



department for
**culture, media
and sport**

Scheduled Monuments

Identifying, protecting, conserving and investigating nationally important archaeological sites under the Ancient Monuments and Archaeological Areas Act 1979

March 2010

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Introduction

1. England is renowned for the richness of its archaeological heritage: a tangible – and often highly evocative – link with our prehistoric and historic past, and a unique source of information that has the potential to transform our understanding of the lives of our ancestors and how they adapted to and changed their environment.
2. Such remains often form significant features in our surroundings, but are also valuable as a resource for research, education, leisure, tourism and regeneration, and for their influence on perceptions of identity and spirit of place. However, they are also a finite, irreplaceable and fragile resource and are vulnerable to a wide range of human activities and natural processes.
3. The policies set out in this statement relate to the identification, protection, conservation and investigation of England's premier archaeological sites under the provisions of the Ancient Monuments and Archaeological Areas Act 1979, including through:
 - the designation of scheduled monuments; and
 - the determination of applications for scheduled monument consent.
4. **Please note that paragraphs 23 and 28-31 of this policy statement replace paragraph 93 of DCLG Circular 02/2006: *Crown Application of the Planning Acts* in relation to the operation of 'scheduled monument clearance' procedures.**

Section 1: Scheduled monuments

1.1 The schedule of monuments

5. The UK Government is party to the European Convention on the Protection of the Archaeological Heritage¹ (the 'Valetta Convention'). This obliges States to institute a legal system for the protection of archaeological heritage, on land and under water.
6. The UK has had legislation in place to protect heritage assets with archaeological interest since 1882. In England our policy is that a representative sample of nationally important archaeological sites should be afforded protection under the provisions of the Ancient Monuments and Archaeological Areas Act 1979² (the '1979 Act').
7. The '1979 Act' places a duty on the Secretary of State for Culture, Media and Sport to compile and maintain a schedule of 'monuments'. Once included in the schedule, a monument (together with land in or on which it is situated, plus any land essential for its support and preservation) has legal protection.
8. The inclusion of monuments in the schedule (or their removal from it) is at the discretion of the Secretary of State, who is required to consult English Heritage. To be 'scheduled', a monument must first meet the 1979 Act's definition, which is:
 - any building, structure or work, whether above or below the surface of the land, and any cave or excavation;
 - any site comprising the remains of any such building, structure or work or of any cave or excavation; or
 - any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other moveable structure or part thereof which neither constitutes nor forms part of a monument as defined above.
9. Monuments situated in, on or under the sea bed within the seaward limits of United Kingdom territorial waters adjacent to England may also be scheduled under the 1979 Act, but the following may not:
 - any structure which is occupied as a dwelling house;

¹ <http://conventions.coe.int/Treaty/en/Treaties/Html/143.htm>

² https://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1979/cukpga_19790046_en_1

- any ecclesiastical building in ecclesiastical use; and
- any sites protected under the Protection of Wrecks Act 1973³.

10. Upon identifying or being made aware of a monument that meets the 1979 Act's definition and which is potentially of national importance, English Heritage will advise the Secretary of State on its suitability for scheduling. Except where it could endanger preservation of the monument to do so, the preparation of this advice will include consultation with its owner(s) / occupier(s) and the relevant local authority(s).

11. In deciding whether to add a monument to the schedule, or to remove a monument from it, the Secretary of State will have regard to the non-statutory criteria for determining national importance set out in **Annex 1**. The purpose and implications of scheduling will also be taken into consideration: scheduling may not be the only, or the most appropriate, mechanism to secure the long-term preservation of a monument for the benefit of future generations, even if it otherwise meets the statutory definition and non-statutory criteria.

12. For example, depending on the nature of a monument and the threats to which it is subjected, the Secretary of State may decide that it is adequately protected if it is already designated under another statutory regime (such as those designed to protect military remains or nature conservation interests) or that its conservation could be adequately managed through the planning system.

