

DRAFT PLANNING POLICY STATEMENT 15: PLANNING FOR THE HISTORIC ENVIRONMENT

COMMENTS BY THE LONDON FORUM OF AMENITY AND CIVIC SOCIETIES

Who are we?

The London Forum of Amenity and Civic Societies is the umbrella group for local community groups and civic and amenity societies in Greater London, on whose behalf we are responding. The London Forum's member societies are concerned with conservation issues and the comments below reflect their long experience of achieving sustainable development and enhancement in their area, with particular reference to safeguarding listed buildings, views, and conservation areas.

What are our concerns?

1. Is the new PPS fit for purpose?

i the draft does not comply with the aims of streamlining national planning statements:

Our main concerns, which we believe we share with the promoters of the new-style planning policy statements, is that, in reducing the scale of current policy guidance and separating policy from guidance, **the PPS should:**

- **not change the policy** – the PPS introduces a completely different approach, moving from a presumption in favour of preserving and enhancing the historic environment to trading it off against other "benefits" – this is a significant change in policy not just a change in balance (See our comments on Question 1);
- **be clearly expressed**, with very clear objectives, and should be easily understood by a wide audience; and
- **provide an objective, evidence-based and legally-robust approach to assessment rather than one which encourages interpretation by opposing "experts"**, whether those of the developer or the local planning authority - the PPS introduces "significance" of the "heritage assets" and whether these can be traded off for other "benefits". This would not only create uncertainty but also encourage the loss of heritage assets.

ii. a common approach for all historic assets is inappropriate:

The Forum does not believe that policies that are meant to apply to historic assets in use, such as historic buildings and conservation areas, where adaptation to changing needs and circumstances is often appropriate, can also apply to archaeological remains for which policy should be to preserve, ie safeguard without change.

iii. the draft PPS does not yet have the legislative support for the changes proposed

iv. the draft PPS appears to be too narrowly conceived:

The approach, contrary to question 4, is narrowly conceived as just about historic buildings and archaeology, with little or no reference to views and vistas, landscapes or townscapes, and, even, conservation areas. It removes the protection that has been applied to such historic assets by PPG15 and PPG16.

2. Draft PPS15 would weaken policy by:

i. introducing greater uncertainty and subjectivity:

The answer to every consultation question is 'No' because **draft PPS15 weakens the protection for the historic environment that PPG15 has ensured**. It introduces problems for case officers and Councillors in dealing with planning applications by introducing the word 'reasonable', which is subjective.

ii. encouraging the trading off of the intrinsic value of heritage assets:

Draft PPS15 presents too many reasons to destroy or harm historic assets and areas. It lacks the PPG15 recognition of the intrinsic value of heritage "for its own sake". It fails to emphasise that loss of buildings, views, landscapes or areas of historic value should be "**almost inconceivable**", as PPG15 did.

iii. reducing the protection given to heritage assets:

As a result of that, and due to omissions in PPS15 of PPG15 policies for Grade II listed buildings and conservation areas, there would be considerable weakening of asset protection which the Government has indicated is not its intention. Attached to this response is an extract of sections from PPG15 which have been useful and necessary for the protection of historic assets and most of which are not reflected in precise policies in the draft PPS15 and London Forum expects to see them retained in this PPS for consistency of approach.

PPS15 HE9.5 should not suggest that mitigation of climate change should take precedence over conservation; that may not be so in any particular case, and the possibility of simply refusing consent must be considered on its merits.

The devaluation of Grade II listed historic assets in HE10.2 should be removed. Listing itself indicates national importance.

3. The evidence base required to justify protection of heritage assets is excessive

The heavy dependency in draft PPS15 for having every significance documented for each historic asset (yet allowing in its paragraph 4 for protection of assets not yet designated) will place a heavy burden on local authorities for which they are not equipped in skills or resources. The new terminology and the introduction of more potential benefits to be considered that may outweigh asset protection are departures from current legislation. They are theoretical and confusing and will complicate and extend the development control process and be difficult to understand by community groups and residents.

4. No amount of guidance will make up for weaker policies

The supporting guidance will never be sufficient to support decision making with the weak policies of the draft PPS15. It is the policies which local planning authorities must have regard to in plan making and in determining planning applications. The status of the guidance, however good, will be no more than a material consideration, which may be ignored by applicants who would challenge a local planning authority's use and application of such material. The result will increase the involvement of lawyers.

London Forum's responses to the consultation questions follow and, in support of them, comments have been added on parts of the draft PPS15 which cause us to answer 'No' to most of the questions.

