

Supplementary Planning Guidance
ARCHAEOLOGY AND PLANNING
Planning Policy Note 1
January 2007

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Introduction

This guidance is for property owners, developers, archaeologists, amenity societies and the general public. It will also be used by the Minister for Planning and Environment and the Planning and Environment Department in the application of the planning process to archaeology.

It is the first of a series of guidance and policy notes, which collectively, will provide comprehensive supplementary planning guidance on the historic environment.

The policy and guidance contained within this document draws upon and expands existing Island Plan policy and amplifies Island Plan Policy G12 and its preamble, set out in paragraphs 4.35 - 4.39 of the 2002 Island Plan. It, therefore, sets out the Minister for Planning and Environment's new policy framework on the treatment of archaeological remains under the development plan and development control systems, including the basis of classification for archaeological remains and the weight to be given to them in planning decisions. It outlines what is to be expected to enable the Minister to make informed decisions on matters of archaeology and planning, and indicates how conditions and agreements might be used to give Ministerial decisions effect.

This policy and guidance does not impose any new duties on the Minister for Planning and Environment – the responsibility to protect places that have a special importance or value to the Island, and specifically the archaeological record, exists within law and the international conventions to which the Island is a signatory. What it does do, however, is to provide the Minister with a mechanism to fulfil these obligations, which has hitherto been absent.

The policy and guidance also identifies other ancillary areas and issues associated with archaeology. In many instances, some work has been undertaken on these matters but requires completion: this is detailed in appendix 1.

The importance of archaeology

Archaeological remains are irreplaceable. They are evidence - for prehistoric periods, the only evidence - of the past development of our Island's civilization.

The Island's archaeological landscape is the product of human activity over thousands of years. A rich variety of archaeological remains survive above and below ground in Jersey, along its shoreline, and within its waters. The range of known sites of value includes, for example, the Palaeolithic site at La Cotte de St Brelade, Neolithic sites such as the passage graves at La Hougue Bie and La Hougue des Géonnais and Iron Age promontory forts at Frémont and Le Câtél de Rozel.

Our archaeological remains vary enormously in their state of preservation and in the extent of their appeal to the public. Upstanding remains are familiar enough; represented by dolmens and coastal forts and castles, but less obvious archaeological remains are also to be found in the Island. There remain many gaps in our knowledge about the archaeology of Jersey. Questions such as where the Neolithic people lived and who was in Jersey during the Gallo-Roman period and the Dark Ages remain unanswered. That the Island was occupied throughout these times can hardly be doubted, and it is the archaeological resource that holds the answers to these questions.

Archaeological remains should be seen as a finite and non-renewable resource, in many cases highly fragile and vulnerable to damage and destruction. Appropriate protection and management is therefore essential to ensure that they survive in good condition. In particular, care must be taken to ensure that archaeological remains are not needlessly or thoughtlessly destroyed. They can contain irreplaceable information about our past and the potential for an increase in future knowledge. They are part of our sense of identity and are valuable both for their own sake and for their role in education, leisure and tourism.

The present era has been a period of striking environmental change and much archaeological heritage has undoubtedly been destroyed by human activity. Historical methods of demolition and rebuilding in the town have left layers in the ground that mark the steady succession of human uses to which land has been put, sometimes over centuries, but modern construction methods and modern forms of development involving, for example, deep foundations and the introduction of underground car-parking, will have destroyed much of this archaeological evidence.

Most archaeology carried out in Jersey has, with a limited number of exceptions, been undertaken by the Societe Jersiaise. The Jersey Heritage Trust has also carried out major archaeological research of some of those heritage assets within its administration. Together they hold the Island's archaeological record. Very few of the sites and areas of archaeological value which make up this record have any form of protection presently. And there is undoubtedly much that remains to be recorded and protected.

This policy and guidance provides the basis to begin to address the current deficiencies which clearly exist within the identification, definition and protection of the archaeological resource in Jersey. A consolidation of the existing known archaeological record – which is presently held in a disparate collection of evidence between Jersey Heritage Trust, the Societe Jersiaise and the Jersey Metal Detecting Society – is required to provide the basis for a comprehensive programme of registration and listing of known archaeological remains. This needs to be supplemented by the application of planning policies, through the development plan and development control process, to actively assess, protect and manage the archaeological resource, whilst adding to our limited knowledge of the Island's archaeology.

