

Consultation on Minerals Extraction and Archaeology: a Practice Guide

MHEF feedback form

On behalf of the Minerals and Historic Environment Forum (MHEF), welcome to the consultation on Minerals Extraction and Archaeology: A Practice Guide.

Following this introduction, this survey of 10 questions is divided into three parts to ensure structured responses to our consultation:

- Part 1 provides the opportunity to comment on different sections of the draft text
- Part 2 focuses on evaluation trenching
- Part 3 outlines next steps and provides the opportunity to add any other comments

The consultation seeks to take account of the views of our different member organisations. **Please return this form to your organisational lead by Friday 22 September 2017, who will then prepare a single, summary organisational response. Questions 1 and 2 are to be completed by the organisational lead when submitting the response.**

1. What is the name of your organisation? This is needed to identify which MHEF members have responded

Mineral Products Association

2. Please provide a contact email address. The names of individuals will not be included in subsequent analysis, but it is important that MHEF is able to follow-up with any queries about the responses received.

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PART 1: COMMENTS ON DIFFERENT SECTIONS

Here we offer the opportunity to comment on different sections in the draft guidance. Please be as specific as possible, quoting the paragraph number and your comment. If you think that the current wording should be changed, please suggest alternative wording.

3. Preface and Introduction (pages 2-4)

General Comment

The previous version of the *Guide* included the clear statement upfront that '*the Practice Guide carries the endorsement of all the organisations represented on the Forum and each is committed to promoting the practices it contains.*'

This level of sign up and commitment to the final agreed version will be essential if the Guide is to be used consistently and be given teeth. The current version appears to have a watered-down commitment, with only the statement regarding the weight that might be given to it in decision making as a material consideration. We therefore recommend that a statement similar to the previous version is included, with signatories committing to use and promote the Guide and practice it contains.

In relation to this point, if the 'modest' success of the previous version was due to lack of commitment and implementation, this should be highlighted, and review of this document's success or otherwise should be monitored and inform future reviews.

The Guide is entitled 'Mineral Extraction and Archaeology Practice Guide' and whilst the vast majority of the document refers to archaeology, some other phrases such as '*heritage*' and '*historic environment*' have crept in. These are particularly evident in Boxes 3, 8 and 10, and at paras 12, paras 41-46 and 97 for example.

Heritage and Historic Environment include assets that are not covered, nor are intended to be covered by this guide, such as buildings (including those that may be relics of past mining and extraction), parks and gardens, and conservation areas.

The title Local Authority Archaeologist should be consistently used.

More emphasis needs to be placed on historic land-use, particularly arable agriculture. The potential for undiscovered nationally important archaeological assets to survive on such sites is low and should be a significant reason why a higher % of trenching is not necessary to reach an informed decision.

Comments on Preface

It is stated that the 2008 Practice Guide "*delivered only modest change*" and is one of the reason that the guidance is being refreshed. This isn't the same as the Practice Guide Commentary which states that because the document is "*dated*" it requires "*revision to align with the National Planning Policy Framework*". If the current guidance hasn't been that successful or widely adopted this should be clearly stated.

It is stated that the document "will undergo periodic review by MHEF to keep it up to date with planning policy and new techniques". This is welcomed but has any thought been given to the regularity of these reviews or what changes in policy will trigger a review. An initial review to assess the effectiveness of the new guidance and whether it is being widely adopted and implemented should be scheduled for after formal publication.

Is the new guidance intended to fully replace the old CBI Code of Practice and PPG 16 which are still referred to in conversation? It would be helpful to clarify this perhaps under Para 4 "*The weight of this guide*"

Introduction

Para 1: Historic England should be specifically identified as a user of the Guide.

Para 2: This should reflect the extant Guidance document in seeking to ensure that there is **consistency** in planning authority responses, **proportionate** to the archaeological potential of the site and **reasonable** in all other respects.

Para 8: The clarity of the 5 bullet points setting out the principles that form the basis of the guide is welcomed.

Para 9: No reference to minerals infrastructure.

4. Key Issues to Consider (pages 5-14)

Para 13: If the entire NPPF is relevant is highlighting specific paragraphs in addition helpful or necessary? Reference to Planning Practice Guidance should be made.

