

Response ID ANON-JVC4-2ZZ6-K

Submitted to **Consultation on the Draft Policy Statement on Environmental Principles**

Submitted on **2021-06-01 13:39:02**

Foreword

You and Your Organisation

1 Would you like your response to be confidential?

No

If you answered Yes to this question please give your reason:

2 What is your name?

What is your name?:

Rob Lennox

3 Are you responding:

On behalf of an organisation

4 What type of organisation are you responding on behalf of? [Please note this question only applies if you are responding on behalf of an organisation]

Industry association

If responding on behalf of an organisation, please provide the name here. :

Chartered Institute for Archaeologists & Council for British Archaeology

Background

Policy Statement on Environmental Principles

5 Do you think the overview section provides an adequate foundation for policy makers to apply the environmental principles in policy-making?

No

Please provide any additional information in support of your answer:

We are concerned that the Policy Statement does not adequately extend to all aspects of the environment, but rather deliberately excludes aspects of the environment, including those represented by the 'beauty, heritage and engagement with the natural environment' pillar of the 25-Year Environment Plan. Were the Statement to include better coverage of this, we would strongly support the five principles and the legislative duty for all departments to pay due regard to them.

We would like to stress the need for clear and consistent recognition that the historic environment (including all landscapes influenced by humans over time, and the cultural and natural heritage of these places) is included within the ambit of environmental protection and sustainable development, and that it will form part of the forthcoming review of Environmental Impact Assessment.

We believe that this decision to exclude these elements, including cultural and historic elements of the landscape, will contribute to a failure of government to meet its aim to protect, conserve, enhance, and restore habitats and landscapes. Our interest is not to secure additional protections for heritage assets through a back door of natural environment policy, but rather to ensure that the benefits of integrated management practices and objectives which lead to environmental benefits will not be undermined by this deliberate separation of principles for the historic and natural environments.

The 'historic environment' is an integrated part of the environment and, in several core ways, shares characteristics (including a finite nature and a sensitivity to unmanaged change) with the natural environment. Its exclusion is a major omission. In some cases the 'natural' and cultural environment are one and the same – for example the vast majority of the topsoil, hedgerows and managed woodland that mantle huge parts of our countryside and farmland. We would also emphasise the significance of the historic and archaeological interest of almost all ecologically important habitats, including ancient woodlands, grasslands and moorlands where a need to integrate management approaches is necessary. Experience shows that without effective provisions for integrated management, benefits fail to accrue.

(Note: The term 'historic environment' is used extensively in planning policy and in protection regimes for cultural heritage assets, but the phrase 'cultural heritage' is more common in environmental policy (eg EIA). Cultural heritage encompasses the historic environment – eg heritage sites, physical assets, landscape features – as well as broader elements of material and intangible culture and identity – eg agricultural practices, relationships to nature, and cultural phenomena such as well-dressing.)

Previous discussions of the provision of Environmental Principles after Brexit have referred to The Environmental Information Regulations 2004 which include a definition for environment information which includes;

'(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);'

In contrast to this, the Environment Bill – the definitions included in which this Policy Statement follows – has a narrower definition which deals solely with the natural environment. This approach is also out of step with (for example):

- the 25-Year Environment Plan (25YEP), as stated,
- the Agriculture Act, which includes 'managing land or water in a way that maintains, restores or enhances cultural or natural heritage' as one of the purposes that the Secretary of State is empowered to give financial assistance for (Clause 1),
- the Environment Act 1995, which includes 'protecting and conserving buildings, sites and objects of archaeological, architectural, engineering or historic interest' within the scope of the Environment Agency (eg Clause 7);
- the Fisheries Act 2020, which includes a definition of the marine and aquatic environment which includes '(b)features of archaeological or historic interest in those areas' (Clause 52),
- and the Marine Coastal Access Act 2009, which includes definitions of marine environment which include 'features of archaeological or historic interest' (eg Clause 186).

Crucially, at present the historic environment is excluded from the definition of the environment (Clause 43) in the Environment Bill and therefore is excluded from the duty defined in this Policy Statement. We are also concerned that this failure to include the historic environment in the Environment Bill will anchor this restrictive definition in other forthcoming policy. For example, the restrictive definition of 'Environmental impact' in the Policy Statement must not be used to anchor the forthcoming review of Environmental Impact Assessment (see answer to question 6).

