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Dear Mr. McKervey and Mr. Gault,

Joint CifA and IAI response to HED guidance on Setting and the Historic Environment consultation

Thank you for the opportunity to comment on this draft guidance. The setting of heritage assets is a core aspect of understanding and protecting heritage assets, and we strongly support the publication of guidance to inform stakeholders as to the role of the Historic Environment Division and how to properly understand the principles of setting. We have a number of small points, as set out below.

Our main points relate to

- the need to ensure that the language used in the guidance is clearly defined and is either in full conformity with planning policy – particularly *Planning Policy Statement 6: Planning, Archaeology, and The Built Heritage* (PPS 6) – or, where different technical terms are used, that they are clearly defined,
- the need to avoid the implication that the only aspect of experiencing a heritage asset which is of relevance to the determination of setting is the visual, and
- the need for clarity in describing the material consideration given to planning protection for heritage assets in PPS 6, without undermining undesignated or locally important heritage assets.

Please find our detailed comments below.

About the Institutes:

The Institute of Archaeologists of Ireland (IAI) is the primary all-island professional organisation representing archaeologists working in Ireland and Northern Ireland. It

aims to support a vibrant and sustainable archaeological profession that actively contributes to the protection of our archaeological resource which in turn contributes to the social and economic wellbeing of the entire community.

The Chartered Institute for Archaeologists (CifA) is the leading professional body representing archaeologists working in the UK and overseas. It promotes high professional standards and strong ethics in archaeological practice, to maximise the benefits that archaeologists bring to society.

In 2016 the two institutes signed a Memorandum of Understanding, marking the beginning of a strategic partnership between the two organisations.

Detailed comments

1. Consistency of use with PPS 6's language and content

- 1.1. The draft guidance does not explicitly refer to PPS 6 as the document which provides the framework for many policies affecting setting. It would be useful for the guidance to include this reference, alongside a statement of how this guidance is intended to be used.
- 1.2. We recognise that PPG 6 is now nearly 20 years old and therefore the language of heritage has developed since its publication. Given this, it is important that the guidance includes clear definitions for a range of important concepts which are used throughout the guidance, particularly, but not exclusively, where those terms which are not found in PPS 6 or have different technical meanings, for example, 'heritage asset' and 'significance'.
- 1.3. We advise expanding section 2.2. of the draft guidance in order to provide full definitions and descriptions of significance, character, and context and their relationships to setting.

2. Improve clarity and consistency of the relationship of the visual aspects of setting and wider factors

- 2.1. In Paragraph 2.3, it is stated that setting can 'extend beyond the visual envelope of the heritage asset', however, there are occurrences elsewhere in the text where the visual and setting are conflated and this introduces a slight confusion to the purpose of the guidance.
- 2.2. For example, in Paragraph 2.1, the text defines setting as 'the physical space that is part of – and contributes to – the significance and distinctive character of a heritage asset, and through which the asset may be *seen*, understood and enjoyed.' [Emphasis added].

- 2.3. We propose that a more effective way to describe this would be by utilising the concept of ‘experience’ rather than ‘seeing’. This would allow for greater integration of the aspects of setting such as ‘ambience’ which is referred to in Paragraph 2.4.
- 2.4. This could be further reflected in section 2.4, either by replacing the category of ‘Visual’ with ‘Experiential’ or by strengthening the caveat that ‘heritage assets do not need to be visually prominent to have setting’ by adding ‘...and some heritage assets will have an experienced setting which extends beyond the area of visibility’, in paragraph 2.4.2.
- 2.5. This type of experienced setting may include, for example, where an impermanent visual barrier (e.g. modern tree planting) exists blocking views to an asset. A recent relevant example which describes how this predominance of the visual can sometimes be an inappropriate constraint on the judgement of extent of setting can be seen at Kedleston Hall, Derbyshire, England (see *Steer v SSCLG*¹) where a housing development 1km from the Grade 1 listed Hall, but not visible, was initially granted, but quashed at appeal.
- 2.6. Whilst the draft guidance does provide for wider physical and functional factors in the determination of setting of heritage assets, for clarity, we recommend that references to the importance of views and visual impact are supplemented with caveats recognising that the context for the experience of an asset is not wholly visual.

3. *Clarity over the material consideration given to planning protections for heritage assets.*

- 3.1. PPS 6 contains a ‘presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings’ and ‘presumption in favour of the preservation of listed buildings’ (the latter which requires impact upon setting to be considered.). PPS6 is also clear in its descriptions of the levels of protection provided to assets of local importance, with setting included as an aspect the protections outlined in Policy BH2, respectively.
- 3.2. In this guidance, however, there is a passage in Section 1 that can be read as implying that designation is a pre-requisite for setting being a material consideration. This is not correct. We therefore suggest that the final sentence of paragraph 1 in the Introduction is amended as follows:

‘The desirability of preserving any heritage asset (designated or otherwise) and its setting is a material consideration in determining planning

¹ <https://cornerstonebarristers.com/cmsAdmin/uploads/approved-judgment-steer-v-ssclg-&-ors.pdf>

applications. Planning applications will be assessed by planning authorities on the individual merits of each case.'

3.3. Paragraph 2.4 of the guidance also suggests that designated assets 'can be particularly sensitive to changes in their setting'. This appears to suggest that setting is less intrinsic to the significance of an undesignated or locally important asset than it is to a regional or nationally important, designated asset. We do not believe that this is an accurate reflection of the nature of setting and its application within PPS 6.

3.4. We do, however, understand that the impact on the setting of a designated asset will have more weight, as befits the higher level of protection afforded by policy BH 1 in PPS 6. We therefore recommend that the wording of paragraph 2.4 of the draft guidance is amended to read:

'All heritage assets are sensitive to changes to their setting. Impacts upon the settings of listed buildings, sites and monuments in State Care, scheduled sites and monuments, and other sites and monuments which would merit scheduling or listing, are particularly important. In addition, complex sites can be particularly sensitive to changes in their setting, where settings may be multi-faceted or overlap with other nearby assets. Any assessment of the setting of a heritage asset should include, as a minimum, consideration of the following aspects, although other, often intangible aspects such as the ambience, may also be considered.'

We hope that these comments are helpful. Please do not hesitate to contact us if you have any further need of assistance.

Yours faithfully,



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