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May, 2017

Dear Sir / Madam,

### **The Housing White Paper: Fixing our broken housing market<sup>1</sup>**

Thank you for the opportunity to comment on this White Paper and the proposals within it. This response is submitted on behalf of the Chartered Institute for Archaeologists (CIfA) a professional body representing archaeologists working across the UK and overseas, the Council for British Archaeology (CBA) representing the public voice for archaeology, and the Federation of Archaeological Managers and Employers (FAME) the trade association for commercial archaeological organisations. Details of these bodies are provided in a separate appendix.

### **The Housing White Paper**

#### **General**

CIfA, CBA and FAME support the Government's objective to revitalise home-building in England and welcome the publication of the Housing White Paper in pursuit of this objective. A key element of the White Paper is further reform of the planning system and we continue strongly to support reforms which strengthen the plan-led system and facilitate the timely delivery of sustainable development in accordance with the National Planning Policy Framework (NPPF).

In particular, we welcome Government's recognition of the key role which local authorities play in the planning system and of the need to support them in this role. *'Boosting local authority capacity and capability to deliver [thereby] improving the speed and quality with which planning cases are handled'* is a crucial part of improving planning performance and that is true for local authority archaeological and historic environment services just as much as other local authority services.

The planning system has a key role to play in managing and safeguarding the nation's archaeological resource, much of which is undesignated and some of which has yet to be discovered. This role is implicit in the concept of sustainable development and our major concern, in responding to the White Paper, is that sustainability risks being sacrificed in an effort to improve housing production at any cost. In the absence of appropriate safeguards, there is likely to be irremediable damage to the historic environment.

The current NPPF generally provides a sound basis for managing and protecting the historic environment and does not need major change. However, numerous small 'tweaks' to other aspects of the NPPF risk unbalancing the document. It is disingenuous to argue that the weight given to policies protecting the historic environment will not be altered when, in a balancing exercise, counter-balancing considerations are proposed to be given extra weight.

### **Specific Questions**

**Question 1 - Do you agree with the proposals to:**

**a) Make clear in the National Planning Policy Framework that the key strategic policies that each local planning authority should maintain are those set out currently at paragraph 156 of the Framework, with an additional requirement to plan for the allocations needed to deliver the area's housing requirement?**

1.1 Yes, provided that

- *'conservation and enhancement of the natural and historic environment, including landscape'* as currently identified in paragraph 156 of the NPPF continues to be a key element and
- any additional requirement in relation to delivering the area's housing requirement reflects, amongst other things, the environmental capacity of the area.

**b) Use regulations to allow Spatial Development Strategies to allocate strategic sites, where these strategies require unanimous agreement of the members of the combined authority?**

1.2 Yes, provided that a commitment to the development of such strategic sites is not conferred in the absence of all appropriate archaeological assessment and evaluation necessary in historic environment terms to substantiate such a commitment.

**c) Revise the National Planning Policy Framework to tighten the definition of what evidence is required to support a ‘sound’ plan?**

1.3 We would welcome greater clarity about the evidence required to support a ‘sound’ plan (and, in particular, the archaeological information and assessment necessary to allow the allocation of a site for development in the plan). However, if *‘a more proportionate approach, while ensuring that clear and concise evidence is available’* (paragraph A.19 of the White Paper) means in practice streamlining evidence requirements, then the answer to this question is ‘no’. Government’s desire to strengthen the commitment to development which allocation brings and its measures pursuant to the Housing and Planning Act 2016 automatically to grant permission in principle to allocated sites mean that the archaeological information and assessment required to justify an allocation will, if anything, increase.

**Question 2 - What changes do you think would support more proportionate consultation and examination procedures for different types of plan and to ensure that different levels of plans work together?**

2.1 No comment, save that consultation and examination procedures should always ensure that the impact of proposals and policies upon the historic environment is adequately assessed.

