



Conditional exemption and Heritage Management Plans

An introduction for owners and their advisers

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English Heritage is the Government's statutory adviser on all aspects of the historic environment in England. Its role is to champion and care for the historic environment by: improving understanding of the past through research and study; providing conservation grants, advisory and education services; identifying and helping to protect buildings and archaeological sites of national importance; maintaining over 400 historic properties and making them accessible to the broadest possible public audience; and maintaining the National Monuments Record as the central publicly accessible archive for the historic environment in England.



ENGLISH HERITAGE

The Country Land and Business Association is the premier organisation safeguarding the interests of those responsible for land, property and business throughout rural England and Wales. Our members can expect from us: leadership where it matters, an influential voice through national lobbying, access to a unique membership network, free specialist advice and a range of member services.



The Historic Houses Association represents the interests of the historic houses, castles and gardens throughout Britain that remain in private ownership, and their associated art collections, amenity land and ancillary buildings. The Association, including within its membership some 600 properties that offer public access, operates with other heritage bodies to achieve a fiscal climate in which its members can conserve their property for the benefit of the nation and future generations.



These guidance notes were produced with input from:

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André Berry and Amanda Mathews of Natural England (formerly of the Countryside Agency)
Stephen Nelson, Anthony Streeten, Guy Braithwaite and Jenifer White of English Heritage
William Du Croz of Natural England (formerly of English Nature)
Charles King-Farlow, Meriel Laverack, The Earl of Leicester, Richard Wilkin and Nick Way of the Historic Houses Association
Robert Tindall, land agent
and has been reviewed by HM Revenue & Customs who have offered no objections.

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An introduction for owners and their advisers

Background

Owners and their advisers will be aware that land can qualify for up to 100% relief from Inheritance Tax under agricultural property relief or, in some circumstances, business property relief. In addition, relief from both Inheritance Tax and Capital Gains Tax is available to owners of heritage property providing that claimants and successive owners enter into certain undertakings. As part of these undertakings claimants will be expected to complete a Heritage Management Plan which requires the retention of the heritage property, and the management of it, to be conducted in accordance with agreed objectives.

This document:

- explains the circumstances under which Heritage Relief (conditional exemption) is granted on property;
- provides an introduction to the scope of the relief;
- provides a basic outline of a Heritage Management Plan;
- sets out the steps that owners and their advisers are required to take in order to claim and qualify for the relief;
- applies only to property in England and does not deal with works of art designated in their own right;
- has been jointly prepared by Natural England, English Heritage, the Historic Houses Association and the Country Land and Business Association and has been reviewed by HM Revenue & Customs, Inheritance Tax who have offered no objections; and
- is based on current legislation and HM Revenue & Customs practice at November 2007.

Legislation and practice may change. Owners should always seek specific advice on their own affairs.

Additional information relevant to Heritage Relief can be found in:

Capital Taxation and the National Heritage IR67 (Inland Revenue 1986). Provides advice relating to the designation – for the purposes of the relief – of property under the Inheritance Tax Act 1984 for owners, their advisers and the Agencies¹. Although it is now out of print, a transcript of the relevant material is available from HM Revenue & Customs (see Appendix 2).

Capital Taxes – Relief from Heritage Assets. Notes on the changes made by the Finance Act 1998 (Inland Revenue 1999). Explains the changes made by the Finance Act 1998 to the conditional exemption scheme and gives general guidance on their practical application. It is also available from HM Revenue & Customs.

Preparing a Heritage Management Plan (Natural England et al, 2008). This technical guidance note offers advice to estate managers on drafting a Heritage Management Plan for land and for buildings and objects historically associated with them. This is based on experience and best practice: it is not mandatory. It is available from Natural England (see Appendix 2). A fictitious HMP – based on Northanger Abbey – illustrating how the guidance may be put into practice is included as an appendix to **Preparing a Heritage Management Plan**.

Inheritance Tax, Businesses, farms and woodlands IHT 17, (Inland Revenue, 2004). This booklet provides details of relief from Inheritance Tax for owners of agricultural land and business property and is available from HM Revenue & Customs.

A guidance note on Environmental Stewardship for heritage properties designated under the Inheritance Tax Act 1984 (Defra, 2005). Explains the relationship between legal obligations that are conditional exemption undertakings and eligibility for agri-environment scheme payments. It is available from Natural England (see Appendix 2).

