Planning Consultation Team
Department for Communities and Local Government
1/H3 Eland House
Bressenden Place
London SW1E 5DU

25 September 2014

Dear Sir / Madam,

Technical Consultation on Planning

Thank you for the opportunity to comment on these proposals.

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.

The 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.

IfA has successfully petitioned for a Royal Charter of Incorporation which was granted on 03 June 2014.

Technical Consultation on Planning

General

IfA welcomes the continuing commitment of Government to producing a fit-for-purpose planning system which facilitates sustainable development and thereby protects and promotes the historic environment.

However, concerns remain that simplification and streamlining of the system without adequate safeguards for the historic environment will undermine its protection and promotion. In particular, IfA seeks assurance that

- proposals for the discharge of conditions would not countenance the completion of development without fully satisfying obligations imposed in the public interest for the protection of the historic environment and the advance in knowledge and understanding of it
- proposals for the permanent extension of permitted development rights would not jeopardise the management and protection of the historic environment (which includes both buried and above-ground archaeological remains, whether designated or not).

These concerns are elaborated (along with other issues) in response to the specific questions posed in the consultation. IfA's answers to these questions are concerned primarily with the impact of these proposals upon the historic environment.

Specific Questions

Section 1: Neighbourhood planning

Question 1.1: Do you agree that regulations should require an application for a neighbourhood area designation to be determined by a prescribed date?

1.1.1 Yes, provided that adequate funding is available to local authorities to meet any new burden (see paragraph 1.16 of the consultation document).

Question 1.2: If a prescribed date is supported do you agree that this should apply only where:
• the boundaries of the neighbourhood area applied for coincide with those of an existing parish or electoral ward; and
• there is no existing designation or outstanding application for designation, for all or part of the area for which a new designation is sought?

1.2.1 Yes.

Question 1.3: If a date is prescribed, do you agree that this should be 10 weeks (70 days) after a valid application is made? If you do not agree, is there an alternative time period that you would propose?

1.3.1 No comment.

Question 1.4: Do you support our proposal not to change the period of six weeks in which representations can be made on an application for a neighbourhood area to be designated?

1.4.1 Yes.

Question 1.5: We are interested in views on whether there are other stages in the neighbourhood planning process where time limits may be beneficial. Where time limits are considered beneficial, we would also welcome views on what might be an appropriate time period for local planning authority decision taking at each stage.

1.5.1 No comment.

Question 1.6: Do you support the removal of the requirement in regulations for a minimum of six weeks consultation and publicity before a neighbourhood plan or Order is submitted to a local planning authority?

1.6.1 No. Paragraph 1.4 of the consultation document states that this *'consultation proposes amendments to the current regulations that will make the neighbourhood planning process simpler and speedier'*. Since it is acknowledged at paragraph 1.23 that *'*[e]*xperience so far is that parish and town councils and designated neighbourhood forums have been undertaking effective, extensive and continuous consultation during the preparation of neighbourhood plan or Order proposals'* it is not clear how the removal of the requirement will make the process simpler or speedier, unless current practice is to change and less extensive consultation is to be undertaken.

Question 1.7: Do you agree that responsibility for publicising a proposed neighbourhood plan or Order, inviting representations and notifying consultation bodies ahead of independent examination should remain with a local planning authority?

1.7.1 Yes.

Question 1.8: Do you agree that regulations should require those preparing a neighbourhood plan proposal to consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process?

1.8.1 Yes.

Question 1.9: If regulations required those preparing a neighbourhood plan proposal to consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process, what would be the estimated cost of that requirement to you or your organisation?

1.9.1 Nil. As a professional body IfA, itself, is not directly involved in the operation of the planning process although its members and registered organisations are very much involved.

Are there other material impacts that the requirement might have on you or your organisation?

1.9.2 No.

Question 1.10: Do you agree with the introduction of a new statutory requirement (basic condition) to test the nature and adequacy of the consultation undertaken during the preparation of a neighbourhood plan or Order?

1.10.1 Yes. IfA would support this requirement whether or not the requirement in regulations for a minimum of six weeks consultation and publicity (as discussed above) is removed.

Question 1.11: Do you agree that it should be a statutory requirement that either: a statement of reasons; an environmental report, or an explanation of why the plan is not subject to the requirements of the Strategic Environmental Assessment Directive must accompany a neighbourhood plan proposal when it is submitted to a local planning authority?

