

Briefing sheet: implementation of the Housing and Planning Act 2016

The Department of Communities and Local Government is drafting secondary legislation and guidance required to implement the Housing and Planning Act. CIfA has queried how the provisions of the Act can be implemented without compromising Government's restated commitment to the National Planning Policy Framework¹.

The Act allows for permission in principle (PiP) to be granted to housing development on small sites and sites identified on a Brownfield Register or in local or neighbourhood plans². As such sites are routinely identified without archaeological evaluation this could mean that

- PiP will accidentally be granted to sites that are environmentally unsustainable or unviable
- archaeological implications will be discovered after building programmes and budgets have been set, loading unnecessary risk and cost on to the construction sector

The only apparent responses consistent with planning policy could be

- planning authorities will face pressure to fund archaeological evaluation before they identify housing land (costs presently borne by applicants and beyond the reach of those authorities)
- where sites are too sensitive, PiP will have to be withdrawn, with liability for compensation³
- where development is acceptable and archaeological sites will be destroyed, excavation may not happen because there is no mechanism for planning conditions at the in-principle stage.

In effect, the Act implies a new duty for local planning authorities to conduct archaeological evaluation on sites identified through local and neighbourhood plans and Brownfield Registers.

CIfA is keen to see which of the available solutions Government opts for

1. A fund for local authorities to enable them to fund the new burden of undertaking or commissioning archaeological evaluations before allocating land
2. Clear guidance that housing land must not be identified unless adequate archaeological impact assessment has been conducted in advance, and if necessary conditions are imposed at technical detail stage
3. A compensation fund which local authorities can draw on if they have to rescind permission in principle because significant heritage assets have been encountered
4. Draft clauses in the Neighbourhood Planning and Infrastructure Bill to amend the Housing and Planning Act to prevent the granting of permission in principle without the necessary environmental assessments having been undertaken.

CIfA has offered its expertise in planning and archaeology to work constructively with Government to find solutions that protect archaeology and are sustainable in NPPF terms, and which facilitate the house-building the nation so urgently needs.

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¹ George Osborne's 2015 reply to a letter from The Heritage Alliance (<http://www.theheritagealliance.org.uk/tha-website/wp-content/uploads/2014/07/GO-to-KP-31-8-15.pdf>)

²

http://www.archaeologists.net/sites/default/files/news/CIfA%20Housing%20and%20Planning%20Act%20briefing_0.pdf

³ a solution proposed by Baroness Williams during the Lords debate on the Bill on 22 March without reference to the statutory requirement to compensate applicants

(<http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160322-0002.htm>)