

## Forum

# The National Planning Policy Framework and Archaeology: A Discussion

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### Introduction

For twenty years, 'rescue' archaeology and cultural resource management in England lived within the certain world of Planning Policy Guidance Note 16: Archaeology and Planning (the PPG) (DoE 1990). The PPG gave our profession clear locus and status within the business of development and planning. Those who wished to disturb archaeological remains in order to build were effectively obliged to pay for the excavation and publication of those remains they could not preserve *in situ* – provided that local planners were prepared to take on board the conservation agenda described for them in the PPG. The PPG provided a new language of investigative procedure, built around desk-based assessments, field evaluations, written schemes of investigation, and programmes of mitigation (usually a combination of excavation and avoidance). Whilst the PPG relied on a series of contestable assumptions it gave archaeologists unprecedented access to sites and funds. A full obituary of the PPG would be long on its flaws, but those in professional practice benefitted from expanded horizons

of archaeological employment and research (see Aitchison 2010, 2012). The policies set out within the PPG secured almost all of the advances made during the 'rescue' era of British archaeology in the 1970s and 80s whilst reducing our reliance on state funding.

The replacement of the PPG with Planning Policy Statement 5 (PPS 5 – *Planning for the Historic Environment*), which came into force in March 2010, provided a welcomed opportunity to move beyond some of the limitations placed on archaeological practice by the PPG (DCLG 2010). PPS 5 was no less certain of the need for developers to protect ancient sites and remains, but it also recognised that conservation is not an end in itself: the object was to realise and promote the value of the historic environment. This gave space to argue the benefits of research and community projects alongside commercial contract and conservation solutions. Unfortunately PPS 5 had little opportunity to shape the way we do archaeology in England before it was withdrawn. The UK construction industry had been devastated by the recession that followed the credit crunch, and Britain's new coalition government determined on a bonfire of regulation. The National Planning Policy Framework (NPPF) consequently replaced PPS 5 in March 2012 (DCLG 2012). Subject to intense lobbying from all sides, the NPPF replaced a myriad of different policy and guidance statements with a single document designed to meet a series of often contradictory aims. These aims include the

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desire to streamline national policy, making the planning system both simpler and more accessible, in order to deliver 'sustainable' economic growth (especially in the housing sector) while still protecting and enhancing the natural and historic environment. Most ambitiously of all, the intention of the NPPF has been to put power back into the hands of local people within the broader agenda of the government's plans for 'localism' – laissez-faire decentralisation of most 'national' decisions (bar defence) that is a cornerstone of the new coalition's political philosophy.

What then does this new document mean for archaeology in England? The preliminary response provided by organisations like the Council for British Archaeology (CBA) and Institute for Archaeologists (IfA) has been a guarded welcome to the NPPF, perhaps influenced by a collective relief that the document continues to place a strong emphasis on the need to protect the historic environment, empowering local planners to work to this end<sup>1</sup>. But is this sufficient?

First it is useful to consider some of the perceived strong points of PPS 5 that might be most at risk in the new framework. In particular the PPS offered:

- An emphasis on the core role of Historic Environment Records (HERs, formerly Sites and Monuments Records, SMRs) in the planning system, with local planning authorities expected to either maintain or having access to an HER, using the evidence to assess the type, numbers, distribution, significance and condition of heritage assets and the contribution that they may make to their environment now and in the future. The HER is also there to help predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.
- An emphasis that Local Development Frameworks (LDFs) should '*set out a positive, proactive strategy for the conservation and enjoyment of the historic environment in their area*'.
- A clear requirement for developers to submit information on heritage assets and seek the approval of Local Planning Authorities (LPAs) both in advance of and during development.
- A presumption in favour of preservation *in situ* of heritage assets as the first option: '*where [an] application will lead to substantial harm to or total loss of significance local planning authorities should refuse consent unless it can be demonstrated otherwise: When considering applications for development that affect the setting of a heritage asset, local planning authorities should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. When considering applications that do not do this, local planning authorities should weigh any such harm against the wider benefits of the application*'.
- An ability for local planning authorities to '*require the developer to record and advance understanding of the significance of the heritage asset before it is lost, using planning conditions or obligations as appropriate*'.
- Strong wording on preservation by record and effectively to fund 'research', not just the 'bare bones' of data-collection: '*A documentary record of our past is not as valuable as retaining the heritage asset, and therefore the ability to record evidence of our past should not be a factor in deciding whether a proposal that would result in a heritage asset's destruction should be given consent*' ... '*Where the loss of the whole or a material part of a heritage asset's significance is justified, local planning authorities should require the developer to record and advance understanding of the significance of the heritage asset before it is lost, using planning conditions or obligations as appropriate... developers should publish this evidence and deposit copies of the reports with the relevant historic environment record. Local planning authorities*

