

Consultations on the Review of Heritage Protection and Historic Environment Records

To: Buckinghamshire Historic Environment Forum

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A PURPOSE

- 1 To advise the Forum of two government consultation papers and agree common principles for responses to recommend to member organisations.

B PROPOSED ACTION

2 The Committee is invited to:

- a) **CONSIDER the implications of the consultations for the historic environment of Buckinghamshire and the delivery of historic environment services**
- b) **RECOMMEND that each member organisation respond to the consultations taking account of the common principles agreed by the Forum.**
- c) **DECIDE whether a direct Forum response is appropriate or whether to simply seek to influence member organisation responses.**

C RESOURCE IMPLICATIONS

3. It is difficult to assess the resource implications of the Heritage Protection proposals without much more detailed information on how any new system would operate. For this reason the need for further research, including cost-benefit analysis, leading to clear guidance on the responsibilities of local authorities at all tiers and adequate government resourcing should be stressed in responses.
4. The costs of fully attaining and sustaining the stage 1 Historic Environment Record benchmark would be modest – about £10,000 to complete implementation of the disaster plan. It will also be essential to maintain the recently established full-time SMR officer post and therefore to continue the archaeology team's planning post as funding from English Heritage tapers down. Attainment of the stage 2 benchmark is a longer term goal dependant on securing HLF grant for the "Unlocking Buckinghamshire's Past" Project.

D SUPPORTING INFORMATION

Summary

- 5 The Department for Culture, Media and Sport has published two closely related consultations on the future of heritage designation regimes and of Sites

and Monuments Records (SMRs) both with a deadline for response of the 31st October. Both consultation papers arise from commitments made in “*A force for our future*”, the Government’s policy statement on the historic environment published in November 2001, itself derived from a consultation process initiated by the Government in 2000. It is intended that the results of the consultation inform a White Paper to be published early next year. The supporting paper (attached) distills the main points raised by these consultations and proposes a framework for a response based on key issues for Buckinghamshire, many of which have been identified and endorsed in previous reports to the Forum.

Discussion

- 6 The issues raised by these consultations are wide ranging. In order to facilitate discussion it is suggested that the Forum might wish to structure debate around identifying a few common principles. The following are suggested:
- a) Do we agree that existing protection should not be diluted (e.g. migration of grade II buildings to local lists)?
 - b) Do we agree that existing “loopholes” should be plugged (e.g. demolition controls, ploughing of scheduled monuments)?
 - c) If designation and consent regimes are to be unified should we be simplifying the existing grade I, II*, II system or introducing it for archaeological monuments?
 - d) Should designation be discretionary (as for archaeological monuments, parks and gardens and conservation areas) or non-discretionary (as for buildings)?
 - e) Would a unified designation and consent regime really be workable, simplify the system and be cost-effective? Should we support or oppose the principle?
 - f) The creation of “sub-regional teams” could imply a major reorganisation of Buckinghamshire’s historic environment services. Would the bringing together of district-based historic buildings conservation with the county-based archaeology and the historic environment record improve efficiency and effectiveness? How big is our “sub-region” (including Oxfordshire and former Berkshire)? Where does Milton Keynes fit in?
 - g) Can we agree to support statutory status for Historic Environment Records alongside the introduction of benchmark standards linked to adequate resourcing? Can we agree to oppose the establishment of regional HERs? Can we agree that more needs to be done to make the Bucks SMR/HER accessible and relevant to conservation officers recognising that this raises issues of responsibility and resource?

E. BACKGROUND PAPERS

A future for our past. The Buckinghamshire Archaeological Management Plan

The historic environment : a force for our future. Government Policy Statement.

Historic Environment Records Consultation. DCMS (July 2003)

Protecting our historic environment: Making the system work better. DCMS (July 2003)

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Consultations on the Review of Heritage Protection and Historic Environment Records

