

A.5 Local authorities and planning

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A.5 Local authorities and planning#

One of the reasons why local authorities maintain records of the archaeological, built and natural environment is to regulate development and the use of land and to protect and enhance the environment of their local area. The implications of development proposals on the historic environment are assessed against the HER and specialist advice is given to development control officers within the local planning authority.

A.5.1 Development plans#

Structure, local and unitary development plans are the main way that local authorities make sure that their conservation policies are integrated with other planning policies. Archaeology, buildings and natural environment information services should be consulted during the preparation of plans in line with the NPPF ([MHCLG 2018a](#)) and [Planning Policy Wales \(2016\)](#) (see [Panel 1](#)). In Scotland [Scottish Planning Policy \(SPP\) 2014](#) states that the planning system should 'promote the care and protection of the designated and non-designated historic environment (including individual assets, related settings and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning' (para. 137). It goes on to say that planning authorities should have access to an HER, and that all aspects of the historic environment should be taken into account when planning and siting development (para. 140). English Heritage has published guidance on conservation policies in both strategic and local plans in England ([English Heritage 1993](#)).

In September 2004, the [Planning and Compulsory Purchase Act](#) came into force. This requires Local Planning Authorities in England and Wales to have a Local Development Framework in place by Spring 2007. These will replace the existing system of Unitary Development Plans, Local Plans and Structure Plans. A [Guide for Heritage Groups on Local Development Frameworks](#) is available on the [Heritage Alliance web site](#). In Wales Local Planning Authorities are required to prepare and maintain up to date Local Development Plans. Policy on preparation of LDPs in Wales can be found in Chapter 2 of [Planning Policy Wales \(Welsh Government 2016\)](#), with practical guidance given in the [Local Development Plan Manual, Edition 2 \(Welsh Government 2015\)](#).

Other plans and strategies#

Local authorities also issue other plans, strategies and planning guidance, for example estuary management plans, minerals and waste plans, and rural strategies. Although some of these plans are not statutory, they do have significance and receive careful consideration from both planning authorities and planning inspectors (England and Wales)/ Inquiry Reporters (Scotland).

A.5.2 Planning advice#

The information contained in HERs is used to form the basis of professional advice about the implications of proposed developments on the historic environment. This advice is given in the context of the various planning policies outlined below:

Planning and archaeology#

England: [National Planning Policy Framework](#) The [NPPF](#) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so. It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities. Protecting and enhancing the historic environment is an important component of the NPPF's drive to achieve sustainable development (as defined in [Paragraphs 6-10](#)). The appropriate conservation of heritage assets forms one of the 'Core Planning Principles' of the framework ([Paragraph 17 - Bullet 10](#), stating that heritage assets should be conserved *'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'*. [Paragraphs 126-141](#). This section of the NPPF brings together advice and guidance on all elements of the historic environment, including designated and non-designated archaeology, historic buildings and the historic landscape.

The [NPPF](#) should be used alongside its associated [Planning Practice Guidance](#), which provide further context across 42 key topics. Of particular relevance for the Historic Environment is the Planning Practice Guide on ['Conserving and Enhancing the Historic Environment'](#). Local Planning Authorities are also recommended to make full use of the expertise of the county archaeological officer and to compile and maintain an HER as the basis for assessing the archaeological implications of development. Early consultation with county archaeological officers and the HER is recommended to reduce potential conflicts between the needs of development and archaeology.

Scotland: [Scottish Planning Policy \(SPP\) 2014](#): states 'The siting and design of development should take account of all aspects of the historic environment. In support of this, planning authorities should have access to a Sites and Monuments Record (SMR) and/or a Historic Environment Record (HER) that contains necessary information about known historic environment features and finds in their area.' (para. 140). [Planning Advice Note \(PAN\) 2/2011: Planning and Archaeology](#): provides advice to planning authorities and developers on dealing with archaeological remains. It states that 'It is essential that every planning authority has access to a Sites and Monuments Record (SMR) / Historic Environment Record (HER) (a record of all known sites), curated by a professional archaeologist on behalf of the local authority or a dedicated heritage body' (para. 10). Early consultation with local authority archaeological officers and the HER is recommended to reduce potential conflicts between the needs of development and archaeology.

Wales: [Planning Policy Wales \(Welsh Government 2016\)](#), and [Welsh Office Circular 60/96 Planning and the Historic Environment Archaeology \(Welsh Office 1996b\)](#): pull together and expand existing advice within the current legislative framework. Planning authorities are recommended to make full use of the expertise of the regional archaeological services provided by the Welsh Archaeological Trusts and where appropriate their own archaeological officers and to adopt the statutory HER as the basis for assessing the archaeological implications of development. Early consultation with archaeological advisors and the HER is recommended to reduce potential conflicts between the needs of development and archaeology.

Development Plans#

England: The [NPPF](#) provides the framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.

Scotland: There is no Scottish equivalent? see references to [SPP1](#) above.

Wales: [Planning Policy Wales \(Welsh Government 2016\)](#) provides guidance for the preparation of the various development plans and requires local planning authorities to take account of concerns for conservation of the environment and the built and archaeological heritage.

Planning and the historic environment#

England: The [NPPF](#) provides a full statement of government policies for the identification and protection of historic buildings, conservation areas and other elements of the historic environment.

Scotland: [Scottish Planning Policy 2014 \(SPP\)](#), [National Planning Framework 2014 \(NPF\)](#), [Planning Advice Note 2/2011: Planning and Archaeology \(PAN\)](#), and Scottish Historic Environment Policy 2011 ([SHEP](#)) : provide a full statement of Scottish Government policies for the identification and protection of historic buildings, conservation areas and other elements of the historic environment.

Wales: [Planning Policy Wales \(Welsh Government 2016\)](#), [Welsh Office Circular 60/96 Planning and the Historic Environment: Archaeology \(Welsh Office 1996b\)](#) and [Welsh Office Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas \(Welsh Office 1996c\)](#): provide a full statement of Welsh Government policies for the identification and protection of historic buildings, conservation areas and other elements of the historic environment.

In addition to the above, the value of HERs is recognised in a number of other Acts and government policy statements (see [Panel 1](#)).

The journey from PPG 15 and 16 to the National Planning Policy Framework.#

Planning Policy Statement 5 replaced [Planning Policy Guidance Notes 15](#) and [16](#) applied to all planning decisions affecting ?Heritage Assets? taken after 23 March 2010.

English Heritage simultaneously published their [Historic Environment Planning Practice Guide](#)? which was mentioned in Paragraph 1 of PPS5 which says:

?Guidance to help Practitioners implement this policy, including the legislative requirements that underpin it, is provided in Planning for the Historic Environment Practice Guide.?

Underpinning the new policy guidance is the concept of ?Heritage Asset?, which is defined:

?A building, monument, site, place, area or landscape positively identified as having a degree of significance meriting consideration in planning decisions. Heritage Assets are the valued components of the historic environment. They include Designated Heritage Assets (as defined in this PPS) and assets identified by the Local Planning Authority during the process of decision-making or through the plan-making process (including local listing).?

The final version of the [National Planning Policy Framework](#) was published, with immediate effect, on 27 March 2012. The withdrawn documents are listed at NPPF Annex 3, and include most, but not all, PPSs and PPGs, plus a range of other guidance documents, letters etc. It is however a ?Framework? and will not stand alone.

For the moment, English Heritage have been advised that the ?Historic Environment Planning Practice Guide? still stands.

Adoption of the HER by the local authority#

In England and Wales, HERs will normally be adopted by resolution by their local authority in line with the [Town and Country Planning \(General Permitted Development\) Order 1995](#) (see [Panel 1](#)). In the absence of statutory status for HERs in England, adoption goes some way towards ensuring the continuance of HER services and provides a useful way of explaining their importance to councillors.

A.5.3 Marine policy, planning and decision-taking#

Major changes affecting the whole of the UK accompanied the [Marine and Coastal Access Act \(MCAA\) 2009](#), which introduced a hierarchical system of marine planning and a comprehensive approach to the licensing of marine activities, both of which make explicit reference to the management of the historic environment. In addition, sections on nature conservation (marine protected areas) and the management of inshore fisheries also include provisions on the historic environment. The implementation of the MCAA 2009 varies between the home countries and is accompanied by equivalent provisions in the other ?Marine Acts?: the [Marine \(Scotland\) Act 2010](#); and the [Marine Act \(Northern Ireland\) 2013](#). Notwithstanding, the overall effect of the Marine Acts collectively is that in each home country the management of the marine historic environment has become much more firmly embedded in marine management as a whole.

For marine management purposes, the waters around the UK are split into Inshore Regions and Offshore Regions. Inshore Regions encompass tidal waters from the upstream tidal limit of rivers and estuaries, seaward to the limit of the UK Territorial Sea, which is generally 12 nautical miles (about 22 km) from low water. Offshore Regions extend from the limit of the UK Territorial Sea to the limit of the UK Continental Shelf, which may be 200 nautical miles or more from the coast.

UK-wide policy with respect to the historic environment is set out in the [UK Marine Policy Statement](#) (UK MPS) which has statutory application throughout the UK:

The view shared by the UK Administrations is that heritage assets should be enjoyed for the quality of life they bring to this and future generations, and that they should be conserved through marine planning in a manner appropriate and proportionate to their significance. Opportunities should be taken to contribute to our knowledge and understanding of our past by capturing evidence from the historic environment and making this publicly available, particularly if a heritage asset is to be lost.

In support of the UK MPS, each home country is developing subsidiary (national or regional) marine plans that include policies on the historic environment. Like the UK MPS, the national/regional marine plans have statutory force with respect to decision-making by public authorities. In England, the first regional Marine Plan - the [East Inshore and East Offshore Marine Plans](#) - was published in 2014. Marine Plans for the other English Inshore and Offshore Regions are in preparation.

