS15 to define the extent of the listing of a building would necessitate a full re-survey of approximately 4500 listed buildings and could be legally challenged on the extent of curtilage for individual properties. **The LPA does not currently have the resources to carry out this level of survey work and therefore there should be a provision made in PPS15 for the gathering of this information. The PPS anticipates that costs would be offset by income generated by charging developers to access the HER and efficiency savings provided by more streamlined decision making.**
- 2.2 Policy HE2 requires local planning authority to consider the historic environment within the Regional Spatial Strategy (RSS) with particular contributions of landscape and asset groupings to the identity of a region. **Since the South West RSS was ready for publication in June 2009 but delayed due to a legal challenge of the East of England RSS it is not clear how the historic environment can contribute meaningfully to this document at this late stage.**
- 2.3 Policy HE3 requires the Local Planning Authority to have a strategy for the conservation, enhancement and enjoyment of the historic environment in their area. The policy emphasises the importance of local distinctiveness and sense of place. The Practice Guidance outlines how local planning policies and the Local Development Framework (LDF) can incorporate heritage assets on proposals maps and identify character areas in the narrative text. Although conservation area review is a parallel process but not directly linked to the LDF it is considered that this is a valid means of applying this policy, although the policy is quite ambiguous in this respect.
- Within Policy HE3 there is a newly introduced steer for the historic environment to inform and inspire new buildings of imagination and high quality design. This seems to be consistent with the aims and aspirations of the Council's Design Review Panel.
- 2.4 Policy HE4 promotes sustainable development in the historic environment and requires LPA's to mitigate against or adapt to the effects of climate change through policies and decision making. There would be a requirement for opportunities to be taken to enhance energy efficiency and consider renewable energy generation for heritage assets where this does not conflict with the significance of the asset. This is a key new element of PPS15 and follows recent guidance documents produced by English Heritage. While this policy is a direct response to an important international agenda item there is concern over the ambiguity of how energy consumption can be reduced in an acceptable manner. For example there is no clear steer on how proposals to install double glazing in historic buildings are to be considered. In almost all cases this cannot be achieved without compromising the character of the historic building and PPG15 is presently very clear about this. The proposed Practice Guidance does not include any further assistance in

this matter and although it directs the reader to a further EH guidance document; '*Climate Change and your Home.*' This gives no specific mention to the inappropriateness of double-glazing in place of traditionally constructed windows. This is perhaps the most contentious commonly proposed alteration to historic buildings and without direct mention within the PPS or Practice Guidance the Council's stance will be far more difficult to uphold.

On a more positive note the policy recognises the contribution of heritage assets to sustainable development, particularly by means of the retention of assets either by finding alternative uses and conversion. This reduces the consumption of building materials and energy, and reduced waste.

- 2.5 Policy HE5 transfers the guidance in PPG15 on Article 4 directions. Article 4 directions are used to remove certain permitted development rights and give control over some external alterations to buildings in conservation areas. EDDC already has two Article 4 areas in Exmouth and Lympstone and this gives some control over replacement windows in unlisted buildings. However unauthorised works are very common in these areas and policing puts a significant strain on resources. When applications are made for such alterations there is no planning fee required and there is therefore a financial implication. **There is therefore concern that the PPS singles out part of the former PPG15 guidance which is difficult to deliver and manage.** There are more useful policies contained within the Act which enables Local Planning Authorities to preserve the historic environment including Urgent Works and Repair Notices for historic buildings that have fallen into disrepair. These policies are not included in the draft PPS.
- 2.6 Policy HE6 requires Local Planning Authorities to monitor the impact of their policies on the local environment. More specifically there is a requirement to measure changes to assets at risk. While the LPA holds a Buildings at Risk register for listed buildings English Heritage has recently launched an initiative to survey conservation areas and identify those at risk. While this could be useful in monitoring the condition of the historic environment this extent of monitoring would possibly need to include other heritage assets including Registered Parks and Gardens, and Scheduled Ancient Monuments (93 sites in East Devon). **There is concern over the availability of resources to carry out this extent of survey work and to continue to monitor on presumably a regular basis.**

