

Submitted by email

governmentadvice@HistoricEngland.org.uk

9 April 2019

Re: Minerals Extraction and Archaeology HEAN consultation

Dear Madam/Sir,

I am writing to you on behalf of the Chartered Institute for Archaeologists (CIfA) in response to the consultation on the *Historic England Advice Note: Mineral Extraction and Archaeology*. CIfA have taken part in the discussions of the Minerals and Historic Environment Forum (MHEF), which have led up to this draft. What is included in this letter is a summary of the position taken by CIfA, upon guidance from its Board of Directors and members of the Institute.

CIfA considers this guidance to be constructive and informative. It provides considerable improvements on the 2008 version, particularly in terms of new material relating to professional accreditation, and standards and guidance. However, we are not able to endorse the inclusion of indicative percentages for excavation required to inform determination of minerals planning applications, included in Paragraph 68 of the Draft.

Our letter below summarises our main objections to this proposed inclusion, and our recommendations for how Historic England should proceed.

About the Chartered Institute for Archaeologists

CIfA is the leading professional body representing archaeologists working in the UK and overseas. We promote high professional standards and strong ethics in archaeological practice to maximise the benefits that archaeologists bring to society, and provide a self-regulatory quality assurance framework for the sector and those it serves.

CIfA has over 3,800 members and more than 80 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, 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.

1. General comments

- 1.1. ClfA's internal consultees have mixed views on this guidance, though most were generally positive about the principles and approaches outlined in this guidance. There is much to commend the guidance for in its embracing of the NPPF's emphasis on public benefit and sustainability. Where consultees had concerns was in areas where it appears that minerals planning is diverging from planning policy. Where this is the case, a strong case must be made as to why.
- 1.2. We note that some of the language in the guidance is not NPPF compliant – for example, it talks about 'managing archaeology'. In addition, the final sentence in paragraph 3 makes it sound as if minerals extraction was a technique for the investigation of archaeology. We would appreciate a clearer wording that indicates that it is the work to mitigate harm to heritage assets with archaeological interest which results in knowledge gain.
- 1.3. While the discussion in section 2 (paragraphs 10 – 15) of the role of Local Plans is useful and important, there should be an acknowledgement of the limited the scope of assessments of sites to be allocated for development at plan making stage; these assessments tend to be rapid assessments of available information by local authority staff, especially the HER, and cannot be definitive statements of the significance of heritage assets present on any site in the absence of detailed desk-based and on-site evaluation. It is of course always open to minerals operators to undertake evaluation at this stage, and some do, enabling a more reliable assessment of significance.
- 1.4. Paragraphs 16 and 17 on the economics of minerals extraction are incongruous in a Historic England guidance note, and feel more appropriate for a document issued by the MHEF.
- 1.5. It would be helpful in paragraph 20 could be clarified to explain that the assessment of significance cannot be proportionate to the significance of the heritage assets it is assessing since this is not likely to be known. Proportionality comes later in determining next steps once the significance of the assets has been determined.
- 1.6. There is the potential for some confusion in paragraphs 22-23 in the use of 'scheduling' and 'listing' without an explanation that 'listing' encompasses scheduling when talking about the NHLE.
- 1.7. Paragraph 24 notes that Scheduled Monument Consent is required for 'various works'. This should be 'any works'.
- 1.8. Paragraph 46 confusingly includes a reference to conditions in a paragraph which relates to pre-application advice.
- 1.9. It is our opinion that paragraph 54 overemphasises the role of DBAs in determining the archaeological potential of a site. This is likely to be true in areas where little previous

development has taken place and therefore where there is little information in the HER or other documentary sources. The current wording should be expanded to make clear that DBAs should also include an assessment of the level and quality of information available, the reasons for that, and therefore the reliability of any conclusions and assessment of significance.

- 1.10. On page 59 under 'relevant organisations', the *Chartered Institute for Archaeologists* is incorrectly recorded as the *Chartered Institute of Field Archaeologists*.

