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Dear Sir / Madam,

### **National Planning Policy Framework – Consultation proposals<sup>1</sup>**

Thank you for the opportunity to comment on these proposals. This response is submitted on behalf of the Chartered Institute for Archaeologists (CIfA) a professional body representing archaeologists working across the UK and overseas, the Council for British Archaeology (CBA) representing the public voice for archaeology, and the Federation of Archaeological Managers and Employers (FAME) the trade association for commercial archaeological organisations. Details of these bodies are provided in a separate appendix.

### **Draft revised National Planning Policy Framework**

#### **General**

The historic environment is a resource with huge potential for understanding identity and place, for contributing to quality of life, for sustainable growth and for delivering a wide range of economic, social, cultural and environmental benefits. It is important to recognise and realise that potential in planning policy.

We welcome Government's stated intention not to reduce the level of protection for the historic environment. The draft revisions of the National Planning Policy Framework (NPPF), however, change the balance between environmental protection and development, in practice reducing protection for the historic environment and undermining rather than promoting its potential. Planning authorities and applicants are likely to read changed wording as implying that archaeology should be afforded less weight.

## Background

The planning system is crucial for managing the historic environment and it also provides the sole means of protection for undesignated heritage assets with archaeological interest. Local authority archaeology services (including the Historic Environment Records (HERs) which they maintain) provide expert advice and enable early and informed consideration of such assets and the impact of development upon them. Changes to legislation, policy and guidance since 2012 have consistently undermined the timely consideration of archaeological information, increasing the risks and costs for development by delaying archaeological decision-making until development designs, programmes and budgets are becoming fixed. Some proposed revisions to the NPPF (as indicated below) would continue that trend.

Such changes have also increased the reliance of the planning system on HERs to provide high quality supporting information for local and neighbourhood plan allocations and development proposals. We consider that the changes referred to below will significantly reduce the vital policy support for HERs that the NPPF currently provides and so further increase the risks and costs for development.

## Specific Questions

### Question 1 – Do you have any comments on the text of Chapter 1?

1.1 No comment.

### Question 2 – Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?

2.1 No.

2.2 We welcome and endorse the continuing recognition that *'The purpose of the planning system is to contribute to the achievement of sustainable development'* (paragraph 7 of the draft). However, changes to the wording of the presumption and the accompanying text provide a weaker basis for promoting truly sustainable development.

2.3 The supporting text demonstrates a less holistic approach to sustainable development than the current NPPF. Thus, the *'dimensions'* of sustainable development (facets of a single concept) become *'objectives'* capable of separate consideration. Although it is acknowledged in the draft that these objectives *'are interdependent and need to be pursued in mutually supportive ways'* (paragraph 8), we have lost the following reference in paragraph 8 of the current NPPF:

*'These roles should not be undertaken in isolation, because they are mutually dependent. ... Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.'*

Instead paragraph 9 of the draft suggests that *'These objectives ... are not criteria against which every decision can or should be judged.'*

2.4 Small changes in language can be dismissed as semantics. For instance, the change in the description of the *'economic role / objective'* from *'contributing to building a strong, responsive and competitive economy'* to *'to help build a strong, responsive and competitive economy'* while the *environmental role / objective'* remains *'contributing / to contribute to protecting and enhancing our natural, built and historic environment'* may be innocuous, but, if so, what purpose does this revision serve?

2.5 The concern of the historic environment sector is that this raft of apparently small changes paves the way for an approach to sustainable development which de-couples economic and housing objectives and in specific cases allows them to be pursued independently or, at least, given greater primacy. We do not dispute that in certain cases economic or social objectives relating to the provision of housing may ultimately prevail; what we do maintain is that there needs in every case to be a holistic approach weighing benefits and dis-benefits of all three dimensions of sustainable development before reaching a balanced decision.

2.6 The proposed changes to the presumption, itself, reinforce these concerns. In particular, the criteria in paragraph 11b) (in respect of plan-making) and in 11d) (in respect of decision-taking) would be changed.

2.7(i) In paragraph 11b) the second criterion in the current NPPF (*'unless ... specific policies in this Framework indicate development should be restricted'*) is replaced by the following:

*'unless ... the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area'*

(ii) This revision weakens the presumption insofar as it contributes to the protection and enhancement of the historic environment. In the first place, it introduces a notion of *'assets of particular importance'* absent from the current presumption. These are defined in footnote 7. We welcome the inclusion of the reference to *'other heritage'*

*assets of archaeological interest referred to in footnote 55'* in the proposed footnote, but the exclusivity of the definition (by contrast to the current footnote 9) potentially restricts its application.

