

*Submitted by online form.*

12 September 2016

**RE: Cifa response to CLG Committee inquiry into the capacity of the homebuilding industry**

Dear Mr Betts,

Thank you for the opportunity to provide evidence to this enquiry. We would like to underline the vital role that the planning system plays for the environmental sector (in which we include archaeology and the historic environment). We understand that we are not the core audience for this inquiry, however, these views are a necessary part of the discussion on housebuilding, as the planning system exists not only to deliver the homes that we vitally need, but also to protect social and environmental sustainability and cultural wellbeing, to direct development to where it is most beneficial, and to prevent mistakes from being made – particularly where there is a potential loss of an irreplaceable asset.

Our central position is that archaeology does not cause delays in the planning system, and that more broadly there has been an overemphasis, in recent years, on the need to deregulate the planning system in order to speed up decision making and decrease costs for developers. In reality this is demonstrably not a major cause of the low rate of housebuilding.

We make our case below, but in summary:

- There is virtually no evidence to suggest that archaeology is a material contributor to low numbers of homes being built in the UK.
- Wider constraints caused by current planning procedures are overstated, with figures showing that despite extremely high acceptance rates for applications, completion rates are generally falling and construction times lengthening. This suggests other factors are limiting housebuilding rates to a far greater extent.
- We are now close to a critical threshold for necessary protections for the environment, as current proposed reforms are cutting across established principles of protection for archaeology and other cultural and natural heritage. Furthermore, local planning authorities are critically understaffed, with harm being done to both the capacity for, and quality of, decision-making as a result.
- Planning applications are being accepted at a consistently high rate (c.90%) and new streamlined planning regulations are ensuring that c.80% of applications processed on time. Extreme examples can be further mitigated, but sustainable decision making must not be impaired by further deregulation which will bring little benefit.
- There is however, a critical skills gap in the construction sector and lack of capital investment which is causing projects to be delivered at a slower rate and even leading to permissions expiring. Furthermore, market factors such as high land prices encourage practices like developer land-banking, which restricts competition, and leads to developers drip-feeding markets to maintain high prices.

- There is not enough pressure on developers to utilise sustainable, allocated land. Rather policy changes have tended to focus on creating a punitive system which potentially penalises local authorities for turning down unsustainable development, despite sustainable allocated land being available as it is less desirable or profitable for developers to build on.
- This being said, policy reform is making it harder for local authorities to ensure that allocated land (e.g. land included within brownfield registers) is sustainable, as standard developer-funded models for investigating the archaeological potential of a site are undermined by the provision for 'permission in principle', which currently does not describe a reasonable way to ensure sustainability tests are carried out.

We strongly believe that further deregulation of the planning system will not be able to achieve significant gains in terms of the number of houses built, but could do significant damage to the historic and natural environment. Rather the government should put in place a broader programme to deal with the macroeconomic, market, and wider industry factors, as well as reviewing damagingly low levels of local planning authority funding, which are all issues which are contributing to the national housing shortage.

### ***About the Chartered Institute of Archaeology***

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 3,300 members and nearly 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 impact of archaeology within the planning system***

Archaeology is one of the environmental constraints that acts within the planning system. Whilst it has been a stated objective of Government to preserve historic environment protections<sup>1</sup> in the planning system, in reality, various deregulatory moves and changes to policy have had, or are expected to have, an impact on the established principles of archaeological investigation. These impacts are a consequence of material policy provisions (e.g. the Housing and Planning Act's introduction of 'permission in principle' (PiP) which will limit opportunities for archaeological investigation and disrupt the 'polluter pays' principle) and of the informal encouragement of local authorities to accept development which is

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<sup>1</sup> Rt. Honourable George Osborne (2014) 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>)

questionably sustainable (e.g. through the application of the new homes bonus, and threat of special measures for authorities which cannot demonstrate sufficient housing land supply).

Currently, archaeology in the planning system works in the following way: A small proportion of planning applications are affected in any way by archaeology (2-3%). Only 1% have planning conditions attached to them. Of these, only a minute proportion are refused on archaeological grounds. The use of pre-determination and pre-application assessment to identify archaeology (and invariably work around it through redesign) maximises the chance of successful applications, minimises potential delays, and reduces the risk of unexpected discoveries. The use of pre-commencement conditions ensures that the risk of delays and unexpected discoveries is almost completely removed.