13. Consequently, the fact that a monument is not designated as a scheduled monument does not necessarily imply that it is not nationally important. Nationally important, but non-scheduled monuments include those which:

- meet the statutory definition and non-statutory criteria, but which the Secretary of State has decided not to designate; or
- meet the statutory definition and non-statutory criteria, but which have yet to be the subject of a designation decision by the Secretary of State.

14. In addition, some nationally important archaeological remains (such as sites of early human occupation without structure) fall outside the current statutory definition of a monument and so cannot be scheduled under the 1979 Act.

15. For historical reasons, some buildings are both scheduled and listed (under the Planning (Listed Buildings and Conservation Areas) Act 1990⁴). Where appropriate, these buildings will be progressively 'de-scheduled' in favour of management through the listing regime.

³ http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1973/cukpga_19730033_en_1

⁴ http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900009_en_1

1.2 The implications of scheduling

16. The 1979 Act affords statutory protection to scheduled monuments by making it a criminal offence to:

- destroy or damage a scheduled monument;
- execute or cause or permit to be executed works – including operations of any description undertaken for purposes of agriculture or forestry – that would demolish, destroy, damage, remove, repair, alter or add to a scheduled monument, or to carry out any flooding or tipping operations on land in, on or under which there is such a monument, without the prior written consent of the Secretary of State;
- use a metal detector in a place which is the site of a scheduled monument (or of any monument under the ownership or guardianship of the Secretary of State, English Heritage, a local authority or a National Park Authority) or situated in an area of archaeological importance without prior consent from English Heritage⁵; or
- remove any object of archaeological or historical interest which has been discovered by the use of a metal detector in a place which is the site of a scheduled monument (or of any monument under the ownership or guardianship of the Secretary of State, English Heritage, a local authority or a National Park Authority) or situated in an area of archaeological importance without prior consent from English Heritage.

17. Heritage assets with archaeological interest (including both scheduled monuments and nationally important, but non-scheduled monuments) are subject to the provisions of The Treasure Act 1996⁶, The Treasure (Designation) Order 2002⁷ and The Theft Act 1968⁸. Their protection and conservation is also taken into account by Government in other legislation, policies and procedures – including those relating to spatial planning, land / coastal zone management and agriculture, and to Environmental Impact Assessment and Strategic Environmental Assessment – as well as in the stewardship of its own historic estate. It is also a factor in the designation and management of protected landscapes (such as National Parks, Areas of Outstanding Natural Beauty, Heritage Coasts and World Heritage Sites).

18. There are presently almost 20,000 scheduled monuments in England representing some 37,000 individual heritage assets. Their condition is monitored regularly by English Heritage, including as part of its Heritage at Risk⁹ initiative. This monitoring is often undertaken in partnership with others or used to inform their work, including Natural England, the Forestry Commission, Local Authorities, National Park Authorities, the National Trust, regional & local archaeological societies, Portable Antiquity Scheme Finds Liaison Officers, voluntary groups, and property owners, land managers and farmers.

⁵ English Heritage policy relating to portable antiquities, including the use of metal detectors, is set out in *Our Portable Past*. This is published on the HELM website (<http://www.helm.org.uk/>).

⁶ http://www.opsi.gov.uk/acts/acts1996/Ukpga_19960024_en_1

⁷ <http://www.opsi.gov.uk/si/si2002/draft/20022470.htm>

⁸ http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1968/cukpga_19680060_en_1

⁹ <http://www.english-heritage.org.uk>

19. Where a criminal offence is suspected, the Secretary of State or English Heritage may choose to investigate with a view to prosecution, or to refer the matter to the police and the Crown Prosecution Service. Both the Secretary of State and English Heritage are supportive of local authorities that decide to take the initiative in such cases.

20. Following the designation of a monument as a scheduled monument by the Secretary of State, English Heritage will notify the decision to its owner(s) / occupier(s), the relevant local authority(s) and Historic Environment Record(s) (HERs), and any applicants. It will also register it as a Local Land Charge.