**Question 3 - Do you agree with the proposals to:**

**a) amend national policy so that local planning authorities are expected to have clear policies for addressing the housing requirements of groups with particular needs, such as older and disabled people?**

3.1 No comment.

**b) from early 2018, use a standardised approach to assessing housing requirements as the baseline for five year housing supply calculations and monitoring housing delivery, in the absence of an up-to-date plan?**

3.2 Yes, provided that the assessment addresses need rather than aspiration and avoids unnecessary over-provision which almost inevitably increases pressure on more environmentally sensitive sites.

**Question 4**

**Do you agree with the proposals to amend the presumption in favour of sustainable development so that:**

**a) authorities are expected to have a clear strategy for maximising the use of suitable land in their areas?;**

4.1 Although we are concerned about the effects of numerous proposed minor changes to the NPPF (see above), we have no specific objection to this proposed change, provided that:

- land really is 'suitable' in all respects (including archaeologically) and
- it is made plain that such a strategy has to be balanced in an even-handed way with other strategies in the NPPF (such as that for the conservation and enhancement of the historic environment at paragraph 126)

**b) it makes clear that identified development needs should be accommodated unless there are strong reasons for not doing so set out in the NPPF?;**

4.2 No. The proposed wording in Box 2 of the White Paper suggests, in relation to plan-making, that plans should accommodate objectively assessed needs '*unless: i. specific policies in this Framework provide a strong reason for development to be restricted ...*'. This potentially represents a weakening of protection when compared to the current wording of paragraph 14 of the NPPF which refers to accommodating needs '*unless specific policies in this Framework indicate development should be restricted.*'

4.3 Specific policies in the Framework can indicate that development should be restricted (the current wording) without, in the view of the relevant authority, providing a strong reason to restrict development (the proposed wording) [our underlining]. Of course, local plans can depart from national guidance for good reason, but the need for a strong reason to follow national guidance is a subtle inversion of the traditional approach (where a strong reason not to follow government guidance would normally be sought).

**c) the list of policies which the Government regards as providing reasons to restrict development is limited to those set out currently in footnote 9 of the National Planning Policy Framework (so these are no longer presented as examples), with the addition of Ancient Woodland and aged or veteran trees?**

4.4 We welcome the express reference to '*other heritage assets of archaeological interest referred to in paragraph 139*' of the NPPF and to '*Ancient Woodland and aged or veteran trees*' in the list of policies, but the introduction of an exclusive list on balance can only restrict the operation of this important proviso.

**d) its considerations are re-ordered and numbered, the opening text is simplified and specific references to local plans are removed?**

4.5 Yes.

**Question 5 - Do you agree that regulations should be amended so that all local planning authorities are able to dispose of land with the benefit of planning consent which they have granted to themselves?**

5.1 Yes.

**Question 6 - How could land pooling make a more effective contribution to assembling land, and what additional powers or capacity would allow local authorities to play a more active role in land assembly (such as where 'ransom strips' delay or prevent development)?**

6.1 No comment.

**Question 7 - Do you agree that national policy should be amended to encourage local planning authorities to consider the social and economic benefits of estate regeneration when preparing their plans and in decisions on applications, and use their planning powers to help deliver estate regeneration to a high standard?**

7.1 Only if the environmental benefits and dis-benefits of estate regeneration are given equal prominence.

**Question 8 - Do you agree with the proposals to amend the National Planning Policy Framework to:**

**a) highlight the opportunities that neighbourhood plans present for identifying and allocating small sites that are suitable for housing?;**

8.1 Subject to the general concern expressed above about the cumulative effect of a large number detailed amendments to the NPPF, our comments on the proposed changes to the NPPF envisaged in question 8 are as follows.

8.2 We do not object to the proposal in question 8(a) provided that sites are only identified where any necessary archaeological assessment and evaluation has been undertaken and shown that allocation is appropriate.

**b) encourage local planning authorities to identify opportunities for villages to thrive, especially where this would support services and help meet the authority's housing needs?;**

8.3 Yes, provided that full account is taken of the impact of such further development upon the historic environment.

**c) give stronger support for ‘rural exception’ sites – to make clear that these should be considered positively where they can contribute to meeting identified local housing needs, even if this relies on an element of general market housing to ensure that homes are genuinely affordable for local people?;**

8.4 No comment, save that full account need to be taken of the impact of such further development upon the historic environment.

