

# JOINT PLANNING LAW CONFERENCE

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MATERIAL CONSIDERATIONS  
IN TOWN AND COUNTRY PLANNING DECISIONS

THE HISTORIC HERITAGE

by

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NEW COLLEGE, OXFORD

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The Law Society  
The Bar Council  
The Royal Institution of Chartered Surveyors



## THE HISTORIC HERITAGE

### INTRODUCING ENGLISH HERITAGE

1. English Heritage is the self adopted name of the Historic Buildings and Monuments Commission for England. That somewhat grandiose and totally unmemorable title was awarded by the National Heritage Act 1983 which set us up as a grant-aided statutory corporation to carry out certain functions, previously performed by the Department of the Environment, with respect to the preservation of the heritage.

2. Creation of a "quango" fitted in with government policy to reduce the size of central departments. In addition, separation of the functions concerned with the preservation of the heritage from the realm of government brought a longer term benefit. This was that the part of the Department of the Environment concerned with the exercise of those functions was often the main - and sometimes the only - objector to development proposals detrimental to the heritage. As part of a government department, it was in difficulty in objecting effectively. Thus, it had restricted access to the media and, at public inquiries, was confined to submitting a statement and sending a witness to answer questions.

3. English Heritage, on the other hand, appears as a party at public inquiries, where we are represented by our staff, or Counsel. And we speak directly to the media when the need arises.

4. Separation of the financial support for heritage from the general departmental vote has also been an advantage, in providing an easily monitored measure of government commitment to the heritage. It has not, unfortunately, guaranteed levels in either absolute or relative terms.

5. We are able to advocate conservation causes in a manner, and to an extent, that was not possible for our predecessors, and, generally, to fulfil the objective of being an independent voice for the heritage. The fact that we find ourselves, on occasions, in open disagreement with the Secretary of State for the Environment is an indication of the extent to which we have achieved independence.

6. We have, in six years of existence, thus joined other such independent bodies, performing similar roles in other sectors of the Department of the Environment's sphere, as the Countryside Commission and the Nature Conservancy Council.

#### THE ROLE OF ENGLISH HERITAGE

7. The role of English Heritage consists in performing various specific statutory functions, in relation to England, in the light of our general statutory duties as set out in the National Heritage Act 1983. These duties require us -

"... (so far as practicable) -

- (a) to secure the preservation of ancient monuments and historic buildings situated in England,

(b) to promote the preservation and enhancement of the character and appearance of conservation areas situated in England, and

(c) to promote the public's enjoyment of, and advance their knowledge of, ancient monuments and historic buildings situated in England and their preservation".

(see section 33(1) of the National Heritage Act 1983).

8. Although we have many other functions, our principal specific functions consist in giving advice; in grant-aiding work on monuments and buildings; and in looking after the 350 or so monuments and buildings which we own, or manage on behalf of the Secretary of State for the Environment.

9. For present purposes, our main role lies in our powers to give advice, since it is in pursuance of those powers that we advise the Secretary of State, local planning authorities, and others, of the matters we consider to be material considerations for the purposes of section 70(2) of the Town and Country Planning Act 1990<sup>1</sup>.

10. We have two specific powers, the first of which enables us to -

"... give advice to any person in relation to ancient monuments, historic buildings and

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<sup>1</sup>See section 29(1) of the Town and Country Planning Act 1971.

conservation areas situated in England, whether or not [English Heritage has] been consulted",

(see section 33(2)(b) of the National Heritage Act 1983); while the second enables us to -

"... advise the Secretary of State with regard to the exercise of functions exercisable by him in relation to England under the Historic Buildings and Ancient Monuments Act 1953 and the Ancient Monuments and Archaeological Areas Act 1979, whether or not [English Heritage has] been consulted."

(see section 33(4) of the 1983 Act).

