

## **JOINT NAUTICAL ARCHAEOLOGY POLICY COMMITTEE**

Silver Birches  
Bashurst Hill  
Itchingfield  
Horsham  
West Sussex  
RH13 0NY

Tel 01403 790500  
Fax 01403 790029

29 October 2009

Phil Weatherby  
Communities and Local Government  
Planning Systems Improvement Division  
Eland House  
Bressenden Place  
London  
SW1E 5DU

[phil.weatherby@communities.gsi.gov.uk](mailto:phil.weatherby@communities.gsi.gov.uk)

Dear Mr. Weatherby,

### **Consultation on a new Planning Policy Statement 15: Planning for the Historic Environment and on an accompanying planning practice guide**

#### **Response by the Joint Nautical Archaeology Policy Committee**

The JNAPC has pleasure in responding to CLG's consultation document on a new Planning Policy Statement 15: Planning for the Historic Environment.

The JNAPC was formed in 1988 from individuals and representatives of institutions who wished to raise awareness of the United Kingdom's underwater cultural heritage and to persuade government that underwater sites of historic importance should receive no less protection than those on land. Some summary information on the JNAPC and its membership is attached in Appendices 1 & 2 below.

JNAPC's interest in the draft Planning Policy Statement ('PPS') and accompanying draft practice guide includes the protection of cultural heritage in the coastal and inter-tidal zones, rivers and estuaries and the relationship between the terrestrial and marine planning processes. The comments below relate in parts to both the draft Planning Policy

Statement and the accompanying draft practice guide and are consequently copied to English Heritage.

### **General Comments**

JNAPC welcomes:

- recognition of the marine historic environment in both the PPS (which, for instance, refers to protected wreck sites in policy HE10.2) and the practice guide (which, for instance, at paragraph 70 identifies marine sites as a relevant heritage asset)
- the holistic approach in both documents to the historic environment, encompassing undesignated as well as designated assets and advocating consideration of the overlap between marine and terrestrial plans (see paragraph 10 of the practice guide)
- the emphasis on pre-application discussion
- the support for Historic Environment Record services and their role in the management of the historic environment (albeit that the provision of marine HERs remains an issue, although not necessarily one for terrestrial planning policy.)

However:

- There should be explicit reference in an expanded introduction to the PPS as to how it relates to the coast, coastal planning and marine planning. Indeed, it would be helpful explicitly to recognise either in the PPS or the practice guide that the principles of terrestrial planning policy should be applied below the mean low water mark. This was a key recommendation of *England's coastal heritage: a statement on the management of coastal archaeology* produced by English Heritage and the (then) Royal Commission on the Historical Monuments of England in 1996. This provided that ‘... *the principles set out in Planning policy guidance note 16: archaeology and planning should be applied to the treatment of sub-tidal archaeological remains in order to secure best practice.*’ (p.8)
- There needs to be further elaboration of the meaning of ‘significance’ (probably in an expansion of the text appearing in the text box at paragraph 6 of the practice guide) and closer cross-referencing to English Heritage’s *Conservation Principles* (2008) from which the ‘significance-based’ approach derives. In particular, the relevance of the ‘fabric’ of a place, which is considered in some depth in *Conservation Principles* is not made clear in either the PPS or practice guide.
- There should be an explicit presumption in favour of conservation in the PPS and recognition (either in the PPS or in guidance) of the fact that the development of new terminology has not invalidated the desirability of preserving sites in situ.

### **Specific Comments in relation to the draft PPS**

*Under paragraph 2* – The Marine Management Organisation should be added to list of bodies that should take PPS into account.

*Under paragraph 5* – There should be reference in the second bullet to ensuring that the archives (including material archives) arising from planning-led archaeology are conserved in accessible public repositories.

*Under policy HE4.1* – This paragraph should make clear that some heritage assets (and in the case of underwater cultural heritage most assets) are not capable of continued use and that such heritage assets should be protected.

*Under policy HE4.2* – Where conflict does occur and heritage assets are compromised, this paragraph should make clear that proper provision should be made for identifying, assessing and mitigating impacts on those heritage assets.

*Under policy HE8.3* – A requirement that local planning authorities must assess at the validation stage whether impacts are capable of being ‘fully understood’ from the application and supporting documents is an onerous one. There is a significant degree of uncertainty in this regard (particularly in relation to underwater cultural assets).

*Under policy HE9* – It would be helpful in guidance to explain how the effects of mitigation / off-setting of harm are taken into account in such deliberations as are envisaged in policy HE9.7 and other policies.

*Under policy HE.10.2* - Does this policy apply to loss of whole assets, or loss to part of assets (i.e. ‘material loss of’ or ‘material loss to’)?

*Under policy HE13.3* - The reference to ‘maximising opportunities’ in this policy erodes the ‘polluter pays’ principle. It is not just a case of exhorting developers to do the right thing; where damage is caused by development, the developer is under obligation to off-set that damage.

We would welcome the opportunity to participate in the future development of policy and guidance on planning for the historic environment.