*should require any archive generated to be deposited with a local museum or other public depository willing to receive it. Local planning authorities should impose planning conditions or obligations to ensure such work is carried out in a timely manner and that the completion of the exercise is properly secured.'*

### **The NPPF and Heritage<sup>2</sup>**

The publication of the NPPF occasioned considerable anxiety, and the consultations that took place around its draft proposals became fairly heated. It is difficult, however, not to take heart from the fact that archaeology and heritage are given direct attention in the NPPF. Previously we have had to rely on guidance notes and other second-tier interpretations of policy to establish the importance of the historic environment, but here archaeology is given equal status in a core policy document. There is no significant change in content or definition from PPS 5, although the wording has subtly changed – for example in the definitions provided for key topics like archaeological interest, heritage assets, the historic environment, HERs and significance. The majority of the core concepts of PPS5 also remain in force under the NPPF, and broadly, the underlying principles of protection of the historic environment through the planning system remain unchanged.

### ***Cons of the NPPF***

Perhaps the most visible change between PPS 5 and the NPPF is that there is no longer a presumption in favour of conservation of heritage assets as there was under the PPS. This has been replaced by the infamous '*presumption in favour of sustainable development*'. However, this '*presumption*' is not the great assault upon the environment that was first feared, since in the NPPF there are three stated dimensions to sustainable development: economic, social and crucially environmental, the third including '*contributing to protecting and enhancing our natural, built and historic environment*'. The policies of the

NPPF taken as a whole constitute the Government's view on what sustainable development means in practice for the planning system, i.e. this is an holistic vision, and no one can pick and choose from its constituent elements. The NPPF also makes clear that policies in Local Plans should follow the approach of the presumption in favour of sustainable development [15]. Consequently, the much vaunted '*presumption in favour of sustainable development*' means presumption in favour of the policies and principles of the NPPF as a whole, including heritage assets, where the conservation of designated heritage assets in particular is given great weight in the system. There is a clear process of justification of substantial harm to or loss of heritage assets in this regard, within which LPAs should not permit the loss of heritage assets without taking all reasonable steps to ensure that the development will proceed after the loss has occurred. Thus, although the presumption in favour of sustainable development is something of a '*loss*' for the historic environment community, it is not the *catastrophic* loss that was first feared.

Similarly in the NPPF, applications for planning permission must be determined in accordance with the development plan (i.e. the Local Plan and neighbourhood plans which have been made in relation to the area), unless material considerations indicate otherwise – the NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions [2]. What is most important in this respect is that county, borough and district archaeology curators get LDF guidelines on the historic environment clearly laid out in all official documentation before March 2013: if such policies are not in place by that time then serious harm *will* undoubtedly come to archaeology, since it is unlikely to be picked up within the planning system – i.e. non-designated sites of equal significance to designated ones. This, then, is a potential '*con*' in waiting, an archaeological '*time bomb*', and given the recent and ongo-

ing cutbacks in local authority curatorial provision, is a very great concern indeed. It will be hard enough for local authority curators in post to ensure that all LDFs have sufficient detailed guidance on the historic environment, let alone in the growing number of authorities that have insufficient or no such curatorial staff, including at the time of writing the notable 'black holes' of Merseyside, Northamptonshire and Portsmouth.

