

Background

Devon County Council is committed to the protection of the historic environment particularly through its responsibility for maintaining the Historic Environment Record, which is the reference document against which planning applications are appraised, and also policies set out in the Structure Plan and Devon's Cultural Strategy.

Planning policy guidance

In November 1990 the Department of the Environment published PPG16, "Archaeology and Planning" which summarises and builds upon all previous legislation and advice. The underlying principle governing all archaeological work within the planning process as expressed in PPG16 is to maximise preservation *in situ*.

PPG16 recognises that not all archaeological sites are of equal value and it recommends that local authorities should undertake a thorough review of their archaeological resource which has seen the increasing development and emphasis on the importance of the Historic Environment Record in the planning process.

The desirability of preserving ancient monuments and their setting is a material consideration in the planning process. This was first stated in DOE Circular 8/87 (now superseded by PPG15) and is confirmed by PPG16 (para 8),

"Where nationally important archaeological remains, whether scheduled or not, and their settings, are affected by proposed development there should be a presumption in favour of their physical preservation"

The PPG16 gives advice on procedures prior to submission and/or determination of applications and introduces the important concept of **preservation *in situ***. If this option is not possible, the planning authority may need to consider refusal of the application. In certain circumstances **preservation by record** may be considered an appropriate option. The guidance reports that it is *"open to the local planning authority to impose conditions designed to protect a monument and to ensure that reasonable access is given to a nominated archaeologist"* (para. 29) to carry out a programme of archaeological works designed to preserve any archaeological remains by record and guarantee the dissemination of the results.

PPG16 also suggests that *"In cases where planning authorities have decided that planning permission may be granted but wish to secure the provision of archaeological excavation, it is open to them to do so by the use of a negative condition"* (para.30). The PPG offers the following example of a suitable condition,

"No development shall take place within the area indicated (this would be the area of archaeological interest) until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been approved by the Planning Authority".

It should be noted that a Planning condition will not be discharged until the archaeological work has been completed. It should be understood that this will/ may include an appropriate scheme of post-excavation analysis and publication.

Archaeology and Development Control (please also see the attached flow diagram)

It is important that early consultation takes place between potential applicants/developers and planning archaeologists. This will facilitate thorough consideration of any important remains and avoid needless or thoughtless destruction of irreplaceable archaeology. Very often archaeological features can be protected (and expensive excavation avoided) by redesign, which is obviously best considered at an early stage of the design process.

Development Control Processes

Within the development control process, archaeological requirements can be fulfilled in two ways. If there is an indication of an archaeological interest the local planning authority can request an applicant to submit further information. This can be undertaken voluntarily or requested under the powers of Regulation 4 of the Town and Country Planning (Applications) Regulations, 1988 and usually necessitates the undertaking of a desk-based assessment and/or a field evaluation. On the basis of this information the planning decision can be made. Alternatively, if the application is granted permission this can be subject to a condition requesting further archaeological investigation.

When an archaeological matter is particularly complex - and /or specifically mentions financial matters - the local planning authority may prefer to secure the scheme of works through legal obligations with the applicant under Section 106 of the Town and Country Planning Act 1990, as amended by the 1991 Act. Under the provisions of the Planning and Compensation Act 1991 such an obligation may be submitted to the local planning authority unilaterally by the applicant.

Pre-planning undertakings

The increasing complexity of archaeology within the planning process is causing many applicants to employ an archaeological consultant. By undertaking thorough desk-based assessment and/or field evaluation during the project design phase and prior to submitting a planning application the archaeological part of the planning procedure can be greatly accelerated.

The results of such work may form the basis of a mitigation strategy submitted as part of a planning application. This will inform the planning authority of how the applicant intends to deal with the archaeological constraints. Increasingly planning authorities are requesting that such information be provided prior to their consideration of an application and this is done in accordance with the powers conferred upon the planning authority by Regulation 4 of the Town and Country Planning (Applications) Regulations Act 1988.

Often the results of the evaluation will allow for sympathetic development design and thus the possibility of avoiding unnecessary damage and further archaeological works. On the other hand the results of the evaluation may lead the planning authority to approve the proposals with the appropriate requirements secured by a condition or a legal obligation under the provisions of Section 106.

Preservation *in situ*

PPG16 stresses the desirability of achieving preservation *in situ* of nationally important remains because of the inherent value. However, this policy also has the effect of ensuring archaeological remains are preserved for a time when archaeologists will have better techniques with which to investigate, preserve and communicate the results to the community as well as, in many cases, minimising the costs the developer has to meet. In practice this frequently leads to strategies for mitigating potential damage to archaeological deposits.

