



INSTITUTE OF FIELD ARCHAEOLOGISTS

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Dear Ms Brosnan and Mr Coward,

HERITAGE PROTECTION FOR THE 21ST CENTURY

Thank you for inviting the Institute of Field Archaeologists (IFA) to comment on this White Paper.

The Institute of Field Archaeologists

The IFA is the professional body for archaeologists. It promotes best practice in archaeology and has c 2400 members across the UK and abroad. Archaeologists who are members of the IFA work in all branches of the discipline: heritage management, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching, and liaison with the community, industry and the commercial and financial sectors. Over 200 of our members work in local government historic environment services.

Overview of the principles proposed

The Institute has consulted with its membership and **every single response from IFA members has welcomed the package of reforms set out in the White Paper.** The Institute supports these reforms for the following reasons

1. we agree with the analysis of the deficiencies of the present system and have long argued for changes in the interests of simplicity, accountability and transparency
2. the historic environment is often seen as an obstacle to economic development: these reforms, 'placing the historic environment at the heart of the planning process', emphasise the positive contribution of the historic environment to economic and community regeneration and increase the opportunities for realising that potential

3. the consolidation of presently different regimes should promote integration of the historic environment professions, as well as bringing management regimes for the whole sector (as has happened to archaeology through 1990s planning guidance) much more in line with natural environment management
4. increased community involvement is greatly to be encouraged: we manage the historic environment for the public benefit so it is only right that the public should be involved in the process; and, as English Heritage's 'heritage cycle' and other models illustrate, our historic environment could be immeasurably better cared for with increased public interest and participation
5. the proposals plug loopholes that have emerged over the years (eg the damaging effects of class consents under the 1979 Ancient Monuments and Archaeological Areas Act and the Shimizu decision under General Permitted Development Orders)

IFA members have noted with approval the welcome proposals for England and Wales

- replacement of the existing designations for listed buildings, scheduled monuments, parks, gardens, battlefields and World Heritage Sites with a single register of assets
- a single set of criteria for designation based on 'special architectural, historic or archaeological interest'
- English Heritage and National Assembly of Wales (through Cadw) to be responsible for designation
- improved records of designated assets, accessible through a new internet portal
- improved public consultation about designation
- encouraging local designations by local authorities
- interim legal protection for assets being considered for designation – to prevent unscrupulous owners from (for example) demolishing buildings before they are entered on the Register
- rights to appeal designation decisions
- bringing protection of buildings in Conservation Areas back to pre-Shimizu levels (ie removing a loophole that can currently permit 'partial demolition' without Conservation Area Consent)
- giving protection to World Heritage Sites within the planning system
- reform of the class consents that permit ploughing of many (presently scheduled) archaeological sites
- a unified consent regime for registered assets in England, administered by local authorities: in Wales Cadw will continue to decide on for what are presently scheduled monuments and local authorities on those that are currently listed buildings
- potentially merging Conservation Area Consent with planning permission
- encouraging pre-application enquiries
- the option for EH/Cadw, local authorities and owners of designated assets to enter into 'Heritage Partnership' management agreements to avoid time-consuming repeat consent applications for foreseeable works
- a statutory requirement for local authorities to maintain or have access to Historic Environment Records (provided in Wales by the four Trusts)
- guidance on local authority historic environment services

Members also welcome the following UK proposals

- broadening the range of maritime heritage assets that can be designated

- new criteria for designation on the basis of ‘special archaeological or historic interest’
- flexibility to allow designation in the inter-tidal zone
- interim protection for assets being considered for designation
- improved records for maritime heritage
- consideration of a more flexible consents/licensing regime
- a statutory responsibility for the Receiver of Wreck to report marine historic asset to heritage bodies (over-riding confidentiality constraints)
- management agreements and licensing arrangements for MHAs, and recognition of assets beyond territorial waters