Para 14: Is Box 1 necessary and appropriate? This may not be fully representative of the process and the process may itself become outdated on timescale different from the archaeological guidance. Surely only the role of local historic environment advisors and Historic England in the mineral planning process needs to be stated. That said if any such change triggers a review then (as referred to in the preface) that would be OK.

Para 22: *“Archaeology usually makes up one of the largest costs...”* Perhaps *“invariably”* instead of *“usually”* may be more appropriate. Also it should be clear that reference to *“the cost is high and the risk is high at this stage”* is in relation to the developer. Reference is made to ensuring the work is proportionate. It should also be reasonable so suggested include the words *“reasonable and proportionate...”*

Para 23: *“The archaeological post-permission works are more easily dealt with from a cash flow perspective because by this stage the archaeological risks are significantly lower...”* Should it not be that the commercial risks not the archaeological risks are significantly lower? Planning permission has been granted but the archaeology hasn't changed.

Para 26 states; *A consistent approach to mineral planning and archaeology within and across mineral planning authorities is essential (see also ClfA 2014). This is particularly relevant in cases where mineral development straddles mineral planning authority boundaries, noting the context set by the legal Duty to cooperate on strategic cross-border issues. Box 2 provides a suite of common approaches.*

The key issues are:

- establishing and delivering consistency of approach across Local Authorities
- creating a framework to avoid the imposition of requests for high percentage rates of trial trenching at planning stage.

Para 28; A suggested redraft is as follows;

*Local authority advisors should (SUGGESTED EDIT) **primarily have regard to the policy framework of the NPPF and also comply with the relevant professional standards, such as those published by Chartered Institute for Archaeologists (ClfA 2014a).** (SUGGESTED EDIT)**The NPPF places the major emphasis on Designated Heritage Assets and emphasises the proportionality of investigation to the importance of the heritage resources.** The ClfA standard requires that advice provided by Local Authority advisors be clear, consistent, compliant, reasonable, timely, informed, impartial and proportionate to a reasoned and clearly-documented assessment of known or potential significance.*

Para 30: It is suggested that it would be more straightforward to state that all external contractor must be a ClfA accredited member i.e. make it compulsory (Note also that the date (ClfA 2104b) is incorrect-2014).

Para 31: The reference at the end of the paragraph should be clearer i.e. NPPF Annex 2 Page 56 Glossary. Perhaps better referencing is proposed throughout the document?

Para 31: A suggested redraft is below;

*The NPPF defines 'heritage significance' as the 'value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting' (DCLG 2012, 56). (SUGGESTED EDIT) **NPPF emphasises proportionality between the work required in the planning process and the significance of the heritage resource, implicating that different approaches are appropriate, according to the significance of the heritage asset or assets concerned.***

Para 36: A suggested redraft is set out below;

For non-designated heritage assets of archaeological interest the NPPF creates two categories:

*(i) those that are demonstrably of equivalent significance to scheduled monuments **(SUGGESTED EDIT) having regard to the Principles of Selection at Annex 1 of Scheduled Monuments DCMS 2010**, that are therefore considered subject to the same policies as those for designated heritage assets⁽¹⁾. They are of three types:*

COMMENT – better to reorganise the “types” as below:

*b. those that have been assessed by **Historic England** as being capable of designation, but which the Secretary of State has decided not to designate; **(SUGGESTED EDIT) to paraphrase Scheduled Monuments DCMS 2010)***

a. those that have yet to be formally assessed for designation;

- c. those that are incapable of being designated by virtue of being outside the scope of the Ancient Monuments and Archaeological Areas Act 1979 , **(SUGGESTED EDIT) as per Annex 2 of the Scheduled Monuments**.because of their physical nature **(ecclesiastical buildings in ecclesiastical use or occupied dwelling houses³; or sites designated under section 1 of the Protection of Wrecks Act 1973)**.*

*Information on location and significance of such assets is found in the same way as for all heritage assets. Judging whether they fall into this special category **(SUGGESTED EDIT) must draw on the Criteria for Scheduling Monument set out in the Ancient Monuments Act 1979**. may be assisted by reference to the criteria for scheduling monuments.⁴*

¹ NPPF Paragraph 139.