¹The advisory Agencies in England for land, buildings, amenity land and historically associated objects are: English Heritage, Forestry Commission, Natural England and Royal Botanic Gardens Kew

This document addresses the following frequently asked questions:

- Why is there Heritage Relief?
- What is Heritage Relief?
- What property qualifies for Heritage Relief?
- When and how is Heritage Relief available?
- What conditions apply to Heritage Relief?
- What happens if Heritage Relief conditions are breached?
- What is a Heritage Management Plan?
- What should a Heritage Management Plan contain?
- What does preservation mean in the context of conditional exemption?

Why is there Heritage Relief?

Successive governments have recognised that:

- significant buildings, land and objects are important to the cultural life of this country; and
- these heritage assets should be conserved and protected for the benefit of the community whilst remaining in private hands as far as possible.

Inheritance taxation of 40% on capital assets could require that heritage assets be sold or that collections of individual assets be broken up in order for the tax to be paid. This could reduce the nation's privately owned stock of heritage assets².

In order to avoid this as far as possible the current Inheritance Tax legislation provides for Heritage Relief (see Inheritance Tax Act 1984 section 30).

Since 1975 there has been a comprehensive system of relief for heritage property of national importance held in private ownership. The requirement for reasonable public access to some assets granted Heritage Relief was introduced in 1975³ and new claims for exemption have to include provision of reasonable public access to all designated heritage property (works of art, outstanding land, outstanding buildings, supporting land and associated objects) as agreed with HM Revenue & Customs, Inheritance Tax.

What is Heritage Relief?

Capital Gains Tax and Inheritance Tax apply in different circumstances. Capital Gains Tax is chargeable on the gain arising from the disposal of an asset. Inheritance Tax is a tax on a transfer of property, which reduces the value of a transferor's estate.

The position can be summarised as follows:

- If you transfer property to an individual or to a qualifying trust during your lifetime the gift is not immediately chargeable to Inheritance Tax provided you live for another seven years and do not enjoy any 'reserved benefit' out of the gift. The gift will be chargeable to Capital Gains Tax on the difference between the current market value of the asset and its allowable base cost unless it qualifies for Capital Gains Tax holdover relief.
- Property passing on death will be subject to Inheritance Tax (together with property given away during your lifetime but in which you enjoy a 'reserved benefit').
- Inheritance Tax is also charged on the value (at the time of gift) of gifts made within seven years before death. If you cease to enjoy a 'reserved benefit' you will be treated as making a gift of the asset at the time and there are provisions to prevent double charging.
- A lifetime transfer of funds to a discretionary settlement is immediately chargeable to Inheritance Tax (at half the normal 40% rate). Broadly speaking, a discretionary settlement is where property is given to a trust and the trustees decide who should benefit from the income it produces.

Conditional exemption or 'Heritage Relief' provides:

- relief against Capital Gains Tax on gifts; and
- relief against inheritance tax on lifetime gifts to discretionary settlements on your estate on death and all gifts chargeable with it.

Heritage Relief is only available if your gift or property on death would otherwise be chargeable to tax and is subject to specific conditions as explained in the following paragraphs.

The tax relieved can subsequently become payable in certain events, referred to as 'chargeable events'.

² By which is meant not just works of art but also scenic land, historic buildings, areas of botanical or geological importance etc

³ As amended by Finance Act 1975, section 34(2)



© Simon Warner

Land of outstanding scenic, historic or scientific interest

What property qualifies for Heritage Relief?

Property may qualify for Heritage Relief (conditional exemption) if it is:

- land of outstanding scenic, historic or scientific interest⁴;
- buildings of outstanding historic or architectural interest⁵;
- land essential for the protection of such a building⁶;
- objects historically associated with such a building⁷.

HM Revenue & Customs will seek advice from Natural England for outstanding land and from English Heritage for outstanding buildings, designated historic sites and historically associated objects.

⁴Inheritance Tax Act section 31 (1) (b)
⁵Inheritance Tax Act section 31 (1) (c)

⁶Inheritance Tax Act section 31 (1) (d)
⁷Inheritance Tax Act section 31 (1) (e)



© HHA

Objects historically associated with the outstanding building

Building of outstanding historic or architectural interest and land essential for its protection

Maintenance Funds

In addition, since 1976, it has been possible to transfer other suitable non-‘heritage’ assets to a Maintenance Fund free of Capital Gains Tax or Inheritance Tax in order to provide income or capital for

- the maintenance, repair or preservation of the qualifying property; and
- the provision of public access to it.