### **Development Management Process.**

- 3.1 This section of PPS15 outlines seven policies that relate to how applications for works to heritage assets should be considered and determined. This augments the present guidance in PPG15 and prescribes a protocol that in theory would streamline the application process and would require applicants to make more informed applications. This is very much in line with the Planning Department's 'systems thinking' approach.
- 3.2 Policy HE7 requires LPA's to consider the benefits of pre-application discussions in-line with policy in PPS1. This is to develop a greater understanding of the significance of the asset before proposals are drawn up for consideration. In cases where the site includes archaeological potential there would be a requirement for the applicant to provide a desktop or field evaluation as part of any application. This would not only include below ground archaeology but also above ground structures. These studies often inform what is most significant about the asset and identifies the areas where harm would be limited by the proposed work. The policy also advises that the LPA and applicant come to an agreement upon the nature and extent of the significance of the asset. The policy stresses that there is no obligation to agree this but as it would be rare that the significance can be agreed where the proposed works are contentious it would seem inappropriate to include this section of the policy.
- 3.3 Policy HE8 outlines what LPA's should require from applicants to validate applications. A greater degree of understanding and information on the significance of the asset than

currently recommended by guidance in PPG15 would be expected. The exact requirements are set out in other CLG guidance and this should significantly raise the quality of applications affecting the historic environment. LPA's would be required to reject applications where the significance of the asset has not been fully assessed.

- 3.4 Policy HE9 and HE10 prescribe how LPA's should consider all types of application for works and development within the historic environment by taking into account the value the significance of the asset has for this and future generations. This is the key policy within this section of the PPS. Appropriate expert advice is required to inform decision making whether that be in-house, from other authorities or consultants. The policy also requires LPA's to consult local communities where the significance of the asset to the community cannot be fully understood from records or statutory consultees alone. The policy is well supported and augmented in the Practice Guide and identifies clear steps that should be taken in processing applications. This includes a framework for considering proposals that mitigate against climate change and those that involve innovative design solutions and invest in sustainable technologies. The policy transfers the sections of PPG15 relating to the demolition of listed buildings and how these proposals should be weighed up against the public benefit offered. The policy includes a presumption against the loss of grade I and II\* buildings, scheduled monuments, registered parks and gardens, wreck sites and battlefields. **There is concern however that the policy does not make reference to the presumption against demolition of grade II listed buildings and the presumption of retaining buildings in conservation areas that make a positive contribution to the character or appearance of the conservation area as stated in PPG15. This section of the policy should be far more robust and less ambiguous so that it could be properly defended in the courts.** PPG15 paragraph 3.17 states that *'Indeed, the Secretary of State would not expect consent to be given for the total or substantial demolition of any listed building without clear and convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new ones...'* The PPS fails in providing the same level of clarity. Paragraph 40 of the Practice Guide is more prescriptive but it is unclear why this is not given more weight in the PPS.
- 3.5 Policy HE11 requires LPA's to have regard for the setting of heritage assets and identifies that the loss of character of the setting can be offset by the benefits of the development in terms of the increased production of energy from low or zero carbon resources. This implies a possible greater leniency towards micro generation and there is recent English Heritage guidance to support this. The policy also recognises areas that do not positively contribute to the significance of the setting can offer opportunities for enhancement through high quality design of new development.
- 3.6 Policy HE12 includes the provision for policy principles relating to enabling development and outlines a means test for considering proposals. The Practice Guidance directs towards guidance published by English Heritage in 2001. While this guidance document is relatively up to date and relevant its weight in the planning process is less than statutory government guidance.
- 3.7 Policy HE13 gives principles of the recording of heritage assets and identifies the importance of recording and investigation during plan and decision making. **However there is concern shared by Devon County Council Archaeological Unit that the planning conditions set out in sections 29 and 30 of PPG16 relating to recording and investigation are absent from PPS15.** The inclusion of this or a similarly worded condition would give the weight currently given by current legislation in the event that the condition is challenged by appeal.
- 3.8 The draft PPS includes an impact assessment and proposes two options; option 1 would be to retain PPG15 & 16 in its existing form which would not incur any costs and would provide no key monetised benefits. Option 2 is to replace the existing guidance with a single PPS as outlined in the consultation document. It is estimated that LPA's will incur costs of C£90,000 p.a. in relation to the creation and updating of additional records relating to historic buildings in Historic Environment Records. However it is considered

