

Workshop 3

Designation and management of the archaeological resource in the context of a changing planning system

30th June 2017, 10.30 – 16.30

facilitated by Gill Chitty

Draft proposed actions, summary of issues discussed, and notes

Draft v2 for website consultation, 18/10/2017

Jan Wills

Draft proposed actions

	Topic (<i>cf</i> summary below)	Proposed actions	Who
2	Brexit legislation and policies	<ul style="list-style-type: none"> Develop and keep under review a list of anticipated legislation and areas of policy development, together with legal provisions to be introduced in each topic area Develop priorities for lobbying, discussions with politicians/civil servants, developers, industry etc Work closely together across the sector to maximise effectiveness, individual organisations or collectives leading as appropriate 	<ul style="list-style-type: none"> TAF and constituent bodies Heritage Alliance HE
3	Heritage legislation – proposed changes	<ul style="list-style-type: none"> Develop list of priorities for legislative amendments, and agree action plan Share with other sector bodies Take to HEPRG to agree most effective routes to progress Test the scope for more radical thinking about the future via a working group 	<ul style="list-style-type: none"> HE HEPRG CifA/ALGAO and other TAF members Heritage Alliance
4	Heritage legislation – using existing provisions better	<ul style="list-style-type: none"> Confirm list of areas of existing legislation/policy that could be used more effectively to secure better protection 	<ul style="list-style-type: none"> HE HEPRG CifA/ALGAO and other TAF members

		for exemption from certain permitted development rights, brownfield registers and other PiP categories	
7	Current and proposed changes in planning legislation and policy	<ul style="list-style-type: none"> • Continue to work together to influence government as the proposed changes to the planning system are worked through • Collect information on archaeology and planning casework to use in support of lobbying to maximise protection of the historic environment as the system changes, and to capture changing practice amongst Local Authorities • Identify any necessary future amendments to correct shortcomings/problems in current regime. 	HE, TAF and constituent bodies, Heritage Alliance CifA with sector partners
8	Be more strategic	<ul style="list-style-type: none"> • Explore the implications of the introduction of PiP and the impact on strategic planning and development management • Identify changes in practice, information requirements, and - if required – changes to guidance or secondary legislation 	ALGAO, CifA
9	Intelligibility of current system	<ul style="list-style-type: none"> • Produce straightforward short guidance on the current system of protection and management (covering both heritage and planning legislation and policy) that can be used to explain to partners and the public how heritage assets are protected and managed, why and by whom. Use to support/explain other actions such as 5 and 6 above. 	HE/ALGAO HEPRG
10	Holistic management of the environment	<ul style="list-style-type: none"> • Work towards joining up management of the environment (through both systems and people), through breaking down remaining barriers between the buried and the built historic environment, and in the longer term between the natural and the historic 	

		environment.	
11	Devolution	<ul style="list-style-type: none"> • Maintain dialogue with Welsh, Scottish and Northern Ireland colleagues to share increasingly different experience of systems and work practices in order to learn best practice from each other. • Learn from the experience of other UK nations in order to develop proposals for change in England 	TAF HE
12	Local authority capacity	<ul style="list-style-type: none"> • Take results of discussion and identified importance of the issue (including 13 below) forward into Workshop 4 	CifA/HE
13	Supporting and developing local authority services	<ul style="list-style-type: none"> • Develop skills through peer review and mentoring • Explore how to give recognition to and celebrate best practice 	ALGAO, HE, CifA
14	New initiatives, good practice examples and other resources	<ul style="list-style-type: none"> • Identify an online space for the sharing and dissemination of evolving professional practice • Promote more sharing of case studies and examples at CifA and other conferences, workshops etc 	ALGAO, HE, CifA
15	Public benefit	<ul style="list-style-type: none"> • Articulate better the public benefit delivered by our heritage protection and management systems 	All

Summary of main issues discussed

1. The political context

Current political uncertainties formed the background to much of the discussion – about the direction of travel of government in the short-medium term, following the general election, Brexit, and in the context of the on-going EU negotiations. How will recent events in London around issues of fire safety and building regulations affect the deregulation impetus?

2. Brexit and forthcoming legislation/policies

Brexit, and the suite of consequent forthcoming legislation, was discussed as both threat and opportunity. While there is a risk to current mechanisms, eg EIA regulations and in changes to agricultural support post-CAP, and the scope for specific heritage legislation seems minimal, many of the forthcoming bills and strategies may offer opportunities for progress eg Agriculture Bill, Digital Strategy. Preparation needs to be undertaken now in order to take advantage of opportunities that may arise.