Strategic context

Article 2 of the Planning and Building (Jersey) Law 2002 requires the Minister for Planning and Environment to protect sites, buildings, structures and places that have a special value or importance to the Island and confers various powers to enable him to do so.

The European Convention on the Protection of the Archaeological Heritage (the Valetta Convention 1992 (revised)) was extended to Jersey in September 2000. Its principal purpose is to protect the archaeological heritage as a source of European collective memory and as an instrument for historical and scientific study. The basis of its operation is the maintenance of an inventory of archaeological heritage and the designation of protected monuments and areas. Other articles of the convention place obligations upon the Island relating to the need to ensure that planning policies provide for the protection, conservation and enhancement of archaeological sites (Article 5) and the financing of archaeological research and rescue (Article 6).

The States Strategic Plan 2006-2011 sets out a commitment to manage the Island's built heritage sympathetically (4.5) and to increase the number of Sites of Special Interest (4.5.2), including those of archaeological value. It also sets out to continue to develop the Island's international profile (5.2) by meeting, where possible, international standards set through treaties and conventions (5.2.8).

Archaeology and the planning process

If value is attached to elements of the historic environment, whether by the community or through expert assessment or both, such value ought to be a material consideration in the planning process.

Identifying and defining archaeological remains, sites and areas through the planning system can ensure that the case for preservation of archaeology is fully considered given any proposals for development or other work which might damage the asset. The planning system can also serve to consider the desirability of preserving archaeological remains. Much can be achieved within the wider planning process when developers are prepared to enter into discussions with archaeologists and consider fully the needs of archaeology.

The various options open to deal with archaeological remains are considered below: but it is important that these options are explored within the context of some clear principles.

Guiding principles

Positive planning and management can help to bring about sensible solutions to the treatment of sites with archaeological remains and reduce the areas of potential conflict between development and preservation. Appropriate planning policies in the Island Plan and associated guidance, and its adoption and implementation through development control, is especially important. Where **important** archaeological remains and their settings, whether formally protected or not, are affected by proposed development there should be a presumption in favour of their physical preservation. Cases involving archaeological remains of lesser importance will not always be so clear cut and the Minister for Planning and Environment will need to weigh the relative importance of archaeology against other factors including the need for the proposed development.

The key to informed and reasonable planning decisions is for consideration to be given early, before formal planning applications are made, to the question of whether archaeological remains exist on a site where development is planned and the implications for the development proposal. When important remains are known to exist or when archaeologists have good reason to believe that important remains exist, developers will be able to help by preparing sympathetic designs using, for example, foundations which avoid disturbing the remains altogether or minimise damage by raising ground levels under a proposed new structure, or by the careful siting of landscaped or open areas. There are techniques available for sealing archaeological remains underneath buildings or landscaping, thus securing their preservation for the future even though they remain inaccessible for the time being.

If physical preservation *in situ* is not feasible, an archaeological excavation for the purposes of 'preservation by record', may be an acceptable alternative. From the archaeological point of view this should be regarded as a second best option. The science of archaeology is developing rapidly. Excavation means the total destruction of evidence (apart from removable artefacts) from which future techniques could almost certainly extract more information than is currently possible. Excavation is also expensive and time-consuming, and discoveries may have to be evaluated in a hurry against an inadequate research framework. The preservation *in situ* of **important** archaeological remains is therefore nearly always to be preferred.

It is important to emphasise that this guidance is based on the concept of 'total archaeology' and is applicable to archaeology above and below the ground and water of the Island and its territorial waters, and within the fabric of its buildings.

Regardless of the circumstances, taking decisions is much easier if any archaeological aspects of a development site can be considered early on in the planning and development control process.

Island Plan

It is one of the functions of the Island Plan to reconcile the need for development with the interests of conservation, including archaeology. The Island Plan should include policies for the protection, enhancement and preservation of sites of archaeological interest and of their settings. Whilst a handful of archaeological sites are protected in Jersey, the 2002 Island Plan recognised that many archaeological sites and areas are not. There is a need for them to be identified, defined, evaluated and protected, as appropriate, through planning policy. Such policy ought to provide an important part of the framework for the consideration of individual proposals for development which affect archaeological remains and they can help guide developers preparing planning applications.

