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Non-Members £8.00

Archaeological Investigations

Code of Practice

for Mineral Operators

Ministerial Statement

The Minister has agreed to the following statement being included in the Code of Practice:

'I welcome the CBI's initiative in updating its Code of Practice for Mineral Operators. It is important that minerals planning takes account of archaeological interests in seeking to ensure the supply of minerals for the nation at the best balance of environmental and economic costs. This Code should ensure that archaeological factors are fully taken into consideration in the planning process. I hope all concerned will use it'.

Tim Yeo MP
Parliamentary Under Secretary of State
Department of the Environment
March 1991.

The revised Code

This Code is a revision of the Code published by the Confederation of British Industry (CBI) in April 1982 and sets out recommended procedures and standards for consultation and co-operation between mineral operators, planners and archaeologists. The Code has been prepared by the CBI in consultation with interested parties and is endorsed by the Association of County Councils and Association of Metropolitan Authorities.

1 Introduction

- 1.1 The CBI believes that the 1982 Code of Practice promoted co-operation between mineral operators, archaeologists and mineral planning authorities. The help given by operators towards the preservation, excavation and recording of threatened archaeological sites is appreciated. All concerned hope that the revised Code will help this co-operation to continue.
- 1.2 The original Code was produced in response to the Ancient Monuments and Archaeological Areas Act 1979 and gave mineral operators exemption from certain sections of the Act in exchange for adherence to the Code. Since 1982 there have been changes in the organisation and funding of archaeology in Britain and there have also been changes in the planning system. It was therefore thought appropriate to rewrite and update the Code in consultation with the Association of County Councils (ACC) and the Association of Metropolitan Authorities (AMA) (representing the Mineral Planning Authorities) and to agree the amended Code with the Department of the Environment (DoE), Welsh Office, and English Heritage.

- 1.3 Any proposed working of minerals which may affect an archaeological site creates a potential conflict of interest. Archaeologists accept that minerals can only be worked where they are found while the mineral industry understands that in situ preservation of archaeological sites is usually preferable to excavation. So a balance should be struck in each case to reflect the archaeological importance of the site and the extent to which its preservation would sterilise important minerals. It is recognised that preservation is not always possible, but that some sites are of such importance as to outweigh the need for extraction. It is hoped that the revised Code will assist in resolving this conflict.
- 1.4 The revised Code does not alter the position regarding the 1979 Act as amended, nor the requirement for mineral development to receive planning permission from the appropriate planning authority. It also takes into account current planning provisions which may be used to safeguard the archaeological heritage. These can ensure that decisions are based on adequate information and may not only secure access but also, when appropriate, allow preservation or arrangements for facilitating and funding investigations. The operation of the planning system will therefore enable the planning authority to ensure the investigation and safeguarding of the archaeological heritage. Planning Policy Guidance Note 16 and its Welsh equivalent on Archaeology and Planning is particularly relevant and complements this Code. Other DoE and Welsh Office (WO) Planning Policy Guidance Notes, Minerals Planning Guidance Notes and other planning circulars (including DoE Circular 8/87 and WO Circular 61/81) also give useful guidance. The system affords wide powers to planning authorities which should

be used in such a way as to ensure that any conditions applied are fair, reasonable and practicable. DoE Circular 22/83 and WO Circular 46/83 on Planning Gain and DoE Circular 1/85 and WO Circular 1/85 on the use of conditions are particularly relevant.

- 1.5 The Code has been drawn up to promote co-operative and effective working relationships between mineral operators, planners and archaeologists. Appendix A is a revised list of archaeological bodies, primarily County or Regional Archaeological Officers who maintain sites and monument records for their areas and provide archaeological advice to planning authorities.
- 1.6 References in the Code to archaeological contractors are to qualified individuals or organisations available to act as consultants or as contractors undertaking field work. Several of the archaeological bodies offer this service. Any mineral operator finding difficulty in locating a suitable contractor may obtain advice from the CBI or from one of the organisations listed in Appendix B.