that the 'key monetised costs' incurred by the Council would be significantly greater than this estimate. This is due to a significantly higher number of heritage assets in East Devon than the average local authority. This figure also only relates to the creation and management of a HER based upon historic buildings and not other designated assets. Presumably these costs would be offset by the charges made to developers/owners for the commercial use of the HER. The impact assessment identifies that the cost incurred by developers/owners in relation to additional investigation and recording of historic buildings would be c£3.35m p.a. With regard to key monetised benefits it is anticipated that the PPS will result in efficiency savings in processing applications. The assumed efficiency saving in relation to applications for consent would result in a sliding scale of net losses and benefits depending upon the degree of efficiency saving. This would be dependant upon a presumption of quicker decisions and less time spent on processing and negotiating applications. The projected figures are set out in Annex B of the impact assessment.

### **Key areas of guidance in PPG15 & 16 omitted from PPS15 and response to the draft Practice Guide.**

- 4.1 PPG15 currently includes a very prescriptive summary of building features in Annex C and outlines how they contribute to the importance or significance of a listed building. This gives a very clear guidance on such works as replacement windows, building plans and building materials. References to Annex C in planning appeals are used by Inspectors on a regular basis and the prescriptive nature of this guidance also gives a strong steer for agents and applicants applying for Listed Building Consent. The draft PPS is solely a policy document and does not include such guidance. However the Practice Guide includes a greatly diluted version of Annex C which also includes aspects of works to archaeological remains and historic landscapes. While the CLG and English Heritage have significantly reduced the word count in the two draft documents this would seem to be at the detriment of providing a comprehensive set of principals and guidance for all aspects of the historic environment. **The Practice Guide simply does not deliver the detailed guidance currently offered in PPG15 and this could result in a loss of protection of valuable historic assets if challenged through the appeal procedure and ultimately the courts.** It is therefore recommended that section 4 of the Practice Guide is significantly augmented to include an updated version of Annex C.
- 4.2 Policy HE1 requires LPA's to define the 'extent' of their heritage assets. While the boundaries of conservation areas, registered parks and gardens, and schedules monuments are quite specific the extent of statutory protection of structures that fall within the curtilage of a listed building can be far more onerous. PPG15 paragraphs 3.30- 3.36 gives quite clear guidance on defining curtilage, which ultimately can be challenged in the courts. Neither the PPS nor the Practice Guide includes how the extent of the asset can be fully considered or defined. This will allow for greater levels of interpretation and while Section 1(5) of The Act defines very simply the meaning of listing, the test of this rule set out in paragraph 3.35 of PPG15 has been omitted and this can only result in future conflicts between the LPA and the applicant/agent on the extent of statutory protection over curtilage structures to listed buildings.
- 4.3 The draft PPS15 does not include any reference to enforcement with regard to prosecutions, enforcement notices, Urgent Works and Repairs Notices, Compulsory Purchase Orders (CPO's) and Building Preservation Notices (BPN's). While these powers would remain under the Act there would be no statutory guidance on the exercise of these powers. The Practice Guide needs to outline the importance of using such powers and supplement the relevant sections in the Act with clear guidance. It is understood that a future PPS will focus primarily on all matters of planning enforcement.
- 4.4 While policy H3 transfers some policy making within the historic environment to the LPA through the LDF the PPS and Practice Guide omits concise policies on the management of conservation areas, and in the case of the proposed combined protection, other

aspects of the historic environment such as world heritage sites and registered parks and gardens. The PPS defines all aspects of the historic environment as assets and does not give sufficient differentiation between historic structures, areas and archaeology. It is not always expedient to apply the same policies to listed buildings and conservation areas for instance, as the ways in which each is managed are often quite different. The Practice Guide includes very little additional guidance for the management of conservation areas and this is surprising since the review and management of conservation areas is a high priority for LPA's in terms of being a Best Value Performance Indicator.