Background to the Consultations

1. The Department for Culture, Media and Sport has published two closely related consultations on the future of heritage designation regimes and of Sites and Monuments Records (SMRs) both with a deadline for response of the 31st October. Both consultation papers arise from commitments made in “*A force for our future*”, the Government’s policy statement on the historic environment published in November 2001, itself derived from a consultation process initiated by the Government in 2000.
2. The review of heritage protection consultation entitled “*Protecting our historic environment: Making the system work better*” is in effect a Green Paper. It is intended that the results of the consultation inform a White Paper to be published early next year.
3. The OPDM is taking forward a separate review of Planning Policy Guidance Notes 15 and 16 covering the historic environment and archaeology respectively with a view to public consultation on a draft Planning Policy Statement 15 *Planning for the Historic Environment* and supporting Guidance expected early next year. DCMS and ODPM are working closely to co-ordinate these initiatives.
4. This paper follows on from a series of reports presented to the former Environmental Services Committee, the Buckinghamshire Historic Environment Forum and the Cabinet Members for Community Services and Planning and Transportation. It distills the main points raised by these consultations and proposes a framework for a response based on key issues for Buckinghamshire, many of which have been identified and endorsed in these previous reports.

Review of Heritage Protection – Scope and Purpose

5. The Review covers the designation of ancient monuments, listed buildings, registered parks and gardens, registered battlefields, World Heritage Sites and conservation areas and how the land-use planning system protects the historic environment. Ecclesiastical exemption will be examined in the light of the review’s conclusions. The Review identifies four major areas for improvement:
 - **Simplifying** the complex heritage protection systems which have grown up in piecemeal fashion.
 - **Openness** to make designation procedures accessible and to engage with owners and local communities.
 - **Flexibility** particularly to deal with complex sites, such as large military establishments or housing estates, where currently each structure requires an individual designation and each alteration a specific consent.
 - **Rigour.** It is noted that there are about half a million designated sites but that only 3% of listed buildings are from the twentieth century. The system must be robust enough to conserve the best and to continue to take on board changes in what people value without devaluing the currency.

The Review suggests that the system is now so complex that few people understand all parts of it and that it is not apparent that monuments, buildings and landscapes need separate regimes.

6. The proposals (outlined below) would represent probably the most radical overhaul of heritage protection legislation ever and, if progressed, will need to be based on careful research into their practical operation.

Review of Heritage Protection - Suggestions for Change

7. The Review contains 21 suggestions for change grouped under ten generic headings. Consultation responses are sought to 27 specific questions related to these suggestions. Summaries of the suggestions and questions are provided in appendix A.
8. The fundamental suggestion is to bring together the different regimes into a single “List of Historic Sites and Buildings of England” to include any type of historically, archaeologically or architecturally important site as well as important historic areas such as World Heritage Sites. There would also be a local section of the List covering conservation areas and locally listed buildings. It is suggested that responsibility for maintaining the national List would lie with English Heritage rather than with DCMS as at present. Safeguards are suggested to require English Heritage to operate within Government policy, to allow for call in by the Secretary of State, to provide a right of appeal and to require English Heritage to give an annual account of its stewardship of the List. The key questions are whether a unified List would improve arrangements and whether, and on what terms, English Heritage should become responsible for the List (and if not what other options might there be?).
9. As some 500,000 buildings, monuments and landscapes are already listed, scheduled or registered, it is recognised that they would simply have to be brought onto the new unified List unaltered. However, questions are raised over the current system of grading buildings and registered parks and gardens, in particular whether gradings should be retained and whether some grade II buildings might be migrated to local lists.
10. There are suggestions for amending the designation process allowing discretion to decide not to list where listing will not help to secure a site or buildings future or where other protection, such as development control, is considered more appropriate. It is suggested that all items on the list be accompanied by a map showing the area covered and a “statement of significance” giving the reasons for designation and indicating the works for which consent would be required. Questions are raised about whether economic factors should influence designation decisions and about how statements of significance would be drawn up and updated.
11. The Review suggests that owners, local authorities, amenity societies, parish councils and the public be informed when an application is made to place an asset on the List and asks if protection should be applied during the period listing is under consideration (e.g. to prevent demolition). It is proposed to supply owners with more extensive information on their listed assets and how to manage them. There would also be a right of appeal against listing decisions – views are sought on the circumstances in which a right of appeal would be justified and whether it should apply only to owners or to other interested parties as well.