(iii) More fundamentally, the new requirement for policies in the NPPF to provide '*a strong reason for restricting*' development provides a more onerous test than the original criterion.

(iv) Concerns about the reduced scope to outweigh '*objectively assessed needs*' are only compounded by the insertion in the first line of paragraph 11b) of the need for strategic plans '*as a minimum*' to provide for such needs. Once again housing and economic objectives are being subtly inflated without any reference to the environmental cost of over-provision.

2.8(i) In relation to decision-making (paragraph 11d)), the original criterion referred to above is proposed to be replaced by the following:

*'unless ... the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed'*

(ii) Similar objections arise as set out in paragraph 2.7(ii) and (iii) above. The definition of '*assets of particular importance*' in footnote 7 would not, for instance, include all heritage assets subject to the restrictive policy in paragraph 136 of the current NPPF (paragraph 194 of the revised text).

(iii) The proposed reference to the need for '*a clear reason*' for refusing consent provides an unnecessary varnish on the wording of the current criterion.

2.9 Consequently we would urge Government to retain the current presumption in favour of sustainable development and, so far as is necessary, re-draft the accompanying text more actively to promote sustainable development which respects all three of its dimensions.

**Question 3 – Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the Framework?**

3.1 No.

3.2 One of the strengths of the current NPPF is that it recognises early in the document crucial core principles which include that planning should:

*‘conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations’*

The identification of core principles at the outset underlines the fact that conservation of heritage assets is an integral part of the planning process and not merely an afterthought.

3.3 Although the substance of this core principle appears later in the revised NPPF, its omission from the front of the document creates the impression of a supplementary consideration.

**Question 4 – Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?**

4.1 See under question 2.

4.2 A more even-handed approach is needed in the text, itself. For example, although paragraph 14 of the draft identifies situations where the adverse impact of development is likely significantly and demonstrably to outweigh the benefits, the corollary should not become a tacit assumption. The revised text (or a footnote) should make clear that paragraph 14 does not mean that the adverse impact of development which does not satisfy the criteria in a) and b) is unlikely significantly and demonstrably to outweigh its benefits.

**Question 5 - Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?**

5.1 We welcome the confirmation that strategic policies should include policies to provide *‘conservation and enhancement of the natural, built and historic environment, including landscape and green infrastructure’* (paragraph 20 of the draft). We also accept that clarification that a plan should set out ‘an’ appropriate strategy rather than ‘the most appropriate strategy’ is sensible.

5.2 However, we remain concerned that the focus is predominantly upon meeting housing and other economic needs and less on achieving sustainable development. For

instance, a plan is *'positively prepared'* if it *'provides a strategy which will, as a minimum, meet as much as possible of the area's objectively assessed needs (particularly for housing, using a clear and justified method to identify needs)'* rather than addressing all dimensions of sustainable development. Moreover, references to the historic environment in the current NPPF (such as the reference in paragraph 157 to identifying land where development would be inappropriate because of its environmental or historic significance) have been omitted.

5.3 The draft also omits paragraphs 169 and 170 of the current NPPF which are critical to the appropriate consideration of the historic environment in plan-making. The *'currently unidentified heritage assets, particularly sites of historic and archaeological interest'* mentioned in paragraph 169 includes nationally important, undesignated assets and it is therefore appropriate that local and neighbourhood plans should be able to identify such sites where this is possible.

5.4 Furthermore, the loss from the main text of the NPPF of the final sentence of paragraph 169 (which imposes a requirement for local planning authorities to maintain or have access to a HER) seriously undermines the central role HERs in the planning process. HERs provide the crucial evidence base for local plans including potential for sites of designation quality, and also provide evidence for all development management decisions affecting archaeology. Without HERs the current system for conserving and protecting heritage assets with archaeological interest would not survive<sup>2</sup>.

5.5 It is estimated that there are around 12,000 development proposals with archaeological implication identified from HERs every year, and about 5,000 of these proposals require further archaeological assessment or investigation. Yet archaeology is a reason for refusal (almost always one of several) on less than 150 planning applications per year (0.03%). This is due in large part to the flexibility of the current system in which the initial archaeological interest is identified by HERs. This in turn allows local government and commercial sector archaeologists working with developers, where necessary, to provide design and engineering solutions at an early stage in the process, allowing the archaeological interest of assets to be conserved or protected and the development to proceed.