11. The question of accountability is one which ought not to be ducked. Financial accountability is clearly maintained. As a sponsored body in receipt of public money - and earning income from public assets - we are responsible to the Secretary of State for the Environment, and to the Public Accounts Committee of the House of Commons, for all matters financial. But we are a body with statutory powers but no democratically elected head, and as such open, like others of our kind, to the charge of not being responsible. I believe that it was concerns of this kind that underlay the decision to retain listing and scheduling with the Secretary of State, and to leave us with the role of providers of advice to him on the subject. Nonetheless, in practice, our muscle - deriving from our national coverage, our size and our strength of specialist competence - and our focus as "a central and committed voice for conservation" (Organisation of Ancient Monuments and Historic Buildings in England. The Way Forward. Department of the Environment 1982) may be seen as giving us a unique and, in the opinion of some,

unfair potential to influence individual cases. I will return to this later.

12. In the view of English Heritage, we have general accountability and responsibilities to the public, our duty to whom is enshrined in the third of our general statutory duties. Finally, in so far as we are concerned with the heritage, we must, also, regard ourselves as responsible to those who come after us - that is to say to future generations - even though we may not be around when they come to examine what we have done, or not done.

13. The most succinct statement of our approach is to be found in our mission and aims, set out in Appendix A to this paper. It encapsulates our statutory powers and our organisational values.

#### THE HISTORIC HERITAGE

14. The meaning which I attach to the expression "historic heritage" is determined by the statutory role of English Heritage. As such, it is both wider and narrower than might otherwise be thought to be the case. It is wider in that it embraces the architectural heritage, which is virtually inextricable from the historic heritage; but, narrower in so far as it does not cover items, such as sites of special scientific interest (which, in some instances, are of historical importance) or works of art which are not fixtures in listed buildings. Another expression that is sometimes used in relation to the subject matter of our functions is "the built heritage"; however, this also has its deficiencies.

15. Viewed in this restricted and somewhat artificial way, the historic heritage comprises the following main items -

(a) Listed buildings, within the meaning of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(b) Scheduled monuments, within the meaning of the Ancient Monuments and Archaeological Areas Act 1979.

(c) Conservation areas within the meaning of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(d) Parks and gardens included in the Register of Parks and Gardens of Special Historic Interest.

(e) World Heritage Sites.

16. Obviously, the materiality of a particular item is something that falls to be considered in the context of a particular case; however, it seems self-evident (applying the basic criteria for identifying material considerations, namely, relevance and materiality) that all the items I have specified are capable of being material considerations for the purposes of section 70(2) of the Town and Country Planning Act 1990<sup>2</sup>. There is more to be said about the reasons for regarding these items as material considerations. I shall take each item in turn.

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<sup>2</sup>See section 29(1) of the Town and Country Planning Act 1971.

33) Listed buildings

17. First, listed buildings. I have started with listed buildings rather than scheduled monuments, because, although the legislative protection of monuments antedates the legislative protection of buildings, the former have received more detailed attention than the latter. The reasons for this have a historical basis, but I do not think I need go into the matter now.

18. The lists are compiled or approved by the Secretary of State for the Environment under Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>3</sup> which lays down the criteria of special architectural or historic interest. In addition to the statutory criteria, there are various non-statutory criteria which are set out in Appendix 1 to Circular 8/87: these relate to a variety of matters, including the age and quality of buildings.

19. As if the relevance and materiality of listed buildings were not clear enough, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>4</sup> provides that -

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special

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<sup>3</sup>See Part IV of the Town and Country Planning Act 1971.

<sup>4</sup>See section 56(3) of the Town and Country Planning Act 1971.



architectural or historic interest which it possesses".

20. There are two points that are worth noting as respects section 66(1)<sup>5</sup>. First, the requirement to have "special regard" appears, on the face of it, to afford a higher status to listed buildings and their settings than that of mere material considerations. This notion is reinforced by the statement in paragraph 91 of Circular 8/87 that the Secretary of State is of the view that "the presumption should be in favour of preservation except where a strong case can be made out for granting consent after the application of the criteria mentioned in the circular" (i.e. the criteria mentioned in paragraphs 89 and 90 of the circular). Secondly, the requirement to have special regard is not confined to listed buildings but extends to their settings.