3. Heritage legislation – priorities for change

Although there is pessimism with regard to the potential for new heritage legislation we should maintain a priority list of proposed changes - to the Ancient Monuments and Archaeological Areas Act 1979 (the 1979 Act) or to other appropriate legislation including planning - in order to take any opportunities that do arise. These should include: reform of class consents to prevent on-going damage to scheduled monuments, interim protection, protection for sites without structures, removal of the defence of ignorance, statutory status for local authority historic environment services. It was recognised that change takes time and that we need to plan for the medium to long term; further innovative thinking is needed on heritage protection for the future.

4. Heritage legislation and policy – using what we have better

Existing legislation should be used more effectively (see 5 below), and little used provisions should be (re)examined to assess their potential eg Part II of the 1979 Act, archaeological protection through use of Conservation Areas, exempting land from Permitted Development.

5. Scheduling

The low levels of current scheduling were discussed, and the contrast with the built historic environment, its different legislation and the much greater extent of designation, were noted. The 1979 Act is underused. There are also problems with the content of the existing schedule and the quality of some sites currently protected. There is a lack of transparency in the system including in the SMC process. There are many specific issues eg urban scheduling, area scheduling, the question of grading of scheduled sites. Work to improve the existing schedule should be linked with implementation of the National Importance project.

6. National importance

There is a good policy in the NPPG, paragraph 139, regarding sites which are of national importance but which are not scheduled. The Historic England pilot project on National Importance (NI) has not progressed but there was very strong support for this initiative to be taken forward, in partnership with local authorities and others in the sector. Government departments should be engaged and they should see the initiative as an implementation of existing policy, facilitating sustainable development and environmental management. No new policies or regulation is necessary for implementation.

It was felt that the starting point for NI work should be HERs but the potential of other data sets eg SHINE should also be considered. Criteria for the identification of non-scheduled sites of national importance – and sites that have the potential to be nationally important but are not demonstrably so from existing information – should be defined, tested on a data sample, and then implemented. Outputs from the project could also be used to improve the schedule, to feed into Local Plans and also to explore the potential to amend the GDPO to protect more assets from Permitted Development (PD). This work will have resource implications for Historic England and local authorities, but its urgency is greater in view of changes to the planning system (7 below).

The national importance pilot reports can be found at: <https://historicengland.org.uk/listing/what-is-designation/scheduled-monuments/national-importance-programme/>

7. Changes in planning legislation and policy

The changes to the planning system, actual and proposed, as part of the government deregulation agenda and in order to increase house building, have the potential adversely to affect key aspects of the way in which archaeology has been successfully managed through the planning system since the introduction of Planning Policy Guidance 16. Areas of concern include the extension of PD rights, Permission in Principle (PiP), scrutiny of the use of pre-commencement conditions, and the review of the National Planning Policy Framework. Government has indicated its commitment to maintaining protection of the historic environment but some of the proposed changes appear to challenge that commitment.

8. Being more strategic

In view of the changes to the development management process (eg PiP) it will be even more important to ‘front load’ the system, using designation, implementing NI, and providing high quality information from HERs to input to Local Plans, Neighbourhood Plans and other strategies, so that better information is available when the principle of development is considered. This implies a need for further investment in, for example, strategic survey such as NMP, characterisation, revision of research frameworks, implementation of the lessons from synthesis projects such as the Roman Rural Settlement Research project, predictive modelling. Despite the resource implications this approach (desirable in itself) is made more necessary by loss of flexibility at the point of change with the introduction of PiP. It can also be argued to give greater certainty to developers and facilitate sustainable development. It would not however compensate entirely for the loss of information from detailed site specific evaluation.

9. Intelligibility of the current system

The system of protection is fragmented, between different legislation eg the 1979 Act, the planning system, and the different organisations/teams that deal with it. There is a need to re-articulate how the different elements of the whole system work together (even if there is no change in legislation or policy) including scheduling, NI, local listing, HER sites. This could improve intelligibility for users and help to dispel the view (still persisting in some areas) that scheduled monuments represent the extent of the archaeological resource.

10. Holistic management of the environment

The desirability of holistic legislation, policy and management for the environment was supported, including bringing together archaeology and the built historic environment and, as a longer-term objective, linking together the natural and historic environment. Collaboration with natural environment colleagues is needed to build common agendas; specific initiatives could include for example seeking recognition of historic environment features within natural environment designations (eg SSSIs, NNRs).

11. Devolution and divergence

Divergence in legislation, policy and political agendas between England, Wales and Scotland was discussed; specifically the role of heritage in cross-cutting social policies in Scotland and Wales, and the recent changes in legislation and policy in Wales including many of the desired amendments to legislation identified in 3 above and the new statutory basis for Historic Environment Records. There was a perception that England is falling behind.

12. Local authority capacity

Concern about local authority capacity surfaced in every discussion; whatever the system of protection is it cannot be effective if there isn't an effective delivery mechanism. The reduction in staff numbers, the loss of experienced and senior staff, and the impact of this on the quality of decision-making were identified as issues, as were the vulnerability of the system to changes in political and senior management priorities in local authorities. Can we articulate the risk to local authorities and to the historic environment of reductions in staffing?

