

Heritage 2020

CAPACITY BUILDING WORKING GROUP

Local Planning Authority Capacity

Heritage 2020 is an initiative that brings together national bodies, institutes, owners and charities working across the heritage sector to address the strategic priorities for collaboration set out in the Heritage 2020 Framework. In common with many in the wider world and the planning sphere, the Heritage 2020 Framework recognises the decline over recent years in capacity, both staff and expertise, within Local Planning Authorities able to advise on the historic environment. This includes both Conservation Officers and Archaeologists. The Framework identifies *A sustainable model for LPA conservation and archaeology services* as a key priority for collaborative action. In order to assist Local Authorities in this regard the Working Group commissioned an update to the Government's list of LA statutory duties produced in 2011 as they relate to the historic environment. The group is grateful to Icen Projects for its support in producing this. The up-to-date list is available on the [Heritage 2020 website](#).

The purpose of this report is to draw attention to the statutory and other duties placed on Local Authorities as custodians of the historic environment, to underline the positive role that Conservation Officers and Archaeologists play in ensuring that decisions are well-informed and, therefore, more likely to both protect important heritage assets and also produce sufficient, attractive and well-located homes, vibrant communities and long-term sustainable growth. It is intended that this synthesis of statutory and other duties will enable identification of the knowledge, skills and therefore training needs that are needed to deliver a sustainable future for historic environment services.

The legislative base for historic environment services is to be found in the Town and Country Planning Acts, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Ancient Monuments and Archaeological Areas Act 1979. The National Planning Policy Framework together with much other guidance available from Historic England, national amenity societies, institutes and other bodies can assist LPAs to interpret legislation and fashion local policies, guidance and practice so that sustainable growth – notably the often highly demanding housing targets being set by government - is achievable and achieved. In a complex area of law and policy the importance of taking expert advice on the historic environment is all the more important when LPAs forge plans and determine applications.

Of course, LPAs have many other obligations that, while non-statutory, are part of a wider framework of services that protect the historic environment and help to ensure that it pays its full part in ensuring high quality sustainable development and growth. The importance of robust conservation and archaeology services and access to a local Historic Environment Record (HERs) cannot be overestimated in nurturing local knowledge, civic pride and ensuring that development is appropriately and sustainably located and designed.

The following three chapters provide further information on that full range of services; the statutory duties of LAs and their basis, further functions of Conservation Officers, and key non-statutory functions of archaeological advice services.

1/ Summary of the list of LA statutory duties as they relate to the historic environment

1.1 Approach to the research

The original lists of statutory duties produced by the Government in March 2011 was by each individual government department – the most relevant in this instance being the then DCLG and DCMS. The list [Statutory duties cited in 2011](#) is a compilation of those lists. It has been checked against the Planning (Listed Buildings and Conservation Areas) Act 1990 to understand if any pre-2011 obligations of Local Authorities had been missed from this list. Missing obligations deriving from this Act were added where found.

With regards to statutory duties introduced post-March 2011, many of these derive from the Enterprise and Regulatory Reform Act 2013. Other primary and secondary legislation which hold further duties relating to heritage include the Brownfield Land Register, Environmental Impact Assessment Regulations and Hedgerow Regulations. This list can be found at: [List of statutory duties created after 2011](#).

Over the course of the research it was noted that many relevant duties were directed to the Secretary of State (SoS), rather than Local Authorities, and so have not been included in this list. It may be an interesting avenue of future research to consolidate these SoS duties into a further list as it is possible that some of these duties may be passed onto Local Authorities by a SoS at a future date.

1.2 Enterprise and Regulatory Reform Act 2013

Whilst a number of new obligations arose from this Act, it is apparent many would only follow from an initiating decision. For example, certain duties follow from a decision by an LPA to make a Local Listed Building Consent Order, or from a decision to initiate a Heritage Partnership Agreement; without that initiating decision the obligations do not arise.

1.3 Localism Act 2011

The Localism Act creates a duty to give advice or assistance to qualifying groups in the making of Neighbourhood Development Orders (NDO), which requires expert heritage advice to be made available both to the local group in the formulation of Neighbourhood Plan policies and within the LPA in assessing if the NDO is compatible with the Local Plan and National Plan Policy requirements prior to examination. The input of the LPA conservation and archaeological officers can be essential in realising both obligations.