Although the surviving numbers of archaeological remains are finite and irreplaceable, obviously not all of them are of equal importance. There is a need to develop policies based on an evaluation of the Island's known archaeological record.

Evaluating the archaeological resource

Formal recognition and protection of buildings and places by planning law and policy in Jersey is achieved by inclusion in the Register of Buildings and Sites of Architectural, Archaeological and Historic Importance, and by statutory listings where appropriate. Whilst a handful of special archaeological sites are protected, through listing as Sites of Special Interest and inclusion on the Register, the current system of registration does not allow for other archaeological sites and areas to be embraced. There is a need to expand the classes of categorisation in the Register to address this. There is also a need to introduce a new area-based definition for areas of potential archaeological resource which will form part of the Island Plan policy framework.

Jersey's archaeology is not just limited to the landmass of the Island. The identification and definition of the Island's archaeological resource will be applied to sites on land and within Jersey's territorial waters, including wrecks, based on the evidence available.

The relative value of archaeological sites and areas can only be defined in the context of their contribution to the cultural inheritance, identity and amenity of Jersey and beyond. Their categorisation needs to be based on definitive criteria and the following are proposed. The Minister for Planning and Environment will determine whether sites and places satisfy these criteria in order that they might be added to the Register of Buildings and Sites of Architectural, Archaeological and Historic Importance – using the same process that is employed presently for buildings and sites of architectural and historic importance based on impartial professional advice from Jersey Heritage Trust supplemented by local expert views provided by the Ministerial Registration and Listing Advisory Group (MRLAG) and elsewhere, if necessary - or defined as part of the Island Plan.

Archaeological Sites of Special Interest

The basis for the listing of an archaeological site as a Site of Special Interest will normally be either that it is an intrinsically outstanding site of self evident 'public importance' (like La Hougue Bie or Mont Orgueil), or that it is one of best preserved examples of its category included within the Register. Listing of archaeological sites as SSIs will therefore generally require assessment of their state of preservation, nature, extent and significance, as the basis of consideration.

Specifically, the considerations are:

- **Period:** all types of registered sites that characterise a category or period will be considered
- **Rarity:** there are some categories which are so scarce that all surviving examples which still retain some archaeological potential should be preserved. In general, however, a selection will be made which reflects the typical as well as the rare. This process will take account of all aspects of the distribution of a particular class of archaeological site or building, both in Jersey and beyond.
- **Documentation:** the significance of a site or building may be enhanced by the existence of records of previous investigation or, in the case of more recent sites or buildings, by the supporting evidence of contemporary written records
- **Group Value:** the value of a single site or building (such as a field system) may be greatly enhanced by its association with related contemporary sites or buildings (such as a settlement and cemetery or with sites or buildings of different periods). In some cases, it will be preferable to protect the complete group, including associated and adjacent land, rather than to protect isolated sites or buildings within the group.
- **Survival/Condition:** the survival of a site or building's archaeological potential both above-and below-ground is a particularly important consideration and will be assessed in relation to its present condition and surviving features.
- **Fragility/Vulnerability:** highly important archaeological evidence from some field sites or buildings can be destroyed by a single ploughing or unsympathetic treatment (The Threshold Effect).
- **Diversity;** some sites or buildings may be selected for designation because they possess a combination of high quality features, others because of a single important attribute.
- **Potential:** there are cases where the nature of the evidence cannot be specified precisely but it may still be possible to document reasons anticipating its existence and importance.
- **Sustainability:** some sites or buildings will show greater potential for long term sustainable management, including exploitation of their educational value.

Most prehistoric, Roman and early medieval sites and monuments will be listed as SSIs. Medieval sites including houses, castles and fortifications and religious monuments, together with sites of former structures, settlements and field systems of sufficient completeness or with suspected potential, either above or below ground, will similarly be listed SSIs. Post-medieval buildings or sites which demonstrate the principal stages of development, or are good examples of an individual style or type of military engineering, industrial and agricultural technology or public works will also be listed SSIs. Many of these will include structures, which also meet the criteria for SSI listing as historic buildings.

Archaeological Sites (AS)

The basis for this registration will be where there exists specific information about the nature and location of archaeological artefacts or remains. Sites are to be defined as follows;

- any building, historic landscape feature, structure, archaeological/ environmental deposit or work, whether above or below the surface of the land or sea, and any cave or excavation, or the remains thereof; or
- any site comprising, or comprising the remains of, any vehicle, machinery, vessel, aircraft or other movable structure

which is judged to be of archaeological value.