(b) Scheduled monuments

21. The next item is scheduled monuments. Provision for the scheduling of monuments, and for the exercise of the control over scheduled monuments, is one of the main features of the Ancient Monuments and Archaeological Areas Act 1979. The Act requires the Secretary of State to compile and maintain a schedule of monuments, the criterion for inclusion in which is national importance. There are, as in the case of listed buildings, various non-statutory criteria which involve consideration of such matters as rarity, group value, the condition of a monument, etc. The relevance and materiality of ancient monuments in relation to town and country planning was recognised by the courts in Hoveringham Gravels Ltd v

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<sup>5</sup>See section 56(3) of the Town and Country Planning Act 1971.

Secretary of State for the Environment in 1975 ([1975] QB 754). This case was decided before the enactment of the 1979 Act, and, hence, before the scheduling of monuments under that Act. Formal recognition of the importance of scheduled monuments in relation to town and country planning is provided by article 18 of the Town and Country Planning General Development Order 1988 (S.I. 1988/1813), which deals with the consultations local planning authorities are required to undertake before granting planning permission for certain kinds of development and includes a reference to development likely to affect the site of a scheduled ancient monument: in such cases consultation with English Heritage is required.

22. While archaeology (that is to say, the examination or investigation of matters of archaeological interest) is not, as such, within the scope of this conference, the Draft Planning Policy Guidance Note on Archaeology and Planning - issued by DOE as a consultative document - contains relevant advice on the importance of archaeological matters and their relationship to the planning process. Among other things, the Draft Note -

(a) states that archaeological remains should be seen as a finite, and non-renewable resource, and that care must be taken to ensure that they are not needlessly destroyed;

(b) draws attention to the need for development plans to include policies for the protection, enhancement and preservation of sites of archaeological interest and of their settings;

(c) states that the desirability of preserving an ancient monument, and its setting, is a material

consideration in determining planning applications whether the monument is scheduled or not;

(d) states that where nationally important ancient monuments, whether scheduled or not, and their settings, are affected by proposed development there should be a presumption in favour of their preservation; and

(e) refers to the possibility that other monuments, not of national importance, may nevertheless be worthy of preservation for local reasons.

This advice does no more than spell out what would otherwise be assumed to be the case; though it is obviously better to have the position spelt out.

23. Before leaving the subject, I should explain that the 1979 Act distinguishes between monuments, scheduled monuments and ancient monuments, and that the latter category comprises scheduled monuments and other monuments which are considered to be of public interest for one or more of the reasons specified in section 61(12)(b) of the 1979 Act.

(c) Conservation areas

24. Thirdly, I come to conservation areas. The legislation relating to conservation areas is again contained in the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>6</sup>, and involves the application of criteria corresponding to those appropriate to the selection of listed buildings. Thus,

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<sup>6</sup>Formerly contained in the Town and Country Planning Act 1971.

conservation areas are areas which are determined to be of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and which have been designated as such (see section 69(1) of the 1990 Act<sup>7</sup>).

25. The Secretary of State for the Environment, local planning authorities and (in relation to Greater London) English Heritage, have powers to designate conservation areas; but, to the best of my knowledge only local planning authorities have so far designated conservation areas.

26. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>8</sup> makes special provision for taking conservation areas into account when dealing with other matters, and provides that:-

"In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The provisions mentioned in subsection (2) of section 72 are the Planning Acts and Part I of the Historic Buildings and Ancient Monuments Act 1953.

27. It will be noted that the test laid down by section 72(1) of the 1990 Act appears to confer a higher status

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<sup>7</sup>See section 277(1) of the Town and Country Planning Act 1971.

<sup>8</sup>See section 277(8) of the Town and Country Planning Act 1971.

than that of a mere material consideration, and that it would seem reasonable to regard it as raising a presumption in favour of retaining conservation areas in their existing state.

(d) Items included in the Register of Parks and Gardens of Special Historic Interest

28. Section 8C of the Historic Buildings and Ancient Monuments Act 1953 contains a reference to a register of gardens and other land situated in England and appearing to English Heritage to be of special historic interest.