Section 2: The control of works affecting scheduled monuments

21. The process of obtaining consent from the Secretary of State to undertake works to a scheduled monument is known as 'scheduled monument consent' (SMC).
22. Where a monument is both scheduled and listed only SMC is required for any works and relevant parts of the Planning (Listed Buildings and Conservation Areas) Act 1990 are disapplied.
23. Crown development that would affect a scheduled monument or one held in Departmental care under the provisions of the 1979 Act is exempt from statutory SMC controls, but is subject to a parallel, non-statutory system known as 'scheduled monument clearance'.

Information about SMC and scheduled monument clearance can be found in Section 3.

24. Some types of works to scheduled monuments – such as those urgently necessary for safety or health – do not require SMC as they are deemed to have consent under the terms of the Ancient Monuments (Class Consents) Order 1994.

Information about class consents can be found in Section 4.

25. SMC is separate from the statutory planning process – most applications relate to works outside the scope of the planning system – and there is no provision for the granting of outline consent. However, the two processes may run in parallel where the granting of planning permission is also required.
26. Development affecting the setting of a scheduled monument is dealt with wholly under the planning system and does not require SMC.
27. Works to a scheduled monument which form part of a nationally significant infrastructure project (as defined in the Planning Act 2008), and which are the subject of an application for a development consent order under that Act, do not require a separate application for SMC, but should not commence unless and until that order has been granted and any pre-commencement conditions appended to the order have been fully complied with.

Information about the relationship between SMC, planning permission and development consent orders can be found in Section 5.

28. Works affecting scheduled monuments must take account of other legal requirements (such as those relating to health & safety, burials and biodiversity). Nevertheless, unless such works are deemed to have consent under the Class Consents Order or a development consent order, SMC or scheduled monument clearance must be obtained from the Secretary of State prior to their commencement, regardless of any other consent that has been granted (or deemed to have been granted) or any other legal requirement that is being followed.

Section 3: Scheduled monument consent / clearance

3.1. Preparing and submitting an application

29. Procedures for applying for scheduled monument consent (SMC) and scheduled monument clearance changed on 2nd November 2009.
30. The Secretary of State for Culture, Media and Sport remains responsible for determining applications for SMC and scheduled monument clearance, but responsibility for their administration has been transferred to English Heritage. New applications – and applications to modify existing consents – should therefore be sent to the relevant English Heritage regional office or the Government Historic Estates Unit, as appropriate, rather than direct to the Department for Culture, Media and Sport.
31. The SMC application form can be downloaded from the English Heritage website¹⁰, together with guidance notes on the preparation and submission of applications for SMC and scheduled monument clearance, and contact details for English Heritage regional offices and the Government Historic Estates Unit.

3.2. How applications will be determined

32. Following the receipt of advice from English Heritage – and where a local hearing or public inquiry has been held, following receipt of the inquiry inspector's report – the Secretary of State will have regard to all relevant matters when formulating a view as to whether an application for SMC or scheduled monument clearance should be granted or refused, including the following principles:
- Scheduled monuments are designated in order to secure their legal protection in the national interest, and to secure their long term preservation *in situ* – as far as possible in the state in which they have come down to us.
 - Each application for SMC or scheduled monument clearance will be considered in terms of the impact that the proposed works would have upon the significance of the monument(s) concerned.