1.11.1 Yes. Environmental assessment is a key mechanism to ensure that the environment (and, in particular, the historic environment) is adequately protected and promoted in both the strategic planning and development management processes.

Question 1.12: Aside from the proposals put forward in this consultation document are there alternative or further measures that would improve the understanding of how the Environmental Assessment of Plans and Programmes Regulations 2004 apply to neighbourhood plans? If there are such measures, should they be introduced through changes to existing guidance, policy or new legislation?

1.12.1 No comment.

Question 1.13: We would like your views on what further steps we and others could take to meet the Government's objective to see more communities taking up their right to produce a neighbourhood plan or neighbourhood development order. We are particularly interested in hearing views on:
• stages in the process that are considered disproportionate to the purpose, or any unnecessary requirements that could be removed
• how the shared insights from early adopters could support and speed up the progress of others
• whether communities need to be supported differently
• innovative ways in which communities are funding, or could fund, their neighbourhood planning activities.

1.13.1 No comment.

Section 2: Reducing planning regulations to support housing, high streets and growth

Question 2.1: Do you agree that there should be permitted development rights for (i) light industrial (B1(c)) buildings and (ii) storage and distribution (B8) buildings to change to residential (C3) use?

2.2.1 No comment, save that any changes should contain safeguards to protect the historic environment. Changes of use do not directly impact upon buried remains (although they may affect their setting) but, nonetheless, have implications for the wider historic environment and may involve works that would impact upon the significance of above-ground remains including buildings. IfA is pleased to see that new rights are proposed to be excluded on, in, or within the curtilage of listed buildings and scheduled monuments (although it would be better to extend these exclusions to include the setting of these heritage assets) and would like to see this exclusion extended to Article 1(5) land (see below).

Question 2.2: Should the new permitted development right (i) include a limit on the amount of floor space that can change use to residential

2.2.2 Yes.

(ii) apply in Article 1(5) land i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites?

2.2.3 Yes (see above).

(iii) should other issues be considered as part of the prior approval, for example the impact of the proposed residential use on neighbouring employment uses?

2.2.4 Yes, although, if the principle of development is already established (see paragraph 2.14 of the consultation document), prior approval would not prevent harm to the historic environment in any case where change of use is fundamentally incompatible with the management and protection of the historic environment.

Question 2.3: Do you agree that there should be permitted development rights, as proposed, for laundrettes, amusement arcades/centres, casinos and nightclubs to change use to residential (C3) use and to carry out building work directly related to the change of use?

2.3.1 No comment, save that
(i) IfA welcomes the exclusion of such rights on, in, or within the curtilage of listed buildings and scheduled monuments (although it would be better to extend these exclusions to include the setting of these heritage assets) and on Article 1(5) land
(ii) although changes of use do not directly impact upon buried remains, even minor building works can have a significant effect upon such remains (and upon above-ground remains including buildings) and any changes in this regard should contain safeguards to protect the historic environment.

Question 2.4: Should the new permitted development right include (i) a limit on the amount of floor space that can change use to residential

2.4.1 Yes.

(ii) a prior approval in respect of design and external appearance?

2.4.2 Yes, but further safeguards are required to address concerns about the impact of building works upon the historic environment (for instance, using 'sites of archaeological interest' as defined in the article 1(2) of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) as the basis (possibly subject to additional criteria) for excluding land from the benefit of the permitted development rights in question or requiring prior approval for their exercise).

Question 2.5: Do you agree that there should be a permitted development right from May 2016 to allow change of use from offices (B1(a)) to residential (C3)?

2.5.1 Only if rights are excluded not only on, in, or within the curtilage of listed buildings and scheduled monuments (although it would be better to extend these exclusions to include the setting of these heritage assets) but also on Article 1(5) land.

Question 2.6: Do you have suggestions for the definition of the prior approval required to allow local planning authorities to consider the impact of the significant loss of the most strategically important office accommodation within the local area?

2.6.1 No.

Question 2.7: Do you agree that the permitted development rights allowing larger extensions for dwelling houses should be made permanent?