**d) make clear that on top of the allowance made for windfall sites, at least 10% of sites allocated for residential development in local plans should be sites of half a hectare or less?;**

8.5 No comment.

**e) expect local planning authorities to work with developers to encourage the sub-division of large sites?;**

8.6 No comment.

**f) encourage greater use of Local Development Orders and area-wide design codes so that small sites may be brought forward for development more quickly?.**

8.7 We are concerned to see that the use of Local Development Orders does not preclude the carrying out of all necessary archaeological assessment and evaluation on a site-by-site basis to ensure that there are no overriding objections to any specific development on archaeological grounds. Any encouragement of the greater use of Local Development Orders needs to address this issue.

8.8 While we support the continuing emphasis on design, we are also concerned that the greater use of area-wide design codes may not be sufficiently flexible appropriately to address the circumstances of every case.

**Question 9 – How could streamlined planning procedures support innovation and high-quality development in new garden towns and villages?**

9.1 Whatever approach is adopted, 'streamlining' should not remove the essential safeguards which ensure that the impact of development upon heritage assets is fully considered and taken into account.

**Question 10 - Do you agree with the proposals to amend the National Planning Policy Framework to make clear that:**

- a) authorities should amend Green Belt boundaries only when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements?**
- b) where land is removed from the Green Belt, local policies should require compensatory improvements to the environmental quality or accessibility of remaining Green Belt land?**
- c) appropriate facilities for existing cemeteries should not to be regarded as 'inappropriate development' in the Green Belt?**
- d) development brought forward under a Neighbourhood Development Order should not be regarded as inappropriate in the Green Belt, provided it preserves openness and does not conflict with the purposes of the Green Belt?**
- e) where a local or strategic plan has demonstrated the need for Green Belt boundaries to be amended, the detailed boundary may be determined through a neighbourhood plan (or plans) for the area in question?**
- f) when carrying out a Green Belt review, local planning authorities should look first at using any Green Belt land which has been previously developed and/or which surrounds transport hubs?**

10.1 No comment, save that

- we welcome Government's continuing commitment to protecting the Green Belt
- we also welcome the proposal to require compensatory improvements to the environmental quality or accessibility of remaining Green Belt land. However, it should not be forgotten that heritage assets are a finite and non-renewable resource which cannot simply be replicated on other land
- we understand why previously-developed land and land which surrounds transport hubs may be the first 'port of call' in Green Belt reviews, but it must also be remembered that such land, by definition, has the potential to be of archaeological interest.

**Question 11 - Are there particular options for accommodating development that national policy should expect authorities to have explored fully before Green Belt boundaries are amended, in addition to the ones set out above?**

11.1 no comment.

**Question 12 - Do you agree with the proposals to amend the National Planning Policy Framework to:**

**a) indicate that local planning authorities should provide neighbourhood planning groups with a housing requirement figure, where this is sought?;**

12.1 Yes, provided that such a figure would fully reflect the environmental capacity of the area.

**b) make clear that local and neighbourhood plans (at the most appropriate level) and more detailed development plan documents (such as action area plans) are expected to set out clear design expectations; and that visual tools such as design codes can help provide a clear basis for making decisions on development proposals?;**

12.2 Yes, provided that those expectations and codes are not too inflexible.

**c) emphasise the importance of early pre-application discussions between applicants, authorities and the local community about design and the types of homes to be provided?;**

12.3 Yes.

**d) makes clear that design should not be used as a valid reason to object to development where it accords with clear design expectations set out in statutory plans?;**

12.4 Yes.

**e) recognise the value of using a widely accepted design standard, such as Building for Life, in shaping and assessing basic design principles – and make clear that this should be reflected in plans and given weight in the planning process?**

12.5 Yes, provided that the standard used is not too inflexible.

**Question 13 - Do you agree with the proposals to amend national policy to make clear that plans and individual development proposals should:**