Statutory status for local authority services would make a difference, although in itself would not necessarily deliver sufficient resources.

13. Supporting and developing local authority services

The importance of defining and raising standards and performance in local authorities was recognised, and the need for a means of recognising and rewarding good practice was identified. In this context the LGA peer review process, and the important role of the professional institute, including the Cifa Registered Organisations scheme, were discussed.

There are however, in practice, few sanctions against local authorities that ignore their responsibilities under, for example, NPPF policies.

The need for a strategic overview of how local authority services are evolving was considered: for example, advice is needed on how best to deliver historic environment services including where they are located within the authority, optimum arrangements in two-tier authorities, between other groupings of authorities eg in regions, the desirability multi-disciplinary teams of specialists including

archaeologists, built historic environment advisers and natural environment specialists rather than single, isolated professionals. Who/which collaborations could provide leadership and best practice advice on delivering historic environment services in the 21st century? Could there be transitional funding for change?

14. New initiatives, good practice examples and other resources

Many examples of developing practice were mentioned at the workshop eg London (Greater London Archaeological Priority Areas), Surrey (identification and protection on non-scheduled nationally important sites, linked to NPPF and Local Plan policies), Chester (definition of character zones of differing significance including nationally important sites/zones), Dudley (brownfield sites risk assessments). These demonstrate how practice is evolving within the current system (despite the resource and capacity problems) but are not being widely enough discussed or disseminated. All of these have required the investment of resources.

Other very useful sources of information such as the Historic England monthly planning bulletin, and the Historic England casework information database were mentioned (<https://historicengland.org.uk/advice/hpg/planning-cases/>).

15. Public benefit

We need to articulate better the public benefit of what we do, including to other agencies, organisations, and individuals outside the heritage sector. We also need to engage the community more in protection and management, and in the planning and designation processes.

Workshop notes

Morning session

Opening discussion

The opening discussion, and the first workshop session that followed, focused on the question:

1. Is the current system of protection and management of archaeological sites through designation and through the planning system appropriate for the 21st century? How might it need to change in response to the challenges of (for example) deregulation in the planning system, Brexit, loss of public sector capacity?

A quick poll of the audience on whether the current system of designation, and the planning system, are fit for purpose in the 21st century produced a roughly even split, for both systems, between those who thought that they were fit for purpose, and those who thought that they weren't.

Issues raised:

The planning system – what's been happening:

- Deregulation and 'streamlining'
- More permitted development, fewer applications
- Use of pre-commencement conditions under scrutiny
- Pressures on Local Authorities to deliver housing, and therefore to give permissions regardless of other considerations

But, as a counter balance:

- The political context is changing – is 'deregulation' now toxic?
- There is continuing dialogue with government
- There **are** some positive opportunities for change

Rural issues and Brexit

- There will be an Agriculture Bill: the natural environment is already recognised as an issue, and the historic environment needs to be a consideration too
- Potential loss of funding through agri-environment schemes for management of the historic environment

Other Brexit issues

- English devolution
- Loss of European funding for eg regeneration
- Threats to legislation such as EIA regulations

Local government issues – delivering the system we have now

- Loss of capacity is a major issue
- But we also need to improve performance:
 - Through leadership
 - Through improved standards
 - Through improving and redesigning work streams in HERs and casework
- We should articulate better the public benefit of what we are doing
- Designation: we need a more integrated approach – scheduling is underused

Workshop session 1

Table A Facilitator: Lizzie Glithero-West

Whatever the system is, there is a loss of capacity – this is fundamental to its effectiveness

Statutory basis for services would make a difference.

Planning changes might not be possible at the moment, but resourcing could be improved without recourse to legislation.

Loss of planners may lead to de-regulatory pressures.

Scottish government's strong emphasis on local communities – potentially a different focus from in England. Is our current system really local?

With changes to the NPPF there might be opportunities to strengthen it – but this may be risky.

Need evidence to show that PiP is a bad idea and that information/assessment in advance saves money and time in the longer term.

Up front work in Local Plans is desirable but where will the detailed information come from in the absence of assessment/evaluation?

The 'protection system' is not one integrated system but several glued together and it's vulnerable to political whim.

There is variability within local authorities.

The 1979 Act and the Planning Acts don't fit well together. The 1979 Act is a powerful act but there hasn't been much scheduling recently.

Scotland might be more amenable to local listing, regional importance.

People aren't looking for more regulation.

Should there be higher levels of designation?

There are lots of vulnerable known sites, and there is a risk to those not yet identified.

Scotland can do things that England cannot.

Changes in Scotland and Wales to legislation eg defence of ignorance, scheduling of sites without structures.

CIL is a disaster.

Lack of transparency in SMC process.

Class consents don't make sense to the public.

There are archaeological designations that we don't use eg Conservation Areas. Could they include more archaeology?

Brexit - could it be an opportunity to streamline legislation?

EIA regs.

Table B Facilitator: Vicky Hunns

The 1979 Act is difficult to justify in the 21st century as it's separate and for a specific group of assets. Planning system is quite integrated in comparison.

We'd like the sector to develop a shopping list of easy and radical things to do to address the issue: the radical to be used for lobbying if the planning system continues to deregulate.

Discussion around developing a more 'landscape approach':

- Positive in that it could be a conservation area approach to scheduling and could be more inclusive.
- Negative in that the controls placed on asset management mitigate against it.
- Strongly felt that 'management regime' is the issue, not identifying significance.
- Landscapes are at risk from practices that don't have an impact on heritage sites in themselves, but do have an overall impact on place and this is less easily managed.

Is there a 'lighter touch' to improving protection?

- Through bringing into play existing legislation such as Part II of the 1979 Act – but this has flaws – it doesn't include 'polluter pays' principle and just invokes delay.
- Using Local Plans as a hook - There are examples being defined of 'premier archaeological landscapes' – a locally driven landscape scale designation being given weight in local plans (eg North Yorkshire). Each has an appraisal with key sites/areas identified and how they interact with each other. Rest of the landscape is treated as an alert area for planning.
- Could consider how heritage could fit in with other existing designations e.g. SSSIs – which are designated for their 'notifiable features' – the elements that make the asset special. Currently this doesn't include historic environment interest (humans) but the habitats are usually a direct result of human action and no link is being made either in terms of significance or management.
- Use existing facility for SoS to agree that an asset is of national significance if designation is not possible – but this currently is not held as a 'parallel list' only a record of decisions taken.
- Good potential to continue/improve protection of the historic environment in rural development programme if food production and deregulation is an issue in future – have a base payment with additional environmental controls, but we need to lobby for this now.

Seems to be consensus that there should be more public funding to understand and identify elements and how they should be protected and managed:

- This has resource implications, however some projects (eg Roman Rural Settlement Project) have been allowing a better understanding of potential sites/impacts, which has an impact on streamlining engagement/evaluation etc needed.
- Develop better research frameworks/fill the gaps - Need work to strengthen our understanding of different monument types and how significant they are – presently knowing (for example) the importance of urban sites (or their components) is problematic without designation. Consultants also report that they may feel they have identified sites of national importance but without a framework it is difficult to justify to client/challenged as 'opinion'.

- Need to also understand incremental loss, and how this affects significance/how an asset should be managed into the future. This is a particular issue in the context of the debate about protection vs public benefit gains.

What do we want?

- Create a better infrastructure for helping show where areas of interest/focus are before development etc – and look at how other disciplines use their systems (eg SSSI using notifiable features to draw attention to the key elements).
- Proper assessment and evaluation.
- Identify the crucial issues for management on sites, to help owners and developers (and curators) understand what is needed.
- Retain mitigation by condition.

How might current system need to change in response?

- Challenge the ‘archaeology is everywhere’ perception - get better at targeting invasive evaluation (ie better use of technology, research frameworks, mapping projects).
- Make spending money on archaeology more attractive – make a better connection between community and commercial archaeology.
- Look at existing datasets/mechanisms held by other organisations to see if they can be enhanced or filtered for a different use (eg SHINE - which is an England-wide dataset of c.100,000 rural sites, and groups of sites, of known size and extent, defined by local HERs as high, medium or low significance, and which can be ‘managed’ as sites (through agri-environment). The SHINE-portal has IT capability to split sites into smaller components to highlight different management needs and monument types or components. This could potentially be adapted for other uses.

Table C Facilitator: Ken Smith

The system is 100+ years old (with some evolution) – there is room for improvement.

A need for an integrated approach, including archaeology/buildings *cf* other countries such as the Netherlands.

Different legislation applies to archaeology and buildings, and there are cultural and legal differences in how they are dealt with. Why is there such a difference? NB cautious approach to scheduling.

The historic environment could be better joined up with the natural environment: historic area + habitats. HE could support NE initiatives, and there could be better joining up with Wildlife and Countryside Link. But there are important differences between the natural and historic environment – the latter cannot be moved or regenerated eg ‘there are no breeding pairs of hillforts’.

Change:

- Class consents: scheduled monuments are still being legally destroyed by cultivation.
- Consultation: better public engagement is discussed but this doesn’t seem to apply to the SMC process – there could be an online consultation process.

- On local democracy and the planning process: remember that 75% of decisions are made by officers, not members.
- Brexit: look for opportunities wherever they might be, and have list of changes wanted ready to propose. Change takes time eg Hoveringham gravels decision in 1970s -> PPG16 in 1990.
- Note gains made recently in Wales and Scotland through legislative, policy and organisational change.

