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11 March, 2015

Dear Ms Wood,

**Consultation on Building more homes on brownfield land**

Thank you for the opportunity to comment on this consultation.

**The Chartered Institute for Archaeologists**

The Chartered Institute for Archaeologists (CIfA) is a professional body for the study and care of the historic environment. It promotes best practice in archaeology and provides a self-regulatory quality assurance framework for the sector and those it serves. The Institute was granted a Royal Charter of Incorporation on 03 June 2014.

CIfA has over 3,200 members and more than 70 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.

**The Association of Local Government Archaeological Officers: England**

The Association of Local Government Archaeological Officers (ALGAO) is the national body representing local government archaeology services at County, District, Metropolitan, Unitary and National Park authority level. These provide advice to nearly all the District, Unitary and other local government bodies in the country.

ALGAO: England co-ordinates the views of its member authorities (currently 97 in total) and presents them to government and to other national organisations. It also acts as an advisor to the Local Government Association (LGA) on archaeological matters. The range of interests of its members embraces all aspects of the historic environment, including archaeology, buildings and the historic landscape, and its stated aims are to:

- provide a strong voice for local authority historic environment services and promote these to strengthen and develop their role within local government in delivering local and national government policy
- ensure local government historic environment services are included within policy (national and local) for culture and education
- ensure that policy aims to improve the sustainable management of the historic environment
- promote the development of high standards in the historic environment profession.

## **Building more homes on brownfield land**

### **General**

ClfA and ALGAO: England support the delivery of housing on suitable brownfield land. However, this support has to be tempered by recognition of the potential (by definition) for such previously-developed land to be of archaeological interest. Any measures to facilitate the delivery of brownfield land must contain adequate safeguards to ensure that the significance of heritage assets is properly addressed and that such assets are adequately managed and protected. In particular, any proposals should not (deliberately or inadvertently) reduce the level of protection for the historic environment.

### **Specific Questions**

#### **Question 1: Do you agree with our proposed definition of brownfield land suitable for new housing and the criteria that are applied to define land suitable for new housing?**

##### 1.1 Yes, provided that

- the exclusion of land *‘which is subject to severe physical, environmental or policy constraints’* (paragraph 14 of the consultation document under the heading *‘Free of constraint’*) is clearly explained to encompass land where redevelopment would not ordinarily be permitted due to its unacceptable impact upon the historic environment and
- where constraints exist in relation to the historic environment which are not deemed to be *‘severe’*, those constraints will, nevertheless, be fully addressed and appropriate mechanisms put in place to mitigate or compensate for any harmful impact upon heritage assets. This would normally be done by the imposition of conditions or the acceptance of planning obligations and care needs to be taken to ensure that a similar level of scrutiny and oversight can be achieved where local development orders are pursued. The need to ensure that such constraints are addressed and appropriate mitigation / compensation is secured (for instance, through recording, archiving and publication) should be made clear in any accompanying guidance.

**Question 2: Do you agree that local planning authorities should be transparent and publish the small subset of data at source, and update it at least once a year, to a common standard and specification?**

2.1 Yes, provided that

- the desire for transparency and expedition does not lead to the early identification of sites without proper consideration of constraints and
- it is made clear that the publication of such data does not preclude the need in some cases for subsequent archaeological evaluation / assessment in order to determine whether development is likely to have harmful impacts upon the historic environment and, if so, whether such impacts preclude development or require appropriate mitigation / compensation in order to make development acceptable.

**Question 3: Do you have views on how this common standard and specification should be developed?**

3.1 No comment.

**Question 4: Do you agree that local planning authorities should review their baseline and progress regularly, at least annually, to ensure that information about permissions on suitable brownfield land is current, reflecting changes in the availability of suitable housing sites?**

4.1 Yes.

**Question 5: Do you think that the designation of under-performing planning authorities in the way suggested would provide an effective incentive to bringing forward planning permissions on brownfield land?**

5.1 Designation of under-performing planning authorities may provide an effective incentive to bring forward planning permissions on brownfield land. However, ClfA and ALGAO: England remain concerned that such a mechanism may not invariably work in the public benefit.

5.2 Firstly, it should be noted that the proposed planning performance mechanism differs from those already introduced (which look at the speed with which decisions are made by planning authorities and how effectively such decisions are defended on appeal). The proposed mechanism is concerned effectively with whether permission is granted.

