



Better Regulation Delivery Office
FAO Naomi Youngberg
The Axis
10 Holliday Street
Birmingham, B1 1TG

16 April 2013

Dear Ms Youngberg,

Consultation on Non-economic Regulators: Duty to Have Regard to Growth

Thank you for the opportunity to comment on this proposal.

The Institute for Archaeologists

The Institute for Archaeologists (IfA) 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.

IfA has over 3,000 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.

Non-economic Regulators: Duty to Have Regard to Growth

General

IfA's primary concern in responding to this consultation is with regulation affecting the historic environment and, in particular, with the implications of any new duty for English Heritage as the Government's statutory advisor on the historic environment.

Although the Institute understands the need for Government to consider options for growth, it does not support the proposed duty the subject of this consultation. What is more, IfA does not accept the implicit assumption upon which the proposal is formulated – namely, that regulation in relation to the historic environment is a constraint on sustainable growth. On the contrary, the historic environment has an important part to play in delivering sustainable development, place shaping, regeneration and public engagement, which should be recognised and supported.

Question 1: Should primary legislation be used to introduce a duty for regulators to have regard to growth and the economic impact of their actions?

No.

Government has stated that '*economic growth will not be at the expense of the countryside and heritage that we value*' (Government response to the Communities and Local Government Select Committee Report: National Planning Policy Framework, March 2012, Cm8322, paragraph 29). However, the imposition of such a duty risks subordinating environmental protection (including

protection of the historic environment) to economic growth, giving undue prominence to the latter and prioritising short-term financial gain over long-term sustainability.

Supporting growth is not the primary purpose of environmental regulators, just as protecting the environment is not the primary purpose of financial regulators (such as the Financial Policy Committee). English Heritage's statutory duties in advising Government and other decision-makers relate to the historic environment and this should remain its priority. It is for others to advise upon competing considerations and for the decision-maker ultimately to balance those considerations giving appropriate weight to each in accordance with policy.

Indeed, the precise circumstances in which the proposed duty would apply to English Heritage are not clear from the consultation. Would this only affect it as a decision-maker in its own right or would it apply more generally? In its advisory roles, English Heritage is neither equipped nor resourced to advise in any depth on matters outside its current statutory remit and to do so would be likely significantly to increase the prospect of challenge through the Courts.

Question 2: Is there an alternative means by which these objectives, described in paragraphs 2.1 to 2.6 above, could be achieved?

Yes.

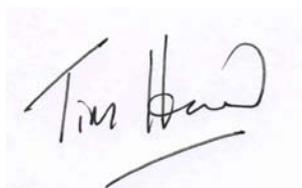
Through its Improvement Plan for Services 2012-2013 English Heritage is committed to ensuring that its advice and decision-making is focussed on promoting sustainable development (as defined in the National Planning Policy Framework, embracing '*economic, social and environmental gains ... sought jointly and simultaneously*' (paragraph 8)). This should be sufficient to promote Government's objectives in this regard in a way which would not jeopardise the historic environment.

Question 11: Is there any evidence that this will add significant burdens to regulators and why?

See the last sentence under question 1.

If there is anything further that I can do to assist please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tim Howard', with a horizontal line underneath.

Tim Howard LLB, Dip Prof Arch
Policy Advisor