Loss of public sector capacity = the elephant in the room. Recent problems include Lancashire; to lose much more would lead to collapse. A regional approach in the medium – long term?

Nationally important and undesignated:

- In Chester an HE funded project has created character zones of differing significance. Synthesis of information led to the identification of nationally important zones/sites.
- External resourcing needed to create extensive urban survey + approach
- Could use AAls?
- There are significant scheduling issues in an urban context
- There should be a continuum from scheduling through to local listing (resourcing issues)
- Bristol *Know Your Place* initiative – managed by LA, with public value

Table D Facilitator: Rob Lennox

1. Protections vs. management

The group sidestepped the question of why they voted for or against the question of appropriateness of the current system of designation and the planning system. Instead the primarily local authority representatives focussed on the importance of management.

A number of contributors represented authorities where protection worked well and systems were implemented and managed well. It was noted that this positive working was highly dependent upon:

- Getting good support
- Being properly embedded within local planning policy
- Having the right relationships with planners (and others)
- Having ‘bosses’ who were friendly towards heritage
- Having appropriate resources

It was noted that, where these things were in place, systems which enabled local listing, Historic Landscape Characterisation, definition of archaeological priority areas, etc were possible and effective.

However, other contributors shared personal experiences of where new, unsympathetic, bosses had come in and upset positive processes, and another of building back up a service after such a period of decline. It was suggested that the ultimate vulnerability of this system is rooted in the lack of any

protection for services – i.e. they are not statutory, or responsive to lobbying from the sector in support of effective services.

Implication: What more could the sector (HE or ClfA?) do to lobby on behalf of services?

An additional problem was the existence of those in the profession who were doing poor work, and did not have the best interests of the profession at heart.

The idea of an ‘iron triangle’ of curators, contractors and ClfA was proposed in order to achieve positive practice:

- ClfA need to work to improve standards (good practice -> standards) and set them at a higher level.
- Curators need to be supported to utilise ClfA reporting mechanisms
- Contractors need to be held to account
- All should play an active role as ClfA members to help improve the ‘teeth’ of the system (It was noted that there had been another workshop on standards)
- Closer working between ClfA/RTPI to encourage good understanding between planners and historic environment professionals

2. Scheduling

The group discussed the problem of a historically low level of scheduling.

The benefits of a graded system of scheduling were discussed, enabling regional or landscape scale significance to be recognised. The identified need implied that currently undesignated sites are not recognised as having significance.

A Surrey case study was discussed: the definition of significant non-scheduled sites that could be protected through the use of NPPF paragraph 139 and the Local Plan. It was proposed that HE could easily conduct research to ascertain how many LAs currently do likewise or similar.

3. Encouraging positive management

The group discussed a number of other good practice examples for example: Nottinghamshire’s use of **conservation management plans** for sites. The creative use of models for encouraging **public engagement** was also mentioned as something which should be at the heart of heritage in the planning system but which is still outside the mainstream culture of expectations surrounding archaeology as a ‘box-ticking exercise’.

Respecting that there may be local differences in ability to lever certain levels of mitigation, it was suggested that more could be encouraged to be more creative. In short: If you don’t ask, you don’t get. This was part of a wider process of culture change and good practice which could be encouraged by ClfA and/or HE.

There was a discussion of the value of archaeological projects: some projects have more value in them than others, and a creative approach to unlocking that value is important. There should/could be a challenging of the assumption that ‘all archaeology is equal’.

It was also noted that there were also good examples of authorities (e.g. Dudley) who are effectively preparing for upcoming legislation changes, for example, by preparing brownfield risk assessments. Again, this is an area where research into local strategies to mitigate the impact of changes in the system would be useful.

4. Engaging with LEPs

The group discussed the current engagement of the sector with Local Enterprise Partnerships. The potential to improve influence and support for decision-making was identified.

It was noted that Historic England were not official consultees on LEPs, and that HE's involvement was primarily on the issue of attempting to get them formalised in the planning process.

It was agreed that HE could lobby to become a consulting partner on LEPs and from there seek specific outputs for the historic environment. Guidance could be produced to aid this process, although some contributors bemoaned the existing weight of HE guidance. However, it was universally agreed that case study approaches were useful.

The HE planning bulletin was praised, and it was noted that HE also have a reference database of legal cases. This was news to some contributors, and so could potentially be promoted further.

It was also noted that there was, perhaps, a regional advocacy vacuum, with HE particularly identified as having a role in this regard. The issue of house building trumping all was noted, but that there were case law examples and positives to emphasise.

Plenary session 1 - summaries of feedback

Table A

Loss of capacity in delivering the current planning system
Statutory HERs are needed
Delays and difficulties in implementation bring the system in to disrepute.
CLG may be listening a bit more
Change in Wales and Scotland but not in England
What's important to local communities?
Planning in advance does save time and money – no delays
There is potential for using other designations
Problems with the current consent process

Table B

We need a shopping list for change
Importance of lobbying
Create better infrastructure to show what's important before discussions regarding development start
Areas *cf* natural environment with identifiable features
Evaluation is still important but use research frameworks and RRS etc

Better connections with communities.