Process for Applying the Policy Statement

6 Do you think step one allows policy-makers to correctly assess the potential environmental effects of their policy?

No

Please provide any additional information in support of your answer:

We object to the "meaning of 'environment'" and "environmental impact" that are defined solely in terms of the 'natural environment'. We believe this introduces a false and unhelpful delimitation of the meaning of environment which will have numerous consequences. For example, the Policy Statement's definition of 'environmental impact' is clearly more restrictive than the scope of current Environmental Impact Assessment regulations, which include archaeology and cultural heritage (The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, Clause 4):

'(2) The EIA must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development on the following factors— (a) population and human health; (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC(a) and Directive 2009/147/EC(b); (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape; (e) the interaction between the factors referred to in sub-paragraphs (a) to (d).'

The narrow scope of definitions in the Policy Statement also makes it more likely that 'beauty', 'heritage' and other aspects of the historic environment will be scoped out of future environmental improvement plans.

What is needed is a clear and inclusive definition of the environment which will overarch more narrow applications of the term which may be appropriately focussed on the natural environment (eg definitions of 'environment law'), or – at least – a recognition of other matters, to include the historic environment, which Ministers must consider when determining environmental impact or sustainable development.

7 Do you think step one ensures that policy-making will address the most important environmental effects?

Other

Please provide any additional information in support of your answer:

As stated, the Policy Statement fails to address the historic environment, despite its inclusion in the 25YEP and strong logical arguments for the indivisibility of human-influenced aspects of the landscape with the natural environment. These are inextricably intertwined and recognised in both the 25YEP and Agriculture Act and many other pieces of environmental legislation and policy, but not by the Environment Bill.

We support the Statement's advice relating to assessment of secondary impacts on the environment. Many historic environment policies will have secondary impacts on natural environment. For example, traditional buildings and stone walls and headgerows provide habitat for many types of animals, contributing to biodiversity goals. Other vital secondary impacts are created as a result of the use of the physical landscape and its natural and cultural heritage assets, for example, for recreation which drives both environmental impact and the economic sustainability of environmental improvement activities. Failure adequately to manage these elements in tandem will have environmental impacts in many locations.

We do, however, question the decision to qualify the application of the Policy Statement to only those policies where there will be a 'substantial impact'. While proportionality is necessary, this section is currently unclear, and will be potentially open to abuse by policymakers without further clarification. The current imprecise phrasing would likely require legal test cases to establish expectations.

Step 2: Understanding Which Principles are Relevant

8 Will step two assist policy-makers in selecting the appropriate environmental principles?

Not Answered

Please provide any additional information in support of your answer:

Step 3: Applying The Principles

9 Do you think step three provide a robust and sufficient framework for the application of each individual environmental principle?

Q10 - Integration:

No

Q10 - Prevention:

No

Q10 - Rectification:

No

Q10 - Polluter pays:

No

Q10 - Precautionary:

No

Integration Principle - Please provide any additional information in support of your answer:

We support this principle, but without a holistic understanding of the environment to underpin application of the principle it will represent only a partial and limited framework for understanding environmental impact.

Prevention Principle - Please provide any additional information in support of your answer:

We support this principle, but without a holistic understanding of the environment to underpin application of the principle it will represent only a partial and limited framework for understanding environmental impact.

Rectification Principle - Please provide any additional information in support of your answer:

We support this principle, but without a holistic understanding of the environment to underpin application of the principle it will represent only a partial and limited framework for understanding environmental impact.

Polluter Pays - Please provide any additional information in support of your answer:

We support this principle, but without a holistic understanding of the environment to underpin application of the principle it will represent only a partial and limited framework for understanding environmental impact.

Precautionary Principle - Please provide any additional information in support of your answer:

We support this principle, but without a holistic understanding of the environment to underpin application of the principle it will represent only a partial and limited framework for understanding environmental impact.

10 Do you think the process for applying the policy statement (the three steps) provides a robust and sufficient framework for the application of the environmental principles as a whole?

No

Please provide any additional information in support of your answer:

Final Thoughts on the Policy Statement on Environmental Principles

11 Do you have any other comments on the draft policy statement which are not covered by the previous questions?

No

Please provide any additional information in support of your answer:

Consultee Feedback on the Online Survey

12 Overall, how satisfied are you with our online consultation tool?

Satisfied

Please give us any comments you have on the tool, including suggestions on how we could improve it.: