

EIA Consultation  
Defra  
Land Use Housing and Planning Team  
Area 1E, Nobel House  
17 Smith Square  
London  
SW1P 3JR

[EIA.consultation@defra.gsi.gov.uk](mailto:EIA.consultation@defra.gsi.gov.uk)

31 January, 2017

Dear Sir / Madam,

**Environmental Impact Assessment: Joint technical consultation (planning changes to regulations on forestry, agriculture, water resources, land drainage and marine works)**

Thank you for the opportunity to comment on proposed changes to legislation needed to implement amendments introduced by the EU Directive 2014/52/EU ('the 2014 Directive'). This response relates to England, Scotland, Wales and Northern Ireland unless the context otherwise requires and is submitted on behalf of the Chartered Institute for Archaeologists (CIfA), a professional body representing archaeologists working across the UK and overseas, and the Council for British Archaeology (CBA), representing the public voice for archaeology. Details of both bodies are provided in a separate appendix.

**Environmental Impact Assessment: planning changes to regulations on forestry, agriculture, water resources, land drainage and marine works**

**General**

Environmental impact assessment (EIA) is a key mechanism for the management and protection of the historic environment, not only for designated historic assets but also for those assets which are not designated and for which EIA provides a crucial (and in some cases the only) safeguard.

As such, we are concerned to see that the current levels of protection and oversight provided by EIA are maintained and where appropriate improved. While we understand (and, where appropriate, share) the desire for simplification and '*a reduction in unnecessary administrative burdens*', this should not be done at the

expense of environmental protection (and, in particular, the protection of the historic environment) and the sound management of the environment (and, in particular, the historic environment). We would oppose any reduction in the levels of protection for the historic environment which consideration through the EIA process currently bestows.

Furthermore, transposition should, if possible, be done in such a way as to ensure, or at least facilitate, the continued operation of EIA provisions regardless of the United Kingdom's membership of the European Union.

In this regard we welcome the continuing recognition in paragraph 2.3 of the consultation document that:

*'... the aim of [the EIA Directive] remains the same: to provide a high level of protection of the environment and help integration of environmental considerations into the preparation of projects with a view to reducing their impact on the environment.'*

### **Specific Questions**

#### **Question 1. Do you agree with these proposals?**

1.1 Yes. A co-ordinated procedure provides some flexibility where different bodies are involved, but a joint procedure appears sensible where the same body is responsible for all decisions.

#### **Question 2. Do you need information on this and, if so, what would you need from us to help you comply with these new requirements?**

2.1 No comment.

#### **Question 3. Please give us your views on the following proposals for increasing afforestation thresholds in England:**

- a) Retain the current thresholds in non-sensitive areas (5 hectares) but, in the low risk areas, increase the threshold from 5 to 20 hectares.**
- b) Retain the current thresholds in non-sensitive areas (5 hectares) but, in the low risk areas, increase the threshold from 5 to 50 hectares.**
- c) Retain the current thresholds in non-sensitive areas (5 hectares) but, in the low risk areas, increase the threshold from 5 to 100 hectares.**

3.1 Whichever threshold is set, this should take account of the potential damage to the historic environment (and particularly below-ground remains) and the fact that not all

heritage assets (including those of national importance) are scheduled (or even, in some cases, identified at the outset). Given the potential for harm to heritage assets and the definition of 'low risk areas' (which does not exclude all areas of archaeological interest), we do not support increasing the threshold for low risk areas as proposed.

**Question 4. Please give us your views for the following proposals for ensuring environmental protection if the threshold in England is increased:**

- a) Retain the current approach: no requirement to notify Forestry Commission England of proposals under threshold before starting work.**
- b) Notify Forestry Commission England of the proposal and provide information that confirms it complies with the UK Forest Standard – demonstrating how woodland design will mitigate any adverse environmental impact – and allow 28 working days for Forestry Commission England to review this before starting work.**
- c) Notify Forestry Commission England of the proposal and provide information that confirms it complies with the UK Forestry Standard – demonstrating how 42 working days for Forestry Commission England to review this, including placing on a public register for local stakeholders to comment before starting work.**

4.1 In the light of our answer to question 3, if the threshold is increased we would support option (c) so as to enable consultation with Historic England and other interested parties in relation to the historic environment. Placing proposals on the public register is essential to enable specialist staff to check proposals against the Historic Environment Record, identify any adverse impacts and provide advice accordingly.

**Question 5. Please give your views on increasing the thresholds in non-sensitive areas in Wales to one of two levels:**

- (a) increase the afforestation threshold for non-sensitive areas from 5 hectares to 20 hectares;**
- (b) increase the afforestation threshold for non-sensitive areas from 5 hectares to 50 hectares.**

5.1 Unless the woodland opportunities mapping in Wales takes account of all areas of archaeological interest, we would have similar concerns to those expressed under question 3 about raising the threshold for non-sensitive areas in Wales.

**Question 6. Do you agree with our proposals on changing the time for making screening decisions?**

6.1 Yes, provided that sufficient resources and expertise are available to the relevant authorities and their advisors to ensure that an adequately-informed opinion can be issued within the relevant time limit.

**Question 7. Do you agree that we should continue to use non-electronic methods for notices for alerting the public to consultation?**

7.1 Yes.

**Question 8. Do you think the public participation procedure in the Marine Works Regulations should be simplified? If so, please say how.**

8.1 No comment, save that any revised procedure should not reduce levels of public participation in the process.

**Question 9. Do you agree with our proposals?**

9.1 No.

9.2 We welcome the introduction of requirements for the developer to ensure that reports are prepared by competent experts and for competent authorities to have, or have access to, appropriate expertise.

9.3 However, although a definition of '*competent experts*' is proposed (see paragraph 3.71 of the consultation document) there would still be some doubt as to what constitutes '*sufficient expertise*'. Such doubt is most effectively dispelled by the use of accreditation mechanisms (such as those provided in an archaeological context by ClfA's accredited membership grades<sup>1</sup> and registered organisations scheme<sup>2</sup>). Ideally, these should be embedded in the regulations transposing the Directive, but if this does not occur, they should be clearly identified in supporting guidance.

**Question 10. Do you agree with the proposed change?**

10.1 No comment.

**Question 11. Do you have an alternative proposal?**

11.1 No comment.

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<sup>1</sup> <http://www.archaeologists.net/regulation/accreditation>

<sup>2</sup> <http://www.archaeologists.net/regulation/organisations>

**Question 12. Do you agree with the proposed change?**

12.1 Yes, provided that it is clear that *'the environmental interest/s'* which can be identified on the land include historic environment interests.

**Question 13. Do you have an alternative proposal?**

13.1 No comment.

**Question 14. Do you agree with the proposed change?**

14.1 Yes.

**Question 15. Do you have an alternative proposal?**

15.1 No comment.

**Question 16. Do you agree with the proposed change?**

16.1 Yes, provided there is no reduction in the levels of oversight and protection for the historic environment.

**Question 17. Do you think that the policy approach proposed has any implications for the Welsh language?**

17.1 No comment.

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,

Dr Mike Heyworth  
MBE FRSA FSA MCMi MCifA  
Director, CBA

Peter Hinton  
BA MCifA FRSA FSA FIAM FSA Scot  
Chief Executive, ClfA

- cc. Welsh Government Forestry Policy Team  
Scottish Government Marine Planning & Strategy Team  
DAERA Marine Strategy and Licensing Team

## 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 3,150 members and around 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.