² The Principles of Selection for Scheduled Monuments, published by DCMS, address the reasons why some nationally important monuments may not be scheduled.

³ Such buildings can instead be considered for designation under section 1 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#).

⁴ [Scheduled Monuments, Department for Culture Media and Sport, 2010](#).

(ii) *Other non-designated heritage assets of archaeological interest. By comparison this is a much larger category of lesser heritage significance, but such heritage assets must still be considered in determining an application: on occasion the understanding of a site may change following assessment and evaluation prior to a planning decision and move it from one category to another.*

Para 36: footnote 4 (after assets) needs to be reduced in size

Para 38: It's not just "overburden" but anything, including soils/overburden removed to expose the surface of archaeological interest.

Para 39: "Delays can be avoided by ensuring archaeological monitoring and recording works take place as far in advance..." This may be determined by timing of soils stripping or other factors-ecology etc.

Para 40: states:

If exceptional remains are present that may warrant designation as a Scheduled Monument then discussions would be required with Historic England as well as the mineral planning authority. In rare cases where genuinely unexpected remains occur of national significance that could not be reasonably expected to be dealt with through the planning system then Historic England may be able to support the cost of emergency excavation through its grant programme.⁵ Costs can be kept down and resources used most effectively in these situations by focussing on what is significant about the unexpected discoveries and answering specific questions through targeted excavation and sampling. Innovative solutions may be agreed between the mineral developer and the mineral planning authority that might, for example, include contributions from local societies, universities, the local planning authority and museums service.

With reference to the above who determines what is of potentially of national significance for "discussions" with Historic England?

Furthermore although there is a list of criteria, the classification of specific heritage asset within in the "scales" is very subjective. There will always be an element of personal interpretation or judgement, which itself may require testing.

Para 44: The final sentence should recognise that the effects cited are temporary.

Para 45: Reference is made to the factors to consider in understanding setting issues, including "topography, scale of working and proximity". Timing and duration of operations should also be considered.

Paras 41-46; Concerns were raised that a Structured Approach to Setting appears to broaden the scope for evaluation work particularly Para 45 which states "*To understand the impacts of mineral development, associated infrastructure and activity upon a particular heritage asset the contribution to any significance of that asset made by its landscape and archaeological context need to be understood*". The fear is that this may expose mineral applications to work not previously considered or carried out.

Para 46:states;

⁵ <https://historicengland.org.uk/services-skills/grants/our-grant-schemes/hpc/open-proposals/>

Restoration of a site may include backfilling the void and returning the land to its former use or an acceptable alternative use, potentially meaning impact on setting is only temporary. A development might provide an opportunity to improve the setting of heritage assets in the long term.

In respect of para 46 there should be a clear acknowledgement regarding the temporary nature of mineral working. Mineral working schemes at an individual site may continue for several decades, but in the context of the timescales that heritage assets have existed and are likely to exist in the future, then the timescale of mineral working schemes are often likely to be inconsequential.

Delivery of progressive restoration also helps to reduce the impact of any temporary impact on the setting of heritage assets. Many heritage assets, even Scheduled Monuments, have no remaining visible / surviving physical surface presence, and in those cases the consideration of “*setting*” would normally be most appropriately applied to the existing landscape rather than any interpreted historical landscape associated with the asset itself. Mineral schemes where the restoration of the land is recreating, or substantially recreating, the landscape which existed prior to the mineral extraction scheme commencing should normally be considered to have very little impact on setting of heritage assets. Where this is the case, the submitted restoration schemes should be sufficient to obviate the need to conduct a detailed assessment of the impact on the setting of heritage assets.

Suggested additional paragraph:

A development might provide an opportunity to improve the setting of an archaeological asset or landscape through sensitive and enhanced restoration. This could include removal or infilling of previous workings and the removal of unsightly redundant buildings.