2 Code of Practice

- 2.1 Mineral operators, mineral planning authorities and archaeologists alike shall be aware of the importance of identifying as early as possible the likely presence and importance of any archaeological sites which may be affected by the proposed development.

2.2 Mineral exploration

Before undertaking mineral exploration work outside existing permitted areas the operator shall check the County Sites and Monuments Record to establish whether the investigation would affect a 'site of archaeological interest'

as defined in the Town and Country Planning [General Development] Order 1988.

2.3 Planning application

In preparing to submit a planning application for mineral development the operator will consult the County Sites and Monuments Record and the relevant archaeological body (see Appendix A) to ascertain whether the proposal will affect any area of known or likely archaeological interest. The archaeological body will make available to the operator such information as it possesses relating to the site. Details of any steps taken will be submitted with the planning application.

- 2.4 After consulting an archaeological body about a proposed planning application the operator will, where possible, allow the body access to inspect the site of the intended application.
- 2.5 If there is good reason to suspect that important archaeological features may be present but existing information is insufficient to enable the mineral planning authority to reach a decision then additional information will need to be provided with the application. This should be obtained by an evaluation programme, the specification of which should be agreed with the mineral planning authority and could involve visual inspection, remote sensing, trial trenching or other appropriate techniques. In the case of trial trenching the area excavated will not normally exceed 1% to 2% of the area of potential archaeological interest which would be directly affected by the proposed mineral working. This evaluation should be carried out by a qualified archaeological contractor.
- 2.6 There may be particular circumstances where the operator may wish to delay expenditure on the aforementioned evaluation until other parts

of the planning application have been considered, but before determination. This delay would not be appropriate where an environmental statement is submitted under the Town and Country Planning [Assessment of Environmental Effects] Regulations 1988. It could be achieved by the following process. The operator will submit, with the planning application, outline information about any archaeological features of the site, as may readily be obtained from recognised sources (as mentioned at paragraph 2.3) and from a visual inspection of the site, but not involving earth moving works. When the mineral planning authority has examined the application and notified the operator that it would be accepted for approval subject to clearance of the outstanding archaeological matter (i.e. the proposal is otherwise acceptable to the mineral planning authority) then the operator shall undertake an evaluation programme as outlined above and submit this to the mineral planning authority for consideration.

- 2.7 Following any evaluation the mineral operator will include in the application, and in any environmental statement, outline proposals necessary to accommodate any significant archaeological interests.
- 2.8 In considering their obligations under paragraphs 2.5, 2.6 and 2.7 of this Code, operators should bear in mind that if the information provided is insufficient then the planning authority has powers under Regulation 4 of the Town and Country Planning (Applications) Regulations 1988 to direct the applicant to supply any further information necessary to enable it to determine the application.

- 2.9 After submission of the planning application (or in a case where Regulation 4 has been used after the further information has been provided), the mineral planning authority will consult with the archaeological body about the archaeological implications of the proposed development in the light of information from existing records and the evaluation (if any) and will not require further evaluation work to be carried out beyond the guidelines set out in paragraphs 2.5 and 2.6 before the planning application is decided.

2.10 Planning decision

There will be cases where the archaeological features identified at a site are of such importance that the mineral planning authority is unable to grant permission. In cases where permission can be granted steps may be needed to ensure that further archaeological work is undertaken before features of archaeological importance are affected by mining operations. In these cases the normal procedure will be for the planning permission to be issued subject to a condition based on the following model:

'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 submitted by the applicant and approved by the mineral planning authority'.

Such a condition gives the mineral planning authority control over the further work to be undertaken, but subject to the right of the operator to appeal to the Secretary of State if the scheme requirement appears to be unreasonable. In the past many mineral

planning authorities have felt it necessary to enter into legal agreements to ensure that archaeological work is undertaken. The use of the model condition set out above should mean that legal agreements are unnecessary in normal circumstances. It would therefore only be appropriate to use a legal agreement in special circumstances where the model condition is clearly unsuitable or inadequate.