PPS15 draft - consultation questions:

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

No – the draft PPS represents a marked change of policy, weakening it by encouraging the trading off of heritage assets depending on their "significance". (HE10.1)
The importance of heritage for its own sake has been lost. [See next section]

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

No – it is not possible to treat these as a "single spectrum". It does not conform with the current legislation (under which scheduled monuments are outside the purview of local authorities). The different assets require different approaches and skills. We do not agree with the statement about this in paragraph 1.9 of Part 1 of the consultation document.

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?**

No – it says nothing that is relevant to landscape, townscape, vistas and views. It fails in place-making terms. Both the London Plan and London borough LDFs need more coverage to deal with the range of issues of cityscape, views and vistas, Areas of Metropolitan Importance, Royal Parks, Metropolitan Open land, the Thames, World Heritage Sites and Strategic Views. PPS15 should **support** those regional and local development plans in having within them that breadth of policy content for the management of all historic assets.

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?**

The draft PPS covers many of the issues, but it is insufficient and incomplete. There is:

- very little on conservation areas – which is surprising since there is a statutory duty to preserve and enhance them.
- nothing on Grade II listed buildings
- nothing on strategies – historic towns, conservation areas, vistas, views, townscape, landscape, the Thames, the Royal Parks
- nothing to emphasise that conservation of heritage assets should be pre-eminent.

5. **Do you agree that it is the "significance" of an historic asset that we are trying to conserve?**

No - this approach is contrary to the Listed Buildings (Conservation) Act 1990 S16.2.

"Significance" is a different, unhelpfully abstract and less specific concept as it:

- introduces a subjective element for LPAs and developers to interpret
- asks developers to assess/justify their proposals in these terms, which is often debateable and subjective
- it involves a change in the balance – "significance" can be devalued and degraded by breaking it into lots of aspects rather than treating the heritage asset as a whole.
- it will inherently change with time, causing uncertainty and thus expense in argument and litigation.

6. Does the PPS comply with devolutionary principles with regard to what is expected at regional and local levels?

Yes/No - the split of functions between regional and local is acceptable, but the coverage is likely to be incomplete. For London, the strategic policy is provided by the London Plan, but it is only in the latest draft Revised London Plan (October 2009) that heritage issues are being tackled.

PPS15 fails to ensure consistency of operation across the devolved functions, such as a landscape, townscape, views and vistas, conservation areas, listed buildings, archaeological areas, etc.

At local level Policy HE7 covers pre-application consultancy but no mention is made of the participation of community representatives and experts.

See also detailed comments below in response to question 4 for PPS support needed for London Plan policies.

7. Does the PPS strike the right balance between the objectives of conserving what is significant in the historic environment and mitigating the effects of climate change?

Yes – in principle, but there is a strong need for guidance which will resolve conflicts. **It does, however, give an opening to some developers who have a financial incentive to destroy heritage assets.** It is doubtful whether local authorities will have the skill (or the time except in the most egregious cases) to challenge developers' claims.

But also

No - because HE4.2 puts too much emphasis on adaptation of historic buildings for climate change without enough consideration of avoiding modification of original significances, such as windows.

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?

No - The draft PPS is less clear and less explicit than the existing legislation and PPG15. The lack of clarity in PPS15 introduces greater subjectivity and uncertainty, which makes decision-making criteria less explicit, increasing the burden on decision makers by not providing them with the material facts and provides opportunities for developers (and local planning authorities) to deny the significance of the assets. There is a risk in relying on applicants' definitions of significance – there is a need for independent assessments.

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 balance right? If not how would you like to see our policy adjusted? (Policies HE8 and HE9 are particularly relevant to this question.)

No, the balance has swung too far, with too much reliance on developers' assessments (HE8.1). This might be acceptable if all list descriptions were comprehensive and up-to-date, but they will not be for many years with the resources available to English Heritage and LPAs. [This applies also to Question 8 above.]

The introduction of terms such as 'just' and 'reasonable' and other aspects of subjectivity in considering harm will cause more delays and necessitate more LPA case officer work,

extra committee debate and possible deferment of development applications affecting historic assets.

No requirements or resources are set out for the production and maintenance of the (data) bases and the vague concept of "significance" is not adapted to full involvement in decision taking.

See our further comments below on problems that would be introduced by the proposed wording of policies in HE9.

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?

No - It is based on the assumption that the Heritage Protection Bill will be enacted shortly in the form it had before it was dropped last year; this is highly unlikely. It is therefore probable that it will need to be revised in the short to medium term. The inherent instability of the meaning of "significance" undermines even the short-term relevance and credibility of the document.

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?