29. The reference to a register resulted from growing concern about a particular problem, namely, historic parks and gardens which had lost their houses with the passage of time. Whereas gardens with houses derive protection from the status of their houses, gardens which have lost their houses tend to get overlooked and - all too easily - fall into a terminal decline.

30. English Heritage has now prepared and published a register of Parks and Gardens of Special Historic Interest in England.

31. Items on the register have not been put there by the Secretary of State or by local planning authorities; however, paragraph 15 of Circular 8/87 explains that the purpose of the register is to record the existence of the registered items "so that highway and planning authorities, and developers, know that they should try to safeguard them when planning new road schemes and new development generally". In the circumstances, English Heritage consider that items on the register are to be regarded as material considerations for the purposes of

section 70(2) of the Town and Country Planning Act 1990<sup>9</sup>.

(e) World Heritage Sites

32. Last but not least, I turn to World Heritage Sites, which is the most recent of the five main items of the Historic Heritage which I have identified. On 29 May 1984 the United Kingdom became a party to the 1972 UNESCO Convention concerning the protection of the World Cultural and Natural Heritage, article 3 of which requires parties to identify and delineate the different properties situated in their territory which fall within the definition of "cultural heritage". Article 1 of the Convention states:

"For the purposes of this Convention, the following shall be considered as "cultural heritage":

monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

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<sup>9</sup>See section 29(1) of the Town and Country Planning Act 1971.

sites: works of men or the combined works of nature and of man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological points of view".

I draw attention to the wide scope of the definition, which, among other things, comprises works of art.

33. In pursuance of our obligations under the Convention, the Secretary of State for the Environment submitted a list of sites which were duly included in the UNESCO list of World Heritage Sites. It may interest you to know - or be reminded - that the English World Heritage Sites comprise -

The City of Bath  
Blenheim Palace  
Canterbury Cathedral, St Augustine's Abbey, and  
St Martin's Church  
Durham Cathedral and Castle  
Fountains Abbey and St Mary's, Studley Royal  
Hadrian's Wall military zone  
Ironbridge Gorge  
Stonehenge, Avebury, and associated sites  
Tower of London  
Palace of Westminster and Westminster Abbey

34. The presumption must, I think, be that World Heritage Sites, and their settings, constitute material considerations for the purposes of section 70(2) of the 1990 Act<sup>10</sup>, though special considerations apply to the area sites, such as the City of Bath, since the internal

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<sup>10</sup>See section 29(1) of the Town and Country Planning Act 1971.

quality of such sites must inevitably vary considerably - Bath for instance has parts which fall far short of Regency elegance. It should, of course, be observed that the area sites may contain listed buildings, scheduled monuments and conservation areas, while the sites which consist of individual buildings are either listed, scheduled, or both, and may also be in conservation areas.

### Generally

35. Comparing the specified items with one another, the differences between the special statutory tests which apply in relation to listed buildings and conservation areas are to be noted, as is the absence of special statutory tests when it comes to scheduled monuments, the items on the Register of Parks and Gardens and World Heritage Sites. I do not think these differences can be justified and suggest that the relationship of the various items needs consideration.

36. The precise weight to be placed on heritage items is a matter to be considered when it is sought to rely on them as material considerations; however, it would not be logical to confer a lesser status on scheduled monuments than on listed buildings, particularly bearing in mind that the criterion for inclusion in the Schedule is national importance; and it would be very odd if World Heritage Sites did not merit the highest possible status. We naturally contend that items on the Register of Parks and Gardens are, at the very least, material considerations for the purposes of section 29(1), and I understand that the Secretary of State has, in fact, taken such items into account; though the best known case concerning the Register involved the modification of



the line of a diversion of the A34 to reduce its impact on Highclere Park, Hampshire.