5.3 This potentially provides an undesirable incentive to pursue local development orders notwithstanding the existence of legitimate objections to the grant of planning permission. It might be argued that this should not be the case, since the planning

performance mechanism will only apply to 'suitable' sites. However, there is a risk (as noted above) that the desire to see the early production of data will lead to the identification of 'suitable' land at a time when constraints have not been fully assessed. This is of particular concern in the case of archaeology where archaeological potential is a key component of archaeological interest and subsequent assessment / evaluation can lead to a revised appreciation of opportunities and constraints. Once identified as 'suitable', however provisionally, there is a risk that this will then become a self-fulfilling prophecy.

5.4 Nor is this concern confined to archaeology. Many wildlife assessments (for instance, in relation to bats and flora such as orchids) are time-sensitive and can only be carried out at particular times of the year. The desire for early identification of suitable sites could result in the contravention not only of national but also of European regulation with regard to wildlife.

**Question 6: Do you agree that:**

- a) Authorities should be designated from 2020 if they have not met the 90% objective?**
- b) Performance against the 90% objective should be calculated on the extent to which the brownfield land suitable for housing identified a year earlier is covered by local development orders?**

6.1(a) See under question 5 above.

(b) Measuring performance in relation to the identification of 'suitable' land a year earlier fails to recognise the fact that assessments of the suitability of land may (quite legitimately) change over time.

**Question 7: Do you agree that:**

- a) Authorities should be assessed against an intermediate objective in 2017?**
- b) Having local development orders in place on 50% of brownfield land identified as suitable for housing (and which does not already benefit from planning permission) in the preceding year is an appropriate intermediate objective?**

7.1 See under questions 5 and 6 above.

**Question 8: Do you agree that authorities should be designated from 2017 if they have failed to make sufficient progress against the intermediate objective?**

8.1 See under question 5 above.

**Question 9: Do you agree:**

- a) With our proposed approach to identifying and confirming designations, including the consideration of whether exceptional circumstances apply?**
- b) With our suggested approach to de-designating authorities from 2020?**

**c) That the provisions for handling applications made to the Secretary of State should be the same as where an authority is designated under the existing performance measures?**

9.1 No comment save that, with regard to question 9(c), the availability of archaeological advice to the Secretary of State will be a key component of those provisions. The Secretary of State should ensure that adequate funding is available to local authority archaeological services to enable them to provide that advice.

**Question 10: Do you:**

**a) Think the policy-based approach would provide an effective incentive for authorities to put local development orders in place on suitable brownfield land?**

10.1 No. Any further alteration in policy of the balance between the provision of housing land and protection of the environment will make the historic environment vulnerable to unacceptable harm.

**b) Agree with the proposed thresholds and dates at which this measure would take effect?**

10.2 No comment.

**Question 11: Do you agree that the measures proposed for failing to publish information on progress are proportionate and effective? If not, what alternative would you propose and why?**

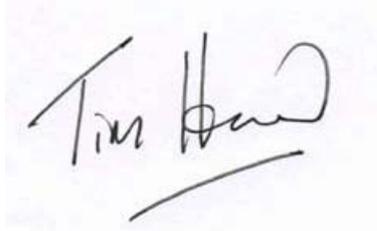
11.1 They would only be proportionate if they do not unduly impact upon the historic environment (as illustrated above).

**Question 12: Do you have any other suggestions for measures that could help to deliver local development orders on brownfield land suitable for new housing?**

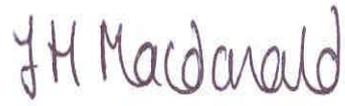
12.1 No comment.

ClfA and ALGAO: England in no way wish to undermine the facilitating of sustainable development on suitable brownfield land and would be happy further to discuss the issues raised in this consultation. In the meantime, if there is anything further that we can do to assist please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in black ink that reads "Tim Howard". The signature is written in a cursive style with a long horizontal stroke at the bottom.

Tim Howard LLB, Dip Prof Arch  
Senior Policy Advisor, CIfA

A handwritten signature in purple ink that reads "FH MacDonald". The signature is written in a cursive style.

Fiona MacDonald BA MCifA  
Chair, ALGAO: England