This applies whether the property is conditionally exempted already or designated as qualifying when the Maintenance Fund is established.

The further category of objects or collections that also qualify for Heritage Relief in their own right on account of their pre-eminent quality is outside the scope of this document. But it is worth noting that a Maintenance Fund cannot be used to maintain objects or collections so exempted.

The Agencies may be able to give an informal indication as to whether the property qualifies. This informal advice does not commit the Agencies, HM Revenue & Customs or any other body to any future decision. But the establishment by an owner of a Maintenance Fund during his/her lifetime will enable the status of the property to be tested.



Non-heritage agricultural property providing income to support outstanding land of woodland and cliff

When and how is Heritage Relief available?

A claim for conditional exemption must normally be made within two years after the occasion giving rise to the tax charge (in most circumstances this means the death of the owner). The claim should be sent to HM Revenue & Customs in Nottingham. There is no standard form to complete. The claim should give as much detail as possible about the property. It should include, for example, its ownership, location, and the proposed arrangements for public access. See the schedule in Appendix 1.

HM Revenue & Customs will scrutinise the claim and seek any initial clarification from the owner. HM Revenue & Customs will then ask the relevant Agencies to:

- advise whether or not the property meets the standards required for conditional exemption from capital taxation; and
- recommend draft undertakings including reasonable public access.

HM Revenue & Customs normally nominate a lead agency which will consider the property on its merits, liaise with other relevant Agencies and then report comprehensively.

If approved, the property is designated and conditional exemption granted after the undertakings are signed by the owner.

What conditions apply to Heritage Relief?

This is the most important matter for any owner considering conditional exemption. HM Revenue & Customs will forego taxation that would otherwise be due but will require other public benefits (the 'quid pro quo' of conditional exemption) in two ways:

- Firstly, HM Revenue & Customs must be satisfied that the property will be cared for and not be allowed to deteriorate or otherwise lose the very quality for which it was designated in the first place.
- Secondly, the public must have reasonable access to the property.

Under the Inheritance Tax Act 1984 Section 31, claimants are statutorily required to agree with HM Revenue & Customs the steps that are necessary to maintain the property and to secure reasonable public access to it, and set them out in undertakings.

In the case of **outstanding land**, undertakings have to include maintenance of the land and the preservation of its character⁸. In the case of a **building of outstanding historic or architectural interest** (including its **amenity land** and **associated objects**), the undertaking must include the maintenance, repair and preservation of the property⁹. In the case of **objects exempted as associated with a building of outstanding historic or architectural interest** the undertaking



Provide reasonable public access to outstanding land

will also require that they are kept associated with the house.¹⁰ In all cases agreed steps for securing public access and publishing the terms of the undertaking must be included.

For outstanding land and any buildings thereon, and outstanding buildings, amenity land and historically associated objects, the owner may wish to agree to set out the detailed steps regarding maintenance repair and preservation in a Heritage Management Plan. Such a Plan is not a statutory requirement but, either way, the steps concerned should be agreed with the Agencies within an agreed period, reasonable in the circumstances, before designation (although exceptionally HM Revenue & Customs will not – unreasonably – withhold their approval for conditional exemption designation before a Heritage Management Plan is agreed).

The legislation, quoted above and in the footnotes, is concerned with what might be termed 'mandatory' steps. Owners may wish to include wider management work in the Heritage Management Plan that goes beyond the 'mandatory' steps necessary for tax relief purposes. The Agencies would encourage this. These additional steps would be non-mandatory and hence voluntary. It is important to make clear which steps are mandatory and which are voluntary within any Heritage Management Plan that contains both types.



Provide reasonable public access to outstanding buildings and historically associated objects

⁸ Inheritance Tax Act 1984, section 31(4)(a)

⁹ Inheritance Tax Act 1984, section 31(4)(b)

¹⁰ Inheritance Tax Act 1984, section 31(4)(b)

What happens if the Heritage Relief conditions are breached?

The death of the owner or other disposal of the property may result in the loss of conditional exemption unless the undertakings are replaced by the new owner. This ability to renew the relief on successive changes of ownership is one of the principal advantages of Heritage Relief. But a sale or material breach of any element of the undertakings will be a chargeable event, resulting in the loss of conditional exemption. The owner will then have to pay tax on the proceeds of the sale of the property or, if the sale was not at arms length or there was no sale, on the value of the property at the time of the chargeable event.