- 4.5 In March 2007 the White Paper proposed that statutory protection over the partial demolition of unlisted buildings in conservation areas presently overruled by the Shamizu case would be reinstated. Since there is widespread agreement by English Heritage and other heritage bodies that this is long overdue it is of some concern that this protection does not appear to have been fully reinstated to the level that was expected. Policy HE10.4 states that *'In considering the significance of heritage assets local planning authorities should bear in mind that not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. Those elements that do contribute to the significance should be considered as designated assets in themselves (whether subject to separate statutory designation or not)*. This implies that unlisted buildings in conservation areas that contribute positively to the character of the area **could** be considered under the same policies and guidance as listed buildings. However this remains uncertain and the Practice Guide offers no assurance that this would be the case.
- 4.6 One further aspect of conservation area policy guidance presently included in PPG15 is the management of transport and highway infrastructure within the historic environment. Section 5 of PPG15 gives comprehensive guidance on matters of new road infrastructure, the control of traffic in town centres and floor and street furniture. It summarises other government legislation and PPG's that require local authorities to manage transport and highways in a specific manner. The current PPG15 guidance recognises that such management can have a profound impact upon the historic environment, particularly where relief roads are proposed and a proliferation of new road signage is added to the street scene. This section of guidance in PPG15 is not based on any statutory legislation in the Act and without it the LPA would have less weight in the decision making process where highway improvements are proposed. In many cases the LPA is not a statutory consultee in proposals to change or enhance the public highway and it is only through the efforts made to promote a good working relationship between the LPA and County Council where consultation results in a more satisfactory outcome. The criteria and guidance in Section 5 of PPG15 is invaluable in this process and should form part of the Practice Guide at the very least.
- 4.7 The final significant omission in the draft PPS15 and Practice Guide is guidance on ecclesiastical exemption. While the statutory legislation would remain in Section 60 of the Act PPG15 provides clear guidance on how the legislation is applied and defines the extent of the exemption. It also outlines the decision making process for proposed alterations to historic churches which would not form part of the Practice Guide.
- 4.8 It is recommended that the Practice Guide at the very least includes these omissions from PPG15 and that the reinstatement of pre-Shamizu protection over demolition is clarified. It is recommended that a summary of points 4.1- 4.7 is submitted as a response to English Heritage by the Council.

### **Proposed response to the draft PPS15.**

- 5.1 The draft PPS consultation document includes twelve questions to which responses are required. The Council's response to these questions should be based solely on the draft PPS15 and not the Practice Guide which is the accompanying guidance. A separate

response to English Heritage has been requested on the Practice Guide and is summarised in 4.8.

5.2 Question 1: ***Does the PPS strike the right balance between advocating the conservation of what is important and enabling change?***

The PPS appears to place too much emphasis on change and how alterations to the significance of the heritage asset can be offset by public benefit and mitigating against climate change. The extent to which this is deemed acceptable is not clear and as the Building Regulations become ever more stringent in terms of the thermal insulation of buildings for instance, the conservation of heritage assets may become more onerous. There is concern over the apparent reduction in statutory protection of heritage assets where demolition is concerned. While Policy HE9.8 provides the criteria by which such proposals should be considered the PPS does not include a presumption against the loss of a designated heritage asset as is currently included in PPG15. It is recommended that Policy HE9 includes an overriding presumption against the demolition of all heritage assets.

5.3 Question 2: ***By adopting a single spectrum approach to historic assets, does the PPS take proper account of any differences between types of asset (e.g. are archaeological assets adequately covered)?***

The PPS could make a clearer differentiation between the various types of heritage assets as the way in which they are managed, particularly with regard to change can be quite different. Policies for listed buildings and historic fabric, whether this be above or under ground should be separated more from policies relating to the wider historic environment (conservation areas, world heritage sites etc). There is some ambiguity in Policy HE10 over the treatment of undesignated assets in conservation areas and how they can be considered under the same policies as designated assets where they contribute positively to the significance of the area. Further clarity and guidance is needed on this matter.