No - burdens have been identified but not resourced, especially those of finance and skills. The London Forum considers that the assessment of the benefits of re-writing the two PPG's is over-optimistic, eg pages 36/17, 37/18, 38/22. Whilst a Bill was promised (page 33/8), indications are that this will be 3 years away. Quoting the number of LPA specialist staff (page 47) is of little relevance unless the skill levels of these staff are also known.

Yes - but if they want to make changes they need to make the fully-evidenced case for change. Savings in development control will not happen for the reasons outlined in our response to question 9 above.

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.

No - London Forum does not think so – other legislation and policies should cover this.

On the following pages London Forum has given comments on specific policies and paragraphs of the draft PPS15 which we consider need to be changed.

London Forum makes the following comments for changing the wording of PPS15 policies and for adding extra ones. They have been arranged in the order of some of the consultation questions to which specific answers have been given above.

Question 1: Changing the "balance" to be struck

Paragraph 1.15 emphasises that consideration of historic assets now must be made against the challenges of regeneration, housing supply, economic development and the need to address climate change. This is a step back from the heritage protection in PPG15-1.3 which required that sustainability means 'not sacrificing what future generations will value'.

PPS15 policy HE2.3 introduces the challenges to the conservation and protection of historic assets arising from the pressures of economic growth, housing and securing progress against the UK's carbon emissions targets. By placing such emphasis in the policy, which is reinforced by the wording in HE4.2 for historic asset modification for climate change mitigation and adaptation, those requirements could be seen as benefits that are more important than the significances of an historic asset and would lead to its unsympathetic adaptation or demolition. It should be understood also that maintenance of an historic assets' quality and significances takes precedence over Building Regulations.

HE9.6 argues that in relation to new developments the asset's setting and 'distinctiveness' should be respected **"only where reasonably practicable"**. That word 'reasonable' is a dangerous one in a policy as it suggests cost, profit or time considerations, leaving sites open to damage through a whole range of developments.

In evaluating such proposals it is written that the local authority should "avoid stifling innovation and undermining investment in sustainable development". This ranks innovation as an unquestioned benefit on a par with sustainable development which could be a contradiction in terms. Reusing an old building always has less environmental cost than constructing a new one.

Policy HE 9.7 requires LPAs to operate a development control process in which harm to the historic environment or asset may be actively permitted: "Where a development proposal has a negative impact on the significance of a heritage asset ... the local planning authority should weigh the public benefits of the proposed development against any harm it has on the heritage asset." The PPS15 draft is skewed towards utilitarian or environmental benefits against the benefit of an historic asset, which introduces a complex task for Council officers and elected Members.

HE9.8 extends the potential to downgrade an historic asset by defining that "material harm or removal of significance" can be permitted when the harm "is outweighed by the wider social, economic and environmental benefits, including mitigating climate change, that will be delivered by the proposed development." Also when "the heritage asset impedes all **reasonable** uses of the site." Again, this policy builds on HE6 for introducing confusion and the subjective question of what is 'reasonable'.

What exactly is a historic/heritage asset when stripped of any of the parts of its significance? Is the rest of it then degraded to the point that demolition is difficult to prevent? It is not good enough that local planning authorities are supposed to make sure that "developers maximise opportunities to advance understanding of the asset's significance before this is lost."

Harm to or removal of an asset are here presented as accepted, and acceptable options and not as exceptional as in the PPG15 policy regarding Listed Buildings, for example. The value of use now is given emphasis over values which are cultural, aesthetic and historical and especially the value a site may have to the knowledge economy, both our own and that of future generations. Value assigned to elements of the past increase with time, as shown by the listing and the Open Days visitor numbers to buildings of the 1930s. What right do we have now to deprive those born in future of appreciation and pleasure related to historic assets?

The proposed policies HE10.2 and HE10.4 in draft PPS15 reduce the protection given to historic assets, compared to the standards of PPG15 and the heritage policies which are in the current London Plan. The words 'material loss' and 'wholly exceptional' will need considerable guidance and will complicate analysis for development control. The PPS introduces the proposal that elements of a WHS or conservation area could be worth removing if benefits could be achieved. That is unacceptable and should be considered "**wholly exceptional**" as in PPG15-3.17 and on the **presumption in favour of preservation** in PPG15-3.3.

HE11.1 suggests that developments for new sources of energy from low or zero-carbon sources may outweigh the loss of those elements of the setting of a heritage asset that enhance the significance of the asset. That would allow power stations, dams, barrages and wind generation equipment to harm the setting of a listed building, coastline, view, vista, WHS or conservation area because of the Government's priorities. There should be enough sites in the UK for the introduction of new energy resources without harming historic assets. This draft policy should be deleted.