Specifically, the considerations for registering Archaeological Sites are;

- **Archaeological evidence:** the existence of archaeological evidence in the form of physical evidence e.g. flint scatters, metal hoards or physical structures; or documentary evidence e.g. published records or aerial photographs.
- **Quantity and concentration of evidence:** How much evidence is there for archaeological activity? How many artefacts have been discovered? Are there significant concentrations of artefacts? Is there more than one source of documentary evidence?
- **Period:** To what period does the physical evidence date? The significance of the site will vary according to its age. In assessing significance, varying threshold dates may be applied according to the nature of the site.
- **Rarity:** How rare is the evidence of archaeological activity? Evidence of industrial activity is much less common in Jersey than that for agricultural activity.
- **Level of disturbance:** How disturbed is the site? Is there likely to be significant archaeology *in situ*?

The basis for the registration of an Archaeological Site is the precise location of known archaeological evidence such as find spots, where there is a greater quantity and concentration of archaeological evidence, or clear documentary references. From this a boundary for the site should be derived and justified based on the known archaeological evidence.

Areas of Archaeological Potential (AAP)

It is crucial to recognise that while historic buildings and archaeological monuments that are upstanding or otherwise known can be identified, registered, and so protected, a vast stock of archaeological information in Jersey remains unknown, buried in the ground or contained by the fabric of more recent development. The potential for this type of archaeology may be indicated by proximity to already known sites or areas of archaeological interest or by their topographical setting (e.g. a level terrace or hilltop). A similar situation can occur where a superficially nondescript building is suspected, by its location, form or history, to conceal an earlier structure.

The basis for defining Areas of Archaeological Potential – which will be added as defined areas on the Island Plan Proposals Map - will be where there exists evidence of known archaeological significance, based on the listing or registration of one or more archaeological SSI or AS, but where it is possible to infer the likelihood of the survival of other archaeological material; where there are find spots of limited artefact evidence, or where other documentary evidence might indicate the potential existence of archaeology. The basis for their definition is thus;

- **Association with archaeological evidence:** AAPs will normally be extrapolated by association with areas of known archaeological significance, whether extant or recorded but destroyed i.e. they will be adjacent to or include one or more SSIs or ASs or be derived from undisputed sites of archaeological value that have been previously recorded. The evidence must be such that the land contained within the boundary of the AAP can reasonably be considered to contain archaeologically sensitive material;
- **Limited artefact and documentary evidence:** AAPs may also be defined on the basis of evidence which suggests the potential for archaeological remains. This might include find spots of limited artefact evidence, field names or old maps which indicate the potential presence of earlier land use or structures;
- **Building age or type:** AAPs may be defined in association with the registration of buildings or particular building types, such as industrial or military structures where

there is the possibility that the fabric of an older building may be incorporated within more recent construction or where it may lay beneath the current building or site.

The historic core of St. Helier is likely to constitute an Area of Archaeological Potential. Further areas will be identified through the development of a consolidated archaeological record for the Island.

Preservation of archaeological resources

The desirability of preserving archaeological remains, based on the presumption in favour of their preservation *in situ*, and their setting, where appropriate, is a material consideration in the determination of planning applications. But the conservation of our historic environment is not about preventing change, but managing change through decisions that are informed by understanding the cultural values that would be affected. The Minister for Planning and Environment recognises that the extent to which remains can or should be preserved will depend upon a number of factors, including the intrinsic importance of the remains. With the many demands of modern society, it is not always feasible to save all archaeological remains. The key question is where and how to strike the right balance.

There is a range of options for the determination of planning applications affecting archaeological remains and their settings. Where significant archaeological remains, whether listed as SSIs or not, and their settings, are affected by proposed development there should be a presumption in favour of their physical preservation *in situ* ie, a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains. The case for the preservation of archaeological remains must however be assessed on the individual merits of each case, taking into account the Island Plan and supplementary planning policies for the preservation of archaeological resources, together with all other relevant policies – such as G11 Sites of Special Interest and G13 Buildings and Places of Architectural and Historic Interest, as applicable - and material considerations, including the intrinsic importance of the remains and weighing these against the need for the proposed development. It is also important to consider the nature of the archaeology: some archaeology will be sensitive and will be more susceptible to degradation over time where excavation and recording may be more appropriate than preservation.