It is important to note that there can be both Capital Gains Tax and Inheritance Tax payable on a chargeable event. The person liable to pay the Inheritance Tax cannot then claim agricultural or business property relief from Inheritance Tax on that property.

It is also important to note that a sale of any part of the entity – comprising the house and its protecting land and any associated objects – may lead to a claim for tax on the entity, and not just the part sold, and on any maintenance fund. Only if HM Revenue & Customs is satisfied that the 'entity' has not been 'materially affected' by the sale will the charge to tax be restricted to the proceeds of that sale.

What is a Heritage Management Plan?

Most landowners would like a document that defines clearly the conditions required – in return for their property's conditional exemption – and that provides certainty, i.e. if they manage their property in accordance with an agreed plan that contains clear objectives and detailed steps, conditional exemption is retained.

The Agencies and HM Revenue & Customs agree that this approach would successfully set out the detailed steps required by the undertakings, provided it is informed by a good understanding of the significance of the property and its condition at the time of designation.

Properly constructed, a Heritage Management Plan meets these needs.

A Heritage Management Plan is a policy and priorities statement under which day-to-day management will operate and a frame of reference against which detailed working decisions will be taken by those managing the property. It describes the special features for which exemption is granted, since their preservation is a primary objective of the plan. It states the management operations and their relationship to the undertakings. It will also reduce the number of occasions on which owners need to consult the Agencies and help reduce the possibility of dispute.

How to draft or commission a Heritage Management Plan

Many owners feel that they have operated within a management plan without ever writing it down.

Most landowners or their advisers will be able to describe the estate and its precious landscape and natural features. However, specialist input may sometimes be helpful, for example for an archaeological or invertebrate survey.

Estates with woodlands, designed landscapes, scheduled ancient monuments or sites or areas of special scientific interest will usually need to make specific references to their management and conservation. Some estates may need detailed treatment on other special matters. Some topics, which would otherwise need to be written up at some length, may be more simply handled by referring to other publications or existing plans.

What should a Heritage Management Plan contain?

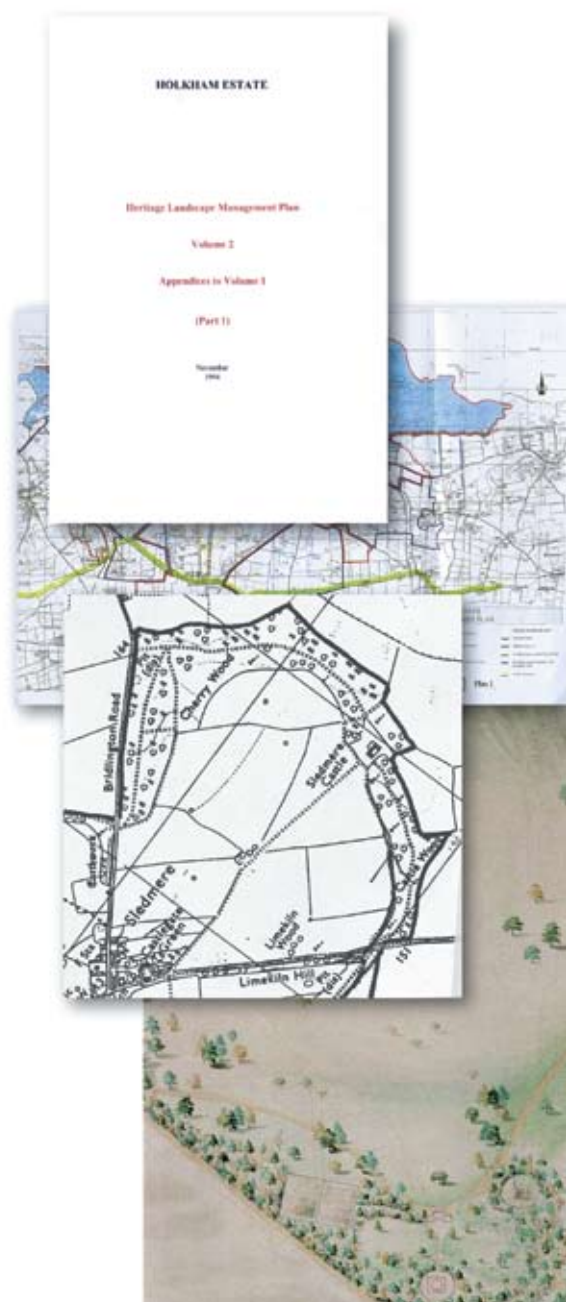
A Heritage Management Plan for Heritage Relief purposes will:

- explain the purpose of the plan;
- generally describe the exempt property and summarise its history;
- include a robust baseline condition survey to provide an agreed benchmark for the property at the time of designation (normally as an appendix);
- state management aims and priorities and identify any management issues;
- identify significant heritage features and assess their significance to help focus on those aspects that are crucial to the conditional exemption;
- state the methods and intentions for conserving the heritage features and the general conservation approach (these are the Heritage Management Plan 'objectives' i.e. the detailed steps required by the undertakings);
- state the existing and any new access provisions and describe the management of access and any recreational facilities;
- state the landowner's policy in relation to tenants and the undertakings;
- set out the consultation procedure on proposals for change or development after the exemption;
- set out the approach to monitoring and review of the Heritage Management Plan including arrangements for access by the Agencies on inspection site visits;
- detail any matters requiring early attention; and
- include overall work programmes to help target resources and monitor progress.

Many owners wish to go beyond the requirement to maintain the property, by continuing the tradition of improving their property for the benefit of future generations. Such 'voluntary enhancements' can also be included in the

Heritage Management Plan but must be clearly identified so that they are not mistaken for mandatory requirements of the undertakings.

Maps of at least 1:10,000 scale will be required to show the property boundary and access provision, plus any other information that is relevant to the plan. Photographs may also be included if the owner wishes.



By kind permission of the Earl of Leicester

Stedmere HLMP courtesy of Sir Tatton Sykes Bart

What does preservation mean in the context of conditional exemption?

Conditional exemption of outstanding heritage property does not necessarily require its preservation as a 'museum piece' but rather the dynamic protection of its significant features. Just as the property that today counts as 'national heritage' reflects the experience and use of centuries, so it will change and adapt as social, environmental and economic circumstances change. The differences for property subject to a Heritage Management Plan are the scale and timing of change and perhaps some changes in management priorities. The effect is to require the owner to think carefully about sudden or fundamental changes, eg in land use or vegetation cover, and about certain applications of technology or intensification, eg to use conservation techniques and materials for repair.



Courtesy of Anthony Meynall, Berry Hall

Proposals that preserve outstanding interest and enhance commercial viability. Conversion of the Buttery at Berry Hall to bed and breakfast accommodation



© English Heritage



© English Heritage



Conservation techniques for maintenance and repair

Working together

Although the owners, their agents or other advisers should draft the plan, it is not a matter of working alone or having to produce the finished version straight away.

The Agencies will give initial advice on the scope and contents of the plan and on any special features to be emphasised, and can provide information for example on assessment of significance drawn from the Agencies' own reports. The Heritage Management Plan is then agreed with the Agencies and submitted to HM Revenue & Customs as the agreed detailed steps for implementing the undertakings to the extent covered in the Plan.

Utilising the Plan

This sort of management plan is both a statement of purposes and priorities and a practical working document.

All those involved in day-to-day decision-making on the estate should have read the plan, discussed it with the owners and their agents, be aware of their role in its implementation and be reminded of it when decisions about land management are being made. They will include tenant farmers, foresters and gamekeepers, farm managers and farm foremen, and anyone else who could influence or bring about changes in the property. Some owners who wish to develop the management planning of their estate beyond the Heritage Management Plan have gone on to prepare simple action plans or annual rolling programmes on their own initiative.

Queries, consultation, reporting

Owners and agents are naturally very concerned in case they should do something that would put conditional exemption at risk. An agreed Heritage Management Plan with its in-built provision for periodic reviews provides the framework for making day-to-day decisions without the need for further consultation. However, it is sensible to consult the Agencies over significant changes.

Some owners find it helpful to discuss complex issues or a number of proposals at a meeting with the relevant Agencies, perhaps on the estate.

HM Revenue & Customs requires an annual report from the owner that

- confirms that there have been no sales or disposals;
- provides particulars of public access; and
- demonstrates compliance with the undertakings.

HM Revenue & Customs Revenue asks the relevant Agencies to inspect the designated property periodically, usually every five years ('quinquennial inspections') to confirm that the undertakings are still being met.