Pre-commencement conditions are particularly important to avoid delays, as agreeing methodologies allows parts of the archaeological excavation to be undertaken while the development is in progress. However, if exemptions for archaeological pre-commencement conditions are not secured within regulation designed to underpin the provisions within the draft Neighbourhood Planning Bill, delays are likely to increase. The same is true for delays if PiP for new housing becomes commonplace and is granted for areas with archaeological potential, and there isn't the opportunity for archaeological assessment.

### ***Wider perceptions of planning effects on housebuilding***

#### *i) Obtaining planning permission is not the problem*

In January 2016, figures from the LGA showed that there were 475,000 homes with planning permission still waiting to be built. The study showed that it took nearly 12 months longer on average to complete a development in 2014/15 than it did in 2007/08. The reason for this, the study concluded was a skills shortage in the industry and a lack of capital investment. During the same period, permissions rose by 25,000 to its highest ever level, and council approve nearly 90% of all applications.

These figures show that the planning system is easier than ever to navigate, thanks in part due to streamlining reforms such as the NPPF. However, despite this, housebuilding is still slowing. A key reason for this is the skills gap in the construction sector, as employment need is shown to outstrip supply, with a declining number of construction qualifications being awarded by colleges.

The LGA report also highlights the need for investment in order to improve this situation, but also recommended a number of policy changes in order to encourage developers to build more quickly, such as allowing councils to charge full council tax for unbuilt units from the point that the original permission expires.

#### *ii) The planning system is not too slow*

In 2015 nearly 80% of major applications were decided within 13 weeks, or the agreed time. Whilst this figure could be higher, it is not a figure which indicates that the system is a block on housebuilding. There are, of course, some extreme examples where permissions take much

longer; however, such cases are outliers and cannot be taken to be representative of the norm. In many cases, delays are justified as developers are asked to produce evidence to show that plans will not breach sustainability criteria, as set out in the NPPF. Where it is the case that extra evidence is requested, it is usually of vital importance to the judgement of what mitigation is appropriate.

For example, proposals for a new Chester Northgate shopping centre was delayed for a month after developers were asked to produce archaeological evidence to satisfy comments by expert consultees. Whilst this delay is unfortunate, the information requested was not disproportionate, rather, the developer had failed to deliver information to a satisfactory standard.

Where a case is controversial with local communities, or where schemes will have impact on heritage assets or the natural environment, ensuring that the details of the case are carefully considered in light of all the necessary evidence is important to ensure sustainability. We do not believe that there is an unfair weighting towards these precautionary principles in current policy or practice and we think that any policy change which encourages a race to the bottom or encourages developers to seek to provide the absolute minimum level of evidence should be discouraged.

Of course, it is correct that, where extreme cases arise, planning applications which take years to gain approval should be judged on whether the process was reasonable and every effort should be made to make sure that these situations do not arise. However, many cases which are delayed as a result of poor communication, slow processing, or mistakes, arise as a result of a lack of resourcing in local planning authorities and reduced capacity to deal with applications within the proper timescales. Many developers state that they would be willing to pay more for planning fees if it would negate the effect of under-resourced planning departments. New provision within the Housing and Planning Act to allow third parties to compete for contracts to process planning applications are, however, likely to compound this problem, rather than help it, as local authorities will be forced to double-handle material in order to determine cases and will lose out of funding in the form of planning fees in the process.

Other accusations that current planning practice causes delays to the building of new homes are also overblown. There are small delays and proportionately small costs associated with drawing up information to supply with planning applications which detail environmental impacts, and these contribute to costs and delays in the process, but are absolutely necessary to ensure sustainability of developments. Where environmental impact assessment discovers sustainability issues, it is important that there is a genuine option to delay or even stop development, in the extreme small number of cases where important assets are uncovered. Cutting corners in this area makes little sense, as it damages the degree of certainty in decision-making for very little gain.

*iii) The planning system is not too expensive*

Construction costs for homebuilding include a range of necessary expenditures, from site purchase, external works, contingencies, design and project fees, finance costs, *marketing costs, planning costs, CIL and other charges*, and developer's overheads and profit. Those costs which are associated with the process of planning are emphasised in *italic*. These costs – albeit variable, are unlikely to cost more than a few percent of overall costs.

Archaeology costs on sites which require mitigation are usually around 1% and rarely more than 3% of total budgets. Proper undertaking of environmental assessment, though, helps to reduce risk and manage contingency budgets. The cost of archaeology and other types of environmental investigation and mitigation should be recognised by the developer and costed similar to any other type of environmental constraint, for example, flood prevention costs. Given this risk management, it is not advisable to take short cuts in this process.