There will be occasions, particularly where remains of lesser importance are involved, when the Minister for Planning and Environment may decide that the significance of the archaeological remains is not sufficient when weighed against all other material considerations, including the need for development, to justify their physical preservation *in situ*, and that the proposed development should proceed.

Permitted development rights (set out in Schedule 1 of the Planning and Building (General Development) (Jersey) Order 2006) do not apply to any buildings and places on the Register of Buildings and Sites of Architectural, Archaeological and Historic Importance – which includes Archaeological Sites of Special Interest (SSI) and Archaeological Sites (AS) – by virtue of Article 2 of the Planning and Building (General Development) (Jersey) Order 2006. Specific planning permission must be obtained for normally exempt development in respect of these buildings and places. This does not apply to Areas of Archaeological Potential (AAP) which do not form part of the Register: they are defined in and identified as part of the Island Plan.

POLICY HE1: PRESERVATION OF ARCHAEOLOGICAL RESOURCES

There will be a presumption in favour of the physical preservation *in situ* of archaeological remains and their settings.

Development which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible archaeological remains will normally only be permitted where the Minister for Planning and Environment is satisfied that the intrinsic importance of the remains is outweighed by other material considerations, including the need for the development.

Archaeological evaluation

The needs of archaeology and development can be reconciled, and potential conflict very much reduced, if developers discuss their preliminary plans for development with the Planning and Environment Department at an early stage. Once detailed designs have been prepared and finance lined up, flexibility becomes much more difficult and expensive to achieve. In their own interests, therefore, prospective developers should in all cases include as part of their research into the development potential of a site, which they undertake before making a planning application, an initial assessment of whether the site is known or likely to contain archaeological remains. This is particularly important for Archaeological SSIs because works that do not necessarily amount to development will still need to be the subject of an SSI application which may require further archaeological evaluation.

The first step will be to contact the Planning and Environment Department or Jersey Heritage Trust who hold, or will likely have access to, the Register of Buildings and Sites of Architectural, Archaeological and Historic Importance and a consolidated archaeological record for the Island.

These consultations will help to provide prospective developers with advance warning of the archaeological sensitivity of a site. As a result they may wish to commission their own archaeological assessment by a professionally qualified archaeological organisation or consultant. This need not necessarily involve fieldwork and can be a desk-based evaluation of existing information: it can make effective use of records of previous discoveries, including any historic maps, held by the Jersey Heritage Trust and the Societe Jersiaise, or of geophysical survey techniques. This will be a minimal requirement for development proposals within Archaeological Sites of Special Interest (SSI) and Archaeological Sites (AS) that appear on the Register of Buildings and Sites of Architectural, Archaeological and Historic Importance, and Areas of Archaeological Potential (AAP) as defined in the Island Plan. It is important to note, however, that because of the paucity of information about the archaeological record across the Island desk-based evaluations may not be sufficient and further evaluation may be necessary in many instances.

Offshore development in Jersey waters is rare but where proposals emerge that may have implications for marine archaeology the Minister will require the provision of appropriate archaeological evaluation as part of any development application and environmental impact assessment.

In the case of Archaeological SSIs and ASs, and where early discussions with the Planning and Environment Department, JHT or the Societe Jersiaise Archaeology Section, or the developer's own research, indicate that important archaeological remains may exist, the Minister for Planning and Environment will require the prospective developer to arrange for an archaeological field evaluation to be carried out before any decision on the planning application is taken. This sort of evaluation is quite distinct from full archaeological excavation. It is normally a rapid and inexpensive operation, involving ground survey and small-scale trial trenching, but it should be carried out by a professionally qualified

archaeological organisation or archaeologist. The Institute of Field Archaeologists, publishes a directory of members, which developers may wish to consult: it is, however, important that an archaeological evaluation carried out by non-resident archaeologists is set within the context of local knowledge to ensure that the importance or potential of a site is not misconstrued. Evaluations of this kind help to define the character and extent of the archaeological remains that exist in the area of a proposed development, and thus indicate the weight which ought to be attached to their preservation. They also provide information useful for identifying potential options for minimising or avoiding damage. On this basis, an informed and reasonable planning decision can be taken.