- 2.11 The CBI supports the practice of mineral operators offering financial or practical assistance to archaeological investigations to implement the scheme as set out above. The operator will ensure that this work is undertaken by a qualified archaeological contractor. The decision to make such contributions is a matter for the operator in each case.
- 2.12 Operators will use their best endeavours to restrict access for the purpose of searching for and excavating archaeological artefacts to personnel approved by the archaeological body and archaeological contractor. Other groups or individuals will be discouraged and referred to the archaeological body.
- 2.13 The archaeological contractor will report regularly to the mineral operator on the progress of work undertaken on their land and in particular any discoveries. They will be conscious of the potential public relations benefits to operators of publicising their work. In any publicity, financial or other support from the operator shall be recognised in a manner approved by the operator.
- 2.14 **Previously permitted sites**
Operators should also recognise that archaeological bodies may have legitimate interests in examining sites within areas already permitted for mineral working,

particularly where the presence of archaeological remains only becomes apparent once development has commenced. Operators should allow access to these areas where this is consistent with safety and operational requirements. In such cases paragraph 2.13 would apply.

2.15 **General**

Archaeological contractors will recognise the legal rights of ownership of finds made during investigations and will advise owners on conservation requirements. Where necessary, the archaeological body or contractor will advise mineral operators of special legal requirements relating to human burials and treasure trove.

- 2.16 Mineral operators will ensure that archaeological contractors may retain artefacts for study for a reasonable time and recognise the desirability of depositing all artefacts and records in an appropriate museum as a complete long term archive for future study.

Appendix C provides a checklist of matters which operators may wish to incorporate in any agreement for archaeological investigation on their land.

In case of difficulty, operators may obtain advice from CBI staff or from the organisations named in Appendix B.

Appendix A

Archaeological bodies

England

- Avon** Archaeological Officer
Planning Dept
PO Box 46
Middlegate
Whitefriars
Lewins Mead
Bristol BS99 7EU
Tel: 0272 226528
- Beds** Principal Cons. & Arch. Officer
Planning Dept
County Hall
Cauldwell Street
Bedford MK42 9AP
Tel: 0234 63222
- Berks** Archaeological Officer
Dept of Highways and Planning
Shire Hall
Shinfield Park
Reading
Berks RG2 9XG
Tel: 0734 875444
- Bucks** County Field Archaeologist
Buckinghamshire County Museum
Technical Centre
Tring Road
Halton
Aylesbury HP22 5PJ
Tel: 0296 696012

Cambs County Archaeologist
Dept of Land and Buildings
Shire Hall
Castle Hill
Cambridge CB3 0AP
Tel: 0223 317111

Cheshire Principal Archaeologist
Cheshire County Council
Environmental Planning Service
Commerce House
Hunter Street
Chester
Cheshire CH1 2QP
Tel: 0244 603160

Cleveland County Archaeologist
PO Box 41
Southlands Centre
Ormesby Road
Middlesborough
Cleveland TS3 0YZ
Tel: 0642 327583

Cornwall Archaeology Unit
Room 4,
Old County Hall
Station Road
Truro
Cornwall TR1 3EX
Tel: 0872 74282

Cumbria County Archaeologist
County Planning Dept
County Offices
Kendal
Cumbria LA9 4RQ
Tel: 0539 21000

Derby Sites & Monuments Officer
Planning Dept
County Offices
Matlock
Derbyshire DE4 3AG
Tel: 0629 580000

Devon County Archaeologist
Property Dept
Devon County Council
County Hall
Exeter
Devon EX2 4QQ
Tel: 0392 272266

Dorset Archaeological Officer
Planning Dept
County Hall
Dorchester
Dorset DT1 1XJ
Tel: 0305 251000

Durham Antiquities Officer
The Bowes Museum
Barnard Castle
Co Durham DL12 8NP
Tel: 0833 690107

**East
Sussex** Archaeological Adviser
Planning Dept
Southover House
Southover Road
Lewes
East Sussex BN7 1YA
Tel: 0273 481608

Essex County Archaeologist
Planning Dept
Globe House
New Street
Chelmsford
Essex CM1 1LF
Tel: 0245 352232