5. From Pre-Application to Determination (pages 15-24)

The objective of deferring as much of the heritage investigation work to the post-determination stage as possible, is supported from mineral operators point of view .The reduction of the extent of evaluation trenching to <2% , including 'blank areas', is considered to be more proportionate, particularly when trenching is combined with other targeted investigation techniques and activities .

Para 51: Whilst public consultation is required during plan making, it is not required under the EIA process. Public consultation is likely to be undertaken during consideration of a planning application which may be accompanied by an EIA.This needs amending accordingly.

Para 52: *“If local communities are not consulted about archaeological remains this can lead to alienation, false assumptions and misunderstanding”*. It may also be used by an objector group as a reason to oppose a development proposal and the archaeological advisors to the council need to be firm in their view as to the merits of a site to ensure that archaeology isn’t used as a red herring.

Para 59: The clarity of the opening statement that “The purpose of pre-determination archaeological evaluation is to obtain sufficient information to inform a planning decision” is welcomed.

Box 4 : One respondent felt that this did represent a typical sequence or even there is a sequence there at all. All form part of an equal box of tools available to archaeologists to enable them to evaluate the archaeological importance of a site.

Box 8: This could imply that an application submission has arrived cold without any pre application consultation with consultees or stakeholders which is unlikely and this could be added as part of the process.

Para 63 states:

Inclusion of a geo-archaeological assessment of the study area is key to adequately characterising and informing on large land parcels typical of mineral developments. The assessment produces a robust evidence base to inform what kind of archaeological remains could be expected to survive on a site, their condition of preservation, as well as identification of what techniques would aid in evaluating the site in a targeted way. Such an assessment will include a map of the various geomorphologies making up the site and this can be enhanced by a digital terrain model showing the topography of a site. Each geomorphological unit is briefly described, including its potential for hosting archaeological and paleo-environmental remains.

It is considered that this is not a 'key' technique and will only be applicable on some sites, notably in some river valleys, areas with lacustrine deposits and known palaeo-environmental and quaternary potential. Geology and geoarchaeology should form part of a DBA, but the scope and detail of the work should be considered on a site-by-site basis. A suggested edit of para 63 is below;

Alternative **Para 63**: *Geology and geoarchaeology should be considered in a DBA. On certain sites, a more detailed assessment could be required that will inform the type of archaeological remains that could be present, their condition of preservation, as well as identification of what techniques would aid in evaluating the site in a targeted way. Such an assessment could include a map of the various geomorphologies making up the site, enhanced by a digital terrain model showing topography. Each geomorphological unit is briefly described, including its potential for hosting archaeological and paleo-environmental remains.*

Para 64: A suggested addition to this paragraph is below;

*A setting study may be undertaken as part of the DBA but this could equally be undertaken as a standalone study or as part of the Environmental Statement chapter if the application requires EIA. For EIA applications the historic environment setting study is usefully undertaken alongside the landscape assessment as they can share information such as viewsheds and photographic studies. **(SUGGESTED EDIT)** **Consideration of historic land use should be included in a DBA, in particular the potential effects of ploughing and other degrading activities such as forestry, orchards and built development.***

Box 5: Bullet 2 reference is made to a "search of all available local and national records...." This should refer to "....all "relevant" available....."

Suggested that bullets 11 and 12 deleted as they are considered academic points that go beyond the purpose of the study

Para 65: This paragraph assumes that trail trenching and test pitting is the next step, when in reality, it may not always be necessary Amend the text to read "...they will inform **if any subsequent trenching or test pitting is necessary**"

Para 75: The reference to Box 7 is incorrect it should be Box 9.

Box 9.: The first and second bullet point refers to PDA which can be assumed to be Proposed Development Area but needs to be stated for clarity

6. Post-determination (pages 25- 28)

Section 4 heading: Suggested that there needs to be a reference to the difference between post determination and operational as there is very likely to be a period of further work post determination - pre development required by planning conditions before the site starts operating.

Para 77: This states that *“It is also important that as each phase of recording/mitigation takes place the research questions and the methodology are reviewed so that the works can adapt or change focus depending on what material is actually present on site”*. The material is presumably referring to archaeological material and if so should be added for clarity.