The Heritage Management Plan provides a useful framework for these monitoring requirements. Heritage Management Plans are normally reviewed every five years.



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Periodic inspections

Appendix 1:

Schedule of information to accompany a claim for conditional exemption

(These particulars must be sent to HM Revenue & Customs, not the advisory Agencies)

Based on Annex A of **Capital Taxes – Relief from Heritage Assets. Notes on the changes made by the Finance Act 1998** (Inland Revenue 1999) with amendments to paragraph on **Historically associated objects**.

Note: References to 'we', 'us' and 'our' etc. refer to HM Revenue & Customs.

For all heritage assets we will require the following information:

- The name, full address and telephone number of the person whom our advisers should contact to inspect the asset.
- Details, if known, of the occasion concerned if the asset has previously been exempted from Estate Duty, Capital Transfer Tax, Inheritance Tax or Capital Gains Tax, and the previous exemption is still in force, including any HM Revenue & Customs reference.
- The owner's name, full address and telephone number.
- Details of how the owner of the asset proposes to maintain and preserve the asset.
- Details of the proposals for providing public access to the asset and publicising such access.
- Confirmation that you and/or the owner will authorise us to disclose or publicise appropriate information and the undertakings relating to the exemption.

In addition, we will need:

For outstanding land

- A statement justifying why the heritage asset is considered to meet the required standard for exemption.
- A description of the landscape type and main features such as relief, geology, water and main tree species.
- Six copies of a large scale map showing:
 - all land claimed including supporting buildings;
 - public rights of way;
 - scheduled ancient monuments;
 - listed buildings (with grades and categories);
 - any site listed by any national or regional heritage body (for example Natural England) as of special scientific, woodland or other environmental interest;
 - any woodlands on Natural England's Inventory of Ancient Woodland (describe their age and species and indicate whether subject to any Forestry Commission scheme);
 - any adjoining land in the same ownership; and
 - any land subject to tenancy.

For outstanding buildings

- A statement justifying why the building is considered to meet the required standard for exemption.
- Photographs of the interiors and exteriors (these are required by our advisers and will not be reproduced).
- Plans and supporting historical information (if available).

For amenity land

- (Unless it is already clear in the context of an exemption claim for the building itself) a statement justifying why the land is considered essential for the protection of the character and amenities of the historic building concerned.
- Photographs showing the relationship between the land and the historic building (these are required by our advisers and will not be reproduced).
- Four copies of a large-scale map of the amenity land. The map should include a wide area around that actually claimed and should show the same information as set out for outstanding land.

For historically associated objects

An inventory containing a full and accurate description of each historically associated object (including a full catalogue of books) on a room-by-room basis including measurements or accepted conventions in size (eg books) where appropriate and a note of current condition. This list or inventory would preferably be in digital form.

- A brief statement explaining the close association and the contribution of the historically associated objects to the appreciation of the building concerned or its history. This might be backed up for example by quotations from past inventories, sales catalogues and invoices, estate papers, family histories and historic photographs.
- Confirmation that all such historically associated objects will remain in that building in rooms normally open to the public (or commentary on some other appropriate manner of public access).
- A photograph of the building(s) within which the historically associated objects are located (if the building itself is not included in the claim).

In addition, it would be useful to include a floor plan and visitor route with room names consistent with those used in the inventory.

Appendix 2:

Useful contacts

HM Revenue & Customs, Inheritance Tax

Heritage Team
Ferrers House
PO Box 38
Castle Meadow Road
Nottingham
NG2 1BB
www.hmrc.gov.uk/heritage
Tel: 0115 974 2490

Natural England

John Dower House
Crescent Place
Cheltenham
Gloucestershire
GL50 3RA
www.naturalengland.org.uk
Tel: 01242 521381
(ask for the National Heritage Adviser)

English Heritage

1 Waterhouse Square
138-142 Holborn
London
EC1N 2ST
www.english-heritage.org.uk
Tel: 020 7973 3000
(ask for your local regional office for designation enquiries or for the Advice and Grants Manager for Heritage Management Plan enquiries)

The Country Land and Business Association

16 Belgrave Square
London
SW1X 8PQ
www.cla.org.uk
Tel: 020 7235 0511

The Historic Houses Association

2 Chester Street
London
SW1X 7BB
www.hha.org.uk
Tel: 020 7259 5688



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