

Environmental Food and Rural Affairs Committee
House of Commons
London
SW1A 0AA

Submitted by online form

31 January 2019

Dear Madam/Sir,

Re: Scrutiny of the draft Environment (Principles and Governance) Bill inquiry

Thank you for the opportunity to provide evidence to inform this inquiry. Our submission is primarily concerned with highlighting the specific exclusion of the historic environment from the bulk of the provision of the Environment (Principles and Governance) Bill. This is at odds with the 25 Year Environment Plan (25-YEP) and other policies (e.g. the Agriculture Bill), which have embedded understandings of beauty, landscape, and engagement with and benefit of the environment. These other instruments have expressly recognised the contribution of cultural heritage in these areas¹.

We understand the need to carefully focus the remit of the new Office of Environmental Protection (OEP), but it makes no sense to exclude heritage and landscapes – 1 of the 10 goals of the 25-YEP – apparently for the reason that it is outside the traditional legislative competence of the EU and its definition of environmental law. Whilst we respect this legal definition, it is imperative that the wider Bill recognises and specifically includes elements of the historic environment which are already included in the 25-YEP and in other policy (e.g. the Agriculture Bill).

¹ The term historic environment is used extensively in planning policy and in protection regimes for cultural heritage assets, but the phrase cultural heritage is more common in environmental policy. Cultural heritage encompasses the historic environment – eg heritage sites, physical assets, landscape features – as well as broader elements of material and intangible culture and identity – eg agricultural practices, relationships to nature.

We would like to stress the need for clear and consistent recognition of the historic environment through its inclusion within the ambit of environmental principles and will be reflected in the mandated activities of the OEP.

About us

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 3,750 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.

The Council for British Archaeology (CBA) is an educational charity and national amenity society with a leading role in championing the public interest in archaeology. CBA works throughout the UK to involve people in archaeology and to promote the appreciation and care of the historic environment for the benefit of present and future generations. CBA has a membership of 500 heritage organisations who, together with our thousands of individual members, represent national and local bodies encompassing state, local government, professional, academic, museum and voluntary sectors. The CBA's annual Festival of Archaeology fortnight has an estimated audience of over 5 million.

Specific questions:

7. Is there anything else missing that should be included to meet the enforcement, governance and other gaps in environmental protection left by leaving the European Union?

Part of the reason why leaving the EU was hailed as being a positive step for the UK's approach to environmental issues was that it would allow the UK to break free from the decades of environmental policy-making based on limited EU legal competences and allow

the UK to set in place systems which were designed around the specific needs across the UK nations, and which would be able to deliver even better results.

For the historic environment, one of the key failings of past systems was that there existed a blind spot for the historic environment, which arose because there was no provision at EU level to legislate on the historic environment. Rather, processes mandating the conservation and enhancement of the historic environment were undertaken at state party level, leading to the de-prioritisation of actions to deliver environmental protection of heritage over time.

Since the referendum on leaving the EU we have promoted this generational opportunity to re-integrate the historic with the natural environments in our policies to sustainably manage and conserve the beauty and functional and environmental value of our landscapes.

We were extremely pleased that this approach was recognised and designed into the Agriculture Bill, where parity was given to cultural heritage as one of the seven public goods, and in the 25-YEP which recognised that in the past “our failure to understand the full value of the benefits of environment and cultural heritage has seen us make poor choices. We can change that.”². However, **the historic environment is specifically excluded from the bulk of provision in the Environment Bill.**

We recognise that the historic environment is an integral part of the wider environment. From the coast to the uplands, cultural heritage has shaped and defines the landscape; the marks of millennia of habitation and farming have left their marks on every part of the UK. Our historic farm buildings, field boundaries such as hedges and dry stone walls, designated and undesignated monuments from the Palaeolithic to the recent past, and much more besides, help to define the beauty of landscapes and the identity of places. Historic, as well as current, management of the landscape provides the basis for most of the natural habitats that exist today and provides the scenery that attracts visitors and residents, contributing to the local, regional and national economy, as well as health, wellbeing, sense of place and local distinctiveness.

It is critical that the Environment Bill recognises the integrated and mutually interdependent nature of the cultural and natural environments and that the aim of the 25-YEP to improve the beauty, heritage, and engagement with the environment is explicitly contained within the obligations on the Secretary of State and OEP which are designed to uphold these commitments to environmental improvement.

² 25-YEP p.19

We understand that there is a body of environmental law which has been used to tightly define the proposed role and legal competence of the OEP, but it would be disastrous for there to be no scope for the body to consider cultural heritage or the historic environment, and no reference made to this vital element of our landscapes in its statement of competences. This would fundamentally undermine the Government's commitments in these areas, as outlined in the 25-YEP.

In the current Bill, there appears to be no obligation for future versions of Environmental Improvement Plans to include consideration of the historic environment as the 25-YEP does. And while it will be possible for future governments to continue to include cultural heritage within these plans, without any specific recognition in this Bill, the historic environment risks being inexorably weakened in any future attempts to protect and conserve it. As we know from the state of provision under EU-led policy approaches, a lack of specific inclusion invariably leads to the de-prioritisation or omission of the historic environment, whether by design or oversight. We humbly request that the Committee seeks to raise this issue to the Government as an important element of the Bill which is currently missing.

We have the following specific asks:

- The Bill should include a widened definition of the environment (Clause 30), which accounts for landscape, enhancing beauty, heritage, and public engagement with and benefit of the environment, and which specifically includes the contribution of cultural heritage and active management over time. This would be consistent with Government's own 25-YEP and policy elsewhere (e.g. Agriculture Bill)³,
- The OEP should have a duty to balance the historic and natural elements of environment when giving advice to Ministers and issuing notices seeking remedies or action. The Bill should set out, or commit the OEP to setting out, how it would ensure that harm to heritage assets is balanced against environment improvements in other areas, for example by ensuring that heritage specialists are embedded in, or consulted during, decision-making processes.

³ We have previously recommended that government considers a definition derived from the current 2004 Environmental Information Regulations which includes "cultural sites and built structures" (Part 1, 2 (f)). Within this definition, attention should also be paid to the fact that aspects of the environment can be physical, biological, social, and cultural, and that our naturally and culturally produced physical surroundings are important interconnected elements of the environment.

- The Bill should include a requirement to take into account the historic environment and historic/cultural landscapes, and their indicators, in the Secretary of State's annual reporting measures prescribed in the Bill,
- The remit of the OEP to produce parallel annual reports should similarly reflect the historic environment, insofar as it is recognised as a contributing factor to beauty, and public engagement with the environment and as a priority area in the 25-YEP and a key public good in the Agriculture Bill,
- There should be a duty on the Secretary of State to include the historic environment and landscapes in each subsequent Environment Improvement Plan.

We are also represented on Greener UK, and we support their pursuit of further provisions of a statutory duty to improve the environment, supported by objectives and targets that would direct delivery of improvements, in addition to monitoring and reporting.

If you have any further questions or comments, please do not hesitate to contact me.

Yours sincerely,



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