Reference is made to a review and a change of focus. It is important that such amendments are made based upon the findings of the evaluation to date and not simply because of a change in personnel.

Para78: The final sentence refers to deep workings “for coal” having less potential for preservation in situ. The same can be said for hard rock quarries.

Para 79: Suggested that this does not belong in this section. It is a rehash of earlier statements and could perhaps be deleted.

Box 10: This is headed *Post Permission* and should perhaps be consistent with the title of the section-*Post Determination?*

Para 84: *“Given the large areas covered by most mineral developments, different parts of a given site might be subject to different recording techniques. Parts of a site might require no archaeological work...”*
This appears to run contrary to the indication that a watching brief is required across the whole site -Box 7 4th Para.

Parr 85 &86: In respect of paleo environmental and Palaeolithic material concerns were raised that these are potentially deposits that may be found at any stage of the extraction process and mustn't become the subject for a permanent watching brief throughout the life of the quarry.

Box 11: Contrary to the comments in Box 11, it is considered that *Detailed topographical survey, systematic metal detecting and geochemical survey* are not ‘common’ post-determination techniques.

Title to Para 88 to be amended to;

Post-excavation analysis and publication

Para 88: Reference needs to be made to the potentially high costs of post-excavation work and that these are less easy to control or manage than on-site costs. Para 91 can also be merged with new para 89(see below).

Suggested amended para 88:

A key part of post-permission measures is the assessment, analysis, archiving and dissemination of the remains that come out of the ground, the interpretation of what they mean and how they fit into our broader national history. This is sometimes referred to as the 'Post-Excavation Stage'.

New para 89: *The Post-Excavation Stage can cost as much as the fieldwork and it is essential that such work is factored into the cost of post-permission measures. The amount of analytical work should be proportionate to the significance of the archaeology excavated. Proposals for assessment and analysis should be critically reviewed and the appropriate level of such work agreed with the local authority archaeologist shortly after the fieldwork is complete.*

Para 90: Not all stages set out in Box 12 may be needed on sites with less complexity, few archaeological features or that are completed in a short timescale.

Suggested amended para 90:

Para 90: *Post-excavation work follows an established routine, useful approaches being set out in MoRPHE⁶ and ClfA's various Standards and Guidance documents.⁷ It may however be clear, based upon the results of the archaeological excavation, that only some of the stages set out in Box 12 are required to achieve a satisfactory outcome.*

Para 93. "Once the results of analysis are available a synthetic report is normally produced..." What is a synthetic report?

7. Sustainability (pages 29-31)

Within the concept of sustainability it can be argued that while mineral extraction does result in physical removal of archaeological deposits, mineral development retrieves, records and disseminates information on these deposits thus making a positive contribution to archaeological knowledge. Particularly with the regards to the Palaeolithic, there would be little or no information regarding such features without investigation carried out associated with mineral development. The information thus yielded has changed and is changing the previously adopted models on early human occupation. The same applies for much of the Pleistocene -Holocene environment. On arable agricultural land mineral operations recover information which otherwise is likely to disappear within a few decades.

Para 96 - revision of the 3rd bullet point to ensure that public/community involvement should be under formal supervision (see comment on para 99 below)

Para 99: Although the archaeological field work provides the opportunity for public engagement this paragraph fails to acknowledge the very significant problem of trespass and nighthawks trashing the site in search of finds/treasure. Some reference to these problems needs to be made.

⁶ <https://historicengland.org.uk/images-books/publications/morphe-project-managers-guide/>

⁷ www.archaeologists.net/codes/cifa

Publication and other forms of dissemination

Para 100: in part states...*Many academic journals no longer accept lengthy excavation reports due to the costs of publication. An alternative may be to put the full excavation archive on-line and formally publish a summary of the archaeological investigations that refers back to the detailed data in the on-line archive report.*

It is felt that there is confusion here: academic journals are not appropriate or suitable for publishing full archives. The full archives have traditionally been deposited with museums and LPA records rather than being published in academic journals. While on-line publication of site investigations to a level of detail consistent with publication in a journal may be justified or desirable in some circumstances, the publication of the full archive is not, and is not supported as an adopted approach. Museums have the materials and digital archive and it is their role to maintain the information and to provide access to that information.