12. The Review envisages a single flexible consent regime for all items on the list, apart from the local section, with local authorities being responsible for dealing with all applications (including applications for what is now scheduled monument consent handled by the Secretary of State). English Heritage would be a consultee. Views are sought on how such a consent regime could operate and how works requiring consent could be specified, either for each asset or generically. Views are also sought on arrangements for “historic areas”. The possibility is also raised of having management agreements as an alternative to statutory consents for large and complex sites.
13. Consideration is given to the rural historic environment and how agri-environment schemes might relate to designations. For example compliance with such agreements might be recognised as an alternative to consent requirements. The need for reconciling better means to protect archaeological sites from cultivation with the needs of farmers is recognised and views sought, particularly with regard to the new planned Entry Level and Higher Tier schemes.
14. The role and status of the historic environment in the proposed new arrangements for strategic planning (Regional Spatial Strategies and Local Development Frameworks) is emphasised and views sought on what planning guidance would be of value. There is a desire to encourage local authorities to undertake conservation area appraisals and set out bolder policies for their enhancement.
15. The problem that locally listed historic buildings outside conservation areas can be demolished without the need for consent is recognised as is the fact that parts of unlisted buildings within conservation areas may be demolished following the judgement in the Shimizu case. Views are sought on whether there should be a mechanism to prevent demolition of locally listed buildings without consent and what safeguards there should be on the quality of local lists.

Review of Heritage Protection - Resources

16. The Review recognises the increasing development control casework pressures faced by local authority conservation officers, the variation between authorities in resources made available and the isolation of many individual officers. It suggests one solution might be to create a unified pooled sub-regional team bringing together staff in counties and districts to provide advice on archaeology, consents, listing, enforcement, and appraisals, carry out proactive conservation work and keep the Sites and Monuments Record. The Review seeks comment on how such teams might be created and function and what would be the benefits and downsides. The need to identify and fill skills gaps is also recognised. It is suggested that it is too early to determine the overall resource impact of the suggested changes but that it will be as much about using the existing resource differently as volume.

Historic Environment Records Consultation

17. This short consultation paper seeks views on the future of Historic Environment Records, in particular benchmarks for good practice, statutory status, location and accessibility and the crucial role of information technology. It is concerned with broadening the scope of records from their origins recording archaeological “sites and monuments” to cover historic buildings and landscapes too and also broadening their use from planning to encompass outreach and education. Responses are sought to 19 questions related to these themes (see appendix B).

18. The proposed Benchmarks for Good Practice sets out a checklist of measures for User Services and Access, Information Coverage and Content, Information Management and Organisation Management. Measures are divided into two tiers. Stage 1 is described as “essential good practice” whilst stage 2 is for “developed” HERs that “form part of integrated information systems for the historic environment”. There are 23 measures at the first level and 15 at the second.

Proposed Framework for a Bucks County Council Response

19. Bucks County Council has a significant interest in both consultations. The County contains 5769 listed buildings, 141 scheduled ancient monuments, 34 registered historic parks and over 200 Conservation Areas. The Planning and Environment Service is responsible for setting the overall planning policy framework for the protection of the historic environment through the Structure Plan and for Minerals and Waste policy and development control which has major impacts on historic landscape and archaeology. Within the Countryside and Heritage Division of Planning and Environment, the County Archaeological Service maintains the Sites and Monuments Record which contains over 16000 records of historic landscapes, buildings, archaeological sites and finds. The Bucks Historic Landscape Characterisation Project is currently extending the scope of the SMR enabling it to develop towards the coverage expected of a comprehensive Historic Environment Record. The “Unlocking Buckinghamshire’s Past” Heritage Lottery Bid will (if successful) make the SMR much more widely accessible providing a resource for local communities and schools. The archaeology service also provides an advisory service to local planning authorities, landowners and farmers handling about 500 consultations per year, some resulting in major developer-funded archaeological fieldwork. Countryside and Heritage also undertake major community-based outreach and conservation projects, such as the Bernwood and Whiteleaf Projects. The County Council is also involved in the management of the historic environment through its property holdings, the work of the County Museum and partnerships such as the Chilterns Conservation Board and Buckinghamshire Historic Environment Forum. In response to Government recommendations in “A force for our future”, the County Council has recently appointed Cherry Aston as historic environment champion.
20. Some aspects of the Review fall within areas currently covered principally by the district councils. Bucks County Council does not employ any historic building conservation officers – conservation area matters and all but a tiny minority of listed building applications are handled by the district councils.
21. In general terms both consultations are to be welcomed as together they address many of the concerns raised by Bucks County Council in responses to the earlier stages of the Historic Environment Review process commenced in 2000. In particular, they reflect to a greater or lesser degree:
 - An holistic view of the historic environment combining buildings, landscapes and archaeology.
 - The importance of local government historic environment services including the need for adequate resourcing and effective structures.
 - The desirability of developing comprehensive Historic Environment Records as publicly accessible assets.