#### OTHER ITEMS

37. I have referred to the foregoing specified items as the "main" items of the historic heritage because they are all items which have received formal recognition in one way or another. However, the historic heritage is open ended, and there is no reason why other buildings, monuments, areas, parks, gardens and sites - which have not been listed etc - should not be considered on their merits and treated as material considerations in the circumstances of particular cases.

#### THE CRUCIAL QUESTION

38. I now come to the crucial question of the way in which the conflict is resolved where material considerations which derive from the historic heritage clash with other material considerations.

39. The very terminology of my previous sentence reveals the dilemma we face. There is inherent in British legal and political systems an adversarial approach which tends to polarise the positions of all parties. It is thus easy to caricature the approach of English Heritage as one of preservation at all costs. That is not so. We are not a protest society, although our remit clearly requires us to be a missionary for conservation. With that in mind, we attempt to look at each case in a balanced fashion. We apply ourselves to understanding the wider issues, such as local social or economic need, and the realities of development finances. We prioritise, both in terms of our own resources and the prevailing circumstances of a particular development.

While our status means we are not locally accountable for our advice and opinions, it also means we are not subject to local pressure. Our perspective incorporates the non-quantifiable cost to future generations of the loss of historic fabric as the price of an immediate gain in other respects.

40. Obviously there are situations where there is a possibility of compromise. I have in mind, for example, the proposals for the redevelopment of a large area in the centre of Worcester to which we objected because they threatened to overwhelm a number of listed buildings by virtue of the scale and proximity of the new buildings. In that case, we were able to negotiate satisfactory alterations in the redevelopment scheme, and withdrew our objections.

41. However, there are other cases where development proposals necessitate the destruction of the historic heritage, and where we can find no alternative to out-and-out opposition. In such cases, it suffices in some instances to proceed by way of written representations; however, there is always a feeling of uncertainty as to whether opposition is adequately expressed via the medium of written representations; and, where major issues are at stake, we prefer to seek a public inquiry at which the various parties can appear, state their views and undergo cross-examination, and leave it at the end of the day to the Inspector and the Secretary of State to reach a conclusion.

42. There is, after all, no objective way of resolving conflicting material considerations, and some degree of prejudice at the end of the day may be inevitable. For us, there is always the risk that the Inspector conducting a planning inquiry may form the subjective

view that the proposed replacement buildings which are said to justify the demolition of existing buildings "might just be a masterpiece".

43. The risk is the greater because we are going through a period during which styles and fashions in architecture proliferate to such an extent that there has ceased to be any style or fashion, and it has become a case of every man for himself. It is not surprising that there are no general architectural values - let alone urban or landscape values - when anything goes and everything is right. The danger in such a situation is that listed buildings and conservation areas may well not survive comparison with proposed development designed by a vogue architect.

44. The problem is not confined to cult architects. Planning gain, and enabling development for the purpose of financing other development, provide formidable opposition to the conservation cause, as does the new generation of super supermarkets which seeks to meet the demand for shopping as a leisure activity by providing huge retail sheds which dominate, and destroy, their surroundings.

45. Other factors adverse to conservation include the increase in the demand for office development, railway development (above, on and under the ground) and, of course, road building.

46. A brief list of some recent development, or redevelopment, schemes featuring conservation issues

provides some idea of the problems conservation has been facing in recent times. It includes the proposals in respect of Wimbledon Town Centre, Charing Cross Pier, Worcester Town Centre, Mansion House Square (or No. 1 Poultry), Covent Garden, Spitalfields, King's Cross, and the Channel Tunnel rail link. Ironically - and sadly - recession appears likely to do something to ease the pressure.

47. What appears to be called for is a fresh look at the ideas that underline town and country planning, and the affirmation or replacement of those ideas. No doubt we need to find a Lewis Mumford or a Jane Jacobs to provide a critique and a philosophy to help us on our way.

#### RECENT CASES

48. It may interest you if I mention some current cases before the Secretary of State, in which heritage considerations have featured.

(a) The Ridgeway Cafe, Overton Hill

The first concerned the proposed development of land forming the site of the Ridgeway Cafe on Overton Hill, near Avebury, which was called in for decision by the Secretary of State.