5.6 This flexibility in facilitating the timely delivery of development and of wider public benefit is increasingly recognised by all involved in the planning process (including owners and developers). Melanie Leech, the Chief Executive of the British Property Federation (BPF) summed up current thinking:

*'We've moved beyond the perception of archaeological discoveries as an impediment, and their value is well-recognised by the industry. The key concern for developers was the uncertainty thrown up by the unexpected discovery of archaeological remains, but government policy published back in 1990 and now firmly established in the National Planning Policy Framework means any concerns and financing for dealing with discoveries are established at an early stage of the process, giving certainty to developers as well as protection to the archaeological remains.*

*The discovery of significant archaeological remains can also be a positive way of engaging a local community in a development project by giving them the opportunity to discover the history of their area in a way that may not have been possible had they not been unearthed through new development.*

*The Old Dock site in Liverpool is a great example of how archaeology within development can contribute to creating an exciting and accessible place – it was discovered during excavations during the development of Liverpool One in 2001, having been constructed in 1715 and buried since 1826. Grosvenor preserved the dock and funded the interpretation centre, meaning visitors can now experience a free tour of what was the world's first commercial enclosed wet dock, which had a significant impact on the role of Liverpool as a global trading city.*

*An on-going example is the Bloomberg Place development in the City of London, in the heart of Roman London and on the site of the Temple of Mithras. In addition to well-preserved structures, many of which were assumed destroyed following the original excavation of the site in 1954, there have been around 10,000 small finds which will be on show, along with the Temple itself, as part of a publicly-accessible exhibition within the development on completion next year.<sup>3'</sup>*

5.7 Given the need (and desirability) of up-to-date information about the historic environment to inform plan-making and the importance of HERs and the local authority archaeology services which support them, the relegation of paragraphs 169 and 170 to the glossary and draft planning guidance is a retrograde step. Furthermore, the draft NPPG in places lacks the imperative language of the current NPPF (the relevant heading in the draft NPPG is 'What evidence might be needed to plan for the conservation and enhancement of the Historic environment?' and the second paragraph suggests that '*landscape character assessments can [rather than should] be prepared*'.

5.8 Consequently, we suggest that:

- paragraphs 169 and 170 of the current NPPF should be reinstated in the draft revised NPPF
- paragraph 183 of the draft revised NPPF should be amended to read:
 

*'183. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:*

  - a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;*
  - b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;*
  - c) the desirability of new development making a positive contribution to local character and distinctiveness;*
  - d) opportunities to draw on the contribution made by the historic environment to the character of a place; and*
  - e) the potential for the discovery of new heritage assets with archaeological interest'*
- the reference to 'services' should be restored to the definition of 'Historic environment record' in the glossary of the draft revised NPPF – a critical concern of the archaeological sector (see paragraph 43.1 below).

5.9 Failing that, Government should:

- make clear that the glossary has equal weight with the main body of the NPPF and that the requirement for all local planning authorities to maintain a HER or have access to one is a policy requirement
- revise the draft NPPG to reflect the imperative language of paragraphs 169 and 170 of the current NPPF and make clear that the relevant parts of the former have equal weight with the latter.

## **Question 6 - Do you have any other comments on the text of Chapter 3?**

6.1 No comment.

**Question 7 - The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?**

7.1 No.

**Question 8 - Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessment to accompany planning applications would be acceptable?**

8.1 No comment.

**Question 9 - What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi-phased development?**

9.1 No comment.

**Question 10 - Do you have any comments on the text of Chapter 4?**

10.1 The emphasis in Chapter 4 is on the speed rather than the quality of decision-making (paragraph 48 of the draft provides that *'Decisions on applications should be made as quickly as possible'*).

10.2 Permitted development rights are a major issue for the historic environment sector. Paragraph 54 of the draft generally discourages the use of Article 4 directions, but the revised NPPF neither acknowledges nor addresses the potential harm caused by the exercise of permitted development rights.

10.3 Planning conditions (including pre-commencement conditions) are a key mechanism for the management and protection of heritage assets with archaeological interest. Consequently, clear guidance is needed (in the absence of secondary legislation exempting archaeological conditions from the effect of section 100ZA(5) of the Town and Country Planning Act 1990) to ensure that the justification for imposing archaeological pre-commencement conditions (as envisaged in paragraph 56 of the draft) is established.

