

COVID-19 planning system changes and their impact on the historic environment



Conclusions and recommendations from a joint RTPi South East/CIfA event

About this paper

Collaborative working across professions is important for success in the development process. With this in mind, ClfA and RTPI South East recently held a two-part online webinar that looked at the Government's proposed COVID-19 planning system changes in the context of any impact on heritage assets and the wider historic environment.

This paper summarises the presentations made by the webinar panellists, the discussions during the webinars and questions from attendees. The panellists' conclusions and recommendations are summarised as a 10-point plan, on page 7.

Please note:

1. This paper contains the personal views of the panellists in their professional capacities.
2. Since the webinars the Government has issued further consultations and statements about deregulation of the planning system in England. The issues discussed at the webinars and the panellists conclusions and recommendations outlined in this paper are relevant for consideration regarding these proposals.

The panellists and their organisations

- Gareth Giles FRTPI, *Partner at Whaleback Planning & Design*
- Peter Hinton, *Chief Executive at ClfA*
- Scott Lawrie, *Managing Director at Ethos Design & Architecture*
- Chris Wilford, *Director at Ethos Design & Architecture*
- Natasha Rowland, *Planning Advisor at the National Trust*
- Lisa Lamb, *Head of Planning & Major Infrastructure at the National Trust*
- Karen Britton MRTPI, *Planning Manager for Policy & Heritage at Canterbury City Council*

More information about the panellists and their organisations can be found on page 9 .

RTPI South East hosted the webinars and special thanks goes to Susan Millington, Regional Co-ordinator at RTPI South East for help in setting up and successfully running these and other webinars.



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About the webinars – Parts 1 and 2

In Part 1, each panellist set out their interpretation of possible impacts on heritage assets and the wider the historic environment if the Government’s planning system changes, outlined in the recent white paper, were enacted. You can watch Part 1 of this two-part webinar on the RTPI’s YouTube channel and by following this link.
<https://bit.ly/3myOxGW>

In Part 2, the panellists debated what protections would remain in place and the strategies and approaches needed to ensure protection of heritage assets and the wider historic environment, while supporting the overall goal of planning reform. You can watch Part 2 of this two-part webinar on the RTPI’s YouTube channel and by following this link.
<https://bit.ly/2HYmqSf>

Panellists’ concerns and observations

The scale of imminent, proposed and possible change to the planning system is significant. The Government’s latest planning white paper is one part of this set of changes, following previous changes to permitted development rights (PD rights), changes to the Use Classes Order and last year’s National Design Guide. Other changes before that include the introduction of the standard method for housing in 2018, the First Homes initiative, and changes to affordable housing provision and permissions in principle (PiP). Future changes will include an amended National Planning Policy Framework and National Design Codes, and a review of the Listed Buildings Act. The cumulative impact on the way the planning system operates should not be underestimated.

The most recent proposed planning system changes are designed to assist in the economic recovery from the COVID-19 pandemic. It’s worth pointing out that they are all subject to legal challenge at the time of writing. They are designed to be in place in the short term only, as a transition to a fully reformed planning system. They have a particular focus on PD rights.

A summary of updated PD rights

The latest changes to PD rights, including PiP, give the right to create new homes on existing detached blocks of flats and commercial buildings, to extend homes upwards, and to demolish buildings in order to build new dwellings.

Two additional storeys can be added to purpose-built blocks of flats and to freestanding commercial and mixed-use buildings that are already above three storeys, provided the original building was built after 1st July 1948 and before 5th March 2018. A maximum roof height limit of 7m and an overall maximum height of 30m apply. The internal ceiling height limit is 3m. Similar rights are afforded to commercial and mixed-use buildings in a terrace.

For single residential properties above two storeys, an additional two storeys can be added. This applies to detached, semi-detached and terraced houses built after 1 July 1948 and before 28th October 2018. Maximum height limits apply. In addition, vacant and redundant buildings with a footprint up to 1,000 square metres can be demolished under PD rights and all reasonable demolition and construction activities may take place. Associated engineering operations are allowed, subject to prior approval.

