

governmentadvice@HistoricEngland.org.uk

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20 April 2022

Re: CIfA response to Planning and Archaeology HEAN

Dear Madam/Sir,

Thank you for the opportunity to provide comments on this draft Historic England Advice Note (HEAN). We are supportive of the HEAN, which we believe provides a helpful overview of information relevant to the use of archaeology in the planning process.

We wish to thank Historic England colleagues for their collaborative engagement throughout this process and note that CIfA's Chief Executive Peter Hinton has been involved in the development of this document at an earlier stage. As such, many of our comments have already been incorporated into the current text. As a result, this response focuses on two main outstanding issues; (1) national importance and (2) the lack of coverage for marine planning in the document.

We also fully endorse the response made by our advocacy partners the Council for British Archaeology (CBA) which focuses on the opportunity to use this document to encourage stakeholders in the planning process to make more creative use of opportunities to embed public engagement in programmes of archaeological works enabled by planning.

1. National Importance

- 1.1. Historic England has already undertaken much work on National Importance in relation to the identification of archaeological sites which are not scheduled monuments but which are of demonstrably equivalent significance (NPPF Footnote 68 sites).
- 1.2. As Historic England colleagues are aware, CIfA strongly supports the urgent development of a mechanism for Local Planning Authorities (LPAs) to be able to identify non-scheduled sites of archaeological interest which are deemed to be of national importance.
- 1.3. We believe that the draft guidance, in its current form, misses an opportunity to include useful guidance on nationally important non-designated sites which might provide assistance to stakeholders in the planning process and could provide the basis for a sustainable level of protection for the potentially most significant assets otherwise threatened by extended permitted development rights.

- 1.4. We believe that in the long term Historic England should produce or commission guidance which explains the criteria for national importance and, ideally, which provides a good practice approach which would assist local planning authorities in identifying areas or sites of national importance locally within HERs, and encourage a broadly similar approach nationally.
- 1.5. We have the following specific reflections on the issue of National Importance in the draft document:
- 1.6. In paragraph 53, National Importance is referenced in relation to Historic England's advisory role in making recommendations for scheduling. However, unlike the other items in this list, there is no link to further information. This underscores the current lack of (a) clarity over HE's role in relation to identifying National Importance, and (b) the lack of existing guidance on the subject. The paragraph suggests 'see section 5', but this section does not provide much more useful information.
- 1.7. Other paragraphs, 71 (which raises national importance in relation to understanding the significance of heritage assets) and 106 (which raises national importance in reference to areas with a high density of archaeological remains) also refers to reader to Section 5 of the guidance. However, this section does not, in our opinion, provide sufficient information to help readers understand or identify non-scheduled sites of national importance in these contexts.
- 1.8. Section 5 itself is largely a statement of the principles of discretionary scheduling of monuments and not about national importance itself. Paragraph 146, for example, says "*the SofS may decide not to schedule a monument despite having identified it as being of national importance*" but it does not describe what national importance is and how it is identified, other than – by implication – begin identified by the Secretary of State during consideration for scheduling.
- 1.9. Paragraph 149 implies that newly discovered sites can be determined to be of national significance, but does not say by who or based on what criteria or process.
- 1.10. We find Paragraph 147 confusing and are not entirely sure what point is being made. It may be referring to the fact that the AMAA 1979 does not include the term 'archaeological interest'? If so, we are concerned that current wording may be more confusing than it is helpful for most stakeholders.
- 1.11. It would be helpful to include guidance relating to how national importance is assessed, how it relates to the process of understanding significance, and how it is judged (for example, in relation to sites which have not be assessed by the secretary of state for scheduling). Paragraph 151 appears to attempt to do this but it is not clear.

2. Marine planning

- 2.1. We note that paragraph 1 and the description of the marine planning system in Box 1 are probably intended to explain that marine planning is not covered in this guidance, although it could say this more clearly.

