

## HERITAGE PROTECTION WHITE PAPER

To: Buckinghamshire Historic Environment Forum

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Authors: Report by the County Archaeological Officer

### A. PURPOSE OF THE REPORT

- 1 To introduce the DCMS White Paper “Heritage Protection for the 21<sup>st</sup> century”, and assist the Forum in formulating a response to it.

### B. PROPOSED ACTION

#### 2 The Forum is invited to:

- a **CONSIDER** the issues raised by the White Paper, matters to be covered in any response and **APPOINT** a Heritage Protection Working Party to initially to formulate a response and as necessary consider and make recommendations on measures which would be required to implement the new system.
- b **INSTRUCT the Secretary and Chairman** to respond to DCMS in consultation with the Working Party.
- c **REPORT** the views of the Forum to member organisations and **ENCOURAGE** them to take account of these view in formulating their own responses.
- d **RECOMMEND** to Buckinghamshire County Council and District Councils that the name of the “Buckinghamshire Sites and Monuments Record” be formally changed to “Buckinghamshire Historic Environment Record” and that the Heritage Protection Working Party further consider priorities and options for creating and operating a fully-fledged HER.

### C. RESOURCES IMPLICATIONS

- 3 The full resource implications of the White Paper are unclear at present. Both English Heritage and local authorities will bear a significant burden of new responsibilities and transitional costs but there is no clear indication of the resources required to implement the new system and where they will come from. The DCMS Regulatory Impact Assessment estimates the cost of devolving the new equivalent of Scheduled Monument Consent in England as c£400,000 per annum and for Heritage Protection Agreements a cumulative cost of c£80,000 to cover the cost of removing class consent for

ploughing. No cost is given for the creation of Historic Environment Records, rather the RIA states that “Our expectation would be that “self-imposed pressure on local authorities .... will stimulate improvement in HER provision and performance.” Elsewhere it is suggested that planning delivery grant could be used to develop an HER. No commitment is given to providing English Heritage with additional funds to implement the new designation system or provide the promised support to local authorities, although it is understood that English Heritage has raised this matter with Ministers.

## **D. SUPPORTING INFORMATION**

- 4 The long-awaited Heritage Protection White Paper was published on 8<sup>th</sup> March and is out to consultation until 1st June 2007. It sets out the Government’s intention to reform the system of heritage protection in England and Wales through primary legislation, for which parliamentary time is being sought in 2008/9 to put the new system into place for 2010/11. The White Paper represents the latest step arising from a consultation process initiated by the Government in 2000, commitments made in the Government’s policy statement “*A force for our future*” published in November 2001, and the consultation paper “*Protecting our historic environment: Making the system work better*” of June 2003.
- 5 The White Paper opens with a welcome positive statement from Ministers on the importance and public value of the historic environment. The statement goes on to say that people want reform of the heritage protection system and to see the historic environment at the heart of planning, regeneration, environmental stewardship and building sustainable communities. These broad aims are to be addressed through three core principles: a unified approach to the historic environment; maximising opportunities for inclusion and involvement and supporting sustainable communities by putting the historic environment at the heart of an effective planning system. The main specific recommendations can be summarised as:
  - Designation system: A single unified Register of Historic Buildings and Sites in England and Wales to replace existing lists and schedules with designation devolved to English Heritage; accompanied by a faster designation process and simpler, clearer and more easily accessible designation records. The grading system will be retained for buildings and possibly introduced for monuments. There will be a consultation and appeal process for new designations and interim protection whilst a decision is being made.
  - Designation criteria: All national designations to be made on the basis of special architectural, historic or archaeological interest, with new detailed selection criteria for national and local designation.
  - Consent regimes: A heritage asset consent regime administered by local authorities will be created by merging listed building consent and scheduled monument consent. There will be provision for statutory management agreements. Views are sought on whether conservation

area consent should be merged with planning consent. Protection for World Heritage Sites will be clarified and strengthened. Ecclesiastical exemption will remain.

- Enhanced protection: New measures will be brought in to enable local planning authorities to protect locally listed buildings from demolition and to remove the automatic “class consent” for cultivation of archaeological monuments on arable land.
- Role of local authorities: Local authorities will have a statutory duty to maintain or have access to an Historic Environment Record. Local authorities will administer the heritage asset consent regime. New legislation will be underpinned with new guidance and supported by English Heritage through a new programme of training, support and capacity-building for local authorities and local heritage organisations.

The White Paper only explicitly invites views on three questions:

1. Should Conservation Area Consent be merged with planning permission combined with amendments to the Demolition Direction to require planning consent for the demolition of an unlisted building in a conservation area and amendments to the GPDO to reinstate levels of protection from demolition to pre-Shimizu?
2. Should there be new statutory guidance promoting pre-application assessment and discussion for all major planning applications which may affect historic assets?
3. Should the operation of Certificates of Immunity be expanded to allow applications to be made at any time and for a site as well as an individual building?

NB: The White Paper also covers UK-wide Maritime issues and Wales.

## 6 National reaction:

As noted above, the proposals within the White Paper have been the subject of wide consultation over some years and have gained the general support of the historic sector nationally. English Heritage is supporting the general approach outlined in the White Paper. The Archaeology Forum (which represents a wide range key non-governmental organisations concerned with archaeology in the UK and supports the All Party Parliamentary Archaeology Group) has welcomed it as a programme of radical reforms for which there is a strong consensus of support from archaeological bodies.