Para 102: It is considered that this topic is not this really appropriate for this document, and on whose shoulders, does this wider range of dissemination fall?

8. Would you like to review the appendix document on archaeological techniques?

To avoid 'overload' of material, this appendix would be shared separately once consultation on the main body of the text has been completed.

Yes

~~No~~

Any comments...

PART 2: EVALUATION TRENCHING

9. As noted in the separate commentary paper, MHEF is still in the process of reaching consensus on evaluation trenching. We'd like your views on paragraph 68 and whether it gives clear guidance aligned with the requirements of the NPPF.

For convenience this is reproduced below, but it should be read in context as set out in the practice guide, especially with reference to Box 7. Please explain your rationale, and if you do not support paragraph 68 as currently worded please suggest alternative wording or if you do support the paragraph or its general thrust then please indicate.

Paragraph 68

Landforms and deposits within the proposed development area with higher archaeological sensitivity may require a higher level of targeted investigation than those areas with lower archaeological sensitivity. Following early consultation, a thorough and well-thought out desk-based assessment and prospection work (e.g. geophysical survey, fieldwalking, sub-surface topographic modelling, sediment coring etc.), targeted evaluation trenching will normally comprise no more than 0.5 – 2% of the proposed development area. Whilst all sampling levels require justification, higher sampling levels will require special justification. Box 7 provides more information on how to approach this important issue.

Comment

Generally considered a good approach consistent with the broad objectives of the NPPF and if adopted should help to bring the standardisation of approach across Local Planning Authorities. One responder questioned the need for any evaluation trenching at all as it was considered that a sound DBA informing a WSI including provision for a watching brief is more than sufficient.

The majority of respondents made the point that it is not necessary to specify a lower limit of trenching. There will be sites where it may not be necessary to undertake trial trenching based upon the previous survey work and knowledge of the site. There are sites where no trenching is required due to a combination of factors, such as previous knowledge and the results of the DBA and prospection techniques, which lead to the conclusion that archaeology potential is low, either through absence of archaeology or historic land use. This is particularly relevant on extensions to existing quarries, where previous WBs and SMS have produced little or no evidence of archaeology, or have shown that the archaeology that is present is heavily degraded by past land use. Specifying a lower limit may give an unwarranted presumption to carry out trial trenching. Suggested amend the text to read “.....no more than 2%....”

Suggested reworded para 68

Landforms and deposits within the proposed development area with higher archaeological sensitivity may require a higher level of targeted investigation than those areas with lower archaeological sensitivity. Following early consultation and thorough desk-based assessment and prospection work (e.g. geophysical survey, fieldwalking, sub-surface topographic modelling, sediment coring etc.), targeted evaluation trenching will normally comprise no more than 2% of the proposed development area. Whilst all sampling levels require justification, higher sampling levels will require special justification. There may be occasions where desk-based assessment, prospection and knowledge gained from adjacent projects results in no trenching being required to inform the planning decision, especially where the mineral operator has agreed to a post-determination watching brief or Strip, Map and Sample

The view was also expressed that across most sites, unless exceptional circumstances exist, a maximum of 2% of trenching by area should be sufficient to identify the potential significance of buried features. The results of this level of trenching should therefore enable planning authorities to make an informed decision on most planning applications, without the applicant incurring excessive up-front development cost pre-determination.

The adoption of smaller percentage of trial trenching at planning / determination stage may in some cases lead to a need for additional field work at development stage. In the light of this it would be beneficial to have clear guidelines on the adoption of “strip map and sample” techniques separate from the demands of “full excavation”. For example, it would be helpful to have clarity on the decision making for the sampling excavation of features rather than requirements for full excavation. Whilst all sampling levels require justification higher sampling levels would require special justification. Clear guidelines could be adopted to ensure “strip map and sample” can be adopted as a distinguishable technique from “excavation”. The sampling element of the work is very important.

Box 7 provides more information on how to approach this important issue.