2.7.1 No, not in the form proposed. IfA raised significant concerns about the temporary extension of these rights in response to the Department's consultation in December, 2012 (IfA's letter dated 20 December, 2012 is attached for information). That response highlighted the following issue:

> *'However, there is one serious concern that needs to be addressed in relation to the extension of permitted development rights for operational development involving ground disturbance. This relates to areas where there is known high archaeological interest below ground and upon which there is usually residential housing, mostly dating to the 19th and 20th centuries, but occasionally of earlier periods. For most such sites/areas, the archaeological interest relates to urban or sub-urban settlements and cemeteries dating to the Roman period (cAD40 to AD450). The sites/areas are characterised by the discovery of archaeological remains (including human remains) before or during small-scale, notifiable developments, mostly house extensions. A significant proportion of sites/areas within this category are immediately adjacent to the boundaries of Scheduled Monuments. In almost all instances where archaeological potential is identified within such sites/areas by the local planning authority, planning permission is granted with a condition to require appropriate archaeological investigation in accordance with the National Planning Policy Framework and local planning policy.*
>
> *This is thus an issue which will only arise in certain areas and, in most cases, would not prevent development. However, these areas are not currently protected by formal historic environment designation (Conservation Area, Scheduled Monument, Listed Building, Registered Park or Garden) and significant damage would be likely to occur if the ability, where appropriate, timeously to investigate, record and increase our understanding of the past through the provisions of the current planning system (NPPF) were lost or compromised. Furthermore, the provision of an efficient mechanism to manage this impact would in many instances expedite the development process where remains (including human remains) would otherwise be found in the course of works.*
>
> *Current permitted development rights already carry some risks for the historic environment, but the significant extension of those rights would increase that risk to an unacceptable degree given the*

larger areas and volumes of archaeological deposits at risk and the consequent, potentially greater and irretrievable loss of understanding of their significance.'

2.7.2 This concern has not been adequately addressed and, as yet, sufficient time has not elapsed to provide evidence to substantiate or discount it. Consequently, IfA suggests that these rights should not be made permanent at this time.

Question 2.8: Do you agree that the shops (A1) use class should be broadened to incorporate the majority of uses currently within the financial and professional services (A2) use class?

2.8.1 No comment.

Question 2.9: Do you agree that a planning application should be required for any change of use to a betting shop or a pay day loan shop?

2.9.1 No comment.

Question 2.10: Do you have suggestions for the definition of pay day loan shops, or on the type of activities undertaken, that the regulations should capture?

2.10.1 No comment.

Question 2.11: Do you agree that there should be permitted development rights for (i) A1 and A2 premises and (ii) laundrettes, amusement arcades/ centres, casinos and nightclubs to change use to restaurants and cafés (A3)?

2.11.1 No comment, save that IfA welcomes the exclusion of such rights on, in, or within the curtilage of listed buildings and scheduled monuments (although it would be better to extend these exclusions to include the setting of these heritage assets), but would like to see such rights excluded on Article 1(5) land.

Question 2.12: Do you agree that there should be permitted development rights for A1 and A2 uses, laundrettes, amusement arcades/centres and nightclubs to change use to assembly and leisure (D2)?

2.12.1 No comment, save that IfA welcomes the exclusion of such rights on, in, or within the curtilage of listed buildings and scheduled monuments (although it would be better to extend these exclusions to include the setting of these heritage assets) and on Article 1(5) land.

Question 2.13: Do you agree that there should be a permitted development right for an ancillary building within the curtilage of an existing shop?

2.13.1 IfA welcomes the exclusion of such rights on, in, or within the curtilage of listed buildings and scheduled monuments (although it would be better to extend these exclusions to include the setting of these heritage assets) and on Article 1(5) land.

2.13.2 However, even minor building works can have a significant effect upon buried remains. Many sites containing buried remains are not designated or even identified in advance of development and, thus, would not fall within the exclusions envisaged in paragraph 2.13.1. Consequently, any changes in this regard should contain safeguards to protect such remains.

Question 2.14: Do you agree that there should be a permitted development right to extend loading bays for existing shops?

2.14.2 See paragraphs 2.13.1 and 2.13.2 above.

Question 2.15: Do you agree that the permitted development right allowing shops to build internal mezzanine floors should be increased from 200 square metres?

2.15.1 No comment.

Question 2.16: Do you agree that parking policy should be strengthened to tackle on-street parking problems by restricting powers to set maximum parking standards?

2.16.1 No comment.

Question 2.17: Do you agree that there should be a new permitted development right for commercial film and television production?