**a) make efficient use of land and avoid building homes at low densities where there is a shortage of land for meeting identified housing needs?;**



**b) address the particular scope for higher-density housing in urban locations that are well served by public transport, that provide opportunities to replace low-density uses in areas of high housing demand, or which offer scope to extend buildings upwards in urban areas?;**

**c) ensure that in doing so the density and form of development reflect the character, accessibility and infrastructure capacity of an area, and the nature of local housing needs?;**

**d) take a flexible approach in adopting and applying policy and guidance that could inhibit these objectives in particular circumstances, such as open space provision in areas with good access to facilities nearby?**

13.1 No comment, save to stress the importance of ensuring that increased densities of development respect the character of areas and the setting of historic assets.

**Question 14 - In what types of location would indicative minimum density standards be helpful, and what should those standards be?**

14.1 No comment.

**Question 15 - What are your views on the potential for delivering additional homes through more intensive use of existing public sector sites, or in urban locations more generally, and how this can best be supported through planning (using tools such as policy, local development orders, and permitted development rights)?**

15.1 Care needs to be taken in seeking to deliver more housing through the use of tools such as local development orders and permitted development rights to ensure that critical safeguards for the historic environment are not lost. The planning application is a key mechanism in this regard since it secures the pre-determination carrying out of archaeological assessment and evaluation and allows the imposition of archaeological conditions which are effective post-determination. In the absence of such an application there is in most cases no effective means to protect heritage assets and their significance and securing public benefit.

**Question 16 - Do you agree that:**

**a) where local planning authorities wish to agree their housing land supply for a one-year period, national policy should require those authorities to maintain a 10% buffer on their 5 year housing land supply?;**

16.1 No comment, save the requirement to over-provide through the stipulation of buffers needs to be clearly justified since the over-provision of housing land almost inevitably increases pressure on more environmentally sensitive sites.

**b) the Planning Inspectorate should consider and agree an authority's assessment of its housing supply for the purpose of this policy?**

16.2 Yes.

**c) if so, should the Inspectorate's consideration focus on whether the approach pursued by the authority in establishing the land supply position is robust, or should the Inspectorate make an assessment of the supply figure?**

16.3 It should focus on the robustness of the authority's approach given that the authority is the body with most local knowledge.

**Question 17 - In taking forward the protection for neighbourhood plans as set out in the Written Ministerial Statement of 12 December 2016 into the revised NPPF, do you agree that it should include the following amendments:**

**a) a requirement for the neighbourhood plan to meet its share of local housing need?;**

**b) that it is subject to the local planning authority being able to demonstrate through the housing delivery test that, from 2020, delivery has been over 65% (25% in 2018; 45% in 2019) for the wider authority area?**

**c) should it remain a requirement to have site allocations in the plan or should the protection apply as long as housing supply policies will meet their share of local housing need?**

17.1 No comment.

**Question 18 - What are your views on the merits of introducing a fee for making a planning appeal? We would welcome views on:**

**a) how the fee could be designed in such a way that it did not discourage developers, particularly smaller and medium sized firms, from bringing forward legitimate appeals;**

**b) the level of the fee and whether it could be refunded in certain circumstances, such as when an appeal is successful; and**

**c) whether there could be lower fees for less complex cases.**

18.1 We are not opposed in principle to the idea of a proportionate fee for making a planning appeal (refundable in certain circumstances) particularly if the revenue could be ring-fenced to support local authority planning and related services, but feel that greater use of the costs sanction for unreasonable behavior may be a better answer to this problem.