As well as being within the Stonehenge/Avebury World Heritage Site, the site was within an area defined in the Structure Plan as an Area of Special Archaeological Significance and adjacent to a monument, known as The Sanctuary. There was, in addition, a strong possibility of archaeological remains underlying the site.

The Inquiry Inspector concluded that the development would overwhelm and overshadow the Sanctuary; that it would dominate the top of Overton Hill; that the skyline with its burial mounds would be lost; and that the proposed development would have a substantially discordant visual effect on the wider archaeological scene and would detract from it. Although he appears to have thought that the archaeological objections were insurmountable, he went on to conclude that other objections were equally fatal. The Inspector managed to avoid mentioning the World Heritage Site in his conclusions, though he mentioned it in his findings of fact.

We had hoped that the Secretary of State might have laid down guidelines as regards World Heritage Sites, but he did not do so.

(b) A new bridge in Ironbridge Gorge

In June we were represented at an Inquiry held by the Secretary of State for the Environment into a proposal to build a new concrete bridge across the River Severn, some 400 metres downstream from the Iron Bridge and within the Ironbridge Gorge World Heritage Site.

As well as being within Ironbridge Gorge World Heritage Site, the site of the proposed bridge is within a conservation area. The Iron Bridge itself is both scheduled and listed. Our argument was that the new bridge would damage the setting of the Iron Bridge, and we proposed that the replacement bridge should be further downstream.

The case has not yet been decided.

(c) Grove Lodge Farm, Upton, Romsey, Hampshire

My third case concerned the provision in open countryside of a large building for the retail sale of goods, together with road improvements. It was argued that the development would enable the restoration and maintenance of Broadlands House.

The Secretary of State's inspector recommended that the appeal be allowed. However, the Secretary of State said that, while it was reasonable to take into account the arguments in favour of the development, he was unable to agree that the needs of the historic house could justify the introduction of inappropriate and intensive development, with all its attendant disturbance, into the particular area of countryside.

49. The first two cases I have mentioned were both concerned with the protection of the settings of heritage items. The third case did not actually involve a direct threat to a heritage item; but it might have done had the proposed development impinged more closely on the historic house and interfered with its setting: the danger is that the same argument may be deployed in a case where there is a direct threat, but where, for some reason, the argument is more difficult to resist. I note in passing the important question of how one ensures that money derived from development for the purpose of enabling the restoration and maintenance of a heritage property is actually used for the purpose for which it was ostensibly intended.

50. Conservation arguments do not always win the day, as is illustrated by the Secretary of State's decision in the case generally known as No. 1 Poultry. As most of you will know, the proposal to which the decision relates involves the demolition of a group of buildings - some of which are listed - in a conservation area in the City of London, and their replacement by a new building designed by the architect James Stirling. Along with others, English Heritage appeared at a Public Inquiry to resist the proposal. Unfortunately, the Inspector conducting the Inquiry thought the new building "might just be a masterpiece", and, for this and other reasons, recommended that the appeals should be allowed. This recommendation was accepted by the Secretary of State, notwithstanding that it appeared to entail a departure from his own policy as set out in circular 8/87. His decision was challenged, and, after being upheld at first instance, was quashed by the Court of Appeal. The matter is now awaiting consideration by the House of Lords, so it is not over yet.

## CONCLUSION

### Summary

51. To sum up, the main constituents of the historic heritage are listed buildings, scheduled monuments, conservation areas, items included in the Register of Parks and Gardens and World Heritage Sites. However, the historic heritage also consists of analogous items whose status needs to be established in the context of particular cases - how analogous an item has to be to qualify is obviously a moot point.