Glos County Archaeological Officer
County Planning Dept
Shire Hall
Gloucester GL1 2TN
Tel: 0452 425683

**Greater
M'chester** Archaeology Unit
Manchester University
Oxford Road
Manchester M13 9PL
Tel: 061-275 2315

Hants County Archaeologist
County Planning Officer
The Castle
Winchester
Hants SO23 8UE
Tel: 0962 846735

**Hereford
& Worcs** Archaeological Officer
Hereford & Worcs County Council
County Museum
Archaeology Section
Tetbury Drive
Warndon
Worcester WR4 9LS
Tel: 0905 58608

Herts County Archaeologist
Planning & Estates Dept
County Hall
Hertford
Herts SG13 8DN
Tel: 0992 555244

- Humber-
side** County Archaeologist
Property Services Dept
County Hall
Lairgate
Beverley
Humberside HU17 9BA
Tel: 0482 868770
- Isle of
Wight** County Archaeological Officer
Archaeological Centre
61 Clatterford Road
Carrisbrooke
Isle of Wight PO30 1NZ
Tel: 0983 529963
- Kent** County Archaeological Officer
Kent County Council
Springfield
Maidstone
Kent ME14 2LX
Tel: 0622 671411
- Lancs** County Archaeologist
Lancashire Record Office
Bow Lane
Preston
Lancs PR1 2RE
Tel: 0524 65201
- Leics** Archaeological Survey Team
Jewry Wall
Museum St
Nicholas Circle
Leicester LE1 7BY
Tel: 0533 554100
- Lincs** SMR Officer
City & County Museum
Broadgate
Lincoln
Lincs LN2 1HQ
Tel: 0522 530401
- London** English Heritage
Chesham House
30 Warwick Street
London W1R 6AB
Tel: 071-973 3732
- Mersey-
side** Archaeological Unit
Liverpool Museum
William Brown Street
Liverpool L3 8EN
Tel: 051 2070001
- Norfolk** Archaeological Unit
Union House
Gressenhall
Dereham
Norfolk NR20 4DR
Tel: 0362 860528
- Northants** County Archaeologist
Archaeology Unit
Bolton House
Wootan Hall
Park Mere Way
Northampton NN4 9BE
Tel: 0604 700493
- Northd** County Archaeologist
Northumberland
Archaeology Section
Dept of Planning &
Economic Development
County Hall
Morpeth
Northumberland
NE61 2EF
Tel: 0670 514343

North Yorkshire County Archaeologist
 Planning Dept
 County Hall
 North Allerton
 North Yorkshire DL7 8AQ
 Tel: 0609 780780

Notts County Archaeologist
 Dept of Planning
 Trent Bridge House
 West Bridgford
 Nottingham N62 6BJ
 Tel: 0602 823823

Oxon Oxfordshire County Museum
 Fletcher's House
 Woodstock
 Oxon OX7 1SN
 Tel: 0993 811456

Peak Park Planning Board Archaeologist
 Peak District National Park
 Aldern House
 Baslow Road
 Bakewell Road
 Bakewell DE4 1AE
 Tel: 062981 4321

Salop County Planning Dept
 Shire Hall
 Abbey Foregate
 Shrewsbury
 Shropshire SY2 6ND
 Tel: 0743 252563

Somerset Field Archaeologist
 Planning Dept
 County Hall
 Taunton
 Somerset TA1 4DY
 Tel: 0823 333451

South Yorkshire County Archaeologist
 Museum Building
 Ellin Street
 Sheffield S1 4PL
 Tel: 0742 734210

Staffs Archaeological Officer
 Planning Dept
 County Buildings
 Martin Street
 Stafford ST16 2LH
 Tel: 0785 223121

Suffolk County Archaeologist
 Planning Dept
 Shire Hall
 Bury St Edmunds
 Suffolk IP33 1RX
 Tel: 0284 763141

Surrey Principal Archaeologist
 County Planning Dept
 Surrey County Council
 Kingston upon Thames
 Surrey KT1 2DT
 Tel: 081-541 9457