Table C

It's a 100 yr old system, there's room for improvement. But evolution, not revolution is needed.

The Netherland has an integrated designation system. There is a need for the integration of archaeology and the built historic environment, although they are founded on different legislation.

Why is there such a big difference between the numbers of LBs and SAMs?

Differences too with the natural environment: SMs are dots, SSIs are areas. Why can't SMs include setting?

The public doesn't understand why SMs are being destroyed eg through operation of class consents.

Need for public engagement in the SMC process, like in the planning process eg through Neighbourhood Plans.

Local democracy is seen as a risk area but the majority of decisions are made by planning officers, not members.

Potential of private members bills to effect change

Local authority capacity issues – need for a regional system?

Chester has used character zones based on predictive modelling. Requires a considerable amount of synthesis and research, and therefore a problem for local authorities to undertake because of lack of capacity.

A sliding scale from scheduling through to local listing.

Table D

The success – or not – of the current system depends on how it is delivered, and needs political support in local authorities to implement.

Poor quality staff can hamper things.

Need to improve relationships between curators, planners and contractors

Enforcement – not enough teeth

Scheduling: there isn't enough. Needs a grading system, national, regional, local

Good practice examples are important: conservation management plans, and need public engagement in Development Management and WSIs

Refocus and choose where we intervene.

Engage with LEPS – need help from HE to lobby

HE has a planning cases database but this is not widely known – need to make more accessible and publicise

We need some big ideas, and we need to share good practice

Need to talk to people outside the sector eg CEOs, developers, and explain what we are doing in terms of others people's agendas.

Afternoon session

Following the discussion at the end of the morning session the questions for the afternoon were reformulated as follows:

2. What legislative opportunities/threats are there in the short/medium term? What is our shopping list for advocacy and change? Table A
3. How do we respond to NPPF paragraph 139 and identify /manage sites of equivalent significance to scheduled monuments? Is the proportion of designated to undesignated assets appropriate? Table C
4. How might we need to change our professional practices (eg in national and regional strategic planning and development management) in the light of the changes to the planning system? Table D
5. What is our longer term vision - working towards more holistic designation/management eg through merging natural environment, historic environment, landscape designations? Table B

Table A Lizzie

2. What legislative opportunities/threats are there in the short/medium term? What is our shopping list for advocacy and change?

- Possibility of using private members bills to take forward new legislation
- Use current legislation properly and fully; do an analysis of issues/potential eg class consents, Part II of the Act, exempt sites from PD: sites on HER v scheduled, statutory HERs, interim protection, defence of ignorance, sites without structures

Forthcoming legislative opportunities:

- Housing White Paper
 - Amendments to deal with PiP
 - NPPF tweaks?
 - Para 139 sites to be treated as equivalent to SMs
- Immigration Bill
 - Exemptions for accredited professionals
 - Archaeology identified as area of shortage *cf* construction
- Fisheries Bill
 - Marine protected areas
- Agriculture Bill
 - Funding post-CAP
 - Payment for environmental services
 - Heritage as a public good
 - Review class consents
 - Tourism angle
 - Eco system services approach: not about protecting for own sake but for public benefits
- Industrial strategy: heritage skills
- HS2 Bill: archaeological issues
- Digital strategy
 - citizen friendly heritage services
 - engagement with planning system,
 - statutory HERs

- One stop shop
- Heritage legislation – changes needed
 - Statutory HERs
 - Interim protection
 - Defence of ignorance
 - Sites without structures
 - Better use of existing system + minor amendments
 - National Importance sites
 - Class Consent
 - Better use of Conservation Areas

Risks are that none of the above happens, and/or there is damage caused to existing systems.

Changes to the NPPF are coming and may weaken the weight to be given to heritage - team up with natural environment and construction industry.

Experiences and emphasis in Scotland is are different

Table B Vicky

5. What is our longer term vision - working towards more holistic designation/management eg through merging natural environment, historic environment, landscape designations?

Legislative opportunities:

- No legislative opportunities to merge designation regimes with the nature conservation sector.
- Potential improvement via minor amendment to Class Consent 1 (statutory instrument) to provide clarity for owners by giving a new 'historic reference period' so they understand when the 'start' and 'end' of their reference period is.
- Post Brexit – work to ensure that the historic environment remains part of the environmental assets protected and managed as part of any new agriculture scheme mix
- A consensus that our aim should be to become more holistic in approach, with 4 key areas to develop:

1. Engage with existing designation regimes as a 'bolt on' to give recognition of historic environment in SSSI/SAC/NNR/LNR etc (for example, as notifiable features)

- Perhaps most relevant to rural sites
- Each sector currently understands significance as a concept, but does not recognise significance of other environmental interests (in designation at least).
- The fundamental issue to be addressed is understanding what is there and how it needs to be managed - for all of its interests (recognising that some may be more significant than others)
- Develop more multi-disciplinary training and courses (for example, in environmental management)
- Concept fits well with emerging NE 'Conservation Strategy' which puts *people at the heart of nature*

What can we do? Start talking to natural environment organisations and agree a plan together. We won't achieve anything unless we actively start a dialogue.

