

Planning Policy Consultation Team
Department for Communities and Local Government
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22 February, 2016

Dear Sir / Madam,

Consultation on proposed changes to national planning policy

This response is submitted on behalf of the Chartered Institute for Archaeologists (CifA) a professional body representing archaeologists working across the UK and overseas, the Association of Local Government Archaeological Officers (ALGAO: England) representing local government archaeology services in England, and the Council for British Archaeology (CBA) representing the public voice for archaeology. Details of all three bodies are provided in a separate appendix.

Proposed changes to national planning policy

General

ALGAO: England, CBA and CifA support the National Planning Policy Framework (NPPF), with its focus on the presumption in favour of sustainable development (the *'golden thread running through both plan-making and decision-taking'*¹) and a plan-led system². This (together with guidance and advice in the National Planning Policy Guidance and the more recently-published Historic Environment Good Practice Advice in Planning Notes) provides a generally effective framework for considering and safeguarding heritage assets with archaeological interest in plan-making and development management.

Sustainable development requires the even-handed and simultaneous balancing of economic, social and environmental considerations and *'the overall balance of policy'* as currently expressed in the NPPF *'was carefully established following extensive consultation.'* (paragraph 3 of the consultation document). We are particularly

¹ NPPF, paragraph 14

² NPPF, paragraph 17

concerned that some of the revisions proposed in this consultation are likely to upset that balance thereby reducing the level of consideration and protection of the historic environment through the planning system.

Furthermore, in the absence of any detailed wording for most of the proposed revisions to the NPPF, the general nature of the proposals in the consultation preclude a fully-considered response.

Specific Questions

Question 1: Do you have any comments or suggestions about the proposal to amend the definition of affordable housing in national planning policy to include a wider range of low cost homes?

1.1 The desirability of delivering affordable housing is not in issue. We are concerned, however, that widening the definition of affordable housing to encourage forms of housing without any requirement for that housing to remain affordable in perpetuity may ultimately reduce the supply of genuinely affordable housing over time. If this occurred it would be likely to increase the pressure to identify additional (and potentially less sustainable) land for housing development to meet affordable need.

Question 2: Do you have any views on the implications of the proposed change to the definition of affordable housing on people with protected characteristics as defined in the Equalities Act 2010?

2.1 No.

Question 3: Do you agree with the Government's definition of commuter hub? If not, what changes do you consider are required?

3.1 No. The proposed definition at paragraph 15 needs to be more precise. For instance, criterion b) (*'a place that has, or could have in the future, a frequent service to that stop'* [my underlining]) is potentially very wide.

Question 4: Do you have any further suggestions for proposals to support higher density development around commuter hubs through the planning system?

4.1 No, but any proposals must respect the fact that commuter hubs often contain some of the most historic areas in settlements. We welcome the recognition in paragraph 17 of the consultation document that any proposals for higher density development must take account of local character.

Question 5: Do you agree that the Government should not introduce a minimum level of residential densities in national policy for areas around commuter hubs?

5.1 Yes. Local planning authorities should remain responsible for determining appropriate housing density through plan-making and development management. This assessment will pay respect to local character, and restrictions imposed by designations, for example conservation areas. Sustainable higher density residential developments in areas around commuter hubs may be encouraged, but should ultimately remain a local authority issue.

Question 6: Do you consider that national planning policy should provide greater policy support for new settlements in meeting development needs? If not, why not?

6.1 No. Paragraph 52 already provides appropriate support for new settlements, highlighting the need for such development to be sustainable and to involve local communities and the scope for Green Belt protection. Repeating the policy serves no useful purpose and departing from it risks undermining the presumption in favour of sustainable development.

Question 7: Do you consider that it would be beneficial to strengthen policy on development of brownfield land for housing?

7.1 While we support the desire to reuse appropriate brownfield land, it is necessary to recognise that such sites can be of particular environmental sensitivity on account of the heritage assets likely to be encountered there and ensure that the planning process affords appropriate weight to that consideration.

7.2 The NPPF currently provides that balance, recognising as a core principle³ the desirability of encouraging the reuse of brownfield land, but ensuring that such considerations are weighed against the environmental impact (including impact upon heritage assets of archaeological interest) of such development⁴.

7.3 The proposed revision of national planning policy (presumably through a revision of the NPPF although no draft revised text is available) is set out at paragraph 22 of the consultation document:

³ *ibid*

⁴ See in particular paragraph 17 and section 12 of the NPPF

'To ensure that all possible opportunities for brownfield development are pursued, we propose to make clearer in national policy that substantial weight should be given to the benefits of using brownfield land for housing (in effect, a form of 'presumption' in favour of brownfield land).'

