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DRAFT PPS15 - How will it affect the renewables sector?

Observations On Draft PPS15 “Planning For The Historic Environment” And Draft “Historic Environment Planning Practice Guide”

Like many of you, CgMs Ltd has reviewed the draft PPS15 and accompanying Practice Guide with a keen interest as to how it will impact upon our working practices.

From CgMs' point of view, the draft PPS has a number of implications and facets. We set out below what we see as some of the main considerations relating to the renewable energy sector. In preparing this note we have also considered some aspects relating to general large scale development, not just specifically wind farms, for example guidance that could affect offshore developments or estuarine sites.

Before turning to the detail, it is worth noting that the PPS adopts an overarching approach to “heritage assets”, despite the fact that legislation relating to scheduled ancient monuments on the one hand, and listed buildings and conservation areas on the other, will remain in place for the time being. Therefore, there will be no foreseeable procedural change to the two main pieces of legislation that cover this topic, namely the Ancient Monuments and Archaeological Areas Act 1979, and the Planning (Listed Buildings and Conservation Areas) Act 1990. Legislative reform was an objective of the Heritage Protection Review, but the draft PPS does not contemplate that change. As a result, the PPS will merely replace those parts of PPG15 and PPG16 which relate to policy, and a supporting document called Historic Environment Planning Practice Guide (HEPPG - currently in the form of a “living draft”) will replace those parts of PPG15 and PPG16 which relate to guidance. Procedurally, impacts on listed buildings, conservation areas and archaeological

sites will be dealt with in much the same way as they are at present, but in terms of policy and guidance they will all be treated as heritage assets. In practice, the policy considerations in the draft PPS may not appear radically different from PPG15 and PPG16 at first sight, but the guidance in the draft HEPPG does go a stage further. It is perhaps relevant that the PPS was issued by DCMS, whereas HEPPG is very much the production of English Heritage.

With these strategic considerations still in mind, it is important to understand that at the heart of the PPS are policies that protect the significance of heritage assets. We have quoted the underlined words from the Introduction of HEPPG, and the key word is significance. This is defined in the PPS as

“The value of a place to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic.”

One of the difficulties with HEPPG is that it does not start from this definition, but instead (in the Introduction) says that significance is “how we define the sum of the heritage values of a place”. This may seem unimportant at first sight, but it is the first of a series of ways in which new terminology is in danger of becoming muddled. There are in our view, some tensions, primarily to do with setting, between the draft PPS and English Heritage's guidance in Conservation Principles which was published in 2008. The Introduction of HEPPG says that Conservation Principles “explores the concept of significance and its component values in more detail”, suggesting that Conservation Principles informs HEPPG and will not be superseded or withdrawn. The trouble is that there are two further definitions of significance in Conservation Principles, namely

“Significance (of a place): The sum of the cultural and natural heritage values of a place often set out in a statement of significance

Significant place: A place which has heritage value(s).”

While it is important not to split hairs about definitions, or to take matters too literally, it is also important when using an emerging lexicon to understand exactly

what is meant, and what weight should be attached to the use of new expressions. Why else are the terms defined in the documents? Even when starting with the most fundamental of new terms (significance), and one that is given different and greater weight in emerging policy and guidance than was the case in PPG15 and PPG16, there is some doubt as to how the hierarchy of definitions is supposed to work. We would invite you to look at the extended definition of significance (significant places) in Principles 3 and 4 of Conservation Principles (on pages 21 and 22 of that document), and then at the equivalent definitions given in draft policy and draft guidance in PPS15 and HEPPG quoted above. There is a clear chronological sequence in terms of publication date, but it is far less obvious that the guidance flows from the policy. Furthermore, in the case of significance, it seems odd that the Introduction in HEPPG, which should carry considerable weight, defers to the more detailed definition of the term in Conservation Principles. This leaves the topic of the natural heritage values of a place, as well as a number of other matters, unresolved.