The Minister for Planning and Environment will expect developers to provide the results of such assessments and evaluations as part of their application for sites where there is a good reason to believe there are remains of archaeological importance: this will become part of the public record, as an integral element of the planning application. If developers are not prepared to do so voluntarily, the Minister for Planning and Environment may direct the applicant to supply further information under the provisions of Article 9 (1)(b) of the Planning and Building (Jersey) Law 2002 and if necessary may consider refusing permission for proposals which are inadequately documented.

When planning applications are made without prior discussion with the Planning and Environment Department, the department will seek to identify those applications which have archaeological implications, and to assess their likely archaeological impact. When it is evident that a particular development proposal is likely to affect archaeological remains, applicants may be asked to provide more detailed information about their scheme - for example, the type of foundations to be used - or they may be asked to carry out an evaluation. The Planning and Environment Department will seek to secure the appropriate archaeological advice, as it sees fit, to ensure that the Minister is fully informed about the nature and importance of the archaeological site and its setting.

In particular cases where the developer is a non-profit making community body, or in the case of an individual making a householder application, the Minister may exercise discretion and seek to provide assistance to ensure an appropriate archaeological evaluation.

POLICY HE2: ARCHAEOLOGICAL EVALUATION

The Minister for Planning and Environment will normally require an archaeological evaluation to be carried out, to be provided by the developer, for development proposals which may affect archaeological remains: this information will be required as an integral part of the planning application.

The nature of archaeological evaluation may vary, depending upon the archaeological sensitivity and importance of the site and the extent of existing information. Any archaeological evaluation must provide sufficient information to enable the Minister for Planning and Environment to make an informed planning decision, having regard to the value of the archaeological remains and the likely impact of the proposed development.

Planning applications for development proposals which do not provide sufficient information to enable the value of the remains and the likely impact of the proposed development to be determined will normally be refused.

Archaeological excavation and recording

Where the Minister for Planning and Environment decides that the physical preservation *in situ* of archaeological remains is not justified in the circumstances of the case and that development resulting in the destruction of the archaeological remains may proceed, the

Minister will seek to ensure, before granting planning permission, that the developer has made appropriate and satisfactory provision for the excavation and recording of the remains.

Such excavation and recording should be carried out before development commences, working to a project brief prepared by the Planning and Environment Department and taking advice from archaeological consultants. This can be achieved through agreements reached between the developer, the archaeologist and the Minister for Planning and Environment. In some cases, agreements may need to cover the treatment of finds and their deposition: in these cases, the further advice of Jersey Heritage Trust will be sought as regards funding, standards, content, ownership, copyright and storage

Agreements covering excavation, recording and the publication of the results may take different forms. Voluntary planning obligation agreements, made under Article 25 of the Planning and Building (Jersey) Law 2002 can provide for the excavation and recording of sites before development work starts. Voluntary agreements are likely to provide more flexibility and be of greater mutual benefit to all the parties than could be provided for by alternative statutory means. They have the advantage of setting out clearly the extent of the developer's commitment, thereby reducing both uncertainty over the financial implications of having to accommodate any archaeological constraints and the possibility of unforeseen delays to the construction programme. Such agreements should also provide for the subsequent publication of the results of the excavation.

In the absence of such agreements the Minister will secure excavation and recording by imposing conditions. Such conditions will prohibit the carrying out of development until such time as works or other action, e.g. an excavation, have been carried out by a third party, in accord with a written scheme of investigation.

In particular cases where the developer is a non-profit making community body, such as a charitable trust or housing association, which is unable to raise the funds to provide for excavation and subsequent recording without undue hardship, or in the case of an individual who similarly does not have the means to fund such work, the Minister may exercise discretion and seek to provide assistance.

The Minister may also impose conditions to protect archaeological remains during construction and to ensure that reasonable access is given to a nominated archaeologist - either to hold a "watching brief" during the construction period or specifically to carry out archaeological investigation and recording in the course of the permitted operations on site. Such conditions serve to ensure that if remains of archaeological significance are disturbed in the course of the work, they can be recorded and, if necessary, emergency salvage undertaken.