Yours faithfully,

R A Yorke  
Chairman

Cc Duncan McCallum, English Heritage

## Appendix 1

# JOINT NAUTICAL ARCHAEOLOGY POLICY COMMITTEE

## THE JNAPC - PAST, PRESENT AND FUTURE

The JNAPC was formed in 1988 from individuals and representatives of institutions who wished to raise awareness of Britain's underwater cultural heritage and to persuade government that underwater sites of historic importance should receive no less protection than those on land.

The JNAPC launched *Heritage at Sea* in May 1989, which put forward proposals for the better protection of archaeological sites underwater. Recommendations covered improved legislation and better reporting of finds, a proposed inventory of underwater sites, the waiving of fees by the Receiver of Wreck, the encouragement of seabed operators to undertake pre-disturbance surveys, greater responsibility by the Ministry of Defence and the Foreign and Commonwealth Office for their historic wrecks, proper management by government agencies of underwater sites, and the education and the training of sports divers to respect and conserve the underwater historic environment.

Government responded to *Heritage at Sea* in its White Paper *This Common Inheritance* in December 1990 in which it was announced that the Receiver's fees would be waived, the Royal Commission on the Historical Monuments of England would be funded to prepare a Maritime Record of sites, and funding would be made available for the Nautical Archaeology Society to employ a full time training officer to develop its training programmes. Most importantly the responsibility for the administration of the 1973 Protection of Wrecks Act was also transferred from the Department of Transport, where it sat rather uncomfortably, to the then heritage ministry, the Department of the Environment. Subsequently responsibility passed to the Department of National Heritage, which has since become the Department for Culture Media and Sport.

The aim of the JNAPC has been to raise the profile of nautical archaeology in both government and diving circles and to present a consensus upon which government and other organisations can act. *Heritage at Sea* was followed up by *Still at Sea* in May 1993 which drew attention to outstanding issues, the *Code of Practice for Seabed Developers* was launched in January 1995, and an archaeological leaflet for divers, *Underwater Finds - What to Do*, was published in January 1998 in collaboration with the Sports Diving Associations BSAC, PADI and SAA. The more detailed explanatory brochure, *Underwater Finds - Guidance for Divers*, followed in May 2000 and *Wreck Diving - Don't Get Scuttled*, an educational brochure for divers, was published in October 2000.

The JNAPC continues its campaign for the education of all sea users about the importance of our nautical heritage. The JNAPC will be seeking better funding for nautical archaeology and improved legislation, a subject on which it has published initial proposals for change in *Heritage Law at Sea* in June 2000 and *An Interim Report on The*

*Valletta Convention & Heritage Law at Sea* in 2003. The latter made detailed recommendations for legal and administrative changes to improve protection of the UK's underwater cultural heritage.

The JNAPC has played a major role in English Heritage's review of marine archaeological legislation and in DCMS's consultation exercise *Protecting our Marine Historic Environment: Making the System Work Better*, and was represented on the DCMS Salvage Working Group reviewing potential requirements for new legislation. The JNAPC has also been working towards the ratification of the UNESCO Convention with the preparation of the *Burlington House Declaration*, which was presented to Government in 2006.

## **Appendix 2**

### **Joint Nautical Archaeology Policy Committee**

#### **Members**

##### **Chairman**

Robert Yorke

##### **Organisations**

Association of Local Government Archaeological Officers  
British Sub Aqua Club  
Council for British Archaeology  
Hampshire & Wight Trust for Maritime Archaeology  
Institute of Conservation  
Institute of Field Archaeologists, Maritime Affairs Group  
ICOMOS  
National Maritime Museum  
National Museums & Galleries of Wales  
National Trust  
Nautical Archaeology Society  
Professional Association of Diving Instructors  
Shipwreck Heritage Centre  
Society for Nautical Research  
Sub Aqua Association  
United Kingdom Maritime Collections Strategy  
Wessex Archaeology  
Wildlife and Countryside Link

Paul Gilman  
Jane Maddocks  
Gill Chitty  
Garry Momber  
  
Julie Satchell  
Chris Dobbs  
Gillian Hutchinson  
Mark Redknap  
David Thackray  
George Lambrick  
Suzanne Pleydell  
Peter Marsden  
Ray Sutcliffe  
Stuart Bryan  
Chris Dobbs  
Antony Firth  
Joanna Butler

##### **Individual representation**

Sarah Dromgoole  
Michael Williams

Affiliation  
University of Nottingham  
Wolverhampton University

##### **Observers**

Advisory Committee on Historic Wreck Sites  
Cadw  
Department for Culture, Media and Sport  
The Crown Estate  
English Heritage  
Environment Service, Northern Ireland  
Foreign and Commonwealth Office  
Historic Scotland  
Maritime and Coastguard Agency, Receiver of Wreck  
Ministry of Defence  
Ministry of Defence  
Royal Commission on the Ancient  
and Historical Monuments of Scotland

Tom Hassall  
Sian Rees  
Annabel Houghton  
Iain Mills  
Ian Oxley  
Rhonda Robinson  
Richard Koizumi  
Philip Robertson  
Alison Kentuck  
Peter MacDonald  
Bob Stewart  
  
Robert Mowat