1.4 Historic Environment Records

There is a requirement in the NPPF for Local Authorities to maintain or have access to an Historic Environment Record (HER). The lost 2009 Heritage Protection Bill would have made this a formal statutory duty. In Wales, the 2016 Historic Environment Act (Wales) Act brought in a statutory duty for the Welsh Ministers to maintain an HER, and it would be desirable to make this a statutory duty in England when an opportunity for primary legislation arises.

Developers are increasingly reliant on HERs as a source of reliable information as part of their due diligence when purchasing land for development – including housing. HERs also have uses outside of the planning system. The DEFRA Countryside Stewardship scheme introduced in 2015 takes into account heritage assets and considers applications for payments for their preservation and upkeep, and the future Environmental Land Management scheme will presumably do the same. The Selected Heritage Inventory for Natural England (SHINE) used as part of the assessment process for Countryside Stewardship, utilises data from HERs.

1.5 Nationally Significant Infrastructure Projects

The duties related to Nationally Significant Infrastructure Projects are principally attached to the Secretary of State. However, it is noted that a number of onward actions and processes arise for local authority archaeologists, which may be set out statutorily within Development Consent Orders, or arise on a non-statutory basis.

1.6 Brownfield Land Register

The Brownfield Land Register Regulations 2017 includes a number of references to ‘heritage assets’ which it defines with greater clarity than that shown in the NPPF Glossary. Other references are in relation to Infrastructure Orders, all now included in post-2013 legislation.

2/ A compendium of further Conservation Officer functions

Any listing of non-statutory duties will be shaped by - and overlap with – statutory conservation service duties that may vary with time and place.

Reference

This listing is adapted from ‘How to care for places and people: *Towards a common standard in Historic Environment Conservation services & skills - A consultation document from the IHBC*’ (2008/2009). See links at <https://www.ihbc.org.uk>

A significant amount of a CO’s time will be devoted to providing comments on individual planning and consent applications to Development Management in order that it can discharge its statutory duties as the Local Planning Authority. These functions are summarised under the following six headings.

2.1 Development Management, Local Plans and Guidance

- Advise and guide planning (and related) committees and key LA representatives (including Champions) on historic environment and related design issues
- Advise on casework (including pre-application advice) on development impacts on HE including new housing. Advise on planning (land use, etc.) architectural and other urban design aspects of proposals for alterations of existing buildings or new housing development in the historic environment. Monitor the implementation of approved alterations to listed buildings and conservation areas
- Prepare or contribute to appeal statements and inquiries. Take enforcement action in the case of unauthorised works to designated assets and within conservation areas. Advise on Listed Building Enforcement Notices and s.9 prosecutions. Appear as an expert witness for the Council in court.
- Advise on legal mechanisms including Urgent Works Notices, Repairs Notices, CPOs, Certificates of Immunity (or equivalent), the Ecclesiastical and other Exemptions and potential future designations
- Prepare heritage policies for the Local Plan, DPD and SPD documents and participate in Local Plan public inquiries. Undertake, commission, assess and/or require Strategic Environmental Assessments of plans. Contribute to local biodiversity audits or equivalent
- Prepare, maintain and implement a local Heritage Strategy, assist in the preparation of Cultural Strategy or equivalents and contribute to local tourism forums including production and implementation of a Tourism Strategy
- Contribute to Neighbourhood and equivalent community planning, including helping in their formation
- Prepare local HE guidance for developers and prepare briefs for new development affecting the historic environment. Investigate and record sites and buildings that may be affected by proposals –particularly new housing. Specify developer funded contract investigative work and monitor professional standards therein

2.2 Corporate and service management

- Maintain a register of and advise on property maintenance and management issues of all heritage assets in council guardianship. Develop and agree management guidelines for local authority historic assets, including the production (or manage production, by consultants) of conservation statements and conservation plans
- Advise on the disposal of heritage assets within council guardianship e.g. redundant school buildings or affected land. Advise and manage architectural salvage issues
- Advise on the building and adaptation of public buildings where changes respond to new legislation e.g., equalities and access issues etc.
- Contribute to the management and enhancement of highways, streets and the public realm in general, including as appropriate undertaking urban design and related place-making activities. Advise on public realm works within areas with historic environment interest including on the maintenance and replacement of street surfaces and furniture
- Maintain statistics and other generic management data in relation to the historic environment. Report on service to corporate management including preparing annual 'state of the historic environment' reports. Monitor, maintain and support standards across the service, including liaison with quality assurance processes (prof. bodies; CPD etc.)