**Question 19 - Do you agree with the proposal to amend national policy so that local planning authorities are expected to have planning policies setting out how high quality digital infrastructure will be delivered in their area, and accessible from a range of providers?**

19.1 No comment.

**Question 20 - Do you agree with the proposals to amend national policy so that:**

- **the status of endorsed recommendations of the National Infrastructure Commission is made clear?;**

20.1 Yes.

- **authorities are expected to identify the additional development opportunities which strategic infrastructure improvements offer for making additional land available for housing?**

20.2 No comment.

**Question 21 - Do you agree that:**

- a) the planning application form should be amended to include a request for the estimated start date and build out rate for proposals for housing?**
- b) that developers should be required to provide local authorities with basic information (in terms of actual and projected build out) on progress in delivering the permitted number of homes, after planning permission has been granted?**
- c) the basic information (above) should be published as part of Authority Monitoring Reports?**
- d) that large housebuilders should be required to provide aggregate information on build out rates?**

21.1 We support Government in its desire to see that housing sites with planning permission are built out as promptly as possible and we do not object to the proposals

envisaged in question 21, but we are doubtful as to how effective these proposals will be in practice in addressing this issue.

**Question 22**

**Do you agree that the realistic prospect that housing will be built on a site should be taken into account in the determination of planning applications for housing on sites where there is evidence of non-implementation of earlier permissions for housing development?**

22.1 We would prefer to see effort and resources directed towards addressing the reasons for non-implementation of previous permissions rather than identifying further land for development which may be more environmentally sensitive.

**Question 23**

**We would welcome views on whether an applicant's track record of delivering previous, similar housing schemes should be taken into account by local authorities when determining planning applications for housing development.**

23.1 We are doubtful as to how effective these proposals will be in practice in addressing this issue and in ensuring that sustainable development occurs on the most suitable land.

**Question 24**

**If this proposal were taken forward, do you agree that the track record of an applicant should only be taken into account when considering proposals for large scale sites, so as not to deter new entrants to the market?**

24.1 No comment.

**Question 25**

**What are your views on whether local authorities should be encouraged to shorten the timescales for developers to implement a permission for housing development from three years to two years, except where a shorter timescale could hinder the viability or deliverability of a scheme? We would particularly welcome views on what such a change would mean for SME developers.**

25.1 No comment, save that we doubt whether this would in practice have the desired effect.

**Question 26**

**Do you agree with the proposals to amend legislation to simplify and speed up the process of serving a completion notice by removing the requirement for the Secretary of State to confirm a completion notice before it can take effect?**

26.1 Yes

#### **Question 27**

**What are your views on whether we should allow local authorities to serve a completion notice on a site before the commencement deadline has elapsed, but only where works have begun? What impact do you think this will have on lenders' willingness to lend to developers?**

27.1 No comment.

#### **Question 28**

**Do you agree that for the purposes of introducing a housing delivery test, national guidance should make clear that:**

- a) The baseline for assessing housing delivery should be a local planning authority's annual housing requirement where this is set out in an up-to-date plan?**
- b) The baseline where no local plan is in place should be the published household projections until 2018/19, with the new standard methodology for assessing housing requirements providing the baseline thereafter?**
- c) Net annual housing additions should be used to measure housing delivery?**
- d) Delivery will be assessed over a rolling three year period, starting with 2014/15 – 2016/17?**

28.1 No comment, save that

- whatever test is adopted, the baseline should represent a realistic assessment of need and not aspiration
- the adoption of a rolling period of assessment for delivery appears sensible given the possibility of short-term fluctuations in delivery.

#### **Question 29**

**Do you agree that the consequences for under-delivery should be:**

- a) From November 2017, an expectation that local planning authorities prepare an action plan where delivery falls below 95% of the authority's annual housing requirement?;**
- b) From November 2017, a 20% buffer on top of the requirement to maintain a five year housing land supply where delivery falls below 85%?;**

- c) From November 2018, application of the presumption in favour of sustainable development where delivery falls below 25%?;**
- d) From November 2019, application of the presumption in favour of sustainable development where delivery falls below 45%?; and**
- e) From November 2020, application of the presumption in favour of sustainable development where delivery falls below 65%?**

29.1 No comment, save that the consequences of under-delivery should recognise

- the need, wherever possible, to support the plan-led system
- the dangers of over-provision, for instance, through excessive requirements for buffers.