- The need for control over the demolition of historic buildings not on the national list.
 - The need to protect important archaeological monuments in the countryside.
22. Nevertheless, there is a need for caution as the proposals in the Review of Heritage Protection represent a radical reform of the current system. Some weaknesses are apparent and there is clearly a need for further research into the practicalities of many of the proposals. **It is therefore proposed that Buckinghamshire County Council should offer qualified support for the proposals in principle but urge that they should only be progressed in their current form if there is a commitment by Government to adequately resource the research and service provision necessary for effective implementation.** It is proposed that the Council's formal response should be completed after the meeting of the Buckinghamshire Historic Environment Forum (HEF) on the 24th September to enable the views of our key partners to be taken into consideration. The response would be agreed jointly by the Portfolio Holders for Community Services and Planning and Transportation.
23. Subject to comments received from the Bucks HEF, it is proposed that the Council's detailed response to the Review of Heritage Designations should:
- a) Support the principle of a unified "List of Historic Sites and Buildings of England"
 - b) Support the establishment of local lists with a statutory status to include archaeological sites and historic landscapes as well as locally listed buildings and conservation areas subject to adequate resourcing and clarification of procedures.
 - c) Support English Heritage taking direct responsibility for national designations subject to proper consultation and accountability on policy and practice.
 - d) Agree that listing decisions based on merit should not be confused by short-term economic considerations.
 - e) Suggest that the present list and register grades I and II* should be merged into a single category of national importance equivalent to scheduled ancient monuments.
 - f) Point out that many unscheduled ancient monuments and archaeological areas (such as historic town cores) are recognised as being of national importance and should be included in the new national list not relegated to local lists.
 - g) Oppose the wholesale migration of grade II items onto local lists suggesting instead that the new appeal procedure would allow for this to be considered in individual cases.
 - h) Support the mapping of all items on the list and the desirability of statements of significance drawing attention to the need to retain flexibility and the resource implications.
 - i) Support a more open process for listing, better information for owners and tenants and a broadly based right of appeal (against both a decision to list and a decision to decline to do so). Emphasise the need for interim protection prior to a designation decision for both national and local lists.
 - j) Emphasise the need for further research into the practicalities of a single flexible consent regime with a clear preference for generic rules on what will or will not require consent. Draw attention to the resource and expertise implications of delegating scheduled monument consent applications to local authorities, including the need for a statutory duty of

care. Query the exclusion of local assets from the new consent regime – how will they be safeguarded?

- k) Query the arrangements for “historic areas”, which are very weakly developed in the Review. Express the need for a system which draws upon historic landscape characterisation, urban archaeological surveys, conservation area appraisals and related characterisation studies to define historic areas and landscapes for the national and local lists and identifies appropriate controls.
- l) Express cautious support for the idea of statutory management agreements replacing the need for specific consents in special circumstances. Properly implemented this could reduce unnecessary bureaucracy.
- m) Support the closer integration of designations with agri-environment schemes, including streamlining to reduce unnecessary bureaucracy. . Emphasise the need for support from DEFRA for specialist historic environment advice. Stress the need to remove class consents allowing the continuing damage of archaeological sites by cultivation.
- n) Stress the need for improved treatment of the historic environment in regional and sub-regional spatial strategies and for adequate treatment in Local Development Frameworks after the demise of Structure Plans. The new Planning Policy Statement 15 would be the appropriate vehicle backed up by its supporting guidance. The potential of Historic Landscape Characterisation to inform spatial strategies should be strongly emphasised.
- o) Support the completion of Conservation Area Appraisals and suggest a BVPI and specific funding stream to encourage their completion.
- p) Support the proposal to amend the GPDO to bring the demolition of locally listed buildings under planning control but add that partial as well as complete demolition should be covered and that similar protection from damage should be extended to other locally and nationally listed items.
- q) Express support in principle for the pooling of historic environment specialists at a sub-regional level but emphasise that this may be locally contentious and require firm guidance/support perhaps from a regional level to achieve satisfactory outcomes. There must be clarity over which tier of government is responsible for funding what. Sub-regional teams should not become divorced from elected members, local councils and allied services (e.g. countryside services) close contact with which give added value. Services need to be given statutory status (see HER consultation below).
- r) Make other technical observations on the Review document and possible operation of a new system based on the professional expertise of local authority historic environment officers.