**Question 11 - What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites?**

11.1 No comment.

**Question 12 - Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?**

12.1 No comment, save that the presumption needs to reflect all dimensions of sustainable development, not just housing and economic growth.

**Question 13 - Do you agree with the new policy on exception sites for entry-level homes?**

13.1 No comment.

**Question 14 - Do you have any other comments on the text of Chapter 5?**

14.1 No comment.

**Question 15 - Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?**

15.1 No comment, save that such support should not be at the expense of the historic environment.

**Question 16 - Do you have any other comments on the text of chapter 6?**

16.1 No comment.

**Question 17 - Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses?**

17.1 No comment.

**Question 18 - Do you have any other comments on the text of Chapter 7?**

18.1 No comment.

**Question 19 - Do you have any comments on the new policies in Chapter 8 that have not already been consulted on?**

19.1 No comment.

**Question 20 - Do you have any other comments the text of Chapter 8?**

20.1 This and other chapters largely overlooks the role of the historic environment in promoting health and well-being.

**Question 21 - Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?**

21.1 No comment.

**Question 22 - Do you agree with the policy change that recognises the importance of general aviation facilities?**

22.1 No comment.

**Question 23 - Do you have any other comments on the text of Chapter 9?**

23.1 No comment.

**Question 24 - Do you have any comments on the text of Chapter 10?**

24.1 The references in paragraph 114 of the draft to restricting the use of Article 4 directions should be balanced by recognition that the exercise of permitted development rights can be detrimental to the historic environment, which harm can, in appropriate circumstances, be addressed by the use of Article 4 directions. (See paragraph 10.2 above.)

**Question 25 - Do you agree with the proposed approaches to under-utilised land, reallocating land for other uses and making it easier to convert land which is in existing use?**

25.1 No comment.

**Question 26 - Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing needs?**

26.1 No comment.

**Question 27 - Do you have any other comments on the text of Chapter 11?**

27.1 Footnote 35 of the draft should identify harm to heritage assets since previously-developed land by definition often has archaeological interest.

27.2 The reference in paragraph 119 of the draft to plan-making bodies taking a proactive role in identifying and helping to bring forward land for development (including sites on brownfield registers) should acknowledge the need for site investigations (including archaeological assessment and evaluation) which such bodies are often not resourced to undertake.

**Question 28 - Do you have any comments on the changes of policy in Chapter 12 that have not already been consulted on?**

28.1 No comment.

**Question 29 - Do you have any other comments on the text of Chapter 12?**

29.1 No comment.

**Question 30 - Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are 'not inappropriate' in the Green Belt?**

30.1 No comment, save that it should be acknowledged that brownfield land by definition often has archaeological interest and needs to be assessed accordingly.

**Question 31 - Do you have any other comments on the text of Chapter 13?**

31.1 No comment.

**Question 32 - Do you have any comments on the text of Chapter 14?**

32.1 No comment.

**Question 33 - Does paragraph 149b need any further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from buildings?**

33.1 No comment.

**Question 34 - Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 Year Environment Plan and national infrastructure requirements, including the level of protection for ancient woodland and aged or veteran trees?**

34.1 No. Aged and veteran trees should enjoy the same protection as ancient woodland. Paragraph 173, footnote 7 of the revised draft NPPF and its glossary should all be amended to reflect the fact that aged and veteran trees are irreplaceable habitats and must enjoy the same protection as ancient woodland.

**Question 35 - Do you have any other comments on the text of Chapter 15?**

35.1 No comment.

**Question 36 - Do you have any comments on the text of Chapter 16?**

36.1 Paragraph 139 of the current NPPF (dealing with non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments) is moved to footnote 55 in the draft. This (along with the reordering and movement of other archaeological provisions to the glossary and NPPG) is likely to be interpreted as implying that archaeological interest should be afforded less weight.

36.2 Furthermore, the definitions of a number of the terms used in this chapter have been revised or omitted from the glossary (see below).