2.2. However, we would strongly support the inclusion of marine systems and processes within this document, which could be done without great additional difficulty. We suggest that the short description of marine planning in Box 1 as well as the various references to Protected Wrecks licenses, and the Receiver or Wreck at Paragraphs 93, 142, and 143 should be supplemented with additional guidance, for example, a section on the Marine Management Organisation (MMO) in Section 2, marine plans in Section 3, marine licensing in Section 4, and illustrative marine examples at appropriate places.

2.3. We suggest that this would be helpful for several reasons:

- a) It would help indicate the parity between terrestrial and marine heritage and planning systems and ensure that the importance of maritime heritage assets and archaeology was set out clearly alongside those on land.
- b) It would enable clearer discussion of where marine and terrestrial heritage overlap (e.g. coastal development such as harbours or marine development which has impacts on land, such as marine development which falls under DCO processes or developments which have onshore impacts and require both marine and TCPA permission.
- c) It would save Historic England a future task of producing parallel guidance for marine archaeology and planning which would include significant overlap with this document.
- d) It would, remove the potential confusion arising from a title 'archaeology and planning', which could be assumed to imply both marine and terrestrial planning.

3. Other comments

- 3.1. Box 1: We would welcome greater clarity on the statement in Box 1 that "Most archaeological work is undertaken on non-designated sites", which could be taken to imply various things. We suggest that it may be clearer to say that "The vast majority of archaeological sites are undesignated...".
- 3.2. Box 1: We suggest that Box 1 contains paragraphs explaining two separate points; one relating to undesignated assets, the other to do with the scope of the guidance and marine planning. We suggest these points may be better dealt with separately.
- 3.3. Paragraph 10: we suggest that bullet point (c) implies that National Parks are natural environment designations, when they are also designated for their cultural heritage. We suggest using an example of other overlapping designations, such as NNR or SSSI which contain listed structures and scheduled monuments. Given the possible future outcomes of the Government's Review of Protected Landscapes, it may be helpful to seek to identify the contribution that the historic environment and archaeology makes to protected landscapes and the work that National Park authorities do in section 2.
- 3.4. Paragraph 14: We would welcome a reference to the CIRIA guide 'Archaeology and construction: good practice guidance' alongside the reference to DMRB.
- 3.5. Paragraph 18: We suggest that the guidance needs to include additional information about the process of accessing the full HER, as well as the summary information via Heritage

Gateway and when this will be necessary. This could be included in this section or later in the document.

- 3.6. Paragraph 20: We recognise the value of generating positive press coverage, but note that this is not a public benefit. We commend both ClfA's resources on public benefit, and the 'CIRIA guide on Archaeology and construction: good practice guidance' which both cover the range of both public benefits which can arise from archaeology and the benefits to construction and development stakeholders. It may be possible to recast the paragraph to state that archaeology brings benefits to the developer but that the planning process intends that it should bring benefits to the public too. We would then seek to ensure that this paragraph is also not presented as an exclusive list, but that it highlights that knowledge creation, contribution to education, engagement with local communities, health and wellbeing benefits associated with engagement, and contribution to sense of place. For example, for bullet point (d) "create knowledge from discoveries which contributes to local, national or international stories about the past".
- 3.7. Case study Pamington, Gloucestershire: We note two significant reflections for this site: Firstly, the fact that there is nothing on the HER doesn't mean there is no archaeological interest or need for evaluation (demonstrated by the discovery of a complex site which had been hitherto unknown), and (2) excluding an area from development and preserving a site in situ is *one option* when faced by results like these. It may be useful to identify these points and refer to Section 5 content on approaches to preservation in situ and the mitigation hierarchy (avoid, minimise, offset).
- 3.8. Paragraph 28: It would be useful to include reference to the role that archaeological services play in strategic planning in this section.
- 3.9. Paragraph 28: We note that the point made in this paragraph about archaeological advisors not necessarily being based in the LPA is repeated in paragraph 32 ('archaeological advice is provided in various ways...'). We think paragraph 32 makes this point most effectively, and therefore recommend removing the similar point in paragraph 28 (by deleting '...who are not necessarily based in that authority...') where is distracting from this important introduction to LPA archaeological advisors.
- 3.10. Paragraph 35: It would be useful to add an additional paragraph here to explain what the archaeological archive is.
- 3.11. Paragraph 35: We note that this paragraph uses the terms depository and repository interchangeably, which could be confusing.
- 3.12. Paragraph 39(c): The reference to 'interested parties' refers to paragraph 51 (ClfA). Should this be paragraph 50 (CBA)?
- 3.13. Paragraph 43: We would welcome an additional in this section to briefly cover processes relating to site allocation and strategic planning and adding '(see part 3)'.
- 3.14. Paragraph 44: It may be useful to add a reference to early discussions saving time and money for developers and opening up design opportunities which avoid archaeological remains or which could enhance the historic environment.

