

## Weakening of archaeology provisions in the draft revised NPPF

### Summary

The draft revisions of the NPPF change the balance between environmental protection and development, implementing proposals in the Housing White Paper. Government has stated that there is no intention to reduce the level of protection for the historic environment, but planning authorities and applicants are likely to read changed wording as implying that archaeology should be afforded less weight. This briefing indicates which changes should be reversed to ensure that archaeology can still be provided as government policy envisages.

### Background

The planning system is crucial for managing the historic environment and it also provides the sole means of protection for undesignated heritage assets with archaeological interest. Local authority archaeology services (including the Historic Environment Records which they maintain) provide expert advice and enable early and informed consideration of such assets. Changes to legislation, policy and guidance since 2012 have consistently undermined the timely consideration of archaeological information, increasing the risks and costs for development by delaying archaeological decision-making until development designs, programmes and budgets are becoming fixed. Some proposed revisions to the NPPF would continue that trend.

Such changes have also increased the reliance of the planning system on Historic Environment Records to provide high quality supporting information for local plan allocations and development proposals. ClfA considers that the changes referred to below will significantly reduce the vital policy support for HERs that the NPPF currently provides and so further increase the risks and costs for development.

### Historic Environment Records and related services

The draft reduces the definition of Historic Environment Records (HERs), describing them as 'resources' not 'services', losing the emphasis on advice from expert archaeologists to planners, applicants and the public.

The existing glossary reads

*Historic environment record: Information services that seek to provide access to comprehensive and dynamic resources relating to the historic environment of a defined geographic area for public benefit and use.*

The proposed revision reads

*Historic environment record: Comprehensive, publicly accessible and dynamic resources that provide information about the local historic environment. Every local planning authority should maintain a Historic Environment Record or have access to one.*

ClfA recommends reinstatement of the old definition in the glossary. The statement *Every local planning authority should maintain a Historic Environment Record or have access to one* is established policy and should be in the main text.

The revised draft omits paragraphs 169 and 170, which set out a policy requirement to use up-to-date information about the historic environment to *predict the likelihood that currently unidentified heritage*

*assets, particularly sites of historic and archaeological interest, will be discovered in the future.* The policies also require LPAs to ‘maintain or have access to a historic environment record’ and encourage the preparation of ‘landscape character assessments’ and ‘assessments of landscape sensitivity’ where there are options for major expansion.

The draft moves these policy statements to the glossary and NPPG, and lacks the imperative language of the original. The provision is proposed under the heading ‘what evidence *might* be needed to plan for the conservation and enhancement of the historic environment’. The provision for landscape character assessments has also been downgraded from ‘should’ to ‘can’.

It is also important to recognise that the ‘currently unidentified heritage assets, particularly sites of historic and archaeological interest’ mentioned in policy 169 includes nationally important undesignated archaeology referred to in NPPF policy 139. It is therefore appropriate that local plans should be able to identify such sites where this is possible.

**ClfA recommends** reinstatement of paragraphs 169 and 170.

If government considers that these provisions are appropriately located in the proposed draft, **ClfA recommends** that it makes clear that the glossary and NPPG have equal weight with the NPPF, or planning authorities will assume a change of policy is intended.

### **Archaeological interest**

The draft shortens the definition of archaeological interest, which currently reads

*There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point. Heritage assets with archaeological interest are the primary source of evidence about the substance and evolution of places, and of the people and cultures that made them.*

The proposed revision omits the second sentence.

**ClfA recommends** that the cut sentence is included in the main text, recognising that it is an explanation of policy rather than a definition.

### **The historic environment**

The proposed revision omits the definition of the historic environment, which currently reads

***Historic environment:** All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.*

**ClfA recommends** that the definition is reinstated.

### **Demotion of paragraph 139**

Paragraph 139 (dealing with non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments) is moved to footnote 55 in the proposed draft. This (along with the reordering and movement of other archaeological provisions to the glossary and NPPG) is likely to be interpreted as implying that archaeological interest should be afforded less weight.

**ClfA recommends** reinstatement of paragraph 139

### **Loss of wider mentions of the historic environment**

There are several other places in the document where references to the historic environment have been omitted. Overall, this is indicative of a substantial lack of aspiration to conserve and enhance the historic environment, unlike the original NPPF. Some of these omissions include:

- Old paragraph 157: identifying land where development would be inappropriate because of its environmental or historic significance.
- Old paragraph 9: Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment
- Old paragraph 17: Conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

## Broader issues

CIfA supports the government's priority targets in meeting the housing challenge, but these revisions will not meet these challenges without compromising the sustainability of the planning system. We share these concerns with many other stakeholders. For example, the NPPF strips away plan-led place-making principles in favour of a private-sector-led development model which consistently relies upon deregulation as the means to achieve productivity gains. Our points below illustrate this shift.

### a. Sustainable development

Proposed changes to the wording on sustainable development provide a weaker basis for sustainable development than the current text. For example, the change from 'dimensions' to 'objectives' suggests that achievement is optional, and caveats relating to the 'at minimum' achievement of objectively assessed needs introduces a potential condition under which unsustainable development must be accepted.

Sustainable development is the touchstone of planning policy, so **CIfA recommends** that the section should be re-drafted to reinstate a higher threshold for sustainability, positively promoting high quality development which does not compromise the environment.

### b. Implications of Housing and Planning Act and Neighbourhood Planning Act

The draft also updates policies in light of the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017. CIfA continues to have concerns about provisions in these Acts and believes that the NPPF revisions will further undermine archaeological protections. In summary, our concerns relate to

- automatic permission in principle (PiP) for sites on Brownfield Registers (and, it is intended, in local plan site allocations) in the absence of a workable mechanism to enable the investigation of archaeological interest
- planning freedom schemes, which empower a local authority to disapply or modify *specified planning provisions to facilitate an increase in the amount of housing in the planning area concerned* and which could by-pass the need for a planning application in a given area
- the restriction of the use of pre-commencement planning conditions without the agreement of the developer, placing local authorities under pressure to weaken archaeological conditions to avoid refusing permission if a developer objects

These provisions potentially prejudice interpretations of paragraphs 128 and 141 in the current NPPF (paragraphs 185 and 195 in the draft revision). They create situations where it would be impossible to require developers to provide information or undertake investigation suitable to describe the significance of heritage assets subject to PiP, and weaken the position from which local authorities could apply conditions to advance understanding and record assets to be lost.

We await draft guidance on the use of pre-commencement conditions. It must ensure that those archaeological pre-commencement conditions that are necessary are permitted. The revised NPPG should include guidance on archaeological investigation to support the requirement for pre-commencement investigation, to satisfy paragraph 185's requirement to investigate sites which have the potential to include heritage assets with archaeological interest.