7.4 This proposal is couched in terms of clarification, but in reality represents a significant revision (and strengthening) of policy in relation to brownfield development (as question 7 expressly acknowledges). It is suggested that '*substantial weight*', a phrase reserved in policy for Green Belt consideration, be given to the benefits of using brownfield land, by contrast, for instance, to the '*great weight*' to be given to the conservation of designated heritage assets in paragraph 132 of the NPPF. Such contrasting language strongly suggests the subordination of environmental considerations to the development imperative and would involve a fundamental rebalancing of national planning policy.

7.5 Indeed, there is currently no '*presumption*' in favour of brownfield land and it is hard to see how the '*overall balance of policy*' will not change if such a presumption is introduced, given that, in any balancing exercise, altering the weight to be given to one factor implicitly alters the significance accorded to others. Furthermore, the proposal to introduce a new presumption stands in stark contrast to Government's approach in introducing the NPPF in 2012. At the time the presumption in favour of the conservation of designated assets in policy HE9.1 of PPS 5 was dropped in the face of opposition from the historic environment sector on the basis that the only presumption in policy should be that in favour of sustainable development. This was made clear in DCLG's response to consultation on the NPPF:

'The 're-introduction of the presumption in favour of designated heritage assets is unnecessary and could lead to confusion about the inter-relationship with the presumption in favour of sustainable development.' page 33 National Planning Policy Framework Summary of consultation responses, DCLG July 2012

If not, why not and are there any unintended impacts that we should take into account?

7.6 If national planning policy is revised as proposed there are likely to be adverse, unintended impacts on the historic environment and the timely delivery of sustainable development.

7.7 The NPPF provides at paragraph 128:

'Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.'

7.8 Such pre-determination assessment and evaluation is crucial to assess whether sites include, or have the potential to include heritage assets of archaeological interest including:

- heritage assets (whether designated or not) of national importance which might constrain development – the vast majority of assets of archaeological interest are undesignated
- heritage assets not of national importance but in respect of which mitigation and/or compensation (often through recording to advance the understanding of the significance of the asset) is necessary. Such requirements are normally secured by means of planning conditions or obligations, but these crucial mechanisms are of little value without appropriate, pre-determination assessment and evaluation. Moreover, where extensive archaeological remains are present, such necessary mitigation and/or compensation can affect the viability of development.

This is particularly important, given the definition of archaeological interest in the NPPF which includes the potential for a future expert archaeological investigation to reveal more about our past.

7.9 The risks to the historic environment are increased significantly when the implicit weakening of planning policy to protect heritage assets with archaeological interest is viewed in the context of the proposals in the Housing and Planning Bill to introduce automatic permission in principle for housing sites identified on brownfield registers and allocated in local and neighbourhood plans. Such sites are routinely identified and allocated in the absence of archaeological assessment and evaluation so that the risks outlined above are not at this stage fully identified. If there is a presumption in favour of the development of brownfield land in plan-making and development management, development is likely to be permitted which will cause significant harm to heritage assets and consequently be unsustainable. This not only harms the historic environment but also introduces uncertainty, delay and cost to the development process when archaeological remains (some of national importance and some involving human remains) come to light later in the planning and development cycle.

7.10 Even in cases where harm to the historic environment could potentially be mitigated or offset by appropriate compensation, there need to be legally-enforceable requirements for mitigation or compensation if sites are to be included on registers

and in plans. Any proposed changes to the NPPF should ensure not only that appropriate assessment and evaluation is undertaken before sites are entered on a register or allocated in plans, but also that legally-binding requirements for mitigation and/or compensation are imposed or secured where relevant and at an appropriate time (mirroring archaeological conditions and obligations such as the example condition set out at paragraph 37 of *Historic Environment Good Practice Advice in Planning Note 2*).

Question 8: Do you consider that it would be beneficial to strengthen policy on development of small sites for housing? If not, why not? How could the change impact on the calculation of local planning authorities' five-year land supply?

8.1 We are not opposed to the encouragement of development for housing on small sites. However, such sites, and particularly those within settlement boundaries, often contain heritage assets of archaeological interest and the concerns expressed above in relation to any strengthening of brownfield policy apply equally to revisions of policy relating to small sites.

Question 9: Do you agree with the Government proposal to define a small site as a site of less than 10 units? If not, what other definition do you consider is appropriate, and why?

9.1 No comment save that we would be concerned if the size threshold were to be increased above 10 units, thereby precluding consideration of more sites through the local plan allocation process.

Question 10: Do you consider that national planning policy should set out that local planning authorities should put in place a specific positive local policy for assessing applications for development on small sites not allocated in the Local Plan?

10.1 We do not object to this although most local plans already contain such policies. However, care must be taken in framing such policy to ensure that the current balance achieved by the current NPPF is not disturbed (see above).