5.4 Question 3: ***In doing so, does the PPS take appropriate account of the implications of the European Landscape Convention, and of the cultural dimensions of landscapes designated as National Parks and Areas of Outstanding Natural Beauty?***

The implications of the European Landscape Convention (ELC) are being considered by Natural England and DEFRA who have commissioned a set of national guidelines which would provide individual organisations with a mechanism for applying the ELC on a local level. It is not clear how the PPS takes into account the ELC. Policy HE2 implies that landscape designations should be considered through the Regional Spatial Strategy but there is no clear relationship between the ELC and the historic environment identified in the PPS. The same can be said for the account given to designated landscapes.

5.5 Question 4: ***Are the policies and principles set out in the PPS the key ones that underpin planning policy on the historic environment, or should others be included?***

While the policies and principles in the PPS are considered to be the key areas of planning policy there are other significant aspects of planning policy that ought to be included. These include defining the 'extent' of the heritage asset, enforcement powers through Urgent Works and Repairs Notices, CPO's, BPN's and prosecutions, ecclesiastical exemptions and more specific policies relating to the management of wider heritage asset areas (i.e. conservation areas).

5.6 Question 5: ***Do you agree that it is the 'significance' of a historic asset that we are trying to conserve?***

While the significance of an asset is a key material consideration and is defined in terms of historic, archaeological, architectural or artistic interest the PPS is unclear how the significance can also be a measure of the value of a place to this and future generations because of its heritage interest. The value of an asset is a subjective matter and the implications of Policies HE7- HE13 are that aspects of heritage assets of lesser

significance may not necessarily be worthy of conservation. A Victorian service wing to a Regency house for instance will be of less significance and value to the whole but may well be of sufficient significance to warrant its conservation. It is therefore recommended that 'significance' is used less liberally throughout the PPS and that further thought is given to its definition and implication. The Council is also concerned over Policy HE7 which considers that an agreement should be reached between the owner of the asset and the LPA on the nature and extent of the significance. Agreement would rarely be reached on more contentious proposed changes to the asset and there will be few cases where this is seen as a benefit to the development management process.

5.7 Question 6: ***Does the PPS comply with devolutionary principles with regard to what is expected at regional and local levels?***

The South West Regional Spatial Strategy was ready for publication in June 2009 but is now delayed. Despite this hold up it is not clear how the historic environment can contribute meaningfully to this document at this late stage. With regard to expectations at local level the PPS is rather ambiguous in what mechanisms LPA's can use to steer strategies for the historic environment. While Practice Guide advocates that this should be considered through the LDF process there is no mention of Conservation Area Appraisals and Management Plans which can achieve similar goals in a far more area specific way. It is therefore recommended that the role of Conservation Area Appraisals and Management Plans is clarified in Policy HE3.

5.8 Question 7: ***Does the PPS strike the balance between the objectives of conserving what is significant in the historic environment and mitigating the effects of climate change?***

The Council recognises that climate change is now a significant international agenda item and that the conservation of the historic environment has to embrace the implications of this in a positive way. However there are ambiguities in how the policy should be applied to proposals for the reduction of an asset's carbon footprint. The only comprehensive guidance on this matter is the recent English Heritage publications which do not have the weight of either the PPS or the Practice Guide. As this subject is probably the most significant new addition to conservation policy it is recommended that Policy HE4 gives a clearer steer on the extent of mitigation that would be deemed acceptable particularly with regard to the ongoing standards required by Part L of the Building Regulations.

5.9 Question 8: ***Does the PPS make it clear to decision makers what they should do, and where they have more flexibility? Are there any risks or benefits you would like to highlight for the historic environment sector?***

With regard to the policies set out under the Development Management Process section there is clarity to the requirements and benefits of pre-application discussions. This is the part of the existing culture of the LPA and on the whole this results in better informed planning and listed building consent applications and a higher rate of approvals. The flexibility offered to decision-makers of accepting proposals that have a negative impact upon the heritage asset while offering public benefits is too onerous. The term 'public benefit' is not properly defined and Policy HE9 would be too open for interpretation by developers. Care should be taken in defining such terms in the PPS since guidance in PPG15 has specifically challenged though the courts on technical definitions ('curtilage' and 'substantial demolition' for instance).