### **Question 30**

**What support would be most helpful to local planning authorities in increasing housing delivery in their areas?**

30.1 Resources to address the relevant issues.

30.2 'Planning freedoms' under the Housing and Planning Act 2016 may have a role to play. However, if the intention is by this means simply to by-pass legitimate requirements of the application process (including the need for appropriate archaeological assessment and evaluation) to ensure that development is sustainable, we would strongly object to their use. This would render the historic environment vulnerable to substantial harm.

### **Question 31**

**Do you agree with our proposals to:**

- a) amend national policy to revise the definition of affordable housing as set out in Box 4?;**
- b) introduce an income cap for starter homes?;**
- c) incorporate a definition of affordable private rent housing?;**
- d) allow for a transitional period that aligns with other proposals in the White Paper (April 2018)?**

31.1 No comment.

31.2 Our concern in relation to affordable housing remains to ensure that land which is identified for affordable housing is ultimately developed for affordable housing. If not, further land will need to be identified for this purpose, thereby increasing the pressure on the natural and historic environment.

**Question 32**

**Do you agree that:**

- a) national planning policy should expect local planning authorities to seek a minimum of 10% of all homes on individual sites for affordable home ownership products?**
- b) that this policy should only apply to developments of over 10 units or 0.5ha?**

32.1 No comment.

**Question 33**

**Should any particular types of residential development be excluded from this policy?**

33.1 No comment.

**Question 34**

**Do you agree with the proposals to amend national policy to make clear that the reference to the three dimensions of sustainable development, together with the core planning principles and policies at paragraphs 18-219 of the National Planning Policy Framework, together constitute the Government's view of what sustainable development means for the planning system in England?**

34.1 Yes, provided that the management and protection of the historic environment remains a key element of sustainable development.

**Question 35**

**Do you agree with the proposals to amend national policy to:**

- a) Amend the list of climate change factors to be considered during plan-making, to include reference to rising temperatures?**

35.1 Yes.

- b) Make clear that local planning policies should support measures for the future resilience of communities and infrastructure to climate change?**

35.2 Yes.

**Question 36**

**Do you agree with these proposals to clarify flood risk policy in the National Planning Policy Framework?**

36.1 No comment.

**Question 37**

**Do you agree with the proposal to amend national policy to emphasise that planning policies and decisions should take account of existing businesses when locating new development nearby and, where necessary, to mitigate the impact of noise and other potential nuisances arising from existing development?**

37.1 No comment.

**Question 38**

**Do you agree that in incorporating the Written Ministerial Statement on wind energy development into paragraph 98 of the National Planning Policy Framework, no transition period should be included?**

38.1 Yes.

Questions 39 and 40 are addressed under separate cover.

We would be happy further to discuss the issues raised in this White Paper insofar as they affect the historic environment. In the meantime, if there is anything further that we can do to assist please do not hesitate to contact us.

Yours faithfully,

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## APPENDIX

### The Council for British Archaeology (CBA)

CBA is the national amenity society concerned with protection of the archaeological interest in heritage assets. CBA has a membership of 620 heritage organisations who, together with our thousands of members, represent national and local bodies encompassing state, local government, professional, academic, museum and voluntary sectors.

### The Chartered Institute for Archaeologists

The Chartered Institute for Archaeologists (CIfA) is the leading professional body representing archaeologists working in the UK and overseas. CIfA promotes high professional standards and strong ethics in archaeological practice, to maximise the benefits that archaeologists bring to society, and provides a self-regulatory quality assurance framework for the sector and those it serves.

CIfA has over 3,200 members and around 80 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors.

### Federation of Archaeological Managers and Employers (FAME)

FAME is the trade association for archaeological employers and managers. FAME represents one in three archaeological practitioners, employing the majority of archaeologists across the UK. Its membership includes over 50 archaeological practices, from small consultancies to all the largest contractors, from commercial companies, universities and local authorities across England, Scotland and Wales. In addition to representing its members' interests in matters of policy, its aims are to foster an understanding of archaeology across the construction and development sector and promote best professional practice, training and development, and a safe and healthy work environment.