Of even greater concern than the two 'cons' outline above is the fact that the NPPF returns us to an agenda based wholly on conservation, and the emphasis given to public and research benefits found in PPS 5 is largely lost. There is much less (virtually no) policy on public engagement and archives. This is a regression, since the NPPF is very narrowly focused. There is little sense of 'value added' in terms of either research or public engagement. The NPPF is entirely process driven: archaeology as an 'issue' to be resolved by the planning system, ideally at the lowest possible cost. It encourages the idea that archaeology is a negative problem, not a positive thing to be embraced that might result in unexpected benefits of all sorts, social, cultural, environmental, even economic. The policy also reinforces the assumption that resource conservation is the principal goal of archaeological endeavour, without any recognition of the need to identify and realize value. PPS 5 explicitly recognised the value of knowledge gain, which for many archaeologists is the chief reason for undertaking rescue fieldwork. Our profession will be much the poorer if we lose sight of the research potential of the sites we investigate, and treat the exercise as being exclusively concerned with resource management rather than being about advancing our understanding of our past by capturing evidence from the historic environment.

Of similarly great concern, the NPPF also places considerable emphasis on *designated* heritage assets, at the potential expense of non-designated assets. This is reinforced by an emphasis in the document on undertak-

ing work 'proportionate' to the importance of the resource, suggesting that different standards might apply to sites not of national significance. There is a risk that this might encourage the practice of producing Desk Based Assessments that offer little more than a list of things contained in the HER, and which thereby fail to properly identify potential and risk in under-studied landscapes.

There is also, as yet, no sign of a Practice Guide that lets planners and developers know how best to navigate conflicts between the interests of development and conservation. Practitioner Guidance is needed to underpin the policies in the NPPF and should address the importance of the knowledge-gain from archaeological investigation and identify the importance of archaeological standards and accredited expertise. A particular strength of PPS 5 was the Historic Environment Planning Practice Guide that was published alongside it (English Heritage 2010). Although the procedures of this Practice Guide remain current their status is now less clear. For example there is no guidance in the NPPF on the need to prepare a 'written scheme of investigation' or any other form of project research design. This is likely to hamper curatorial attempts to set standards for archaeological work and monitor quality.

A further worry is that there is no real commitment in the NPPF to publishing results, beyond lodging an archive with a local museum. Rescue archaeology in Britain has achieved impressively high standards of academic publication, generating some splendid research monographs. These studies are expensive and time-consuming to undertake. Whilst archaeologists working for Local Planning Authorities may be able to insist that excavations lead onto funded programmes of post-excavation assessment, and the issue may be addressed in a Practice Guide, the published text of the NPPF as it presently stands fails to identify considered analysis as a necessary product of fieldwork.

Finally, and in some respects most damagingly of all, the NPPF fails to be *strategic*

in any sense – it is an entirely reactive document driven by essentially short-term responses to the current planning and development regime, rather than the root-and-branch reform of the planning system that is actually needed and that would deliver genuinely ‘sustainable’ development, rather than the current model’s potential to deliver short-term economic relief. This lack of strategic thinking is visible in the NPPF in two respects as regards the historic environment: firstly, there is not nearly enough linkage between the historic and natural environment management regimes and secondly, there is essentially no linkage at all between the terrestrial and marine planning regimes.

### ***Pros of the NPPF***

The most obvious ‘pro’ of the NPPF is simple: heritage made it in! There were some fears during the early stages of drafting (and leaking) the NPPF that reference to the historic environment would be cut entirely in the new document, throwing us back into the ‘dark ages’ of the pre-1980s when ‘rescue’ archaeology meant doing your best under often impossible circumstances. That archaeology is given equal status to a series of other planning concerns in a core government policy document is, in the current social and economic climate, nothing short of remarkable, since archaeology in particular and the historic environment in general have no shortage of influential enemies who would have liked – and tried – to have all planning requirements in this respect scrapped. Instead, the NPPF makes clear that within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking [17] ... [including] to ‘conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations’<sup>3</sup>. Prior to the NPPF heritage had much lower status in this context. Crucially, this includes the clear statement that non-

designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets<sup>4</sup>.