2.17.1 No comment, save that IfA welcomes the exclusion of such rights on, in, or within the curtilage of listed buildings and scheduled monuments (although it would be better to extend these exclusions to include the setting of these heritage assets) and on Article 1(5) land.

Question 2.18: Do you agree that there should be a permitted development right for the installation of solar PV up to 1MW on the roof of non-domestic buildings?

2.18.1 No comment, save that

- IfA welcomes the exclusion of such rights on, in, or within the curtilage of listed buildings and scheduled monuments (although it would be better to extend these exclusions to include the setting of these heritage assets) and on Article 1(5) land
- such work may directly affect the significance of heritage assets such as historic buildings (whether designated or not) and there should be safeguards to ensure that such buildings are protected.

Question 2.19: Do you agree that the permitted development rights allowing larger extensions for shops, financial and professional services, offices, industrial and warehouse buildings should be made permanent?

2.19.1 Only if adequate and effective safeguards are introduced to manage archaeological remains in the circumstances outlined in IfA response dated 20 December 2012 (see above).

Question 2.20: Do you agree that there should be a new permitted development right for waste management facilities to replace buildings, equipment and machinery?

2.20.1 No comment, save that IfA welcomes the exclusion of such rights on, in, or within the curtilage of listed buildings and scheduled monuments (although it would be better to extend these exclusions to include the setting of these heritage assets) and on Article 1(5) land.

Question 2.21: Do you agree that permitted development rights for sewerage undertakers should be extended to include equipment housings?

2.21.1 No comment.

Question 2.22: Do you have any other comments or suggestions for extending permitted development rights?

2.22.1 IfA believes that a comprehensive appraisal needs to be made of the effect of extending permitted development rights, generally, upon the historic environment. At present such extensions risk undermining the principles of the NPPF not only with regard to the protection of *'non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments'* (paragraph 139) but also with undesignated assets generally. The Institute recognises the need to avoid imposing disproportionate burdens on those wishing to carry out unobjectionable development, but remains concerned that heritage assets may inadvertently be put at risk. Greater use of 'sites of archaeological interest' as defined in the article 1(2) of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) as the basis (possibly subject to additional criteria) for excluding sensitive land from the benefit of the permitted development rights is one possible way to address this issue, but IfA believes that a thorough appraisal of the issues and potential solutions would be beneficial. The Institute would be happy to contribute to any such appraisal.

Question 2.23: Do you have any evidence regarding the costs or benefits of the proposed changes or new permitted development rights, including any evidence regarding the impact of the proposal on the number of new betting shops and pay day loan shops, and the costs and benefits, in particular new openings in premises that were formerly A2, A3, A4 or A5?

2.23.1 No.

Question 2.24: Do you agree (i) that where prior approval for permitted development has been given, but not yet implemented, it should not be removed by subsequent Article 4 direction

2.24.1 No. IfA believes that permitted development rights should be framed in such a way as to avoid causing harm to the historic environment and that it should not be necessary to use Article 4 directions to overcome problems caused by permitted development rights which have been cast too widely. Local authorities are often reluctant to issue Article 4 directions viewing them as costly, cumbersome and time-consuming and there have been very few, if any, Article 4 directions on archaeological grounds.

2.24.2 However, if Government wishes to promote the use of Article 4 directions as a means to avoid harm to the historic environment, it must facilitate the making and effectiveness of such directions. The proposal in question would have the opposite effect.

(ii) should the compensation regulations also cover the permitted development rights set out in the consultation?

2.24.3 No. See above.

Section 3: Improving the use of planning conditions

Question 3.1: Do you have any general comments on our intention to introduce a deemed discharge for planning conditions?

3.1.1 The default of a local authority (particularly at a time of severe budgetary constraints on local authorities and, in particular, local authority historic environment and archaeology services) should not be used to countenance harm to the historic environment or loss of public benefit.

3.1.2 Where conditions are imposed on a planning permission in the public interest to protect or enhance the historic environment or to increase knowledge and understanding of it, development should not be carried out without full compliance with such conditions. For instance, if an inadequate written scheme of

archaeological investigation is submitted, which will not deliver the required public benefit, this should not be endorsed purely by the default of the local authority.

3.1.3 Consequently, mechanisms to allow the deemed discharge of conditions should not be introduced without adequate safeguards for the historic environment (which encompasses both designated and undesignated assets). Simply excluding those cases in which Environmental Impact Assessment has been required is not sufficient and such exclusion should be extended generally to conditions relating to heritage assets (or at least those with archaeological interest).