¹⁰ <http://www.english-heritage.org.uk/smc>

- Scheduled monuments are subject to decay and the threat of destruction from both natural and human causes and conservation work is normally needed to prolong their life. Consent or clearance for such works will generally only be granted where they involve the minimum level of intervention necessary to conserve or, where appropriate, enhance the significance of a monument.
- Consent or clearance for works that would result in the loss of the whole or a material part of a scheduled monument's significance will only be granted where there is clear justification that:
 - they are necessary to secure its long-term conservation (for example, by sustaining the monument in its original use, or if this is not possible, some other appropriate and viable use that is consistent with its conservation); or
 - they are necessary in order to deliver substantial and demonstrable cultural, social, economic or environmental benefits that outweigh the negative impact on its significance (for example, by enabling research that increases knowledge and understanding of the past to an extent that is unlikely to be achieved through research elsewhere at a less sensitive site or through less destructive methods).
- The granting of consent or clearance for works that would result in the material loss of a scheduled monument will be wholly exceptional.
- If a scheduled monument is unavoidably threatened with catastrophic loss (for example by natural erosion or permanent flooding) it should, where possible, be fully investigated and recorded before its destruction.

33. Where consent or clearance for works that will result in the loss of the whole or a material part of a scheduled monument's significance is granted, conditions will usually be applied to ensure that the works are undertaken in an appropriate manner, and that opportunities to advance knowledge and understanding of the monument's significance are fully exploited before it is lost. Common requirements are:

- the use of appropriate assessment methodologies to determine the full impact of any proposed management, use or development;
- the avoidance of irreversible change, particularly when its effects cannot be adequately assessed;
- that where change is necessary, strategies should be adopted to mitigate its impact and limit intervention;
- that the management and execution of alteration, including remedial work, is sympathetic to historic character, and that appropriate skills, techniques, and materials are specified where appropriate;
- that it is possible, on close inspection, to identify new additions and alterations;
- that an appropriate level of archaeological recording is undertaken before, during and after any work, and that copies of such reports are deposited in the relevant Historic Environment Record (and, where appropriate, published and disseminated);
- that any archaeological excavation or other intrusive investigation should be:
 - based upon a detailed research design (drawing on relevant research frameworks);
 - resourced to permit completion of all outstanding requirements, including recording; and
 - implemented by appropriately skilled and experienced archaeologists with a satisfactory record of the completion and publication of projects;

- that the archive generated by any archaeological excavation or other intrusive investigation is offered to a local museum or other public depository; and
- that the design, planning and execution of works are undertaken by people with appropriate professional and craft qualifications, skills and experience.

34. Failure to comply with such conditions when executing or causing or permitting to be executed any works to which a consent relates is a criminal offence.

35. The Secretary of State may decide that a public local inquiry should be held before a final decision is reached. Where such an inquiry is proposed for a proposal which is also subject to a planning inquiry, every attempt will generally be made to ensure that the two inquiries are held simultaneously.

36. Where appropriate, the Secretary of State may decide to grant consent or clearance for repetitive works to a scheduled monument or for identical works to a group of monuments in single ownership, thereby reducing the need for multiple applications for SMC or scheduled monument clearance.

Section 4: Class consents

4.1 The Class Consents Order

37. Some categories of works to scheduled monuments do not require scheduled monument consent as they are deemed to have consent under the terms of the Ancient Monuments (Class Consents) Order 1994¹¹ (the 'Class Consents Order').

38. Subject to the restrictions and exceptions specified in the Class Consents Order, these include:

- Agricultural, horticultural and forestry works (Class 1).
- Works undertaken by the British Coal Board (Class 2).
- Works undertaken by the British Waterways Board [(Class 3).
- Works for the repair or maintenance of machinery (Class 4)
- Works urgently necessary for safety or health (Class 5).
- Works undertaken by English Heritage (Class 6 & Class 10).
- Works of archaeological evaluation (Class 7).
- Works carried out under agreements made under section 17 of the 1979 Act (Class 8).
- Works grant-aided under section 24 of the 1979 Act (Class 9).

39. The above list is provided for illustrative purposes only. Persons proposing to undertake works to a scheduled monument under one of the class consents should ensure in advance that their proposals comply in full with the terms of the Class Consents Order and are advised to take appropriate professional advice.

4.2 Operation of class consents 5 and 7

40. Further to the procedures set out in the Class Consents Order:

- persons proposing to undertake works under class consent 5 should, wherever practicable, discuss their proposals with English Heritage in advance; and
- written specifications of works proposed under class consent 7 should generally be submitted to English Heritage for approval rather than the Secretary of State.