2. Cultural Change – embrace integration - bring archaeological and historic building (and nature conservation) staff together into integrated teams.

Anecdotal evidence suggests that, although perceptually a negative 'efficiency saving' in some authorities, there are a number of positive benefits arising from specialists from different disciplines (and geographic areas) working in co-located integrated teams, and taking away the layer between aspects of the historic environment development management being managed by Districts, and other services in Counties.

- There is a role for HE (and others) in explaining the benefits of working together, in similar locations and avoiding silo-working
- It would be helpful to develop well-evidenced best practice advice on delivering historic environment services in the 21st century, to assist LAs in making decisions about how to adapt (and so that we can offer a positive element to rationalisation – if well informed)
- Anecdotal evidence from Unitaries who have been through this process suggests that they have better parity of advice, and specialists are better supported professionally and in terms of well-being
- In addition, it would be helpful to be able to articulate in clear (and monetary) terms, the 'risk' (to Local Authorities) of heavy reductions to services to help inform decision making about change

What can we do?

a. Develop evidence to evaluate the benefits of integrated working so that there is a sound evidence base that develops best practice. This could include considering the impact on:

- parity of responses across an area,
- isolation of staff and well being
- mentoring/support of less experienced staff.

b. Develop an understanding of the impact of loss of expertise in advisory services and defining it in terms of the relative 'savings' made by services, when considered against risk and costs incurred as a result. This could include considering the impact (on LA, Historic England etc) of using isolated specialists, inexperienced or junior staff and include:

- Making mistakes/poor decisions
- Number of public inquiries (and results)
- Number of problems/fines received
- Staff welfare
- Supervision of inexperienced staff
- Quality assurance of advice

3. Embrace softer forms of designation

What we can do:

- Use Local Plans as a 'hook' to allow LAs to protect different assets/characteristics that have been identified by the authority as important to the area – eg premier archaeological landscapes, nationally important sites, local listings
- Define national importance 'criteria' so that it is not open to debate at public inquiry and ensures a consistent approach across authorities (and England)
- Review historic characterisation outputs/methods to see if there is a holistic way of doing 'characterisation' that can bring the various strands being promoted together (eg Conservation Area, Historic Area Assessment etc) which could bring different methods/products and stop them being played off against each other/reinvention of the wheel.

4. Look at existing tools available to determine 'significance' that have been produced by others in the sector

What we can do:

- Look at existing tools (eg SHINE) that have been developed using consistent data standards to consider if/how they could be used to flag up 'national' (and regional and local) significance – and management needs of assets - in wider contexts/uses. Consider options for adaptation ie to 'tag' records for different users/needs that can allow easy filtering of results for (for example, land management change/farm practices, development management).
- Promote the use of other datasets within and outside of the sector as the means to understand significance (eg National HLC) – and link in with softer designation if appropriate
- Review the Areas of Archaeological Importance to see if there is a value or potential in revitalising the use of this tool

Table C Ken

3. How do we respond to NPPF paragraph 139 and identify /manage sites of equivalent significance to scheduled monuments? Is the proportion of designated to undesignated assets appropriate?

National Importance

Take the project forward.

Criteria? Who assess, who checks and validates? Needs to be robust otherwise likely to be undermined at public inquiry. Para 139 doesn't indicate numbers, and appropriate designation is still required.

The sector could develop criteria and processes without recourse to legislation, enabling the implementation of Para 139 nationally. Partners will be: HE, CIfA, ALGAO, IHBC, DCMS, CLG.

However, what if the planning process is being bypassed eg through extension of PD rights, special planning zones, local development orders etc?

There is a government commitment to not damaging, maintaining protection of the historic environment but, despite this, there is for example, a developing reluctance to use pre-commencement planning conditions.

Need to develop a partnership with DCMS on designation/NI.

Quantitative and qualitative testing of a sample - ?c 15% of sites. Could be justified as streamlining.

All types of sites need to be included in the system: Pyramid of importance:

SMs

—————
NI undesignated

—————
The rest, including local listing

The assessment process will itself deliver useful information that can be used in protection and management.

There will be resourcing issues but should be able to sell to government as a streamlining. No need for new legislation.

The NI process needs to be based on HERs, for better or worse, including NMP data.

We could push in the longer term for a link to the GDPO eg definitions of 'sites of archaeological interest' excluded from eg PD.