HE11.2 proposes that place making is important enough to allow development that changes the setting of an historic asset. This is acceptable if there is **enhancement**, no harm is caused and the context sensitivity policies of the CABE/EH Guidance for Large Scale Buildings and the London Plan policies for locational assessment are upheld.

Question 2: The 'single spectrum approach':

PPG16 sets out the importance of archaeological deposits, for example:

- Archaeological material being fragile and finite
- Essential importance of preserving archaeological monuments from development

Those policies should be retained for PPS15 which should support the policies proposed in the draft new London Plan of October 2009, as in the additional comments for question

No real case is made for integrating archaeological policy with listed buildings in a single document. It is wrong to define policies that are meant to apply to historic assets in use that can be allowed some adaptation and also apply to archaeological remains which policy should safeguard without change.

The cost justification for merging PPG15 and PPG16 and simplifying the policies is not accepted because the costs of revising documentation to ensure adequate definition of significance for partly buried and visible historic assets, World Heritage Sites, conservation areas, locally designated and undesignated historic assets have not been taken into account. The savings in development control are unrealistic because of the way the draft PPS15 introduces new aspects of subjectivity in balancing benefit and harm.

Question 4: Are other policies required?

HE6.1 requires proactive monitoring of the impact of local planning policies and decisions on the historic environment. This needs re-wording to cover activities other than 'planning policies and decisions' because Highways, Environment, Safety and Lighting policies can adversely affect conservation areas by the introduction of materials, lamp heads, cameras, speed humps, new and replacement tree types, etc.

PPS15 has omitted the sections of PPG15 in its 4.14 and 4.19 for preserving or enhancing conservation areas. The PPG15 "presumption against the grant of planning permission" if that objective would not be achieved by the proposed development should be retained.

It should be made clear in PPS15, as in 6.14 of PPG15 that "Buildings which are important for reasons of technological innovation, or as illustrating particular aspects of social or economic history, may well have little external visual quality." The explanation of significance should include that.

There should be policy support in PPS15 for the October 2009 draft Revised London Plan Policy 5.7 for **"All renewable energy systems should be located and designed to minimise any potential adverse impacts on biodiversity, the natural environment and historical assets."**

PPS15 draft does not give sufficient national policy support to draft Revised London Plan Policy 7.7 that "Tall buildings should not impact adversely on local or strategic views nor be encouraged in areas that would be sensitive to their impact. **Such areas might include conservation areas, the setting of listed buildings, historic parks and gardens, the edge of the green belt or metropolitan open land and the setting of World Heritage Sites.**" HE9.6 is useful in that respect but it concludes with an argument for avoiding stifling innovation which negates its criteria.

PPS15 should have a policy also to complement Policy 7.8 in the draft Revised London Plan that new development should make provision for the protection of archaeological resources and significant memorials. **"Where the artefact or memorial cannot be moved from the site without damaging its cultural value, the assets should where possible be made available to the public on-site."** This relates also to question 2 above.

There is an objective in the draft Revised London Plan in paragraph 7.70 for which there should be policy support in PPS15 because it applies to any navigable waterway in the UK. It is as follows: "The historic steps and slipways to the Thames foreshore are often overlooked, neglected or even removed. These facilities are vital for enabling access to the Thames foreshore given the huge tidal range of the river and the Mayor wishes to see these facilities retained, improved and where disused, brought back into use."

Another draft Revised London Plan Policy 7.30 should be considered for coverage by PPS15 which requires that the historical interest of unused docks should be protected by "preventing their partial or complete in-filling."

Question 5: Conserving 'significance'

It would be wrong to introduce the unhelpfully abstract concept of significance as it would require all 440,000 Grade II listed building descriptions to be updated and all conservation area appraisals and management plans revised to identify all the significances of every item of historic value in a local authority and all WHS management plans would have to be amended. Without that, changes could be permitted which would be harmful or result in the destruction of an historic asset because the current protection of PPG15 would be lost by PPS15 introduction.

Requiring developers to provide descriptions of the significances of an historic asset and how their development proposal would affect them (H8.1) is inviting evidence that is biased. If there are not adequate descriptions of the significance of any historic building, vista, conservation area, etc., then the local authority should require the applicant to pay for an independent assessment of the attributes and value of the asset that could be adversely affected.

Paragraph 1.11 defines significance as "its value to people now and in the future derived from its heritage interest." Which seems to rule out historic understanding of place in favour of a contemporary consideration. It appears to suggest that what we value (not a statement of what is valuable, intrinsically) and what people in future will value will coincide.

Question 8: Risks

The document gives big openings to developers by wording that favours keeping the "best" heritage, which automatically is then seen by applicants as a reason for arguing that their piece of heritage is really not so important, so it can be demolished. This has been suggested in evidence at inquiries in the past but not used much now because of the far better policy approach in the current PPG15.

In PPS15 paragraph 1.10, the word 'just' suggests a critical stance, as if protecting, say, Westminster Abbey or a conservation area as a whole, is a slipshod and unnecessary thing to do.

See also our comment in response to question 1 about the way policy HE9.6 introduces a subjective development control consideration of what is "reasonable".

HE10.4 requires local authorities to "bear in mind that not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance." That gives opportunity to developers to challenge the significance of some parts of such sites and areas unless the Management Plans for WHS and CA locations are comprehensive in their definition of parts that should not be changed. ICOMOS UK should be involved in all WHS considerations.

HE10.2 refers to historic assets for which material loss "should be wholly exceptional." Those words provide less protection than is in PPG15 paragraph 3.17, as below.

HE9.8 extends the potential to downgrade an historic asset by defining that "material harm or removal of significance" can be permitted when "the heritage asset impedes all reasonable uses of the site." As above, we are concerned about interpretation of 'reasonable'.

PPG15's other policy content which has been useful and which should be continued by the policies of PPS15 is as follows:

PPG15: 3.3: There should be a general presumption in favour of the preservation of listed buildings: . . . the starting point for the exercise of listed building control is the statutory requirement on local planning authorities to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This reflects the great importance to society of protecting listed buildings from unnecessary demolition and from unsuitable and insensitive alteration and should be the prime consideration for authorities in determining an application for consent.

PPG15: 3.5: The issues that are generally relevant to the consideration of all listed building consent applications are:

- i. the importance of the building, its intrinsic architectural and historic interest and rarity, in both national and local terms; and
- ii. the particular physical features of the building (which may include its design, plan, materials or location) which justify its inclusion in the list: list descriptions may draw attention to features of particular interest or value, but they are not exhaustive and other features of importance (eg. interiors) may come to light after the building's inclusion in the list.

PPG15: 3.12: In judging the effect of any alteration or extension it is essential to have assessed the elements that make up the special interest of the building in question. They may comprise not only obvious visual features such as a decorative facade or, internally, staircases or decorated plaster ceilings, but also the spaces and layout

PPG15: 3.13: . . . listed buildings do vary greatly in the extent to which they can accommodate change without loss of special interest. Some may be sensitive even to slight alterations.

PPG15: 3.15: . . . alterations to listed buildings should not create problems for the long-term stability of the structure.

PPG15: 3.17: There are many outstanding buildings for which it is in practice almost inconceivable that consent for demolition would ever be granted. The demolition of any Grade I or Grade II* building should be wholly exceptional and should require the strongest justification.

PPG15: 4.4: The more clearly the special architectural or historic interest that justifies designation is defined and recorded, the sounder will be the basis for local plan policies and development control decisions

PPG15: 4.9: Clear assessment and definition of an area's special interest and the action needed to protect it will help to generate awareness and encourage local property owners to take the right sort of action for themselves.

PPG15: 4.14: Section 72 of the Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area.

PPG15: 4.19: The Courts have recently confirmed that planning decisions in respect of development proposed to be carried out in a conservation area must give a high priority to the objective of preserving or enhancing the character or appearance of the area. If any proposed development would conflict with that objective, there will be a strong presumption against the grant of planning permission.

PPG15: 4.27: The general presumption should be in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area. The Secretary of State expects that proposals to demolish such buildings should be assessed against the same broad criteria as proposals to demolish listed buildings.

PPG15: 5.16: Road signs and markings can also have a significant impact on a street's appearance. These should be of an appropriate character and quality, without unnecessary duplication of signs and posts. . Parking restriction signs in particular can be sited on buildings where appropriate, thus eliminating the need in many cases for a pole with a single sign. Authorities' attention is drawn to the flexibility permitted in respect of no-waiting lines; a narrower line of a different colour is permitted in environmentally sensitive areas.

PPG15: 6.14: The external appearance of a building - both its intrinsic architectural merit and any group value - is a key consideration in judging listing proposals, but the special interest of a building will not always be reflected in obvious visual quality. Buildings which are important for reasons of technological innovation, or as illustrating particular aspects of social or economic history, may well have little external visual quality.

PPG15: C.58: The plan of a building is one of its most important characteristics. Interior plans and individual features of interest should be respected and left unaltered as far as possible.

PPG15: C.62: Staircases: The removal or alteration of any historic staircase is not normally acceptable.