Tyne & Wear County Archaeologist
 Planning Dept
 Newcastle City Council
 Civic Centre
 Barras Bridge
 Newcastle upon Tyne NE1 8PH
 Tel: 091 281 6714

Warks County Field Archaeologist
 County Museum
 Market Place
 Warwick CV34 4SA
 Tel: 0926 412734

West Midlands West Midlands Sites & Monuments Officer
Joint Data Team
Radcliffe House
Solihull
West Midlands B91 3RZ
Tel: 021 704 6930

West Sussex Archaeological Officer
County Planning Dept
County Hall
Tower Street
Chichester
West Sussex PO19 1RQ
Tel: 0243 777100

West Yorkshire West Yorkshire Archaeological Service
14 St Johns North
Wakefield WF1 3QA
Tel: 0924 290900

Wiltshire County Archaeologist
Library & Museums Service
Wiltshire County Council
Bythesea Road
Trowbridge
Wiltshire BA14 8BS
Tel: 0225 753641

Wales

Clwyd Principal Archaeologist
Tourism & Leisure Division
Shire Hall
Mold
Clwyd CH7 6NB
Tel: 0352 2121

Dyfed The Director
Dyfed Archaeological Trust Ltd
The Old Palace
Abergwili
Carmarthen
Dyfed SA31 2J6
Tel: 0267 231667

Gwent The Director
Glamorgan-Gwent
Archaeological Trust Ltd
Ferryside Warehouse
Bath Lane
Swansea SA1 1RD
West Glamorgan
Tel: 0792 655208

Gwynedd The Director
Gwynedd Archaeological Trust Ltd
Ffordd Y Coleg
Bangor
Gwynedd LL57 2DG
Tel: 0248 352535

Clwyd/Powys The Director
Clwyd-Powys Archaeological Trust
7a Church Street
Welshpool
Powys SY21 7DL
Tel: 0938 553670

Appendix B

National bodies

English Heritage

Fortress House
23 Savile Row
London W1X 2HE
Tel: 071-973 3000

Association of County Archaeological Officers

c/o The Association of County Councils
Eaton House
66A Eaton Square
London SW1N 9BH
Tel: 071-235 1200

County Planning Officers Society

Committee 3
c/o The Association of County Councils
66A Eaton Square
London SW1W 9BH
Tel: 071-235 1200

Department of the Environment

Heritage Division
Romney House
2 Marsham Street
London SW1P 3EB
Tel: 071-276 0684

National Archaeological Record

Royal Commission on the Historical
Monuments of England
Fortress House
23 Savile Row
London W1X 1AB
Tel: 071-973 3500

Environment Health & Safety Group

CBI
Centre Point
103 New Oxford Street
London WC1A 1DU
Tel: 071-379 7400

Cadw

Welsh Historic Monuments
Brunel House
2 Fitzalan Road
Cardiff CF2 1VY
Wales
Tel: 222 465511

Royal Commission on Ancient & Historical Monuments in Wales

Government Buildings
Plas Crug
Aberystwyth
Dyfed SY23 2HP
Wales
Tel: 0970 624381

Historic Buildings & Ancient Monuments Division

Scottish Development Department
20 Brandon Street
Edinburgh EH3 5RA
Scotland
Tel: 031-244 3122

Appendix C

Matters for agreement

This checklist is aimed at helping operators in preparing an agreement for archaeological investigation of mineral working sites under their control.

The archaeological project design which should provide for recording, analysis and interpretation of the results of the investigation

Rights of publication and rights to the results of the investigation

The timetable for the project which should cover each phase of the investigation

The methods to be used for such operations as soil stripping, excavation and reinstatement by the archaeological contractor

Definition of safe areas and access routes for the archaeological contractor and any related visitors

Compliance by the archaeological contractor and any related visitors with the operator's requirements

Procedures for deciding the ownership and conservation arrangements for artefacts recovered during the investigation

The archaeological contractor's insurance cover, particularly against third party claims

Clear arrangements for funding where necessary, including specific definition of sphere of financial responsibility where funding is to be shared between several parties.