52. Perhaps I may just stray outside my brief momentarily to query whether the tests which define the

historic heritage do not leave out of account much that is important to human beings and may be said to form part of their heritage. I have in mind that the character of areas in which people have lived or worked for much of their lives may be agreeable and worthy of preservation, without necessarily being of special architectural or historical interest. This is the 'familiar and cherished scene' concept, as identified by Lord Sanford. Town and country planning should be able to protect character of the kind I am talking about; but, when I see what happens in practice, I wonder whether we are doing enough. The general presumption in favour of development does not help: I refer, of course, to paragraph 15 of Planning Policy Guidance Note 1, which under the heading "The presumption in favour of development" states as follows:

"The planning system fails in its function whenever it prevents, inhibits or delays development which can reasonably be permitted. There is always a presumption in favour of allowing applications for development, having regard to all material considerations, unless that development would cause demonstrable harm to interests of acknowledged importance. Except in the case of inappropriate development in the Green Belt the developer is not required to prove the case for the development he proposes to carry out; if the planning authority consider it necessary to refuse permission, the onus is on them to demonstrate clearly why the development cannot be permitted."

It is hard to see how this paragraph can possibly be consistent with the apparent status of the main constituents of the historic heritage, and with some of the advice given by the Secretary of State in Circular 8/87.



### After thoughts

53. Although I have been talking mainly about the present, the future needs to be borne in mind, and the UNESCO definition of "cultural heritage" makes me wonder whether we do not need a broader definition of the heritage, together with protection for its constituent parts. For example, some of the recent problems concerning the statue of the Three Graces would not have arisen had the statue been part of the heritage in its own right and subject to statutory protection.

54. Finally, the preamble to the UNESCO Convention is in effect a manifesto for those concerned with the conservation of the historic heritage in the late 20th Century, and states the problems and the objectives so clearly that I hope I may be forgiven if I repeat some of its propositions. They are as follows:

"The cultural heritage and the natural heritage are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions which aggravate the situation.

[The] deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world.

[The] protection of this heritage at the national level often remains incomplete because of the scale of the resources which it requires and of the insufficient economic, scientific and technical

resources of the country where the property to be protected is situated.

Parts of the cultural or natural heritage are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole.

In view of the magnitude and gravity of the new dangers threatening them, it is incumbent on the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value, by the granting of collective assistance which, although not taking the place of action by the State concerned, will serve as an effective complement thereto."

55. It remains to be seen whether the implementation of the Convention lives up to the high promise of its preamble.

## The Role, Corporate Aims and Objectives of English Heritage

**The role of English Heritage is to bring about the long term conservation and widespread understanding and enjoyment of the historic environment for the benefit of present and future generations using expert advice, education, example, persuasion, intervention and financial support.**

In pursuit of this, our *aims* are:

1. to work with the public, private and voluntary sectors to increase resources for and commitment to conserving the historic environment;
2. to ensure the flexible and responsible use of resources, taking account of long-term conservation priorities;
3. to secure the best possible protection, care and use of the historic environment, and to ensure recording in cases of unavoidable loss;
4. to establish high standards based on our own research and practical experience, and that of others, and to uphold those standards in our judgements and in the example we give;
5. to give independent, authoritative information, advice and assistance reflecting the standards we have set;
6. to help people to enjoy and understand the historic environment, and to see the need to protect it;
7. to be open, responsive and fair in all our dealings;
8. to attract and keep the best staff for the job and provide appropriate training and development to promote their effectiveness and job satisfaction.
9. to manage our resources effectively, efficiently and economically.

The *key corporate objectives* for English Heritage for the Corporate Plan period, unchanged from the last plan, are:

1. To carry out work to improve our knowledge and understanding of the state of the historic environment in England in order to be able to assess more precisely the need for action.
2. To decide on and implement changes relating to the structure of the organisation to improve its overall effectiveness and efficiency.
3. To have produced a Properties in Care estate which is well repaired, efficiently managed and continues to earn an increasing percentage of total costs and which makes maximum use of external resources.
4. To improve general understanding of the role we are playing in protecting the historic environment, particularly by informing people better what our aims and objectives are and what significant steps we take towards achieving them.

*Group objectives* are given in the body of the plan:

Conservation group on page 14

Properties in Care group on page 19

Central Services group on page 33.

## Organisers



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# **THE LAW SOCIETY**

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