24. The Historic Environment Record Consultation raises fewer but related issues. As a result of recent investment, the Bucks SMR already meets or is working towards completing 20 of the 23 1st stage Benchmarks for Good Practice and 4 or 5 of the 15 2nd stage benchmarks. Some additional work is required on backlog data inputting, disaster plan implementation and system documentation to address remaining 1st stage shortcomings whilst the “Unlocking Buckinghamshire’s Past Project” would improve performance at the 2nd stage. Provided the current level of provision for the Bucks SMR is sustained it should be possible to fully attain and sustain stage 1 performance and (so long as our HLF bid is successful) make steady progress towards the 2nd stage largely within existing and projected budgets, although there is a need to identify (modest) funds for secure storage of certain records. The main unresolved issues relate to

networked data sharing and collaborative projects, particularly the relationship of the SMR to the work of the district conservation officers (see Review of Heritage Protection Designations above) and to with libraries, museums and archives. To reflect the above, it is recommended that the Bucks CC response:

- a) Provide details of current use and awareness of the SMR and proposals for enhancing the service both technically and to provide a “step change” in access for local communities and schools.
- b) Endorse the proposed benchmark standards for Historic Environment Records subject to technical comments.
- c) Stress the need for Historic Environment Records to be given a statutory status.
- d) Stress the need for funding and training to enable the broadening of archaeologically based SMRs to cover the whole historic environment and to deliver improved public services. Consideration should be given to making the availability of an adequately resourced, internet accessible, GIS-enabled Historic Environment Record into a BVPI.
- e) Linked to the Heritage Protection Review, emphasise the need to promote the use of HERs by conservation officers (ideally in combined teams) and by other environmental disciplines, such as countryside and landscape officers. There will need to be clarity of funding arrangements for 2-tier authorities.
- f) Oppose the creation of regional HERs suggesting that a location within the proposed sub-regional teams will be more appropriate and locally responsive. Regional syntheses are perhaps better pursued through research framework type initiatives and follow up projects which could make more use of regional-scale mapping based on HERs and provide portals into sub-regional HERs.

Background Papers

Historic Environment Records Consultation. DCMS (August 2003)

Protecting our historic environment: Making the system work better. DCMS (July 2003)

Report to Environmental Services Committee: 15th June 2000.

Reports to Buckinghamshire Historic Environment Forum: 21st March 2000, 13th September 2000, 20th March 2002 and 16th December 2002.

Reports to Portfolio Holders for Community Services and Planning and Transportation: January 2000.

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APPENDIX B: HISTORIC ENVIRONMENT RECORD CONSULTATION

Questions for consultation (separate reply sheet)

- 1. Are you aware of the national network of Historic Environment Records?**
- 2. If you have used them now or in the past, why do you use Historic Environment Records?**
- 3. How do you use them – for example, do you visit the Historic Environment Record office or do you access the Historic Environment Record via the Internet?**
- 4. If you do not use them yourself, what is your interest in Historic Environment Records?**
- 5. In what ways have you found the content currently available in Historic Environment Records to be useful?**
- 6. If you think the content of Historic Environment Records could be improved in any way, please could you suggest how?**
- 7. What developments need to take place to Historic Environment Records to enable them to contribute most effectively to integrated land management?**
- 8. How do you currently access the information in Historic Environment Records?**
- 9. How would you like this information to be delivered, and where?**
- 10. How could the service be improved?**
- 11. How could Historic Environment Record information best be developed to be most useful in education at all levels?**
- 12. How should Historic Environment Records publicise themselves?**

- 13. What programmes should Historic Environment Records develop to reach previously excluded groups?**
- 14. What should Historic Environment Records do to reach out to socially excluded/special interest groups?**
- 15. Do you consider that the enclosed standards represent an appropriate and sustainable way forward for Historic Environment Records?**
- 16. Do you consider that there are there additional ways in which Government can help support the sustainable development of Historic Environment Records?**
- 17. How might Historic Environment Records provide information in a form which can be collated at regional level while retaining responsiveness and accommodating change at local level?**
- 18. Should local authorities be required to maintain Historic Environment Records and to a particular standard?**
- 19. What sources of funding would be most suitable to help maintain and develop Historic Environment Records and why?**