



# Supplementary Planning Guidance

No. 28 Archaeology

Adopted by Flintshire  
County Council on 17th  
January 2017



## Purpose

It is Flintshire County Council's intention to prepare and keep up to date a series of Supplementary Planning Guidance (SPG) Notes which will provide detailed guidance on a range of development issues and topics. The purposes of these Notes are:

- To assist the public and their agents in preparing planning proposals and to guide them in discussions with officers prior to the submission of planning applications,
- To guide officers in handling, and officers and councillors in deciding, planning applications, and
- To assist Inspectors in the determination of appeals

The overall aim is to improve the quality of new development and facilitate a consistent and transparent approach to decision making.

## Planning policies: the Flintshire context

### The Development Plan

Under planning legislation, the planning policies for each area should be set out formally in the Development Plan. Flintshire County Council, as the Local Planning Authority (LPA), has a legal duty to prepare and keep up to date a development plan for the County, and the Flintshire Unitary Development Plan was adopted in 2011. The UDP provides broad policies together with allocations of land for all the main uses such as housing, employment and retailing, and will help to shape the future of Flintshire in a physical and environmental sense as well as influencing it in economic and social terms. The Plan therefore seeks:

- To help the Council make rational and consistent decisions on planning applications by providing a policy framework consistent with national policy and
- To guide development to appropriate locations over the period up to 2015.

### The need for Supplementary Planning Guidance

Despite the Plan containing policies with which the Council can make consistent and transparent decisions on development proposals, it cannot in itself give all the detailed advice needed by officers and prospective applicants to guide proposals at the local level, such as house extensions or conversions of agricultural buildings. The Council's intention is to prepare a range of Supplementary Planning Guidance notes (SPG) to support the UDP by providing more detailed guidance on a range of topics and issues to help the interpretation and implementation of the policies and proposals in the UDP. The review of the Local Planning Guidance Notes will be undertaken on a phased basis and details of the available SPG's can be found on the Council's website. Where there is a need to refer to another SPG this will be clearly referenced. These SPG Notes are freely available from Planning Services, Directorate of Environment, County Hall, Mold, Flintshire CH7 6NF (telephone 01352 703228), at the Planning Services reception at County Hall and can be downloaded from the Planning Web pages [www.flintshire.gov.uk/planning](http://www.flintshire.gov.uk/planning)

## The status of Supplementary Planning Guidance

Supplementary planning guidance can be taken into account as a material consideration in the decision making process. The National Assembly will give substantial weight to SPG which derives out of and is consistent with the development plan. In accordance with National Assembly advice the Council's suite of SPG's has been the subject of public consultation and Council resolution. The draft of this SPG was approved for public consultation on 21.03.13 (Council Minute no.32). The SPG was the subject of a public consultation exercise between 18.12.15 and 12.02.16. The 5 comments submitted to the Council have been taken into account and where appropriate amendments have been incorporated into this final draft which was approved by the Council on 17.01.17 (Council Minute no.8) for use as a material consideration in determining planning applications and appeals. A summary of the representations and the Council's response is set out in Appendix 2.

**This document should therefore be afforded considerable weight as a material planning consideration.**

# Archaeology

## 1 - Background

“Archaeological remains are a finite and non-renewable resource, in many cases highly fragile and vulnerable to damage and destruction”

(Section 3 WO Circular 60/96)

1.1 - This statement provides an indication of the importance of ensuring archaeological remains are adequately protected and recorded as once they are lost, they cannot be retrieved and are lost forever. There is huge development pressure on the historic environment at many levels, and this SPG aims to set out how best to protect the archaeology of Flintshire.

1.2 - Flintshire’s archaeological heritage goes back to prehistoric times and reflects the many historic eras and changes which the County has seen since those times. It is important as it contributes to the County’s culture, identity and sense of place and also plays a key role in education, research, leisure and tourism, all of which can contribute to the area’s economy.

### Purpose of guidance

1.3 - This Supplementary Planning Guidance (SPG) is intended to supplement and expand on the policies in the adopted Flintshire Unitary Development Plan (UDP) and national guidance that relate to archaeology. It contains detailed information on the importance of archaeology, how planning applications which might impact on archaeology within Flintshire will be considered and also takes into account the way UDP policies will be applied. Once adopted, it will have significant weight in deciding whether a proposal should be granted planning permission. This SPG should also be read in conjunction with SPG’s relating to Listed Buildings and Conservation Areas.