36.3 This chapter cannot, however, be viewed in isolation and a number of changes (actual or proposed) in the wake of the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017 (including the implementation of automatic permission in principle for sites on brownfield registers and plans, the use of planning freedom schemes to empower a local authority to disapply or modify specified planning provisions and the restriction of the use of pre-commencement conditions) will potentially prejudice the interpretation and operation of this chapter. For instance, the above changes are likely to impact upon the operation of paragraphs 128 and 141

of the current NPPF (paragraphs 185 and 195 of the draft), creating situations where it would be impossible to require developers to provide information or undertake investigation sufficient to describe the significance of heritage assets affected by permission in principle or planning freedoms schemes and weakening the ability of local authorities could apply conditions to advance understanding and record assets to be lost. Such issues should be addressed in this chapter.

**Question 37 - Do you have any comments on the changes of policy in Chapter 17, or on any other aspects of the text of this chapter?**

37.1 No comment.

**Question 38 - Do you think that planning policy on minerals would be better contained in a separate document?**

38.1 No comment.

**Question 39 - Do you have any views on the utility of national and sub-national guidelines on future aggregates provision?**

39.1 No comment.

**Question 40 - Do you agree with the proposed transitional arrangements?**

40.1 No comment.

**Question 41 - Do you think that any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

41.1 No comment.

**Question 42 - Do you think that any changes should be made to the Planning Policy for Waste as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?**

42.1 No comment.

**Question 43 - Do you have any comments on the glossary?**

43.1 A number of terms related to the historic environment have been lost or revised in the glossary.

- The definition of *Historic environment* has been omitted. This definition is brief and helpful, particularly for those not familiar with the historic environment, and should be retained.
- The definition of *Historic environment record* has been revised, crucially omitting reference to ‘*services*’ (without which HERs can be a closed book) and also relegating established policy (that *Every local planning authority should maintain a Historic Environment Record or have access to one*) to the glossary. The definition in the current NPPF should be retained and the statement of policy returned to the main text. Without this, the services which provide vital support for HERs and play a key role in the operation of the planning process when dealing with heritage assets of archaeological interest, are likely to be further undermined.
- The definition of *Archaeological interest* is shortened, omitting the second sentence. This sentence should be included in the main text, recognising that it is a useful explanation of policy rather than a definition.

43.2 If changes are to be made to the glossary, a definition of *Appropriate expertise* (as used in paragraph 185 of the draft) could be added including a reference to ‘*accreditation by a relevant professional organisation*’ to provide some consistency with the definition of *Competent person (to prepare site investigation information)* used elsewhere if the current and proposed NPPF.

We would be happy further to discuss the issues raised in this consultation insofar as they affect the historic environment. In the meantime, if there is anything further that we can do to assist please do not hesitate to contact us.

Yours faithfully,

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MBE FSA MCifA  
Director, CBA

Nick Shepherd  
BA PgDip MCifA  
Chief Executive, FAME

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<sup>1</sup> <https://www.gov.uk/government/consultations/draft-revised-national-planning-policy-framework>

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<sup>2</sup> Policy in the current NPPF largely reflects the provisions of the draft Heritage Bill of 2008 which had cross-party (and heritage sector) support.

<sup>3</sup> *Archaeology and real estate: Adding value together* - Interview in Cifa Yearbook 2016:

<http://www.buildingconservation.com/books/cifa2016/files/assets/basic-html/page-16.html#>

## APPENDIX

### The Council for British Archaeology (CBA)

CBA is the national amenity society concerned with protection of the archaeological interest in heritage assets. CBA has a membership of 620 heritage organisations who, together with our thousands of members, represent national and local bodies encompassing state, local government, professional, academic, museum and voluntary sectors.

### The Chartered Institute for Archaeologists

The Chartered Institute for Archaeologists (CIfA) is the leading professional body representing archaeologists working in the UK and overseas. CIfA promotes high professional standards and strong ethics in archaeological practice, to maximise the benefits that archaeologists bring to society, and provides a self-regulatory quality assurance framework for the sector and those it serves.

CIfA has over 3,500 members and more than 80 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.

### Federation of Archaeological Managers and Employers (FAME)

FAME is the trade association for archaeological employers and managers. FAME represents one in three archaeological practitioners, employing the majority of archaeologists across the UK. Its membership includes over 50 archaeological practices, from small consultancies to all the largest contractors, from commercial companies, universities and local authorities across England, Scotland and Wales. In addition to representing its members' interests in matters of policy, its aims are to foster an understanding of archaeology across the construction and development sector and promote best professional practice, training and development, and a safe and healthy work environment.