- Provide Member and staff professional training on heritage issues via seminars, CPD, student placements etc.

2.3 Management and promotion of local heritage assets and conservation areas

- In partnership with local groups, develop, maintain and promote local lists
- Investigate and/or record – or oversee – all aspects of the historic environment. Provide and/or signpost information for local history and local studies including photographic collections, including for promotional purposes
- Contribute to the management of archives and records (artefact and documentary) including key files relating to listed buildings, listed building consents *etc.*, and related support information. Prepare and/or contribute to research frameworks/ agendas or equivalent.
- Foster voluntary HE work
- Identify, designate and review conservation areas, including liaison with public bodies and local community groups and public consultation. Undertake conservation area appraisals and deliver conservation area management plans
- Prepare, consult and implement Article 4 Directions covering development in Conservation Areas and local listing as required
- Monitor condition of un-designated HE resources
- Initiate, promote and manage projects for the conservation of individual sites and buildings

2.4 Heritage at Risk, grants and design awards

- Maintain a local 'Heritage at Risk' Register or equivalent including surveys and assessments
- Take pro-active (project-based) action over individual Heritage at Risk cases including preparation of response/action strategies, business and community liaison, market intervention and marketing strategies and the promotion of management, business and financial resources appropriate to market needs
- Administer grants for the repair of listed buildings, conservation areas and other heritage assets. Advise on wider cultural and heritage resources
- Promote, seek and administer external funding for the historic environment e.g. National Lottery Heritage Fund
- Administer and contribute to local and national historic environment and design award schemes and their equivalent

2.5 Advice and guidance

- Serve as the key point of contact for the public on local historic environment matters for Members, developers and the public. Lead, advise and promote the historic environment
- Undertake outreach/publicity on the historic environment through lectures, talks, exhibitions *etc.* and take part in educational sessions with local amenity groups and others. Lead, run, contribute to and/or partner in local heritage 'Open Days' and equivalent
- Publish local guidance on the conservation of historic assets and features. Author, contribute to, edit, fund and publish local guides on the historic environment

- Undertake roles (advisory and otherwise) in the management and interpretation of heritage sites and attractions. Specify, or provide advice, on non-rescue led building investigations e.g. for evaluation and interpretation purposes
- Provide advice to owners and others on the management and repair of listed buildings, properties in conservation areas and undesignated properties
- Identify, liaise with and maintain lists of local conservation contractors and craft workers

2.6 Liaison with local groups and regional and national bodies

- Act as point of contact for national heritage agencies and interests. Contribute to national policy development on matters to do with the historic environment
- Work with national organisations charged with the promotion and conservation of the historic environment e.g. National Amenity Societies; Professional bodies; heritage agencies and property owning and developing trusts. Liaise with wider cultural (including museums), natural, health, asset management and related services (including the collection, recording and preservation of artefacts)
- Provide historic environment information to national heritage agencies for designation and advise accordingly
- Liaise with local/regional development agencies (or equivalent) in promotion of HE re heritage-led urban regeneration initiatives. Advise, promote and contribute to Regional/City Conservation Trusts or equivalents. Establish, manage and/or work with local building preservation or conservation trusts
- Establish, manage and contribute to local amenity and heritage forums
- Provide HE advice and oversight to statutory undertakers and other HE stakeholders
- Where relevant, work with other partners to encourage the inscription of World Heritage Sites and work on the management of inscribed sites.
- Liaise with major HE property and asset owners in the area e.g. national property trusts. Negotiate, oversee implement and review management agreements or equivalent (including Heritage Partnership Agreements). Develop, fund, fundraise, promote and implement partnership regeneration schemes, including with local and regional development agencies, private sector etc.

3/ Key non-statutory functions of archaeological advice services

Archaeological services act on behalf of bodies with regulatory functions. They create public benefit by:

- ***advancing understanding*** through community engagement, research, furtherance and dissemination of knowledge, and the creation and maintenance of accessible HERs and archaeological archives.
- ***contributing to achievement of Sustainable development*** through managing change to heritage assets and historic landscapes in a way that as far as possible sustains or enhances their significance and that of their setting.
- ***contributing to the realisation of social, economic, and environmental benefits*** including include promoting local distinctiveness, pride and a sense of place, stimulating inward investment and regeneration, and promoting wellbeing through encouraging physical activity, participation and volunteering, and providing leisure and learning opportunities.