¹¹ http://www.opsi.gov.uk/si/si1994/Uksi_19941381_en_1.htm

4.3 Reform of class consent 1

41. Given the evidence of damage that can be caused to nationally important archaeological sites by modern farming practices, the section of class consent 1 relating to agriculture will be progressively revoked in relation to scheduled monuments identified by English Heritage as priorities for enhanced management action following consideration of:

- the risks posed to them by continued cultivation;
- their significance; and
- the practicality of implementing alternative management options (such as an Environmental Stewardship scheme¹² delivered by Natural England on behalf of the Department for Environment, Food and Rural Affairs).

42. Further information about the reform of class consent 1 will be published in due course.

¹² <http://www.naturalengland.org.uk/ourwork/farming/funding/es/>

Section 5: Planning permission and development consent orders

5.1 Planning permission

43. Scheduled monument consent (SMC) and planning permission are separate statutory requirements, governed by different laws which serve different purposes. What is material to one decision will not necessarily be material to the other.
44. Both SMC and planning permission are required where 'works' defined in section 2(2) of the Ancient Monuments and Archaeological Areas Act 1979 are also 'development' defined in section 55 of the Town and Country Planning Act 1990. Consent granted under one regime is without prejudice to the other. Where both are required, the applicant must obtain both consents before work can commence.
45. SMC and planning permission are both required where development would have a direct impact on the legally protected area of a monument, as defined in the scheduling documents. However, the provisions of the 1979 Act do not extend beyond that.
46. In terms of impact of development on the setting of a scheduled monument, securing the preservation of the monument 'within an appropriate setting' as required by national policy is solely a matter for the planning system. Whether any particular development within the setting of a scheduled monument will have an adverse impact on its significance is a matter of professional judgement. It will depend upon such variables as the nature, extent and design of the development proposed, the characteristics of the monument in question, its relationship to other monuments in the vicinity, its current landscape setting and its contribution to our understanding and appreciation of the monument.
47. National policy on the conservation of heritage assets with archaeological interest (including both scheduled monuments and nationally important, but non-scheduled monuments) through the planning system is set out in Planning Policy Statement (PPS) 5: *Planning for the Historic Environment*¹³.

¹³ <http://www.communities.gov.uk/publications/planningandbuilding/pps5>

5.2 Development consent orders under the Planning Act 2008

48. In deciding applications for development consent orders which affect, or are likely to affect, a scheduled monument or its setting, the decision maker – either the Infrastructure Planning Commission¹⁴ or the Secretary of State – is required by The Infrastructure Planning (Decisions) Regulations 2010¹⁵ to have regard to the desirability of preserving the scheduled monument or its setting.

¹⁴ <http://infrastructure.independent.gov.uk/>

¹⁵ http://www.opsi.gov.uk/si/si2010/draft/ukdsi_9780111490266_en_1

Annex 1: Criteria for assessing the national importance of monuments

The following criteria (which are not in any order of ranking), are used by the Secretary of State for assessing the national importance of a monument and considering whether scheduling is appropriate. They should not be regarded as definitive; but as indicators which contribute to a wider judgment based on the individual circumstances of a case.