Question 3.2: Do you agree with our proposal to exclude some types of conditions from the deemed discharge (e.g. conditions in areas of high flood risk)?

3.2.1 Yes, but see also the last sentence of paragraph 3.1.3 above.

Where we exclude a type of condition should we apply the exemption to all the conditions in the planning permission requiring discharge or only those relating to the reason for the exemption (e.g. those relating to flooding)?

3.2.2 Only those relating to the reason for exemption.

Are there other types of conditions that you think should also be excluded?

3.2.3 Yes. Conditions relating to the heritage assets (see paragraph 3.1.1 to 3.1.3 above).

Question 3.3: Do you agree with our proposal that a deemed discharge should be an applicant option activated by the serving of a notice, rather than applying automatically?

3.3.1 Yes.

Question 3.4: Do you agree with our proposed timings for when a deemed discharge would be available to an applicant?

3.4.1 Yes, provided that deemed discharge does not apply to conditions relating to the heritage assets.

Question 3.5: We propose that (unless the type of condition is excluded) deemed discharge would be available for conditions in full or outline (not reserved matters) planning permissions under S.70, 73, and 73A of the Town and Country Planning Act 1990 (as amended).
Do you think that deemed discharge should be available for other types of consents such as advertisement consent, or planning permission granted by a local development order?

3.5.1 No, in the light of the concerns expressed above.

Question 3.6: Do you agree that the time limit for the fee refund should be shortened from twelve weeks to eight weeks? If not, why?

3.6.1 No comment.

Question 3.7: Are there any instances where you consider that a return of the fee after eight weeks would not be appropriate? Why?

3.7.1 No comment.

Question 3.8: Do you agree there should be a requirement for local planning authorities to share draft conditions with applicants for major developments before they can make a decision on the application?

3.8.1 Yes.

Question 3.9: Do you agree that this requirement should be limited to major applications?

3.9.1 Yes.

Question 3.10: When do you consider it to be an appropriate time to share draft conditions:
• 10 days before a planning permissions is granted?
• 5 days before a planning permissions is granted? or
• another time?, please detail

3.10.1 10 days before a planning permission is granted.

Question 3.11: We have identified two possible options for dealing with late changes or additions to conditions – Option A or Option B. Which option do you prefer?

3.11.1 Option A - to allow late changes or additions to conditions without requiring those to be shared with the applicant.

Question 3.12: Do you agree there should be an additional requirement for local planning authorities to justify the use of pre-commencement conditions?

3.12.1 No. IfA is well aware of the need to avoid constraining the expeditious delivery of development by the over-use of pre-commencement conditions. Nonetheless, some pre-commencement requirements in relation to archaeological remains (including in some cases excavation or recording of historic buildings) are necessary to ensure that heritage assets are properly managed and protected. Introducing an additional requirement to justify the use of such conditions could increase the pressure to dispense with them, thereby jeopardising the effective management and protection of the historic environment. In any event, many local authority archaeological and historic environment services already justify the use of such conditions.

3.12.2 It is important in this regard to note that the following model condition advocated by IfA and others within the sector such as the Association of Local Government Archaeology Officers (ALGAO) contains only one pre-commencement requirement (section A)):

'A) No demolition/development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. *The programme and methodology of site investigation and recording*
2. *The programme for post investigation assessment*
3. *Provision to be made for analysis of the site investigation and recording*
4. *Provision to be made for publication and dissemination of the analysis and records of the site investigation*
5. *Provision to be made for archive deposition of the analysis and records of the site investigation*
6. *Nomination of a suitably qualified accredited archaeologist or archaeologists / archaeological organisation to undertake the works set out within the Written Scheme of Investigation.*

B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.'

This condition recognises the need to avoid unduly constraining development while providing mechanisms to ensure that the later stages of a programme are implemented.

Question 3.13: Do you think that the proposed requirement for local planning authorities to justify the use of pre-commencement conditions should be expanded to apply to conditions that require further action to be undertaken by an applicant before an aspect of the development can go ahead?

3.13.1 No. Such conditions provide an important incentive for compliance. Once the development is complete and occupied the incentive to deliver (or, on the local authority's part, to enforce the delivery of) promised public benefits can often diminish.