Comments on Box 7

Two reasons are given for why pre determination evaluation is important and necessary. One is to *“identify whether any historic assets of national or international importance are present that could preclude development”* and the second is given as where *“there is such a large quantity of remains of lesser significance that although they would not preclude development, would require such cost to record that they would make the development unviable”*. Suggested that it is the first reason that is the principle and most important priority as this would prevent development. The second reason is different as it is the economics persisting at the time that may or may not make it unviable. The archaeology hasn't changed but external factors may. This requires the input of the developer. The first reason above doesn't. These two should be clearly separated.

3rd paragraph: Considered that the following text does not add anything and arguably muddy the position. *“Consequently, seeking to determine and delimit the full extent, type and condition of preservation of all remains on what are usually large sites is not the purpose of the archaeological evaluation process in relation to prospective mineral sites, and nor is it possible, as some types of remains stand very little prospect of ever being able to be located by prospection techniques in these circumstances”*

4th paragraph: refers to 5mx5m squares. Would this still be subject to the 2% evaluation maximum?

4th paragraph: Also the statement made *“Therefore, if areas of large permissioned greenfield sites are excluded from any mitigation works on the basis of evaluation trenching results, it follows that significant remains will be lost in some cases due to too much reliance being put on the results of evaluation trenching as an indicator of ‘absence’*. Is this effectively saying that all areas of permitted ground will be subject to a watching brief irrespective of whether or not the evaluation work finds anything of merit? If so the impact of this post determination needs to be understood by developers.

5th paragraph: This states that *“Therefore, it is important to consider together the approach to archaeological mitigation as well as the approach to pre-determination evaluation so that an optimum approach can be devised. Not only will this provide only the necessary information required at each stage to inform the planning process, but it will also result in a positive archaeological outcome.”* Considered that this is a post determination issue and dilutes/wanders off the critical matter of the pre determination levels of archaeological evaluation. This should be bundled together and dealt with alongside the WSI.

The adoption of smaller percentage of trial trenching at planning / determination stage may in some cases lead to a need for additional field work at development stage. In the light of this it would be beneficial to

have clear guidelines on the adoption of “strip map and sample” techniques separate from the demands of “full excavation”. For example, it would be helpful to have clarity on the decision making for the sampling excavation of features rather than requirements for full excavation. Whilst all sampling levels require justification higher sampling levels would require special justification. Clear guidelines could be adopted to ensure “strip map and sample” can be adopted as a distinguishable technique from “excavation”. The sampling element of the work is very important.

The sampling strategy can be changed by using the *“guiding principle for all stakeholders is the emphasis on positive archaeological outcomes (typically new knowledge-gain and its dissemination) rather than over-emphasis on process.”* Resource should be deployed depending on the realistic positive outcomes and which are likely to make significant contribution to the research /knowledge of the region. Historic England funds projects where there is a likely positive research outcome. A research proposal should be made with a justification on the realistic outcomes before standard sampling of features are demanded. Normally excavation in the course of mitigation should focus on what is significant about the unexpected discoveries and answer specific questions through targeted excavation and sampling. Sampling, other than strategic sampling during fieldwork and at post-excavation post work, should only be used following justification that there will be a positive outcome. Such an approach should help to avoid demands for resources to be deployed at features because they are there, not for their potential to contribute to new substantial information.

Considered that Box 7 could do with further editing/shortening as follows:

The aim of archaeological evaluation, particularly on large greenfield prospective mineral sites, is to ‘search’ a site, rather than ‘sample’ a site per se, in order to identify whether any historic ***(SUGGESTED EDIT –replace ‘historic’ with ‘archaeological’)*** assets of national or international importance are present that could preclude development, and whether there is such a large quantity of remains of lesser significance, that although they would not preclude development, would require such cost to record that they would make the development unviable.