1.4 - The key principles of considering archaeology within planning applications are as follows:

- each case will be considered on its individual merits
- consideration of cases will take into account the relevant policies within the Flintshire UDP, other relevant policies, legislation and guidance (international, national and local) and all material planning considerations
- for all nationally important remains there is a presumption in favour of the preservation of remains in situ

### Archaeology

1.5 - Most people think of archaeology purely as remains of structures and people’s lives that are underground and come to light as part of an excavation, but it also encompasses the archaeology of buildings that remain. Historic buildings have usually changed over time and have often been added to or had sections removed or altered. The evidence that a building contains provides archaeologists with, among other things, information on changes in building techniques and materials, technology and social history.

1.6 - For those time periods where there are no written records, archaeology is the only source of information on human development. Archaeology can be defined as the ***study of human activity in the past, primarily through the recovery and analysis of the material culture and environmental data that they have left behind, which includes artifacts, architecture, biofacts and cultural landscapes making up the archaeological record.***

1.7 - The landscape of Wales is full of archaeological sites. Some have already been discovered, others are waiting to be discovered, some are obvious, some are not, but they all contribute to our history, culture and knowledge about how and where people lived in the past. They also have an inherent value for education, research, leisure/tourism and the economy. This is also the case in Flintshire where there is a varied and interesting historic landscape. Not only are there important archaeological sites, there are also many listed buildings and structures and in addition to these, a considerable number of Buildings of Local Interest (BLIs). These sites cover a long time span and range from prehistoric times, through the Roman and medieval periods, up to more modern times i.e. those after 1901.

1.8 - The Council for British Archaeology (CBA) best practice guidelines show that as long as sites remain safe, it is better to leave the evidence for future generations to investigate with better techniques and better informed questions to ask. Intervention and on site research is however justified if the evidence is at risk of loss or damage. This can be as a result of potential development, climate change or agricultural practices.

1.9 - The problem is that in order to fully understand the context, content and importance of sites, it is vital to record the fullest information about the site, its location and the finds that are made. It is also important to record the way finds were buried and any other related evidence. Any excavation work therefore must be undertaken carefully using the correct archaeological techniques and be fully recorded.

1.10 - Some archaeological remains are protected in law but all are considered by the Council to be a material planning consideration when considering proposals for development. The historic environment is not however limited to archaeology but also covers the built environment and landscapes. The relevant legislation for listed buildings is **Planning (Listed Buildings and Conservation Areas) Act 1990** which places a duty on Welsh Ministers to compile lists of buildings of special architectural or historic interest. The criteria for listing are set out in two documents - Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas and **Circular 1/98 Planning and the Historic Environment: Directions by the Secretary of State for Wales**. These pieces of legislation also provide protection for Conservation Areas. Other relevant legislation and guidance includes the non-statutory Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, the Protection of Wrecks Act 1973 and the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994.

1.11 - In Flintshire there are 1030 listed buildings, 133 scheduled ancient monuments (SAMs), 32 conservation areas, 24 registered parks and gardens, and one Landscape of Outstanding Historic Interest in Wales (Holywell Common and Halkyn Mountain). There is also a List of Buildings of Local Interest which contains approximately 211 historic assets but which are afforded some degree of protection through the Flintshire Unitary Development Plan but which are not statutorily protected.

1.12 - Other sites, remains and settings that are not legally protected are also important and may be referred to within the Historic Environment Record (HER) which is held by the Clwyd Powys Archaeological Trust. Policy HE7 of the Flintshire Unitary Development Plan recognises the importance of such archaeological sites as outlined below.

## 2 - Legislation and Policy

### Protection of Archaeological Sites

2.1 - At present one of the key pieces of statutory legislation which relates to the protection of the historic environment is the **Ancient Monuments and Archaeological Areas Act 1979**. This protects ancient monuments and archaeological remains of national importance. Under this Act, Welsh Ministers are required to compile and maintain a schedule of ancient monuments of national importance and this work is undertaken by Cadw on their behalf. It is also an offence under this act to demolish, damage, alter or dump on a scheduled ancient monument (SAM) without the written consent of the Welsh Government, through Cadw, in the form of scheduled monument consent. Committing an offence under this Act can lead to a criminal conviction and a fine. In addition to this if any SAMs or their settings are affected by a planning application, Cadw must be contacted.

