

THE ARCHAEOLOGY FORUM

a grouping of independent bodies concerned with archaeology

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CULTURE MEDIA AND SPORT COMMITTEE INQUIRY: DRAFT HERITAGE PROTECTION BILL

EVIDENCE FROM THE ARCHAEOLOGY FORUM

1. *The Archaeology Forum (TAF) is a grouping of the key, non-governmental organisations concerned with archaeology in the UK. Its members include the Association of Local Government Archaeological Officers UK, the Council for British Archaeology, the Institute of Conservation, the Institute of Field Archaeologists, the Institute of Historic Building Conservation, the National Trust, the National Trust for Scotland, Rescue, the Society of Antiquaries of London, the Society of Antiquaries of Scotland, the Standing Conference of Archaeological Unit Managers, and the Society of Museum Archaeologists UK.*

2. This evidence is based on contributions from member organisations with an overview of archaeological policy and practice in England and Wales. We note that there are a number of key areas where secondary legislation and statutory guidance has yet to be drafted and look forward to the opportunity to comment on these in detail in due course.

Forum members warmly welcome the draft Bill and its proposals which we believe will create a more effective, coherent and open system for heritage protection. The Archaeology Forum is planning a seminar on the proposals in the autumn at the Society of Antiquaries, Burlington House. This will be an opportunity for the archaeological community to discuss the details of the draft Bill and to consider the implications of its implementation.

The memorandum presented here addresses key issues of principle and policy which we wish to draw to the Committee's attention in order to strengthen the implementation and benefits of the reforms. In particular the Forum commends the submissions made by the Association of Local Government Archaeological Officers: England (ALGAO:E), by the Council for British Archaeology (CBA) and by the Institute of Field Archaeologists (IFA).

3. Summary of evidence to Committee

3.1. Overall aims and scope of the draft Bill

- ❑ Need for a Planning Policy Statement for the Historic Environment
- ❑ Clarification on provision for Heritage Protection in Wales
- ❑ Priority Reform of Class Consents

3.2. Estimate of costs and benefits set out in the Impact Assessment

- ❑ Resources for implementation in local authorities
- ❑ Resources for implementation in English Heritage

3.3 Staffing and skill levels needed for effective implementation

- ❑ Importance of expert advice and professional standards

4. OVERALL AIMS AND SCOPE OF THE DRAFT BILL

4.1 The Archaeology Forum is pleased to have the opportunity to comment on the ambitious programme of reforms set out in the draft Heritage Protection Bill. Our organisations strongly welcome these as significant new measures for the protection and enhancement of the historic environment. In particular, we welcome the commitment made by successive ministers to ensuring there will be no reduction in the overall protection for the historic environment as a result of this process.

New Planning Policy Statement for the Historic Environment in England

4.2 One of the aims of the reform process has been to support sustainable communities by putting the historic environment at the heart of an effective planning system. Protection of the historic environment should be a key material consideration in planning policy and TAF members consider that the preparation of a Planning Policy Statement for the Historic Environment to accompany the new legislation will be of the highest importance. This will be essential to bring together the range of primary and secondary legislation and statutory instruments that will result from the reforms and to provide a coherent re-statement of the changes of policy, approach, criteria and terminology that will be integrated in the unified system for heritage protection. A new PPS will also be important as a signal of cross Departmental endorsement by DCLG of the measures introduced by DCMS, and would replace the existing Planning Policy Guidance - PPG16 (1990) and PPG 15 (1992) - both of which are overdue for revision.

4.3 TAF urges the Committee to voice its support, as a matter of high priority, for joint work by DCMS and DCLG on development of a new Planning Policy Statement for the Historic Environment to be published in conjunction with the implementation of the new legislation

Heritage Protection in Wales

4.4 The arrangements proposed for Wales appear to perpetuate some fragmentation of consent procedures between Welsh Assembly Government (WAG) /Cadw and local authorities, unlike the fully integrated system proposed in England. Similarly clarification is still required on the relationships between local planning authorities, the Welsh Archaeological Trusts and Cadw / WAG on provision and maintenance of historic environment services including Historic Environment Records (HERs); and on the resources that will be available to deliver proposed reforms. No Draft Guidance has been issued for HERs in Wales, as it has been for England. While DCMS has undertaken to address the costs of implementing new duties for local authorities in England, no equivalent undertakings have been made in Wales. As in England, new planning policy guidance for the historic environment in Wales will be essential.

4.5 TAF requests that the Committee inquire into the parity of arrangements for England and Wales set out in the Bill and seek a statement from WAG /Cadw about their assessment of resource needs and proposals for secondary legislation and guidance.