Mitigation measures vary from site to site but may include construction on a raft or low-impact piled foundation. In residential developments it may be possible to preserve archaeological remains beneath an open space allocation. To preserve the setting of a monument it may be possible to create screening or bunding. If development cannot be avoided or adequately re-designed, and preservation *in situ* (either in part or in full) cannot be achieved then it may be

possible to preserve by record as part of a detailed mitigation strategy. It is with the option of preservation by record, as well as the archaeological work required to achieve preservation *in situ*, that the subsequent sections of this document are largely concerned.

The role of the developer

By making archaeology a material consideration within the planning process PPG 16 places the responsibility for dealing with archaeological remains with the developer. This means that prospective developers must consider and mitigate the effects of their development scheme on the historic environment.

It is considered that the developer's responsibility does not end until all fieldwork is completed, an appropriate report has been deposited with the SMR, and the developer has deposited an appropriate archive. Where appropriate it is expected that the results will be published and made available to the public.

Archaeological Appraisal, Assessment and Mitigation

There are two types of appraisal: a simple appraisal is a rapid scan of the planning application to assess its potential for archaeological implications; a detailed appraisal involves checking the details of the application against known information, in most circumstances, the Historic Environment Record.

Desk-based assessment: Often the planning archaeologist may consider it appropriate to recommend to the local planning authority the commissioning of a **desk-based assessment** from a competent archaeological contractor or consultant. This will consist of thorough research of all existing information (such as the study of documents, aerial photographs, old maps, museum collections etc) without the requirement for any intrusive fieldwork. It may however entail, at either an initial or second stage, ground survey, geophysical survey, or, field walking,

Field evaluation Intrusive Assessment (pre-determination): If the planning archaeologist feels that insufficient information is known about a site it is reasonable for the local planning authority to request that further information be provided in accordance with powers conferred under Regulation 4 of the Town and Country Planning (Applications) Regulations 1988. In this instance it may be necessary to carry out an archaeological **field evaluation** prior to the determination of the planning application. Such work may also be undertaken as part of an environmental assessment and to satisfy the Scheduled Monument Consent requirements of the Secretary of State for National Heritage. The emphasis on informing on the presence, nature, condition of survival and uniqueness/quality of the archaeology and will evaluate the likely impact of development upon the identified archaeological remains. Information thus gained will ensure that "*an informed and reasonable planning decision can be taken*" (PPG16, para.21).

Mitigation: The combined information collected as a result of the procedures will enable the County Archaeology Service to advise the local planning authority on an appropriate level of mitigation. The local planning authority will often expect the results of such work to be presented in the form of a mitigation strategy for its approval. Such a strategy will consider the impact of the development upon the archaeological resource and provide measures to maximise preservation *in situ*. The mitigation measures may include some level of preservation by record. Mitigation measures must result from careful consideration of the likely impact of the development upon all facets of the archaeological resource including structural, artefactual and environmental materials.

Watching brief (post-determination): Where a site has a perceived low level of archaeological potential or where the mitigation strategy suggests some level of recording other than excavation is necessary, a watching brief may be appropriate. The decision to implement a watching brief will only occur where at least one of the above levels of assessment has

occurred, where only very low levels of archaeology in terms of quantity, quality and survival are expected and where the data can be adequately recorded and recovered in this manner.

Various grades of watching brief occur. At one scale they include site inspection and at the other they may resemble an excavation, a process commonly termed 'Strip and Record'. For all grades of watching brief the contracted archaeologist will be expected to have a team of archaeologists on standby in case important remains requiring a rapid response are discovered.

A **comprehensive watching brief** is where archaeological staff are present at all times during the groundwork operations.

An **intensive watching brief** is where archaeologists are on site during the undertaking of sensitive groundworks.

An **intermittent watching brief** is where the trenches/groundworks will be observed after the completion of machining.

A **partial watching brief** entails observation only when considered appropriate.

In most circumstances it may be deemed appropriate for the archaeologist to be more closely involved with the on-site works to ensure recovery of any remains and the creation of an accurate record within the limitations of the development. This will entail the archaeologist being authorised to directly advise the contractor or control the machinery on certain aspects of site works to guarantee archaeological deposits are not unnecessarily disturbed. This may be of particular importance when trying to achieve preservation *in situ* of other sensitive remains.

Building recording

In recent years the archaeological recording of architectural structures has become increasingly valuable. In the light of the publication of PPG15 and the increased importance placed upon the recording of architectural fabric under threat of alteration or demolition, archaeologists have become more involved in applying their techniques to such circumstances. Such work is likely to occur as the result of a condition upon a planning permission or a listed building, scheduled monument or conservation area consent.

N.B. The HER is, by definition, a record of known archaeological sites and new discoveries are being made all the time. This means that, occasionally, unexpected archaeological discoveries may be made during the course of development. Where there has been no provision for an archaeological presence, the discovery of archaeological finds or remains should be reported to the Planning Authority and the County Archaeology Service.

For further information or planning application forms, please contact:

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Summary Flow Chart