2.2 - The compilation and maintenance of the schedule of ancient monuments is informed by a set of non-statutory criteria which are set out in **Welsh Office Circular 60/96 Planning and the Historic Environment – Archaeology**. This circular also provides detailed guidance on how archaeology should be handled within the land-use planning system in Wales. In this respect, the key provision of the circular states ‘The desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether that monument is scheduled or unscheduled’.

2.3 - The protection of other monuments or archaeological remains which may have national or regional significance but are not covered by the Ancient Monuments and Archaeological Areas Act 1979 is set out in government legislation such as the Town and Country Planning Acts. It is also set out in planning policy and guidance as outlined below.

2.4 - The Welsh Government published the Historic Environment (Wales) Bill in May 2015 which amends the relevant legislation relating to the historic environment.

2.5 - The United Kingdom is also a signatory to a several international conventions and agreements which relate to archaeology and incorporate requirements for the conservation of archaeological heritage. These include the Valletta Conference 1992 (European Convention on the Protection of Archaeological Heritage), the Florence Convention 2000 (European Landscape Convention) and the Granada Convention 1985 (Convention for the Protection of Architectural Heritage of Europe).

2.6 - Environmental Impact Assessment (EIA) is a way of understanding the potential environmental impacts of large scale developments. The types of development which are likely to require an EIA are set out the EIA regulations which form part of European environmental legislation. An EIA is an information gathering exercise carried out by the developer and other bodies which enables a Local Planning Authority to understand the environmental effects of a development before deciding whether or not it should go ahead and should include information relating to material assets and cultural heritage, such as archaeological features and artefacts. It should also include measures envisaged to avoid, reduce or remedy any adverse effects. The basic framework for EIA and subsequent amendments was consolidated into a single document in 2011, known as The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended in 2012).

## Management of the Archaeological Resource

2.7 - Conservation is the management of change whilst protecting the historic environment and its component elements. The following should be taken into account in managing the archaeological resource:

- any damage or loss must be avoided unless there is an overriding need to cause such an outcome.
- there should be a good understanding of the resource, its value and its significance prior to any scheme being drawn up.
- there should be a balanced consideration of the above and whether it is capable of accommodating change.
- where elements are being, or likely to be lost, there must be a detailed recording exercise undertaken of the information and evidence present.
- the resource should be preserved for the use and information of future generations.
- the sites and information gathered should be used to educate, inform and provide interest to the general public.

## Planning Guidance

2.8 - At a national level, planning guidance relating to the historic environment is currently set out in Planning Policy Wales (PPW 2016), and in Technical Advice Note 12 – Design which also contains guidance on how to take the historic environment into account when designing or assessing the design of proposals.

2.9 - Planning Policy Wales states that:

It is vital that the historic environment is appreciated, protected, actively maintained and made accessible for the general well-being of present and future generations (paragraph 6.1.1)

The historic environment of Wales is made up of individual historic features, archaeological sites, historic buildings and historic parks, gardens, townscapes and landscapes, collectively known as historic assets (paragraph 6.1.2).

‘Local planning authorities and other public bodies have an important role in protecting and conserving the historic environment whilst helping it accommodate and remain responsive to present day needs’ (paragraph 6.2.2)

2.10 - Paragraphs 6.5.5 to 6.5.9 of PPW relate to archaeological remains, stating in paragraph 6.5.5. ‘The conservation of archaeological remains is a material consideration in determining planning applications, whether those remains are a scheduled monument or not.’

2.11 - Also at a national level, Cadw has six conservation principles for the sustainable management of the historic environment in Wales which should be adhered to and these are:

- Historic assets will be managed to sustain their values.
- Understanding the significance of historic assets is vital.
- The historic environment is a shared resource.

- Everyone will be able to participate in sustaining the historic environment.
- Decisions about change must be reasonable, transparent and consistent.
- Documenting and learning from decisions is essential.

## Development Plan Policies

2.12 - The current adopted development plan for Flintshire is the Flintshire Unitary Development Plan which contains a number of relevant policies. Policy STR8 Built Environment seeks to protect the historic environment of the County but to also allow its sensitive regeneration. Policy HE6 seeks to protect Scheduled Ancient Monuments and other nationally important archaeological sites. Policy HE7 protects other sites of lesser archaeological significance whilst policy HE8 seeks to ensure that historic features are recorded as part of development proposals. The policy wordings are set out in Appendix 1.