- 3.15. Paragraph 46: We recommend adding reference to DBAs as well as field evaluation to build on the previous paragraph and articulate the relationship between a DBA and requirement for field evaluation.
- 3.16. Paragraph 51: We would welcome an addition to the ClfA blurb as follows:
- “...ClfA publishes registers of accredited professional archaeologists and organisations, all of whom are bound by its Code of conduct and standards for archaeological work, and are accountable under a professional conduct process.”
- 3.17. Figure 1: Initial evidence gathering box: It should be clear that Heritage Gateway summary information is not sufficient. We also note that the reference to local heritage lists may require ‘(see box 3)’ to be added as these have not yet been explained in the document.
- 3.18. Figure 1: Yellow early engagement box, first bullet appears to be missing a verb, e.g. ‘...should be consulted as appropriate’.
- 3.19. Paragraph 103: This paragraph states ‘A site that has been allocated in a local or neighbourhood plan is likely to have gone through a screening process...’. It may be more accurate to say, that plans ‘should’ have had some assessment. It is unlikely that all local and neighbourhood plan allocated sites will have gone through all stages of assessment and evaluation.
- 3.20. Paragraph 108: We note that the wording here, while similar to paragraph 46 is subtly different in its description of the need to agree the scope of the DBA with the LPA advisor. This is a stronger worder which we commend to be similarly used in paragraph 46.
- 3.21. Paragraph 113: It may be useful to explicitly note that DBAs must assess impact on significance, as well as assessing significance, if the ClfA standard is followed.
- 3.22. Paragraph 117: It may be useful to expand upon ‘major development’, noting for example, developments over a particular area (e.g. 10 Ha) or number of units (10 homes). The sentence could say ‘For example, some LPAs require a DBA for all development over a particular area or unit threshold.’
- 3.23. Paragraph 118: The first sentence is difficult to understand. We suggest: ‘*The principle of a phased programme of works with one phase informing the next is important to ensure adherence to NPPF paragraph 194. This principle underlies all archaeological works undertaken as part of the pre-application and pre-determination stages.*’
- 3.24. Paragraph 119: We suggest that the sentence ‘*Conversely evaluation would rarely be necessary for developments which are unlikely to cause more than minor harm*’ should be omitted since in some cases field evaluation may be necessary to establish the significance as a precursor to being able to judge whether harm is minor. A version of this text which makes this clear may be acceptable. For example, ‘Where significance is already established and development is likely to have little no more than minor harm, evaluation may not be necessary’.
- 3.25. Paragraph 126: We recommend adding the word ‘usually’ as follows: ‘*If the process of assessment and field evaluation identifies harm to the significance of an asset of*

archaeological interest, then the first step is, usually, to seek to avoid or minimise that harm.'.

- 3.26. Paragraph 128: The sentence '*There may be cases, however, where the extent of harm is such as to lead to refusals, or cases where excavation will be required.*' Implies that cases which lead to refusals and those that lead to excavation occur at a similar frequency. It should be made clear that refusals are rare.
- 3.27. Case study: Thame, Oxfordshire: The image caption for this picture is incorrect. We believe that the correct caption is '*Excavating one of the Iron Age pits containing a human burial © OCA jv 2015*'
- 3.28. Paragraph 151: Suggest adding '*...from all archaeological surveys and investigations*' as follows '*(containing relevant documents and archaeological materials from all archaeological surveys and investigations)*'.

Yours faithfully,



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