Question 3.14: What more could be done to ensure that conditions that require further action to be undertaken by an applicant before an aspect of the development can go ahead are appropriate and that the timing is suitable and properly justified?

3.14.1 In relation to archaeology, Government could expressly endorse the above model condition, which has been formulated by practitioners, not only effectively to manage and protect the historic environment, but equally to ensure that as little as possible is 'front-loaded' in the condition so that developers are not unduly constrained in promoting development. The equivalent model conditions in Annex A of Circular 11/95 and the PINS Model Conditions are not as effective in achieving these twin goals.

Section 4: Planning application process improvements

Question 4.1: Do you agree with the proposed change to the requirements for consulting Natural England set out in Table 1? If not, please specify why.

4.1.2 No comment.

Question 4.2: Do you agree with the proposed changes to the requirements for consulting the Highways Agency set out in Table 2? If not, please specify what change is of concern and why?

4.2.1 No comment.

Question 4.3: Do you agree with the proposed changes to the requirements for consulting and notifying English Heritage set out in Table 3? If not, please specify what change is of concern and why?

4.3.1 Yes.

Do you agree with the proposed change to remove English Heritage's powers of Direction and authorisation in Greater London? If not, please explain why?

4.3.2 Yes.

Question 4.4: Do you agree with the proposed changes to the requirements for referring applications to the Secretary of State set out in Table 4? If not, please specify what change is of concern and why.

4.4.1 Yes.

Question 4.5: Do you agree with the proposed minor changes to current arrangements for consultation/notification of other heritage bodies? If not, please specify what change is of concern and why.

4.5.1 No. The National Amenities Societies play an important part in the management and protection of the historic environment through their consultation role in respect of the total or partial demolition of listed buildings. This role should not be constrained in the way suggested in the first bullet point of paragraph 4.44 of the consultation document.

Question 4.6: Do you agree with the principle of statutory consultees making more frequent use of the existing flexibility not to be consulted at the application stage, in cases where technical issues were resolved at the pre-application stage?

4.6.1 Yes.

Do you have any comments on what specific measures would be necessary to facilitate more regular use of this flexibility?

4.6.2 No comment.

Question 4.7: How significant do you think the reduction in applications which statutory consultees are unnecessarily consulted on will be? Please provide evidence to support your answer.

4.7.1 IfA has no direct evidence on which to make such an assessment of significance.

Question 4.8: In the interest of public safety, do you agree with the proposal requiring local planning authorities to notify railway infrastructure managers of planning applications within the vicinity of their railway, rather than making them formal statutory consultees with a duty to respond?

4.8.1 No comment.

Question 4.9: Do you agree with notification being required when any part of a proposed development is within 10 metres of a railway? Do you agree that 10 metres is a suitable distance? Do you have a suggestion about a methodology for measuring the distance from a railway (such as whether to measure from the edge of the railway track or the boundary of railway land, and how this would include underground railway tunnels)?

4.9.1 No comment.

Question 4.10: Do you have any comments on the proposal to consolidate the Town and Country Planning (Development Management Procedure) Order 2010?

4.10.1 IfA strongly supports the proposal to consolidate the Town and Country Planning (Development Management Procedure) Order 2010, which would greatly facilitate its use.

Question 4.11: Do you have any suggestions on how each stage of the planning application process should be measured? What is your idea? What stage of the process does it relate to? Why should this stage be measured and what are the benefits of such information?

4.11.1 No comment.

Section 5: Environmental Impact Assessment Thresholds

Question 5.1: Do you agree that the existing thresholds for urban development and industrial estate development which are outside of sensitive areas are unnecessarily low?

5.1.1 No comment, save that Environmental Impact Assessment plays an important role in the management and protection of the historic environment (including both designated and undesignated assets) through the operation of the planning regimes and any changes to the existing thresholds should only be made if it is clear that this can be done without the risk of significant harm to the historic environment.

Question 5.2: Do you have any comments on where we propose to set the new thresholds?

5.2.1 If new thresholds are to be set they should be set at levels which ensure that proposals likely to cause significant harm to the historic environment are subject to assessment.

Question 5.3: If you consider there is scope to raise the screening threshold for residential dwellings above our current proposal, or to raise thresholds for other Schedule 2 categories, what would you suggest and why?