They undertake the following specific tasks:

3.1 Maintain Historic Environment Records (HERs)

The bedrock of any archaeology or historic environment service is the Historic Environment Record (HER), which should be a comprehensive, accessible and authoritative record of the local historic environment. The HER is used to formulate advice to local authorities for informed planning and decision making, to communities engaged in neighbourhood planning, and to inform those who develop, manage, interpret or study the local historic environment.

But the HER is not a static record. It needs to be continuously managed and updated to reflect the changing nature of the historic environment as a result of new discoveries, designations, investigations, interpretations and changes in use, management or significance.

- There is a national register of heritage assets from 87 HERs
- 1,500,000 monuments are recorded
- Newly discovered heritage assets are being added at a rate of 2-5% per year
- Over 75% of HERs are accessible online

3.2 Advise on the implementation of national planning guidance to sustain and enhance the significance and setting of local heritage assets

Local authority archaeological advisors advise on strategic development and local plans:

- They appraise land proposed to be allocated for development
- They ensure local plan policies take a sustainable approach to the historic environment, and seek to exploit its contribution to creating growth, jobs and local identity
- They advise and manage the archaeological implications of major infrastructure development and utilities
- They trigger, where necessary, and review, environmental impact assessments
- Local authority archaeological advisors advise planning authorities and developers on planning proposals that may affect archaeological sites:
- Local authority archaeological advisors screen all development proposals
- Where necessary they require further archaeological information to enable sustainable planning decisions to be made
- In some case they recommend archaeological conditions on planning permissions
- They advise developers on managing risk, e.g. from potential constraints caused by nationally important undesignated archaeological sites and/or human remains
- They encourage and help developers to create opportunities for community engagement
- They provide advice that can be followed through to appeal if necessary
- In extreme cases they advise planning officers of the need for enforcement

3.3 Monitor compliance with planning requirements including conditions on behalf of planning authorities

- Local authority archaeology advisors assess the standard of fieldwork and recording, normally specified to comply with Institute for Archaeologists professional standards
- They monitor the quality of post excavation assessment, publication and archiving – to ensure that the results of work are reported in the right way
- They promote broader public benefit through enhancing understanding and local engagement

3.4 Advise on the management of the rural historic environment

It is not only development that may have an adverse impact on important archaeological sites and historic landscapes. The effects of agriculture on sites in the rural landscape can result in severe damage and erosion, even to protected sites. Accordingly local authority advisers:

- Provide advice to Natural England and Defra on options for improving the management of archaeological sites, historic buildings and the wider historic landscape through agri-environment schemes
- Provide updates to the Selected Heritage Inventory for Natural England (SHINE) database
- Through these schemes support environmentally sensitive farming and the income it brings to rural communities

Annual outputs

- In 2017/18, of 525,000 planning applications, 21,700 had archaeological implications (this represents 4% of all planning applications)
- Local authority archaeology advisors made 2,600 predetermination investigation recommendations in England, Scotland, and Wales and 10,000 recommendations for archaeological investigations
- This levered in £218 million of developer funding to develop new public understanding and appreciation of the past
- Where possible they help developers find sustainable solutions that protect, or impact minimally, on those archaeological sites that are significant
- Of all the planning applications, only 55 were refused where archaeology was one of the reasons – usually because the development could not be made sustainable or because more information is required

3.5 Community outreach and education

Local authorities are focuses of their communities, and local authority archaeology advisers respond to the strong community interest in local heritage by:

- Working with all elements of the community to foster understanding of the historic environment
- Where resources permit, leading community-based projects to explore the local historic environment, and through this contributing to skills development, learning and community cohesion

4/ Conclusion

Local Authorities have faced many competing responsibilities and challenges over the last 10 years during which their function as the Local Planning Authority has regrettably been put under particularly hard budget pressures. Without adequate capacity, the customer experience is of long delays and opaque ill-considered decision-making, eroding confidence in the system. The aim of producing attractive sustainable development is particularly vulnerable when the LPA fail to retain adequate capacity to discharge its duties towards the local historic environment;- listed buildings, conservation areas and archaeological areas. Conservation Officers and archaeologists have proven particularly vulnerable to job cuts, in part because their expertise does not directly attract a fee. This report lists the diverse range of statutory and other duties that these professionals can help the LPA discharge and thereby achieve the overall planning aims of the protection of heritage assets and areas, the encouragement of good contextual design and the delivery of attractive, sustainable development and homes.

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