Systematic sampling of a site to a level that is statistically significant is not practicable, or desirable, given the amount of damage this would cause to any buried resource. Consequently, seeking to determine and delimit the full extent, type and condition of preservation of all remains on what are usually large sites is not the purpose of the archaeological evaluation process in relation to prospective mineral sites, and nor is it possible, as some types of remains stand very little prospect of ever being able to be located by prospection techniques in these circumstances. Therefore, evaluation trenching, ***if necessary***, should ***only*** be considered a form of scoping exercise sufficient to inform a planning decision and not a systematic high-level sampling exercise. It forms one part of a holistic approach to search a parcel of land to ensure remains of national or international significance will not be impacted upon by the proposed development. ***(SUGGESTED EDIT –add in “It forms one part of a holistic approach to search a parcel of land to ensure remains of national or international significance will not be impacted upon by the proposed development.”)*** It should provide information on both the known and anticipated buried remains that may survive across a site and assess their likely significance, their condition of preservation, as well as help to inform the most appropriate mitigation strategy to record remains and capture information given the type of archaeology expected.

The most reliable way to avoid the loss of potentially significant remains without record is to observe the exposed undisturbed archaeological layer during and after soil stripping, usually by watching brief (intermittent or continuous) or strip, map and sample. A guiding principle for all stakeholders is the emphasis on positive archaeological outcomes (typically new knowledge-gain and its dissemination) rather than over-emphasis on process.

The last sentence of box 7 i.e. *'A guiding principle for all stakeholders is the emphasis on positive archaeological outcomes (typically new knowledge-gain and its dissemination) rather than over-emphasis on process'* is strongly supported to give focus to the adoption of appropriate and reasonable level of archaeological investigation at pre application and determination stage of mineral development schemes.

Examples of trenching concerns in practice

1. The PG seems to imply that trenching is still a requirement but should be targeted and proportionate. We had a study this year where what was clearly a medieval track from the geophysics was trenched multiple times. Needless to say the trenching proved it was a track and of no interest. Trenching elsewhere just filled up boxes with yet more pottery bits and burnt bone. There was nothing to indicate the site was of anything but of local importance.

Another site granted 8 years ago was treated in two parts, one trenched at 5% and with nothing found no further action required. The other part again with no obvious evidence was investigated under a watching brief over a four year period, given the trenching. Nothing found, we even had an apology from our consultant.

2. By way of an example, XXXXX has previously obtained results of a geophysical survey which appeared to indicate extensive buried archaeological features. A trenching pattern far in excess of the 2% by area as proposed in paragraph 68 was required by a County Archaeologist. Results following the extensive trenching found that many of the features identified by the geophysical report were not in fact of archaeological interest, consequently a great deal of wasted time and expense was incurred by XXXXX which merely impacted upon the financial viability of the project.

If this approach is adopted it should be recognised by any developer that post-determination, it will be accepted that a more detailed scheme of investigation may be required and that such costs should be considered as part of the overall project development costs in terms of the future viability of the operation/development.

PART 3: ANY OTHER COMMENTS AND NEXT STEPS

Thank you for taking part in this survey. MHEF will review all responses and agree next steps. It is envisaged that a summary of responses will be issued to all respondents on completion of the consultation.

If you have any further comments you'd like to make, please include them in your answer to question 10 below.

10. If you have any other comments on the Practice Guide, or suggested next steps please state them here...

References: These are a strange mixture of professional guidance, outdated publications and research in river valleys, mainly by one of the authors. Such research is of little relevance to upland landscapes, hard rock quarries or coal mining.

Suggest:

References limited to Government (national and local), CIFA and Historic England guidance, with other references footnoted in text where specifically relevant to commentary.

Websites: Updating required. Outdated websites or names, e.g. QPA, English Heritage, IFA

The immediate priorities are:

- Gaining consistency of approach across Local Planning Authorities to the proposed concept of trial trenching and the adoption of lower % rates of trial trenching.
- Establish consistent mitigation standards which reflect the objectives of the NPPF and its emphasis on proportionality according to the significance of the heritage asset,
- Adoption of a standardised approach on the extent of sample excavations of features, depending on their importance and genuine likelihood that they will add substantial new information to archaeological knowledge.

Particular concerns on the drafting of the document include:

- must stick to archaeology - using the word heritage or historic environment opens a whole different arena
- lacking consideration of degradation to archaeology caused by agriculture and damaging land use
- more commentary on potential benefits
- Para 68 can be improved and strengthened
- lacking discussion on post-excavation stage and potential cost