Question 11: We would welcome your views on how best to implement the housing delivery test, and in particular

- **What do you consider should be the baseline against which to monitor delivery of new housing?**
- **What should constitute significant under-delivery, and over what time period?**
- **What steps should be taken in response to significant under-delivery?**

• **How do you see this approach working when the housing policies in the Local Plan are not up-to-date?**

11.1 The answer to under-delivery of housing allocated in local plans should not, in the first instance, be the identification of further land for development but should address the reasons for non-delivery, many of which (such as land banking and market conditions) are beyond the powers of local authorities.

Question 12: What would be the impact of a housing delivery test on development activity?

12.1 We are concerned that, if the standard response to problems in the planning system is simply to identify more land for development, land which is environmentally sensitive will increasingly be under threat.

Question 13: What evidence would you suggest could be used to justify retention of land for commercial or similar use? Should there be a fixed time limit on land retention for commercial use?

13.1 We would wish to see clear and rigorous tests of viability to ensure that land identified for commercial (or other) uses is not released unnecessarily with a consequent risk of producing unbalanced and unsustainable settlements. The mixed uses found in such settlements often contribute to their character and appearance.

Question 14: Do you consider that the starter homes exception site policy should be extended to unviable or underused retail, leisure and non-residential institutional brownfield land?

14.1 See paragraph 13.1 above.

Question 15: Do you support the proposal to strengthen the starter homes exception site policy? If not, why not?

15.1 No. If this is clarification (as paragraph 42 of the consultation document seems to suggest) then restating existing policy is only likely to confuse. If the policy is to be strengthened, making clear *‘that planning applications can only be rejected if there are overriding design, infrastructure and local environmental (such as flood risk) considerations that cannot be mitigated’* this is likely to be interpreted as a weakening of policy protecting the environment (including heritage assets of archaeological interest). For instance, most (if not all) development proposals can be mitigated to

some degree; the question is whether such mitigation is adequate to justify development.

Question 16: Should starter homes form a significant element of any housing component within mixed use developments and converted unlet commercial units?

16.1 No comment.

Question 17: Should rural exception sites be used to deliver starter homes in rural areas? If so, should local planning authorities have the flexibility to require local connection tests?

17.1 No comment, save that we repeat the concern that making provision for starter homes that are not required to remain affordable in perpetuity may ultimately reduce the supply of genuinely affordable housing over time.

Question 18: Are there any other policy approaches to delivering starter homes in rural areas that you would support?

18.1 No comment.

Question 19: Should local communities have the opportunity to allocate sites for small scale Starter Home developments in their Green Belt through neighbourhood plans?

19.1 Yes, provided that the impact of development upon heritage assets is properly addressed in the process and that the allocation of sites does not incrementally undermine Green Belt boundaries and policies.

Question 20: Should planning policy be amended to allow redevelopment of brownfield sites for starter homes through a more flexible approach to assessing the impact on openness?

20.1 No. The *'essential characteristics of Green Belts are their openness and their permanence⁵'* and revising policy as proposed risks undermining that openness.

Question 21: We would welcome your views on our proposed transitional arrangements.

⁵ NPPF, paragraph 79

21.1 No comment.

Question 22: What are your views on the assumptions and data sources set out in this document to estimate the impact of the proposed changes? Is there any other evidence which you think we need to consider?

22.1 Careful consideration needs to be given to current practice with regard to the assessment and evaluation of archaeological interest in the planning process (both in plan-making and development management) and how this operates with regard to the identification and development of brownfield land and small sites.

Question 23: Have you any other views on the implications of our proposed changes to national planning policy on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

23.1 No comment.

CifA, CBA and ALGAO: England in no way wish to undermine the facilitating of sustainable housing development on suitable brownfield land and small sites, but are concerned to stress the crucial role which the planning system plays in the management and protection of the historic environment. Policy changes to secure other objectives can inadvertently undermine that protection often in a fundamental way. 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,

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APPENDIX

The Association of Local Government Archaeological Officers: England (ALGAO: England)

The Association of Local Government Archaeological Officers: England (ALGAO) is the national body representing local government archaeology services in England at County, District, Metropolitan, Unitary and National Park authority level. These provide advice to nearly all the District, Unitary and other local government bodies in the country.

ALGAO: England co-ordinates the views of its member authorities (currently 97 in total) and presents them to government and to other national organisations. It also acts as an advisor to the Local Government Association (LGA) on archaeological matters. The range of interests of its members embraces all aspects of the historic environment, including archaeology, buildings and the historic landscape, and its stated aims are to:

- provide a strong voice for local authority historic environment services and promote these to strengthen and develop their role within local government in delivering local and national government policy
- ensure local government historic environment services are included within policy (national and local) for culture and education
- ensure that policy aims to improve the sustainable management of the historic environment
- promote the development of high standards in the historic environment profession

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 3,200 members and more than 70 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.