Marine plan-making and decision-taking overlaps with land-based planning. The marine area includes everything below high water from the tidal limit of rivers downstream, whereas local authority areas extend to low water and across intervening river and harbour mouths. Between high water and low water, the two planning systems both apply. This can be an extensive area, especially as the upstream tidal limit of some rivers can be far inland. Both marine planning and land-based planning require integration with each other. Paragraph 105 of the NPPF requires:

In coastal areas, local planning authorities should take account of the UK Marine Policy Statement and marine plans and apply Integrated Coastal Zone Management across local authority and land/sea boundaries, ensuring integration of the terrestrial and marine planning regimes.

The historic environment is defined in the UK MPS as ?all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged?.

Responsibilities for marine management are devolved, hence the implementation of marine planning and licensing relating to the historic environment is administered by the Marine Management Organisation (MMO) in England, Marine Scotland, Natural Resources Wales and the Marine Division of DOENI in Northern Ireland. Whereas in England and Scotland, the MMO and Marine Scotland are responsible for licensing in both Inshore and Offshore Regions, licensing in the Offshore Regions of Wales and Northern Ireland is administered by the MMO; Natural Resources Wales and the Marine Division of DOENI are responsible only for licensing in their respective Inshore Regions. The marine planning and licensing agencies in each country obtain advice from the national heritage agencies. Generally, in England, Scotland and Wales the marine agencies do not currently maintain any archaeological advice internally; however, the Marine Division, DOENI has established its own heritage management post.

The Marine Acts require that a licence be obtained before carrying out a very wide range of marine activities. The obligation to abide by the UK Marine Policy Statement and marine plans, which include provisions on the historic environment, is such that licensing decisions need to take into account the possible effects of the proposed activity on the historic environment. This obligation is reinforced in the case of major schemes by the requirements of the EIA Directive. As a result, there is a comprehensive mechanism in place to address the implications of most activities incidentally affecting the marine historic environment.

In England and Wales, major infrastructure projects known as Nationally Significant Infrastructure Projects are subject to a different form of consent. Applications are examined by the Planning Inspectorate (PINS) and decisions are made by the Secretary of State responsible for the sector to which the project relates (e.g. in the Department for Transport (DfT) for ports; Department for Energy and Climate Change (DECC) for offshore wind farms). Consents relating to oil and gas are administered by DECC throughout the UK Marine Area.

Further provision for marine development has been made through a number of industry-based initiatives, including the JNAPC Code of Practice for Seabed Development and guidance notes for marine aggregates, offshore wind and wave and tidal energy (see [Panel](#)).

Local authorities and fisheries conservation#

The MCAA 2009 made provision for Inshore Fisheries and Conservation districts (IFC districts) to be established to cover every local authority area that includes part of the seashore, and for the IFC districts to extend as far out across the Inshore Region as might be decided (usually 6 nautical miles - about 11 km). The MCAA 2009 provides that each IFC district shall have an Inshore Fisheries and Conservation Authority (IFCA). The IFCA is a committee of the local authority / authorities covered by the IFC district. IFCA's have a duty to manage the exploitation of sea fisheries, and to further the objectives of any Marine Conservation Zones, within their district. The IFCA must seek to balance the exploitation of sea fisheries with the need to protect and promote the recovery of the marine environment - which by virtue of s. 186(1) includes features of archaeological or historic interest - from the effects of such exploitation.

Panel 2: Marine policy, plans and guidance#

UK Policy

[UK Marine Policy Statement, 2010](#): (UK) Sets out overarching policy for the UK Marine Area, including the historic environment.

Marine Plans

[East Inshore and East Offshore Marine Plans, 2014](#): (England) Statutory marine plan for inshore and offshore waters between Felixstowe and Flamborough Head.

Further Marine Plans are in preparation.

Codes and Guidance

[JNAPC Code of Practice for Seabed Development, 2006](#): (UK) Sets out best practice for addressing marine archaeology in the course of seabed development in broad terms.

[Marine Aggregate Dredging and the Historic Environment, 2003](#): (UK) Guidance on addressing the historic environment in the course of marine aggregate licensing and dredging.

[Historic Environment Guidance for the Offshore Renewable Sector, 2007](#): (UK) General guidance on the historic environment for offshore renewables.

[Offshore Geotechnical Investigations and Historic Environment Analysis - Guidance for the Renewable Energy Sector, 2011](#): (UK) Specific guidance on the conduct of geoarchaeological investigations in connection with the development of offshore renewables.

[Model Clauses for Archaeological Written Schemes of Investigation - Offshore Renewables Projects, 2010](#): (UK) Model clauses that can be incorporated into archaeological WSIs to accompany offshore renewable developments.

[Historic Environment Guidance for Wave and Tidal Energy, 2013](#): (England, Scotland, Wales) Specific guidance on addressing the archaeological implications of wave, tidal range and tidal stream developments.

Protocols for Discoveries

[Marine Aggregate Industry Protocol for Reporting Finds of Archaeological Interest, 2005](#): (UK) Protocol for accidental discoveries made in the course of marine aggregate dredging.

[Protocol for Archaeological Discoveries: Offshore Renewables Projects \(ORPAD\), 2010](#): (UK) Protocol for accidental discoveries made in the course of developing offshore renewables.

[Fishing Industry Protocol for Archaeological Discoveries \(FIPAD\), 2011](#): (UK) Pilot protocol for accidental discoveries made in the course of commercial fishing.