POLICY HE3: ARCHAEOLOGICAL EXCAVATION AND RECORDING

Where it is determined that the physical preservation *in situ* of archaeological remains is not justified, the Minister will seek to ensure, through the use of planning obligation agreements and/or planning conditions, that the developer has made appropriate and satisfactory provision for the excavation and recording of the remains, for the publication of the findings and, in some cases the treatment and deposition of finds, before granting planning permission.

Discovery of archaeological remains during development

The preceding guidance has been framed to minimise occasions when totally unexpected problems arise while development is in progress. Nevertheless, and in spite of the best pre-planning application research, there may be occasions when the presence of archaeological remains only becomes apparent once development has commenced. Developers may wish to consider insuring themselves against the risk of a substantial loss while safeguarding the interest of historic remains unexpectedly discovered on the site.

Where archaeology is discovered in this way, contractors and developers should immediately notify the Planning and Environment Department to enable the nature and the significance of the discovery to be assessed relative to its intrinsic worth and, in the case of treasure and other significant finds, in order that its legal status and ownership might be appropriately ascertained.

Where fresh archaeological discoveries are deemed by the Minister for Planning and Environment to be of particular significance, in accordance with published criteria, the Minister for Planning and Environment has power to provisionally List the remains. In that event developers would need to seek separate SSI consent before they continue work.

It is also open to the Minister for Planning and Environment to revoke a planning permission if deemed necessary, in which case there is provision for compensation. In the majority of cases, however, it should prove possible for the parties to resolve their differences through voluntary discussion and for a satisfactory compromise to be reached.

Useful contacts

Planning and Building Services

Planning and Environment Department, South Hill, St Helier, Jersey, JE2 4US

t. 01534 445508 f. 01534 445528

e: planning@gov.je

w: www.gov.je/PlanningBuilding/Pages/default.aspx

The Minister for Planning and Environment is responsible for setting the general framework for the planning system, and for the protection and preservation of archaeological remains of importance through the development plan process, and for giving effect to its policies and guidance through the development control process. The Minister is also responsible for both compiling and maintaining a List of Sites of Special Interest, subject to legal protection, and for the control of works to such Listed buildings or places through the SSI consent procedure.

Jersey Heritage Trust

The Weighbridge, St Helier, Jersey, JE2 3NF

t. 01534 633300

e: info@jerseyheritage.org

w: www.jerseyheritage.org

Jersey Heritage Trust's specific functions relating to archaeological remains are to provide the Minister for Planning and Environment with general advice in relation to archaeological remains and specifically on whether particular remains are worthy of protection, through the Register of Buildings and Sites of Architectural, Archaeological and Historic Importance. The JHT also manage a number of the Island's major heritage sites and is also responsible for the management of the Jersey Archive and the Island's museums, a remit which encompasses curatorship of part of the archaeological record and the promotion of public awareness and access to the resource.

Societe Jersiaise Archaeology Section

7 Pier Road, St Helier, Jersey, JE2 4XW

t. 01534 758314 f. 01534 888262

e: societe@societe-jersiaise.org

w: www.societe-jersiaise.org

La Société Jersiaise was founded in 1873 to promote and encourage the study of the history, the archaeology, the natural history, the language and many other subjects of interest in the Island of Jersey.

Other bodies

The Institute of Field Archaeologists (IFA)

t: 0118 378 6446

e: admin@archaeologists.net

w: www.archaeologists.net

The IFA is the UK's professional institution for archaeologists in Britain. It is concerned with defining and maintaining proper professional standards and ethics in field archaeology. All members conform to a Code of Conduct and there is a disciplinary procedure for investigating and dealing with allegations of improper conduct. A Directory of Members is published which lists the registered areas of competence of each member. Corporate membership of the Institute carries the distinction MIFA, AIFA or PIFA according to experience and qualifications.

Appendix 1

Requirement for ancillary legal framework and guidance

The publication of this guidance and policy on Archaeology and Planning seeks to establish the Minister for Planning and Environment's policy framework for dealing with archaeological remains. It is acknowledged that a clear legal framework and further more detailed advice may be required in relation to associated issues and procedures.

The following areas are identified as requiring further work;

- Deposition of archival material and artefacts;
- Evaluation of archaeological sites and mitigation;
- Funding of post excavation work for archaeological remains;
- Treasure Trove and Portable Antiquities;
- Marine archaeology;
- Treatment of human remains;
- Metal detecting