## 3 - Archaeology and the Planning Process

3.1 - Archaeology can be a major factor in construction and development projects and is a material consideration in deciding planning applications and applying conditions to planning approvals. It is recognised that in some cases this can be costly and in some instances can lead to unexpected consequences and delays, however proactive consideration of archaeology and the historic environment at an early stage can reduce the likelihood of this occurring. It should also be noted that there can be positive outcomes and that consideration of the historic environment can add value to a project through being integrated, through community benefits and through positive publicity.

3.2 - The local planning authority has a key role in safeguarding the archaeological assets and does this mainly through the development management system. Although through its countryside management section it also manages some historic assets as part of a broader remit.

3.3 - This SPG aims to encourage early discussion between developers, the local planning authority and where appropriate the regional archaeological trust, with consideration of the historic environment when drawing up schemes through taking a positive and proactive approach. The local planning authority will take local knowledge into account when negotiating with developers and will consult local historical groups such as the Flintshire Historical Society where relevant. It is important that prospective developers consider the potential for archaeological remains through early consultation with the Clwyd Powys Archaeological Trust (CPAT) and that throughout the application process the Local Planning Authority works closely with both applicants and CPAT. The development management system aims to ensure the most effective and appropriate preservation of archaeological remains in line with policy guidance and legislation, taking into account other relevant material planning considerations. This will encourage important remains (designated and un-designated) to be preserved in situ with recording of remains being a less preferable alternative.

3.4 - Where there is potential for development to impact on archaeological remains, the results of archaeological appraisals, desk-based assessments and / or field evaluations which help define the character and extent of archaeological remains which exist in the area should be submitted as part of a planning application. A desk based assessment will use existing information to establish the likely archaeological significance of a site and the impact a proposal will have. Following an initial desk based assessment, a field evaluation may also be required to further assess a site. A mitigation strategy

may also be required, along with a written scheme of investigation. Mitigation measures can include measures such as provision for the preservation of remains in situ through a re-design of the scheme and / or foundations, or a detailed recording exercise.

3.5 - It may also be a condition of a planning permission, or a requirement as part of the application process that a written scheme of investigation is required by the Council. This will comprise a brief (or project) outline and a method statement or specification. The first of these, the brief, should set out the reasoning and methodology for the scope and purpose of the archaeological works and its content will be dependent on the scale and complexity of the site, the development proposed and potential mitigation measures. The method statement should consider how the requirements set out in the brief are going to be achieved in detail. All stages of work which might be necessary should be considered, even they are not found to be required following initial research. Further information on the content of a written scheme of investigation can be obtained from the Institute of Field Archaeologists.

3.6 - As part of the development management process, CPAT are informed of planning permissions lodged and have the opportunity to provide information and make appropriate recommendations on these based on the information held. Pre-application advice may also be obtained from CPAT.

3.7 - Where early discussions or research indicate that important archaeological remains may be present, it is reasonable for the Council to request the developer to arrange for an archaeological field evaluation to be carried out before a decision is made on a planning application as it may not be possible to fully consider the application without the information this may provide. Mitigation measures such as an archaeological recording exercise, further investigation and / or a watching brief may also be required as a condition of any planning permission granted. Where additional information required by the Council is not provided by a developer, the Council may consider refusal of an application based on the lack of information. The Council has standard planning conditions that it uses, although where necessary bespoke ones may also be attached to a planning consent.

3.8 - The reasoned justifications to UDP policies HE6 and HE7 state that the Council will seek to ensure the physical preservation in situ of archaeological remains wherever possible. Where this is not possible, the Council must be satisfied that appropriate and satisfactory provision for the investigation and recording of remains is undertaken. Planning conditions and / or a Section 106 agreement may be used to ensure this is carried out. There will however be instances where it is not possible to develop a site and provide an acceptable level of preservation or recording. In these cases, planning permission may be refused.

3.9 - It should be noted that it is possible for archaeological remains to be found during development. In such circumstances, contact should be made immediately with the Council, CPAT or Cadw.

## **Scheduled Ancient Monuments**

3.10 - Any works that could affect these monuments or affect their setting will require scheduled monument consent from the Welsh Government. Scheduled monument consent is separate from planning permission and the granting of one of these does not confer the other. Where a site is both a scheduled ancient monument and a listed building, the scheduled ancient monument legislation takes precedence.

3.11 - The Council is required by law to consult with Cadw on any planning application likely to affect a scheduled ancient monument or its setting. Any planning application which adversely affects a scheduled ancient monument or its setting is likely to be refused.