5.10 Question 9: ***The draft PPS highlights the importance of ensuring that adequate information and evidence bases are available, so that the historic environment and the significance of heritage assets are fully taken into account in plan-making and decision-taking. At the same time we are concerned to ensure that information requirements are proportionate and do not cause unnecessary delays. Are you content we have the right balance? If not how would you like to see our policy adjusted (Policies HE8 and HE9 are particularly relevant to this question.)***

The Council agrees that understanding the significance of a heritage asset through available evidence databases is key to decision making. However it is recognised that this requirement needs to be applied pragmatically to individual cases where the works or

development would have very limited impact upon the significance of the asset. An application for new signage on a listed shopfront for instance would not require a full understanding of the significance of the entire building. Such research would be burdensome for the applicant in terms of time and money (particularly if a charge is made by the LPA to inspect the HER as advocated in the impact assessment), and may therefore deter an applicant from seeking the necessary consent. However a clear understanding of the asset is invaluable in informing the decision process and a balance is needed between the adequacy of information and nature and extent of the proposed works. This should be further clarified in Policy HE8.1.

5.11 **Question 10: *In your opinion is the PPS a document that will remain relevant for at least the next 20 years? Do you see other developments on the horizon that have implications for the policies set out in the PPS?***

Since PPG15 has become partially outdated within fifteen years it is doubtful that the PPS will be fully relevant in twenty years time and beyond. As technological advances in the field of microgeneration will offer new and adapted means of reducing carbon emissions the impact upon the significance of the historic environment may need to be re-addressed within the next twenty years. The Council would therefore suggest that the PPS is reviewed on a regular basis and is not left as a static policy document.

5.12 **Question 11: *Do you agree with the conclusions of the consultation stage impact assessment? In particular, have we correctly identified and resourced any additional burdens for local planning authorities? Is the impact on owners/developers correctly identified and proportionate to their responsibilities?***

The Council agrees with the conclusion of the impact assessment that the preferred option is option 2. However it is considered that the 'key monetised costs' incurred by the Council for the creation and updating of additional records relating to historic buildings in Historic Environment Records would be significantly greater than the estimated £90,000 p.a. This is due to a significantly higher number of heritage assets in East Devon than the average local authority. This figure also only relates to the creation and management of a HER based upon historic buildings only. The impact assessment does not include conservation areas, archaeology or any other designated assets in this figure. The net benefits of efficiency savings outlined in Annex B are not guaranteed and do not take into account the available resources to process planning applications and unforeseen circumstances where despite pre-application discussions and clear identification and understanding of the significance of the asset the proposals need to be negotiated prior to issuing an approval. The efficiency savings will therefore vary significantly.

5.13 **Question 12: *Do you think that the policy draft PPS will have a differential impact, either positive or negative, on people, because of their gender, race or disability? If so how in your view should we respond? We particularly welcome the views of organisations and individuals with specific expertise in these areas.***

The Council does not believe that the PPS will have a differential impact upon people because of their gender, race or disability.

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## Legal Implications

The Conservation Officer's comments at paras.2.1 and 2.6 as regards resources for survey work are seen as valid: the quality of and conclusions from survey work, monitoring etc will impact upon the efficiency and effectiveness of the enforcement process. Similarly, the observation at para.4.3 on the lack of statutory guidance over the use of enforcement tools is to be supported (see recommended consultation response at para.5.5); the courts and Inspectors at appeal will be looking to see that local planning authorities have exercised discretionary powers in a proportionate manner and in line with government guidance.

## Financial Implications

The financial implications are difficult to identify at this stage although they would probably be mainly in the form of staff time.

### **Background Papers**

- Paper A: Planning Policy Statement: Consultation. This has not been submitted to Committee before.
- Paper B: PPS Planning for the Historic Environment: Historic Environment Planning Practice Guide. This has not been submitted to Committee before.

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Stephen Guy Ext. 1541  
Principal Conservation Officer

Development Management 20<sup>th</sup> October 2009