Although it is difficult to estimate wider fees on vastly differing types of project, planning fees usually only amount to a tiny fraction of a total project's costs – one estimate puts the cost at around 0.05%<sup>2</sup>.

In addition, none of these costs are of sufficient magnitude to give a plausible explanation as to why we are not building enough homes. In contrast, as a proportion of costs, land prices are by far the biggest barrier to projects. Focussing on the release of land, and thereby controlling land prices, would be a much clearer way to enable homebuilders to profit, while building quicker and in greater volumes.

*iv) Business models*

In the last 5 years, the profitability of the housebuilding market has been restored following the effects of the 2008 economic crash<sup>3</sup>, when the fragility of the market was exposed by inflated house prices. When the housing bubble burst, it put many firms in danger of going out of business. The fact that the market is dependent upon high house prices is concerning, particularly since one of the main reasons for building more houses is to reduce the cost of getting on the property ladder.

There is a fundamental contradiction in terms for a state which wants to see house prices drop through more houses being built, and a housebuilding sector which needs prices to remain high in order to maintain profit margins. There is therefore an incentive for many developers to withhold land for development, drip feed the market, and keep prices high. Of course, the reverse is also not a viable model; it is not possible to build thousands of houses into a small market and expect them to sell at a profit.

One factor of the housebuilder's business model is the process of land banking. Land banks are necessary in order to secure future land supply for development. Whilst land banks to secure

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<sup>2</sup> [http://www.designingbuildings.co.uk/wiki/Building\\_design\\_and\\_construction\\_fees](http://www.designingbuildings.co.uk/wiki/Building_design_and_construction_fees)

<sup>3</sup> <http://www.theconstructionindex.co.uk/market-data/top-20-house-builders/2012>

supply are necessary for developers to secure their interests, they damage competition by tying up available land in long term 'option contracts'.<sup>4</sup>

The charity Shelter have commented that;

“These methods of land control also mean that just focussing on some further liberalisation of the existing planning system is unlikely to release enough new land to loosen the de-facto monopoly power of existing developers and landowners”

Current developer land banks are estimated to hold between three and seven years' worth of housing production.

*v) Allocated land*

There is strong pressure on local authorities to identify a sustainable level of land for housebuilding. This has led to situations where authorities who have not been able to identify sufficient land have had their authority to deny applications limited. This threat has acted as a disincentive for many authorities to reject applications in the absence of a local plan with agreed five-year housing supply. Whilst there is merit to ensuring that local authorities perform their duty to release land, there is currently no converse duty on developers to build on allocated land.

It is possible that policy could be introduced which forces large housing developers to take on allocated sites, which may be less profitable than un-allocated ones, in order to unlock permissions for more profitable ones. This would stop land allocated by local authorities for housing to sit undeveloped for years while local planning authorities are forced to accept unsustainable development on ecologically or archaeologically sensitive sites, or on sites in the green belt.

**Conclusions**

There needs to be a diversity of approaches to tackling the housing shortage. Too often, this government has focussed on deregulatory changes to the planning system, which have a limited potential to improve housebuilding rates, and often come with consequent harm to the sustainability of the planning system as principles of environmental protection are undermined. These approaches should not necessitate the erosion of protections for the historic or natural environment which undermine the 'golden thread' of sustainability, which runs through the whole planning system. Even though such effects may be unintentional, they pose a very real threat to established principles of protection for heritage assets, particularly buried archaeological remains.

ClfA supports the Government's aim to increase housebuilding, however, we look to this Committee to advise Ministers to change tack in the emphasis on how this is to be achieved,

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[https://www.england.shelter.org.uk/\\_data/assets/pdf\\_file/0011/689447/Solutions\\_for\\_the\\_housing\\_shortage\\_-\\_FINAL.pdf](https://www.england.shelter.org.uk/_data/assets/pdf_file/0011/689447/Solutions_for_the_housing_shortage_-_FINAL.pdf)

recognise that damaging the environment is not a reasonable cost, and seek to invest in fundamental changes to the marketplace for housebuilding.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'P. Hinton', with a stylized flourish at the end.

Peter Hinton BA MIFA FSA FRSA FIAM

Chief Executive, Chartered Institute for Archaeologists