2. Comments on the inclusion of indicative percentages for excavation

- 2.1. We understand and sympathise with the concerns of the minerals sector about the lack of a clear approach to sampling sizes and arrays, and with the desire to encourage consistency across minerals planning authorities. We also consider that it has been remiss of archaeologists over many years to have failed to establish processes which can provide greater clarity for developers. We consider that additional guidance intended to inform normative assessments of sites which can be applied nationally, and which takes into account differences in the geographical distribution patterns of archaeology and geological factors, would be a positive innovation.
- 2.2. However, we cannot accept the suggested figures which are included in the guidance as they are not based on any evidence that suggests that these figures are appropriate to ensure proportionate and effective evaluation of archaeology sufficient to inform determination of minerals applications. When further research has been done, ClfA would welcome the further opportunity to consider whether the adoption of guidance on percentages is feasible, and could revisit this decision.
- 2.3. Where evidence does exist, it has suggested that the lower end of this range included in this guidance is likely to be insufficient. For example, recent work in Warwickshire¹ in connection with a minerals resource assessment concluded that 'trial trenching at a 2% sample rate is too low to give a reliable indication of the presence of significant archaeology' and concludes that 'trial trench sampling of 3-5% may be adequate for certain periods, but that higher sampling frequencies (6- 10%) may be necessary in order to detect others'.
- 2.4. Linking a low percentage to a 'thorough DBA' compounds the problem – no matter how thorough a DBA may be, the evidence base for the site may simply be inadequate, and many planning applications make a leap in concluding that the absence of information equals low potential for significant heritage assets to be present. We can provide examples,

¹ http://archaeologydataservice.ac.uk/archiveDS/archiveDownload?t=arch-849-1/dissemination/pdf/Final_Report_mainreport_pp001-165.pdf

upon request. Specifying percentages in this way is likely, therefore, to lead to a general push to use less than 2% sampling on minerals sites. This may then influence practice on other developments. Inadequate pre-determination evaluation simply creates problems further down stream, leading to bad archaeological outcomes, and potential viability problems for developers.

- 2.5. Furthermore, it is a concern that inclusion of percentages in this guidance is likely to increase claims that requested excavation percentages on applications for housing should be lower. This is because the physical impact of housing applications is generally less than minerals applications, and that they are generally more flexible. This would be a dangerous position and would severely undermine the argument for current levels of archaeological evaluation undertaken across the planning system. We do not believe that it is Historic England's intention to do this by giving significant weight to this argument in this HEAN.
- 2.6. ClfA recognises that the paragraph (68) is carefully worded to avoid making explicit recommendations on evaluation trenching percentages, but the intention is clearly to influence percentages chosen in the case-by-case determination of strategies for excavation. The fear is that they could encourage unthinking selection of a sample size without the individual needs of a site being properly considered.
- 2.7. We consider that, other than the inclusion of indicative percentage figures, the rest of the text in paragraph 68 and in Box 6 to be beneficial context and helpful in the emphasis on how to seek information which is no more than is sufficient to establish the extent and significance of archaeological remains at pre-determination stage.
- 2.8. It would, however, be beneficial to include a clear statement that the evaluation strategy should be discussed with and approved by the MPA's archaeological advisor to ensure that it is fit for purpose.
- 2.9. We hope that an agreed guidance document, that ClfA can formally endorse, can be published as soon as feasible. However, at present, this would require the removal of the bullet points in paragraph 68.
- 2.10. We recommend that inclusion of this section is delayed until evidence which can inform judgement can be considered. We understand that Historic England has commissioned a collaborative PhD to look at this issue and that ClfA and FAME had prepared a proposal to undertake this research. We would like to understand what Historic England's intentions are with the research and what formal process of review of minerals guidance its eventual publication will trigger.
- 2.11. Should Historic England decide to publish the guidance inclusive of the evaluation trenching percentages, ClfA could commend all other parts of the document, but it unless an evidence-based rationale is produced it would have to express caveats about giving weight to the figures.

2.12. If ClfA can support you further in reaching a conclusion on this issue, please to not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rob Lennox', written in a cursive style.

Rob Lennox

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