The definition of setting is much discussed in relation to specific proposals for wind farms and will no doubt continue to be hotly debated. CgMs' comments on this matter are incorporated into the detailed points below, although similar general points could be made as those set out in relation to the word significance. Turning to the structure of the PPS and the HEPPG, the PPS contains thirteen policies (HE1 to HE13) and HEPPG is largely made up of a commentary on those policies, expanding on the points that are made. Policies HE1 to HE6 are about plan making and the historic environment, and Policies HE7 to HE13 are about the development management process. To a large degree, Policies HE7 to HE13 are those that are more relevant to your work, together with part 4 of HEPPG which is headed "Further Guidance on Making Changes to Heritage Assets" and which brings in considerations to do with landscapes and marine sites.

Policy HE9 is directly relevant in that it discusses development within the setting of a heritage asset. The HEPPG suggests (Paragraph 33) that settings can be affected by high structures "a considerable distance away", and it brings into play a number of tools and techniques that are promoted by the Landscape Institute, including Placecheck, Visual Impact Assessment, Accurate Visual Representation, Seeing the History in the View, and other "visioning" techniques. The potential for confusion between the guidance relating to heritage and landscape/visual topics appears, in our view, obvious.

Another suggestion relating to Policy HE9 (or perhaps Policy HE10 - it is somewhat unclear), made in Paragraph 35 of HEPPG, is that the value of a place may not be obvious from expert advice or research.

This is unlikely, and undermines the weight that can be given to expert advice during the planning process.

Finally on Policies HE9 and HE10, Paragraph 36 of HEPPG contains a bullet point referring to a "zero carbon" economy, a concept on which you may have views.

Policy HE11 and Paragraphs 49 to 53 of HEPPG suggest that the setting of a heritage asset will contribute to varying degrees to the significance of the asset itself. While that may be the case, the setting of a heritage asset is not normally the sole reason for designation, and the asset will normally remain listed or scheduled even if the setting is radically changed, or harmed, or reduced in extent. Therefore, in terms of defining the setting of an asset (the sub-heading before Paragraph 49 in HEPPG), the setting is primarily informed by the special interest of the asset, rather than the other way round.

Please note that "all heritage assets have a setting" according to Paragraph 49 of HEPPG, and that a heritage asset need not be designated under legislation. Therefore, the debate about setting could affect any building, monument, site or landscape of historic, archaeological architectural or artistic interest. The words in HEPPG go far beyond advice Paragraphs 2.16 and 2.17 of PPG15 and the various references to setting in PPG16, and instead bring wholly new concepts into the category of national guidance. For example, they could bring artistic considerations into development control decisions in landscapes that are not at present designated as being of any other significance, and they could bring the issue of setting into the consideration of any archaeological site, even if imperceptible as a feature above ground.

Section 4 of HEPPG is intended to illustrate the application of the principles of PPS15, and it does so in relation to six broad categories of heritage asset - landscapes, buildings and structures, standing remains (including earthworks), buried remains, large heritage assets or groups of assets (such as conservation areas or clusters of scheduled ancient monuments), and marine sites. Two main groups of interventions are considered, namely repair and restoration, and addition and alteration. It is the latter group - addition and alteration - which relates mainly to development control, but only six paragraphs are devoted to this compared with 28 paragraphs on the subject of repair and restoration. Moreover, there is no discussion of large sites under the heading of addition and alteration, so there is little or no detailed guidance on development affecting, for example, a conservation area or a prehistoric cairnfield. Compared with current guidance on views into and out of conservation areas (see Paragraph 4.14 of PPG15) the HEPPG is less specific.

Paragraph 100 of HEPPG refers to the design and incorporation of new elements within landscapes, and to landscapes where the degree of alteration may be “very limited”. Again, there is considerable scope for this guidance to overlap with matters that are conventionally the preserve of the Landscape Institute, and to be applied to otherwise undesignated landscapes.

Paragraph 104 of HEPPG envisages that alterations “other than those of a minor nature” will be rare in marine sites, and are likely to be acceptable only in exceptional circumstances. Marine sites can include submerged landscapes in rivers, estuaries and coastal areas to the low water mark. There are clear implications for this guidance to affect offshore development where there are impacts on intertidal areas, or in estuarine locations.

We hope these comments and observations are useful. The consultation period on these documents closes on 30 October and CgMs would be very happy any questions you may have.

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