- **Period:** all types of monuments that characterise a category or period should be considered for preservation.
- **Rarity:** there are some monument categories which are so scarce that all surviving examples which still retain some archaeological potential should be preserved. In general, however, a selection must be made which portrays the typical and commonplace as well as the rare. This process should take account of all aspects of the distribution of a particular class of monument, both in a national and a regional context.
- **Documentation:** the significance of a monument may be enhanced by the existence of records of previous investigation or, in the case of more recent monuments, by the supporting evidence of contemporary written or drawn records. Conversely, the absence of documentation can make the potential of a monument more important as the only means of developing our understanding.
- **Group Value:** the value of a single monument (such as a field system) may be greatly enhanced by its association with related contemporary monuments (such as a settlement and cemetery) or with monuments of different periods. In some cases, it is preferable to protect the complete group of monuments, including associated and adjacent land, rather than to protect isolated monuments within the group.
- **Survival / Condition:** the survival of a monument's archaeological potential both above and below ground is a particularly important consideration and should be assessed in relation to its present condition and surviving features.
- **Fragility / Vulnerability:** highly important archaeological evidence from some field monuments can be destroyed by a single ploughing or unsympathetic treatment; vulnerable monuments of this nature would particularly benefit from the statutory protection which scheduling confers. There are also existing standing structures of particular form or complexity whose value can again be severely reduced by neglect or careless treatment, and which are similarly well suited by scheduled monument protection.
- **Diversity:** some monuments may be selected for scheduling because they possess a combination of high quality features, others because of a single important attribute.
- **Potential:** on occasion, the nature of the evidence cannot be specified precisely, but it may still be possible to document reasons anticipating its existence and importance and so to demonstrate the justification for scheduling. The greater the likelihood that

such evidence will be revealed through archaeological investigation, the stronger will be the justification for scheduling.

Annex 2: Sources of information and advice about scheduled monuments

An up-to-date copy of the schedule of monuments is available for inspection at English Heritage's public archive, the National Monuments Record (NMR)¹⁶.

Historic Environment Records (HERs) also hold copies of schedule entries relating to scheduled monuments in their locality, together with additional information about these and other heritage assets with archaeological interest (including nationally important, but non-scheduled monuments). Contact details for HERs can be found on the Heritage Gateway¹⁷.

Datasets relating to scheduled monuments available for download from the Internet include:

- spatial data suitable for use in Geographic Information Systems (from the NMR section of English Heritage's website); and
- extracts of schedule entries and maps depicting scheduled monuments (from the Multi Agency Geographic Information for the Countryside (MAGIC) website¹⁸).

Practical guidance for owners and occupiers of heritage assets with archaeological interest (including both scheduled monuments and nationally important, but non-scheduled monuments) is published by English Heritage on the Historic Environment – Local Management (HELM) website¹⁹.

Professional advice relating to heritage assets with archaeological interest (including both scheduled monuments and nationally important, but non-scheduled monuments) can be obtained by contacting the relevant English Heritage regional office²⁰ or County Archaeologist²¹.

¹⁶ <http://www.english-heritage.org.uk>

¹⁷ <http://www.heritagegateway.org.uk/>

¹⁸ <http://www.magic.gov.uk/>

¹⁹ <http://www.helm.org.uk/>

²⁰ <http://www.english-heritage.org.uk>

²¹ <http://www.algao.org.uk>

Annex 3: Glossary

- **Archaeological interest:** an interest in carrying out an expert investigation at some point in the future into the evidence a place may hold of past human activity. Heritage assets with archaeological interest are the primary source of evidence about the substance and evolution of places, and of the people and cultures that made them. They are part of a record of the past that begins with traces of early humans and continues to be created and destroyed.
- **Conservation:** the process of maintaining and managing change to a heritage asset in a way that preserves, and where appropriate, enhances its significance.
- **Heritage asset:** a building, monument, site, or landscape that has been positively identified as having a degree of significance meriting consideration in planning and decision making. Heritage assets are the valued components of the historic environment, whether they are designated or not.
- **Historic environment:** all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and deliberately planted or managed flora. Those elements of the historic environment that have significance are called heritage assets.
- **Historic Environment Record (HER):** information services maintained by local authorities and National Park Authorities with a view to providing access to comprehensive and dynamic resources relating to the historic environment of an area for public benefit and use. Typically, they comprise databases linked to a Geographic Information System (GIS), and associated reference material, together with dedicated staffing resource.
- **Setting:** the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- **Significance:** the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic²².

²² Many heritage assets are also significant in terms of their natural heritage interest.



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