Members strongly support the proposal to increase the level of protection for Locally Listed Buildings by making their demolition ‘development’. However concerns were raised about the further steps proposed, ie to make their demolition permitted development thereby allowing local planning authorities to control the demolition by applying Article 4(1) directions. Local planning authorities generally have a poor track record of issuing Article 4 Directions even in Conservation Areas since the process is viewed as being bureaucratic and a drain on resources. A much simpler and streamlined option that the IFA would fully support would simply be to initiate the first stage of the proposal – making the demolition of a locally listed building development – which would have the effect of requiring an application for planning permission for any proposals to demolish such a building. It is the view of the IFA that no significant harm would be caused to any interested party, including owners, by adapting such a straightforward approach and it would less likely to attract the risk of compensation. Owners could appeal to the Secretary of State in the event that the LPA refuses planning permission for proposals affecting a locally listed.

Members are also concerned not to see proposals to remove historic wreck from the salvage regime. Even with the most creative implementation of the white paper this deficiency will present some serious weaknesses in protection. There are also concerns about the recommendation that a single advisory committee should advise both on designation of maritime heritage assets and licensing of investigations, whereas for terrestrial assets a very clear distinction has (rightly) been made between designation and consent. A separate, more detailed, submission has been prepared by the IFA’s Maritime Affairs Group.

The three specific questions

Q1: Should Conservation Area Consent be removed as a specific consent and merged with planning permission?

- In principle, yes. The proposal deserves support ‘in principle’ on the basis of simplification and integration with the planning process. There are concerns, however, that to remove the specific consent could diminish or dilute that process. The IFA would support the proposal to merge Conservation Area Consent with planning permission on condition that there is the parallel introduction of statutory guidance of at least the equivalent weight of PPG 15 and including a requirement of the Local Planning Authority to actively consult a specialist historic environment advisor before making a decision and to afford appropriately significant weight to their views when balancing all of the issues.

Q2: As a means of promoting early consideration of heritage issues in large scale developments, should there be new statutory guidance promoting pre-application assessment and discussion for all major planning applications which may affect historic assets?

- Yes. The principle has been shown to work well in archaeology when properly applied, allowing **appropriate** mitigation decisions to be made (including refusal) rather than compromise decisions that can arise when issues are discussed too late in the development process. Importantly it allows developers much greater certainty about constraints and costs before budgets and timetables are set. Properly operated – and a great deal of awareness-raising will be needed – both development and the historic environment should gain from greater shared understanding and mutually beneficial solutions.

It is worth noting at this point that the most recent figures available for England indicate that for archaeology, through PPG16, c £140m pa is being spent by developers to inform the planning process or to mitigate the results of decisions – and it would be sensible to anticipate equivalent or greater potential investment were this approach more widely adopted for development potentially affecting historic buildings. This constitutes a very significant private sector investment in the planning process and in the management of change in the historic environment. If the PPGs are not replaced by something ('statutory guidance') **of at least equal weight and detail**, these sums will have to be made up from the public purse.

There will, in addition, need to be further consideration by government, the national amenity societies and other bodies concerned with community involvement about the appropriate level and nature of public involvement in pre-application discussions. Similarly care must be taken not to create a process whereby formal discussion routinely follows informal pre-pre-planning meetings.

Q3: As a means of providing greater certainty to developers, should the current operation of Certificates of Immunity be expanded to enable an application to be made at any time, and for a site as well as an individual building?

- No. Certainty can largely be achieved by pre-application enquiries and assessment. Certificates of Immunity run counter to this approach, as they do to community involvement. There is a danger of large 'designation-free' landbanks being built up speculatively, by-passing the system.

It would not be possible, in most cases involving potentially hidden or buried heritage assets, to provide certainty to developers in advance of assessment and field evaluation. There is an established procedure for risk assessment and it should not be bypassed.

Any system for issuing a COI would have to be identical to the process by which an asset is considered (and rejected) for designation. Those wishing to establish whether an asset would be considered suitable for designation, if not satisfied by professional advice, could and should only achieve certainty by proposing it for designation in the normal way.

It is worth noting that the problem of old mineral permissions, Interim Development Orders under MPG 8 appears to have been largely addressed

through the requirements of the Environment Act 1995: this position should be protected, and the problems that previously existed borne in mind when contemplating extension of COIs.