Similarly, the NPPF makes clear that planning policies and decisions must reflect and where appropriate promote relevant EU obligations and statutory requirements – so for heritage, see especially the Valetta, Florence and Faro Conventions. What the actual implication of all this is remains to be seen, however, given the ambivalent position of the UK in Europe. The coalition government is now, and is likely to remain, split on the ‘European question’, with some in the government fiercely anti-European and keen to reduce and/or wholly renounce the UK’s existing European Union treaty commitments, while others are broadly pro-European. The outcome of this long-running internal battle inside British politics is impossible to guess, but in the short-term, one impact is likely to be considerable confusion as regards the UK’s heritage treaty responsibilities, its commitments as regards the Valetta and Florence Conventions to name but two of the dozens of such heritage conventions that the UK is a signatory of. There is an argument to be made that the UK is already in partial contravention of some of these treaty responsibilities (especially those of the Valetta Convention): the planned and ongoing reforms of the NPPF of 2012 and Localism Act of 2011 may further contravene these commitments, although to ‘prove’ this in law and then identify and enforce any possible penalties would prove exceptionally time-consuming and are unlikely to ever occur. How the UK will engage with its European archaeological partners, both reactively in relation to such convention requirements and proactively as regards more general collaboration in the field of heritage management, remains to be seen, and is a key concern of many archaeologists.

### **Conclusion**

The success of NPPF will depend on how it is implemented, and this will depend in large part on the resources available to those

archaeologists working for local authorities, and the extent to which they can make sure that local plans provide a platform for structured archaeological conservation and research and that developers and planners have access to clear advice. The 'crunch' comes in the financial year 2013-14 onwards when the Localism Act (DCLG 2011) is fully in force alongside wider sector reforms (especially the Penfold Review of Non-Planning Consents that will reform the process of 'Listing' historic buildings and 'scheduling' ancient monuments) (BIS 2011). By this time, legal challenges to the NPPF will also have had time to emerge and precedents of interpretation to be set. Above all, the future state of the British – indeed, global – economy will be better understood by this time, influenced by, among others, the survival, fall or reformation of the Euro and the fall or survival of Barack Obama as President of the United States of America, both of which will occur in the autumn of 2012. All of these factors will determine the confidence of the ultimate arbiters of archaeological activity: the state of the financial markets that in turn influence not *whether* the UK is still in recession or not (it is presently unrealistic to forecast an economic upturn sooner than the middle years of this decade), but rather how *severe* that recession is.

In particular, there is likely to be considerable tension between the immediate-term impacts of this process of government deregulation in the NPPF and the medium-term impacts of another key government priority – its localism agenda as enshrined in the Localism Act of 2011, which places much greater planning control in the hands of local communities. The NPPF is likely to encourage development through its streamlined planning system, but the Localism Act is equally likely to stall development through its commitment to local communities having a greater say in what is (and crucially is not) built in their neighbourhood, a process likely to block many developments. The conflict between these conflicting ide-

ologies – of laissez-faire free-market deregulation on the one hand and of enlarged local community control and social responsibility on the other hand – lie at the heart of the compromise of the current coalition government, split as it is between those keen to boost economic development at all cost (in order to get the UK out of the current recession) and those keen to place greater power in the hands of communities and individuals. The wider historic environment is likely to become a minor battleground in this ideological battle.

### Notes

- 1 For these and other responses to the publication of the NPPF see <http://www.theheritagealliance.org.uk/2012/03/27/publication-of-the-nppf-27-march-2012/>
- 2 For specific heritage policies in the NPPF, see DCLG 2012: section 12, paragraphs 126-141, pages 30-32.
- 3 These overarching principles for making and decision-taking in the NPPF are as follows: [1] localism – be genuinely planned, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area; [2] enhancement – do not just be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; [3] economics – proactively drive and support sustainable economic development; [4] design – seek to secure high quality design and a good standard of amenity; [5] character – take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; [6] energy – support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change; [7] natural environment – con-

tribute to conserving and enhancing the natural environment and reducing pollution; [8] resources – encourage the effective use of land by reusing land that has been previously developed ('brownfield' land); [9] land use – promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas; [10] heritage – conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations; [11] transport – actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling; [12] society – take account of and support local strategies to improve health, social and cultural wellbeing for all.

4 Some important things also remain the same in the NPPF: [a] *Planning (Listed Buildings and Conservation Areas) Act 1990* remains in force as regards listed buildings; [b] *Ancient Monuments and Archaeological Areas Act 1979* remains in force as regards scheduled monuments; [c] the PPS 5 'Planning Practice Guide' remains in use for the heritage sections of the NPPF for now: a replacement guidance document is being drawn up to replace this. English Heritage has published a commentary document and PPS 5 / NPPF comparison charts – see <http://www.english-heritage.org.uk/about/news/eh-responds/national-planning-policy-framework/>

## References

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