5.3.1 No comment.

Section 6: Improving the nationally significant infrastructure planning regime

Question 6.1: Do you agree that the three characteristics set out in paragraph 6.10 are suitable for assessing whether a change to a Development Consent Order is more likely to be non-material?

6.1.1 Yes, provided that *'an update to the Environmental Statement (from that at the time the original Development Consent order was made) to take account of likely significant effects on the environment'* is sufficient to identify any adverse impact upon the historic environment. (See paragraph 3.2 of IfA's response to *'Reviewing the Nationally Significant Infrastructure Planning Regime: A discussion document'* dated 23 January 2014.)

Are there any others that should be considered?

6.1.2 See the proviso to paragraph 6.1.1 above.

Question 6.2: Do you agree with:
(i) making publicising and consulting on a non-material change the responsibility of the applicant, rather than the Secretary of State?

6.2.1 Yes, provided that the Secretary of State retains sufficient oversight of whether a proposed change is non-material and has access to archaeological and other historic environment expertise in this regard.

(ii) the additional amendments (see above) to regulations proposed for handling non-material changes?

6.2.2 Yes. If changes are to be made as indicated, the additional amendments appear to be logical.

Question 6.3: Do you agree with the proposals:
(i) to change the consultation requirements for a proposed application for a material change to a Development Consent Order?

6.3.1 Yes, provided that (as indicated at paragraph 6.27) the need to consult local authorities and the bodies listed in Schedule 1 of the 2011 Regulations would remain unchanged. (See paragraph 5.1 of IfA's response to *'Reviewing the Nationally Significant Infrastructure Planning Regime: A discussion document'* dated 23 January 2014.)

(ii) to remove the requirement on an applicant to prepare a statement of community consultation for an application for a material change?

6.3.2 Yes

(iii) to remove the current requirement to publish a notice publicising a proposed application where an application for a material change is to be made?

6.3.3 No. Not all stakeholders with an interest in commenting on adverse effects on the historic environment will necessarily be regarded as being directly affected by the proposed change. (See paragraph 5.2 of IfA's response to *'Reviewing the Nationally Significant Infrastructure Planning Regime: A discussion document'* dated 23 January 2014.)

Question 6.4: Do you agree with the proposal that there should be a new regulation allowing the Secretary of State to dispense with the need to hold an examination into an application for a material change?

6.4.1 Only if there are sufficient safeguards in the regulations to ensure that the potential for adverse effects upon the environment (and, in particular, the historic environment) are in every case adequately addressed in the application process.

Question 6.5: Do you agree with the proposal to reduce the statutory time periods set out in the 2011 Regulations to four months for the examination of an application for a material change, two months for the examining authority to produce a report and their recommendation and two months for the Secretary of State to reach a decision?

6.5.1 Only if there is sufficient flexibility to extend this period if the proposals give rise to issues which require further consideration. Some such proposals may be the subject of the proposed new power of the Secretary of State to require a further, full application for development consent, but others may dealt with as changes, notwithstanding the need to consider complex and detailed issues.

Question 6.6: Are there any other issues that should be covered if guidance is produced on the procedures for making non-material and material changes to Development Consent Orders?

6.6.1 Guidance should make clear the need for issues relating to the historic environment arising in the course of applications to be considered by those with archaeological and other historic environment expertise.

Question 6.7: Do you agree with the proposal that applicants should be able to include the ten consents (listed below) within a Development Consent Order without the prior approval of the relevant consenting body?

6.7.1 Only if the expert advice which the Examining Authority will be expected to seek includes expert advice on issues relating to the historic environment.

Question 6.8: Do you agree with the ways in which we propose to approach these reforms?

6.8.1 No comment.

Question 6.9: Are there any other ideas that we should consider in enacting the proposed changes?

6.9.1 No comment.

Question 6.10: Do you have any views on the proposal for some of the consents to deal only with the construction stage of projects, and for some to also cover the operational stage of projects?

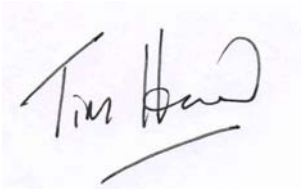
6.10.1 No comment.

Question 6.11: Are there any other comments you wish to make in response to this section of the consultation?

6.11.1 No comment.

The Institute will be pleased further to further to discuss the archaeological implications of these proposals. In the meantime, if there is anything further that I can do to assist please do not hesitate to contact me.

Yours faithfully,



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