## 7 Implications for heritage in Buckinghamshire:

The White Paper contains many proposals which potentially offer improvements to the existing heritage protection system which would benefit the county, most notably:

- The unified approach to the historic environment is a positive step that should enable the multi-faceted interests of many heritage assets to be recognised and managed together rather than requiring multiple overlapping designations and consent applications. Heritage

Partnership Agreements would be available to provide the flexibility needed to handle special cases but are perhaps unlikely to become widespread.

- Greater emphasis on local designations with improved protection from demolition for unlisted buildings in conservation areas and potentially for locally listed buildings should help protect our built heritage, although with regard to local list buildings proposed reliance on Article 4(1) directions will be unnecessarily cumbersome.
- The extension of designation to sites of early human activity (including palaeo-environmental remains) without structural remains is to be welcomed as plugging a loophole and could help protect nationally important sites found in the Colne Valley.
- New arrangements for managing ancient monuments under cultivation should help reduce or eliminate plough damage to designated sites on arable land, although the number of scheduled monuments at risk from cultivation in the county is relatively low.
- A statutory Historic Environment Record (HER) would provide a single point of access to a wide range of heritage resources based on the existing Sites and Monuments Record but enhanced to give broader and deeper coverage of built heritage.

There are no obvious negative effects on the county's heritage, although some of the other matters noted below (section 8) could give rise to negative effects.

## 8 Implications for local authorities in Buckinghamshire:

The White Paper sees local authorities as key partners with English Heritage in the delivery of the new system, a role which has significant implications:

- Empowering local authorities to manage their own local heritage seems desirable, provided that responsibility is properly discharged. There is no clear commitment to giving local authorities a statutory duty of care.
- Operation of the unified heritage asset consent regime will entail extra costs for planning authorities and their specialist archaeological advisors in dealing with what would currently be scheduled monument consent applications handled by English Heritage and DCMS.
- Increased emphasis on local heritage asset registers whilst increasing protection would also increase costs, particularly for those authorities without local listed buildings at present. New local registers should presumably also include locally important archaeological sites and historic landscapes.
- Delivery will require greater cross-disciplinary skills development and working between buildings professionals and archaeologists; greater cross-boundary, cross-tier working, information sharing and use of service level agreements. This will provide challenges for the 2-tier county authorities where existing informal networking may need to be given a formal and more structured footing.

- Giving Historic Environment Records statutory status would make clear their importance as discretionary services come under increasing budgetary pressure. Placing a duty to have access to an HER on all local authorities, not just current HER holders (Bucks County and Milton Keynes) makes clear that this is a joint facility potentially raising wider questions of future management and resourcing. Further detailed guidance on the expected composition and responsibilities of HERs is required to cost this development.
- Promised new policy guidance and other support from English Heritage for local authorities is welcomed, although quite what that will amount to in terms of resources is unclear (see section 4 above) and yet will be critical to delivery.

## 9 Other matters:

A number of significant matters are either not covered or unclear in the White Paper:

- There is no explicit mention of powers under the Ancient Monuments Act for funding archaeological works or taking monuments into guardianship.
- It is not clear how grading will be introduced for archaeological monuments nor to what purpose. Monuments are already under-designated compared to buildings so there is concern that an exercise of simply reviewing existing schedule entries will effectively lead to a down-grading of protection.
- It is unclear if owners of archaeological monuments and designed landscapes will have a duty to maintain them in an equivalent manner to listed buildings at present, nor indeed is there explicit confirmation that such powers will be retained for buildings.
- The proposed extension of Certificates of Immunity to all assets could impose significant administrative burdens on English Heritage. It would be problematic for archaeology as a field evaluation is often necessary to determine the presence and significance of buried remains.
- There is only passing reference to the relationship of the historic environment to nature conservation and landscape, for example in the role of AONBs. More emphasis could be placed on Environmental Stewardship in order to secure DEFRA's commitment to the historic environment as an equal element alongside the natural environment and landscape in these schemes.
- Despite emphasis on communities, the educational role of the historic environment is barely mentioned except in the regulatory assessment where a reduction in activity is seen as a possible unintended side-effect of clearer definition of statutory responsibilities. Reference could usefully have been made to green infrastructure planning as one mechanism for capturing the historic environment's contribution to creating sustainable communities.

## 10 Conclusion and proposed basis for a response:

The Heritage White Paper offers significant benefits for protecting and managing Buckinghamshire's historic environment, which are worthy of

support. However, there are significant areas where further clarification is needed, particularly in relation to the allocation of sufficient resources to implement the new system at both national and local level. The implications of the White Paper should be brought to the attention of all local authorities in Buckinghamshire, including the need to consider new joint working arrangements as part of the two-tier Pathfinder bid.

With regard to the specific White Paper consultation questions it is proposed that the following answers should be given:

- 1 Yes, merger of conservation area and planning consent is supported subject to appropriate safeguards.
- 2 Yes, pre-application consultation is strongly supported and in our experience is common practice already.
- 3 Applications for Certificates of Immunity from designation must be properly documented, including professionally robust assessments and field evaluation for archaeological remains. An administrative fee should be payable to deter unnecessary speculative applications and ensure that other designation casework does not suffer.

It is proposed that a response to the DCMS should be prepared by a Working Party and copied to all Forum members.

#### E. BACKGROUND PAPERS

Consultations on the Review of Heritage Protection and Historic Environment Records. Report to Buckinghamshire Historic Environment Forum, 24<sup>th</sup> September 2003

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

*Heritage Protection for the 21<sup>st</sup> Century.* DCMS White Paper (March 2007)

*Heritage Protection for the 21<sup>st</sup> Century.* Regulatory Impact Assessment DCMS (March 2007)

*Historic Environment Records Consultation.* DCMS (July 2003)

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

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