## **Considerations for undertaking archaeological work**

- Costs – Although archaeological work can be costly and time consuming, the costs are solely the responsibility of the applicant and / or developer. It should be noted that these costs may not only cover fieldwork but also recording, analysis, archiving and the publication of the information. This is one reason to ensure that early discussions with the Council and / or CPAT are carried out.
- Standards for archaeological work - The Institute of Field Archaeologists has a Code of Conduct, a Code of Approved Practice for the Regulation of Contractual Agreements in Field Archaeology and has also published Standards and Guidance on archaeological field work. It will be expected that archaeologists carrying out work as part of the development management process adhere to the current guidelines and requirements. Developers should ensure that they commission archaeological contractors with the necessary ability to carry out the work required.
- Human remains – it is possible that these may be found during the course of archaeological investigations and where this happens no further investigation should be permitted. The local Coroner and CPAT should be informed immediately and the remains should be left in situ unless necessary. Where removal is necessary the appropriate licence must be obtained. Further information on this can be obtained from CPAT initially.

## **Contacts:**

Flintshire CC: Conservation & Design Section - 01352 703218  
conservation@flintshire.gov.uk

Cadw – 01443 336000 cadw@wales.gsi.gov.uk

CPAT - 01938 553670 trust@cpat.org.uk

# Appendix 1: UDP Policies

## **STR8 Built Environment**

The built environment of the County will be protected and enhanced in terms of:

- a. the setting and integrity of the historic environment of the County, including listed buildings, conservation areas, archaeology and historic landscapes, parks and gardens; and
- b. the regeneration of areas through the sensitive improvement, renovation, and redevelopment of appropriate suitable brownfield land and buildings

## **HE6 Scheduled Ancient Monuments and other Nationally Important Archaeological Sites**

Development that would remove, damage or obscure a Scheduled Ancient Monument or other nationally important archaeological site, or its setting, will not be permitted.

## **HE7 Other Sites of Lesser Archaeological Significance**

Development that affects sites of either known or suspected local and / or regional archaeological interest and their settings will be permitted only where:

- a. an archaeological assessment has been carried out, before a decision is made on the proposal, to the satisfaction of the Council which evaluates the intrinsic importance of the remains; and
- b. the need to retain the interest that has been identified is outweighed by the need for the proposed development.

Where remains are affected but preservation in situ is not merited, excavations and / or recording must be carried out to the satisfaction of the Council in advance of development commencing.

## **HE8 Recording of Historic Features**

Development will be permitted only where there is provision for adequate recording of any historic features likely to be affected by the development.

## **Bibliography**

CBA website

Conservation Principles for the sustainable management of the historic environment in Wales, Cadw 2011

Welsh Office Circular 60/96 Planning and the Historic Environment: Archaeology

Welsh Office Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas

Welsh Office Circular 1/98 Planning and the Historic Environment: Directions by the Secretary of State for Wales

Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 SI No. 2012/793

Technical Advice Note 12, Design Welsh Assembly Government 2009

Planning (Listed Buildings and Conservation Areas) Act 1990

Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales CCW, Cadw, ICOMOS  
UK

Appendix 4

Supplementary Planning Guidance Note (SPGN) Public Consultation, (Dec 18th 2015 and Feb 12<sup>th</sup> 2016) comments and responses to SPGN No 21 Environmental Impact Assessments.

Commenting Body / Individual	Comment	Response	Recommendation
<b>No. 21 EIA's Environmental Impact Assessments</b>			
Clwydian Range and Dee Valley AONB JAC	The committee welcomes the additional explanation in relation to 'sensitive areas' such as the Clwydian Range in relation to Schedule 2 projects.	Noted	No change
CPRW	The para no. '3.7' has been incorrectly positioned and the word 'an' should be inserted before 'EIA'.	Noted	Amend '3.7' to align with the para starting 'Where the LPA...'
CPRW	In para 3.11 should '... community law' be read '... European community law'.	Noted	Amend 'community law' to read 'European Community law' in para 3.11
CPRW	In para 3.15 the last sentence has been included as part of the subsequent para 3.16.	Noted	Amend para 3.15 by deleting '3.16' and merging into one paragraph and renumbering subsequent paras.
CPRW	In para 3.21 reference to 'the Circular' should be given in full.	The full title for the Circular is given in para 3.1 and it is not necessary for this to be repeated throughout the document.	No change