



## **NORTHAMPTON BOROUGH COUNCIL**

### **SCRUTINY PANEL 2 CULTURE AND TOURISM**

**14 SEPTEMBER 2017**

#### **BRIEFING NOTE: BACKGROUND DATA – RELEVANT LEGISLATION**

#### **1 INTRODUCTION**

1.1 At its inaugural scoping meeting, Scrutiny Panel 2 (Culture and Tourism) agreed that it would receive details of relevant Legislation to inform its evidence base.

1.2 Short summaries of the key points of the Legislation, for consideration by the Scrutiny Panel at its meeting on 14 September 2017, are:

- National Heritage Act 1983
- Enterprise and Regulatory Reform Act 2013
- National Parks and Access to the Countryside Act 1949
- Ancient Monuments and Archaeological Areas Act 1979

#### **1.3 National Heritage Act 1983**

1.3.1 The 1983 Act established the Historic Buildings and Monuments Commission (known as English Heritage) and delegated the functions of scheduling of ancient monuments and listing of historic buildings. Prior to 1982, other British ancient or historical monuments and buildings were protected through the Department of the Environment

1.3.2 The National Heritage Act 2002, took effect on 1 July 2002, and widened the powers of English Heritage: It permitted English Heritage to become involved in underwater archaeology in English territorial water and to trade in overseas countries. These powers have now been transferred to Historic England.

- Historic Environment Scotland (HES) was formed in 2015. Historic Scotland merged with RCAHMS. HES is a Non Departmental Public Body and has charitable status, and gives advice to Scottish Government on historic environment matters.

- Cadw (the historic environment of the Welsh Government) was formed in 1984. Cadw is an historic environment service with the complete range of responsibilities for the conservation, presentation, and promotion of the built heritage of Wales on behalf of the Welsh Government. It is a part of the Welsh Government.

1.3.3 Section 30 of the Act made provision for the designation and funding of the Armed Forces Museums.

1.3.4 Full Details of the Act are [available](#).

## **1.4 Enterprise and Regulatory Reform Act 2013 and Listed Buildings**

1.4.1 The relevant part of this Act in relation to this Scrutiny review is:

### ***“Part 5 including Schedules 16-21***

*Makes provisions to include sunset or review provisions in any secondary legislation.*

*Amends provisions of the National Heritage Act 1983, the Town and Country Planning Act 1990, and the Planning (Listed Buildings and Conservation Areas) Act 1990 to abolish Conservation Area Consent and improve the operation of the listed building consent regime. Makes provision for heritage partnership agreements and orders granting listed building consent, including procedural requirements; makes provision for certificates of lawfulness of proposed works to listed buildings; amends the Osborne Estate Act 1902 to remove the existing obligation to use parts of Osborne House and grounds for the benefit of the armed forces and civil service and repeals the Osborne Estate Act 1914.”*

1.4.2 Full details of this Act are [available](#).

## **1.5 National Parks and Access to the Countryside Act 1949**

1.5.1 The National Parks and Access to the Countryside Act 1949 created the National Parks Commission which in 2006 became Natural England. This Act set out what national parks would be like.

1.5.2 The Environment Act 1995 revised the original legislation and set out two statutory purposes for national parks in England and Wales:

- Conserve and enhance the natural beauty, wildlife and cultural heritage
- Promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public.

1.5.2 National parks have the duty to seek to foster the economic and social well-being of local

communities within the national parks.

1.5.3 Full details of this Act are [available](#).

## **1.6 Ancient Monuments and Archaeological Areas Act 1979**

1.6.1 It is reported that Section 61(12) of the Act defines sites that should have protection due to their being of national importance as 'ancient monuments'. These can be either Scheduled Ancient Monuments or

*"any other monument which in the opinion of the Secretary of State is of public interest by reason of the historic, architectural, traditional, artistic or archaeological interest attaching to it".*

A monument is defined as:

*any building, structure or work above or below the surface of the land, any cave or excavation; any site comprising the remains of any such building, structure or work or any cave or excavation; and any site comprising or comprising the remains of any vehicle, vessel or aircraft or other movable structure or part thereof... (Section 61 (7)).*

It is a criminal offence to cause damage to an ancient monument and any works taking place within one require Scheduled Monument Consent from the Secretary of State.

It is noted that Act provides for taking monuments into the care of the Secretary of State. The monument would then be cared for and is usually opened to the public by the relevant National Heritage body.

Part II of the Act introduced the model of Areas of Archaeological Importance, city centres of historic significance which receive limited further protection by forcing developers to permit archaeological access prior to building work starting.

1.6.2 Full details of this Act are [available](#).

## **2 RECOMMENDATION**

2.1 That the information provided in this briefing note informs the evidence base of this Scrutiny Review.

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7 August 2017