Designated/undesignated

The proportion varies across the country and is not in itself important; what matters is significance.

As part of the same process of identification of nationally important sites those which should be scheduled could be identified. Issues for HE: the schedule is patchy, inconsistent, not proportionate spatially or thematically. Needs to be revised: 'get rid of the crap'. But there is a risk that it will be seen as 'La crème de la crème'. Cf current Collaborative PhD: 'Beyond the List' in progress at York.

Hague convention issue: it only recognises Guardianship because there is no graduation within the schedule.

Table D Rob

4. How might we need to change our professional practice (e.g. in national and regional spatial planning and development management) in the light of changes to the planning system?

The group focussed on changes we can make to professional practice, drawing on the local authority experience of the group.

Headlines:

- Systems for effectively managing risk
- Seeking proactive benefits (stepping sideways where planning changes create problems- eg neighbourhood plans and unsticking problem sites)
- Getting out of the box: working together with others (eg natural environment)
- Frontloading and evidence gathering (practice and advocacy/messaging: helps to drive development and achieve wider benefits). The more you do the easier it is to deal with development
- Seeking existing best practice and assessing those that need help
- Pump-priming and encouragement toward good practice

What needs to be in place for this to happen:

- Training (webinars, etc)
- Job swaps / mentoring
- Mentor practitioners
- Peer group discussion of good practice –LGA peer review process, ClfA peer review in RO scheme
- Acknowledging where people are doing things well → An accolade system (enforce success with good authorities)
- Historic Environment audit (there is already an HER audit): Note ClfA standard on archaeological advice
- Transitional funding for organisational change
- How can HE support and recognise good practice in LAs? Angels Awards?

The group discussed the following specific policy changes:

Permission in Principle and Brownfield registers:

- Being creative:
 - Increasing front-loading / evidence gathering
 - Using natural environment levers / working together
- Approaches to using 'Risk maps' as a way to identify potential for brownfield sites
 - Is this sufficient. There was a split between those who feel that they will aim to keep any high potential sites off Schedule 2, and others who thought this was unlikely.
 - The pressure coming down the chain of 'is it really a "red" or could it be an "amber"' was noted.
 - 2 tier authorities felt that they will have less control over this than unitaries.
- Approaches to keeping sites off Schedule 2 could be shared.
- Keeping an eye out for a disaster to exploit!
- Beware the thin end of the wedge.
- It was noted that there will be considerable overlap of concern with environmental specialists and that communication between these professionals should be examined.

Deregulation:

- The group discussed being proactive in the face of deregulation and using the opportunity to direct resources to focus on other areas of potential benefit, e.g. unsticking problem sites / sites with approvals and stalled development, or trying to improve uptake of historic environment protections in Neighbourhood Plans.
- Alternatively, or additionally, pushing the agenda that regulators keep you safe!
 - Be ready for the archaeological disaster...
 - Model best practice, endorsed by HE.

Conditions:

- Suggestion: Blanket recommendation is flat refusal if conditions have not been accepted by developers.
 - A need to monitor pressures and levels of refusal was identified.
- It was suggested that an update to the wording on conditions in GPA 2 may be beneficial.
- There was a need to root out those LAs who are currently over-reliant on conditions and are not doing enough to front-load assessment, due to capacity or simply poor practice. These authorities are likely to be hit hard.
- A legislative opportunity to look at a system of mandatory reporting of archaeological finds was mentioned, possibly utilising a system of online reporting.

Planning freedoms:

- Were mentioned (with several around the table not aware of the provision in the Housing and Planning Act) but it was agreed that we don't yet know enough to react.

Changing the scope for small scale work:

- Developing a point in the previous session, it was suggested that there was a potential to realise better the potential of archaeological intervention which delivers:
 - Maximum returns in terms of understanding the historic environment
 - Better public engagement
 - A more reasoned approach to risk management.
 - Gradually changing the culture of pursuing an informed assessment of risk.
- Ensuring that government understand that they are cutting this out by current deregulatory changes.
- Recognising the 'black swan' of the unexpected finds can be a problem.

Training, learning, working together:

- A programme for job shadowing / mentoring would be beneficial.
- Promote good practice eg Surrey, London, Chester
- A nationally prescribed model for encouraging working across planning/archaeology/natural environment
- Encourage, in particular, relationships between archaeology and planning
- It was suggested that there is potential for a prescriptive line on how LAs should be organised, eg:
 - Interaction between county and district.
 - Integrated planning/historic environment teams
 - Resisting placement within culture/arts teams.

General things:

- Be more savvy, more proactive, engage with different people, have new skills sets
- Be creative with solutions
- Get away from the negative

Making better use of neighbourhood plans:

- A useful tool to;
 - Engage the public
 - Get useful benefits like HER enhancement / protection for ridge and furrow, etc.