A summary of changes to Use Classes

Changes to Use Classes include a new Class E for 'commercial, business and service' use to replace A1, A2 and A3 and B1. This class also includes D1 and non-residential D2. All changes of use within this new Class E are allowed. A new 'learning and non-residential institution class F1' and 'local community' F2 are to be introduced. Other classes remain unchanged.

Safeguards for heritage assets and the wider historic environment

There are safeguards for heritage assets. PD rights do not apply to conservation areas, National Parks, Areas of Outstanding Natural Beauty or Sites of Special Scientific Interest, or to listed buildings, scheduled monuments or within their curtilage. Also, the prior approval processes mean that a wide range of impacts must be considered. However, the panellists agree with the National Trust's list of concerns summarised below:

- PD rights are becoming ever more complex.
- The requirement for planning permission may be replaced by something less clear.
- PD rights could be exercised in the setting of heritage assets and on the edge of conservation areas and this may impact heritage assets.
- Buildings extended upwards may impact sensitive landscapes.
- Design quality could be compromised.
- Locally listed buildings could potentially be demolished.
- Resources may be wasted because of unnecessary demolition.
- Change of use may mean Local Planning Authorities (LPAs) losing some control over town planning.

The archaeology context

There may be significant implications for heritage assets with archaeological interest, if the planning reforms suggested in the white paper come into force. This is on top of the implications of the interim reforms outlined above. PiP could be a big risk factor for archaeological remains.

One important factor is that heritage assets with archaeological interest are largely non-designated. Some estimates suggest 95% are non-designated and their primary – in fact only – protection is through the current planning system. The current approach relies on proportionate, staged assessment to:

- Inform decisions.
- Manage opportunities.
- Manage risks.

There are pre-application discussions, pre-determination assessments and field evaluation. These may lead to conditioned re-design or excavation. Data is recorded and there is often public engagement, publication of findings, archiving, public legacy, etc. This is rarely a reason for development not to go ahead. The physical fabric of archaeological remains may be lost as a development progresses, but this is offset by the gain in information, data and insight generated by the archaeology as this process unfolds.

The white paper outlines a planning system that is rules based with less discretionary democratic decision-making and a more front-loaded approach that allows for PiP before any assessment of impact can take place. This implies there is an overestimation of how much we already know about heritage assets with archaeological interest, particularly those assets you cannot see. These are the unknown, buried heritage assets, the location of which is unknown.

The new white paper suggests Local Plans should identify three types of land areas: Growth, Renewal and Protected. Areas designated Growth or Renewal should, in future, bypass the familiar planning application process. There will be a need for targeted research at the allocation stage at each LPA if the sensitivities are to be clearly understood. LPAs may need more information to enhance and supplement what is in the Historic Environment Record. If they are looking at designating areas for growth, for example, more information may be needed.

In the current system the applicant pays for this work. In the system outlined in the white paper, it is unclear who will pay for it. The cost most obviously falls to the LPA, but will they have the resources? The front-loading of the system must enable management of unknowns.

The role of the archaeological advisor for the LPA will be even more critical. They may already be responsible for the management of the Historic Environment Record. They may be involved in plan making, development management, securing information for a decision, setting a brief for archaeology conditions and monitoring and discharge. The white paper gives them more responsibilities still and a higher workload. Investment will be required. A well-resourced, professional historic environment team advising the LPA will be even more critical to ensure risks are managed.

The architecture context

From an architecture viewpoint, there is some difficulty interpreting the changes suggested in the white paper and this may slow, rather than speed, the planning process. The expanded PD rights outlined above may lead to poor quality design. There are fears that in time we may look back and wonder how certain upward extensions were ever allowed.

But there are opportunities. Change of use could be used to reclaim the streetscape. Retrofitting existing buildings could mirror wider changes in the way we live. High Streets could be enlivened. We should encourage developers to use the planning system outlined in the white paper to work with heritage assets. We need to encourage developers to use heritage assets and the wider historic environment for better placemaking.

The interactive digital maps available now for accessing Tree Preservation Orders, flood plains, listed buildings, etc. are a great resource for architects and developers, as well as the wider community. We welcome a digital platform for Local Plans.

The initial analysis of site constraints and opportunities are key to evolving a robust architectural concept. This always involves looking beyond the site to understand the full impact, as well as to exploit the full potential of a site. The suggestion that a digital consultation and COVID-safe community engagement is a desirable way forward is of concern. Although a short-term necessity, it should not be a goal. The one-to-one discussion at local stakeholder events can often uncover valuable local knowledge regarding archaeology or historic uses, which should inform good design.

There are examples in other countries of simplified Local Plans. In Germany they are called 'Bebauungsplan' – a development plan – with key parameters all on one drawing. These include plots, land use, flood risk, building line, eaves height, floor areas, roof pitch, roads, parking ratios, green space, listed buildings, etc. Perhaps we should look at Germany and other countries with successfully streamlined planning systems.



Key findings, fixes and the panellists' 10-point plan

It is clear that the Government cares about the impact of its suggested planning reforms on heritage assets and the wider historic environment. There are some positives, but the lack of detail is concerning. The particular points the panellists would like raise are listed here, in the form of a 10-point plan.

1. The definition of heritage in the white paper

This does not go nearly far enough. It is currently too narrow and there is a risk of oversimplifying heritage. Heritage is 'a marinade not a garnish'. Strong heritage protections should be woven into the detail of the proposed planning system changes. A good start would be an agreed definition of heritage.

2. The three land use areas system and heritage assets

Heritage assets do not always fit into pre-existing boundaries. For example, cultural landscapes and archaeology may straddle LPA or county borders. Planning decisions in relation to heritage assets should be made regardless of the type of area they are in. Sites in a 'Growth' area may materially impact major heritage assets, for example World Heritage Sites, and any planning system changes should enable the LPA to override a proposal. PiP should not always be a given.

3. Setting

The impact on setting should be easily measured. Overlaps, views, buffers, may fall into different zones. Major heritage assets should go through heritage setting testing before PiP is granted.

4. Digitisation

Digital transformation is welcome, but it should not be seen as an opportunity to 'automate' the public consultation system beyond the pandemic. Moving forward, stakeholder consultation events – especially for sensitive sites – should be encouraged and treated as a design tool for unearthing the unknown. Local knowledge should not be lost.

5. Resourcing

The white paper envisages more emphasis on plan making and less on discretionary development control, with the tacit assumption that resources will be similarly redistributed. But with at least three processes of development control, there are resource implications. A knock-on impact of the white paper may be increased demand for other LPA services, e.g. environmental health to deal with the permitted change of use neighbourhood issues. It is also unclear who will fund archaeological investigations in the future, who will fund the creation and management of the local Historic Environment Record and who will fund digitisation. Investment is needed but is not quantified.

6. Consistency

It may be better to have a modular system rather than one system across all LPAs.

7. Messaging and engagement

This needs to be considered so that all stakeholders understand the changes, making sure it's not too abstract. It is also unclear how the public will be involved.

**Key findings, fixes
 and the panellists'
 10-point plan
 (continued)**

8. Timescale

Timescales and transition periods are a real concern. They may be unrealistic and they lack clarity. In Germany 5-7 years is the norm for plan making. Perhaps this is too long, but the right timescale to enable real community participation and engagement remains unclear.

9. Enforcement

Current enforcement is slow, politicised and inconsistent. We need a culture of enforcement via a rules-based system and resources to support it. A new rules-based system is good in theory, but more detail is needed on the number of rules, the setting or rules and enforcement. LPAs may need more enforcement powers.

10. The necessity for further consultation

The first consultation was welcome, but there should be a second consultation so the proposed planning system changes can continue to be shaped. A well thought through plan is helpful. Every government tries to reform planning and it can be very politicised. The current system needs some reform as no system is beyond improvement. The Government's goal is to encourage development, including house building. It is not clear if these proposals will lead to that goal being met. It could be there is a misdiagnosis of the problem, which is something that could be investigated in a second consultation.

**Delegate poll
 questions**

During the webinars, delegates were asked the following questions.

Poll Question 1

Is the definition of 'heritage' in the White Paper too narrow to be effective?

Answers:

Yes 63%

No 8%

Not sure 28%

Poll Question 2

Should non-designated heritage assets be given additional protection in the White Paper?

Yes 81%

No 12%

Not sure 7%

Poll Question 3

Do you feel LPAs are sufficiently resourced to deliver the plan making and design code requirement in the set timescales?

Yes 2%

No 94%

Not sure 4%

About the panellists and their organisations

Gareth Giles FRTPI, Partner at Whaleback Planning & Design, chaired the webinars. He is a Chartered Town Planner and Fellow of the RTPI with over 10 years' professional experience. Gareth provides specialist support for clients on land acquisitions, housing land supply, strategic promotion and project management for complex applications.

Whaleback Planning & Design is an award-winning town planning consultancy and design practice with offices in Brighton and Chichester. Whaleback provides friendly planning services, support and advocacy across the South East.

Peter Hinton is Chief Executive of ClfA (the Chartered Institute for Archaeologists). Peter previously worked as an archaeologist at the Museum of London, originally as a volunteer excavator and later as a senior manager. At ClfA he leads on external relations, policy and advocacy.

ClfA is the leading professional body representing archaeologists working in the UK and overseas. The Institute promotes high professional standards and strong ethics in archaeological practice, to maximise the benefits that archaeologists bring to society.

Scott Lawrie is Managing Director of Ethos Design & Architecture. He is a RIBA Chartered Architect and developer. After working for global practices including Fosters, John McAslan & Partners and RMJM, he founded Ethos Design & Architecture. His current projects include Westfield Crossing Bridge in Falkirk, Belfast Aquarium and masterplanning in Romford.

Chris Wilford is a Director at Ethos Design & Architecture and a RIBA Chartered Architect. He has over 25 years' experience in the design of innovative, high-quality buildings. He has worked on a number of award-winning projects ranging from urban realm interventions, through infrastructure projects, to housing development and masterplanning new communities.

Ethos is a growing design and architecture practice known for delivering interesting, large-scale and complex projects in the UK and overseas. They are collaborative free thinkers, with a diverse body of work. Clients trust their innovative and pragmatic approach to adding value and creating opportunities.

Natasha Rowland is a Planning Advisor at the National Trust. After 27 years in the private sector, latterly with Savills, Natasha is now one of the advisers in the Planning and Major Infrastructure team at the National Trust, responsible for planning matters across Yorkshire and the North East.

Lisa Lamb, Head of Planning & Major Infrastructure at the National Trust, is the professional lead for planning and is responsible for co-ordinating responses to significant external developments, including NSIPs and DCOs as well as schemes with pan-regional impacts, such as the Ox-Camb Arc.

The National Trust is one of the largest private landowners in the UK and owns more than 500 buildings and 700 miles of coastline. The Trust is a conservation charity with a broad range of interests and expertise in planning and the built environment.

**About the panellists
and their organisations
(continued)**

Karen Britton is the Planning Manager (Development and Engagement) for Canterbury City Council. Her remit includes, strategic planning and planning engagement, neighbourhood plans, heritage, town centre strategies and masterplans, design codes and urban design and development compliance. Karen is a Chartered Town Planner with extensive planning and heritage experience. In 2019 her team received the South East RTPI Planning Award for Heritage and Culture and her aim is to breathe new life into planning and bring it to a wider audience.

Karen previously managed the Planning Policy and Conservation Team at East Northamptonshire District Council, leading the council's work on the high profile "Barnwell Manor legal case", which spearheaded the protection of heritage assets nationally.

Further resources**White paper**

<https://www.gov.uk/Government/consultations/planning-for-the-future>

Closed consultation

<https://www.gov.uk/Government/consultations/changes-to-the-current-planning-system>

RTPI response to the Planning White Paper

<https://www.rtpi.org.uk/consultations/2020/october/pwpconsultationresponse/>

ClfA response to the Planning White Paper

<https://www.archaeologists.net/news/cifa-responds-planning-future-white-paper-1605104555>

ClfA Client Guide

<https://www.archaeologists.net/clientguide>

Open consultation

<https://www.gov.uk/government/consultations/planning-for-the-future/planning-for-the-future>