Reform of Class Consents (Ancient Monuments (Class Consents) Order 1994)

4.6 In the Heritage White Paper, DCMS undertook to revoke the section of Class 1 Consent relating to agriculture and to 'reform the current system on a management agreement approach'. The Forum has argued strongly for some years for priority to be given to removing designated sites from the damaging effects of continuing cultivation where this impacts on buried archaeological remains. DCMS has considered the evidence for this and finds the argument for reform convincing but the mechanisms by which this will be achieved remain unclear. We wish to draw the Committee's attention to the need for an urgent resolution to this situation where some of the most sensitive protected archaeological sites are still subject to a level of unnecessary damage on a regular basis.

4.7 The Forum recommends that the Committee ask for details of how it is envisaged that the 'management agreement' approach would be introduced and resourced to overcome the obstacles that have previously hampered revocation of Class 1 Consent; and that urgent attention be given to preparation for withdrawal of Class I Consents for agricultural activities.

Areas of Archaeological Importance (AAIs)

4.8 The controls of Part II of the 1979 Ancient Monuments and Archaeological Areas Act have not been included in the draft Bill. In the five historic centres which are currently designated, the operation of current planning guidance provides an alternative mechanism to ensure that the historic environment is considered in the development control process. However, loss of the AAI designation is still viewed as likely to reduce the level of protection from some potentially damaging aspects of permitted development, such as utilities and communications infrastructure and residential microgeneration schemes. There has been no assessment, as far as Forum members are aware, of the potential reduction in protection that would

result or discussion of its possible effect with the relevant local authorities.

4.9 The Forum recommends that the Committee inquire into the steps taken by English Heritage and DCMS to assess the possible impacts of removing AAI designation and the alternative mechanisms that might be introduced to ensure there is no reduction in protection in those important historic city centres.

5. ESTIMATE OF COSTS AND BENEFITS SET OUT IN THE IMPACT ASSESSMENT

Resources for implementation in local authorities

- 5.1 TAF commends to the Committee the submissions made by ALGAO England, CBA and IFA which outline concerns that we have as an archaeological community about the resourcing of new integrated historic environment services in local authorities.
- 5.2 While we agree that the costs of devolving consent procedures for scheduled ancient monuments to local authorities may not have a significant effect on resources, there are other important areas that should be considered more closely. We believe that the estimates for HER services in the Impact Assessment may underestimate the real costs of meeting the requirements of the recently published DCMS Draft Guidance on HERS. It would be valuable if the basis on which these estimates were prepared could be publicly available. As the impact assessment recognises, there will also be a significant short-term need for investment in new skills and to embed the new procedures in local authority e-planning systems. The Forum welcomes DCMS commitment to fund local authorities' additional administrative needs and the undertakings that English Heritage has given to support necessary capacity building in the sector but believes this should be based on a clearer understanding of the requirements for implementation and establishing the new system.

Resources for implementation in English Heritage

- 5.3 English Heritage has stated that it has secured an appropriate level of resources for preparation to implement the new system in the period up to the end of 2010-11. Once the new system of designation is introduced, however, it is anticipated that there will continue to be greater 'up front' costs before efficiency savings start to flow from the new system. These will include investment in developing new Heritage Partnership Agreements; in dealing with the issues that will inevitably arise in dealing with the half million 'legacy designations' that will be transferred to the new Register; and potentially a flood of new applications for designation, with a much higher level of general public engagement and interest, under the new criteria for registration of heritage assets.
- 5.4 **The Forum suggests the Committee inquire whether DCMS and English Heritage are satisfied that**

- ❑ **the resources available for HER services and for capacity building in local authority services are sufficient for the purpose of preparing for implementation of the new system and on what basis that need has been assessed**
- ❑ **the resources likely to be required by English Heritage for effective implementation and upfront costs after 2010-11 have been quantified, and those longer term needs considered with DCMS.**

6. STAFFING AND SKILL LEVELS NEEDED FOR EFFECTIVE IMPLEMENTATION

- 6.1 The need for local authorities to obtain and take into account expert advice in considering heritage asset consent applications is explicitly recognised in the draft Bill. The Forum wishes to emphasise the importance of this advice being provided by appropriately qualified professionals with relevant expertise working to agreed standards. This requirement should be included formally in the Bill or in relevant statutory guidance.
- 6.2 **The Forum emphasises to the Committee the importance of provisions in the Bill or in supporting Guidance to ensure that local authorities have access to appropriate professional advice and expertise on the historic environment in discharging their duties under the new system for heritage protection.**

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