Implementation and resources

While the IFA enthusiastically supports the reforms proposed in the White Paper, and recognises government's commitment to ensuring that there is no weakening of protection, we are aware that success or failure to 'place the historic environment at the heart of the planning process' depends on the detail of implementation, and the calibre of 'statutory guidance' that is issued.

In some areas, notably maritime archaeology, proposals remain very sketchy. What, for example, would replace the Protection of Wrecks Act? How can the problems presented by leaving historic wreck in the salvage regime be addressed? We commend to you the contents of the submission from the IFA's Maritime Affairs Group.

The IFA is very keen to be involved in the process of developing implementation plans with English Heritage, Cadw and DCMS, and would like to make available the practical experience of its members, particularly those who provide local authority historic environment services, commercial historic environment services and consultancy advice to developers.

We would also like to offer our expertise on quality assurance and standards. More work has yet to be done on defining minimum standards for HERs. Research on benchmarks has already been done and widely discussed within the HER community, and their adoption should ensure good information on which planning for the historic environment depends. To this needs to be added specification of the outcomes and outputs to be expected of a historic environment service, permitting calculation for each authority of the correct levels of appropriately accredited professional advice that would enable the right decisions to be made with that information. Similar steps must be taken to ensure that all parts of England and Wales are served by suitably resourced archaeological archive centres, enabling public access to the results of investigations, including maritime archaeology, through programmes of education and outreach, and providing an invaluable resource for research into our past. **Finally, those standards for HERs and the services that support them need to be clearly spelt out in authoritative 'statutory guidance'.**

There is a major requirement for capacity building, notably in English local authorities, if the sector is to fulfil the expectations of the White Paper. Professional institutes and local authorities must be involved in this process from the outset, as should Further and Higher Education bodies. In archaeology, the Archaeology Training Forum brings a strategic vision of needs, products and delivery to the sector: we now need to ensure coordination with bodies concerned with other, non-archaeological disciplines and skills in the historic environment, with sufficient resourcing to be able to act quickly to develop the necessary skills in the sector.

Resourcing

Most importantly, it is the professional institutes that are best placed to identify, design and facilitate supply of professional training and development packages, though they will need increased investment to be able to achieve this on the scale

required. The *Standard and guidance for stewardship* (an IFA, IHBC and ALGEO joint product) will play an important role, complementing English Heritage's *Conservation principles* but binding on professional institute members. The current (but finite) programme of Heritage Lottery Fund bursaries in archaeology and English Heritage Professional Placements in Conservation, administered through the IFA, provide a demonstrably successful means for providing those skills through a real-work environment – again further funding will have to be allocated to these or similar programmes. The new Qualification in Archaeological Practice indicates the presence NVQ level 3, 4 and (potentially) 5 skills for the historic environment sector, and is expected to be attractive not only to those working in the sector but those participating in a voluntary capacity, giving real authority and confidence to members of the public wishing to participate in decisions about the future of their historic environment.

In addition to training, capacity building will also involve increased investment in local authority historic environment services. There will be increased demands on them relating to designations as public participation in the process increases, as Heritage Partnership Agreements take hold, as they take on increased responsibilities for heritage consents, and as HERs are brought up to standard.

IFA members are also concerned that to ensure a smooth transition English Heritage and Cadw should be adequately resourced – and spared the distraction of undergoing reviews, restructuring and cuts. There is also concern that the momentum of Heritage Protection Reform could also be lost, and passage through Parliament much hindered, if financial incentives are not introduced to encourage the maintenance of historic structures and places of worship.

Conclusion

The IFA remains solidly behind Heritage Protection Reform as set out in the White Paper, and will continue to encourage support for them from the profession and from politicians and decision-makers with an interest in the historic environment and its study through archaeology. We cannot, however, over-emphasise that success in the reforms is entirely dependent on

- coordinated support for capacity building
- sufficient resources for all heritage partners in implementation
- revised, clear and authoritative guidance on planning and the historic environment

Yours sincerely,



Peter Hinton
Chief Executive