

**UK GOVERNMENT WHITE PAPER CONSULTATION ‘PLANNING FOR THE FUTURE’
CHESTER ARCHAEOLOGICAL SOCIETY RESPONSE**

SUMMARY OF ANSWERS TO QUESTIONS, WITH REFERENCES TO FULL TEXT

(Note that the full text includes matters not covered by the questions; we contest some of the assumptions behind the White Paper and, crucially, it makes no mention of archaeology)

<i>Consultation question</i>	<i>Summary response</i>	<i>Full text section reference</i>
2a <i>Do you get involved with planning decisions in your local area?</i>	Yes	1.2
3 <i>How would you like to find out about plans and planning proposals in the future?</i>	Council planning portal; local online news (as at present)	3.2 d)
4 <i>What are your top three priorities for planning in your local area?</i>	Protection of existing heritage buildings or areas; The design of new homes and places	1.2
10 <i>Do you agree with our proposals to make decision-making faster and more certain?</i>	In part	3.2 c), 4.4.4, 5.3
11 <i>Do you agree with our proposals for accessible, web-based Local Plans</i>	Wholesale change not needed	3.2 d)
15 <i>What do you think about the design of new development that has happened recently in your area?</i>	Mixed; some good, some poor	6.1
16 <i>What is your priority for sustainability in your area?</i>	Preserving historic monuments and buildings and enhancing their settings and conservation areas generally through the quality of new design; Less reliance on cars; More green and open spaces	5.1
17 <i>Do you agree with our proposals for improving the production and use of design guides and codes?</i>	Yes (cautiously)	5.2–5.6
18 <i>Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?</i>	Yes (cautiously)	6.2
21 <i>When new development happens in your area, what is your priority for what comes with it?</i>	Preserving historic monuments and buildings and enhancing their settings and conservation areas generally through the quality of new design	5.1
22 (a)–(d). <i>Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new Consolidated Infrastructure Levy...?</i>	Should possibly also be used to pay for extra local authority costs of preparation of coordinating codes and archaeological assessment/evaluation	4.4.4

CHESTER ARCHAEOLOGICAL SOCIETY RESPONSE: 'QUIS CUSTODIET IPSOS CUSTODES? (WHO WILL INSPECT THE INSPECTORS?)'

Key Points

- We contest some of the assumptions behind the White Paper.
- Digitisation of planning processes is not a 'silver bullet'.
- We welcome the recognition of the value of historic buildings.
- We regret the absence of any mention of archaeology. In accordance with the Valletta Convention, the granting of outline planning permission needs to be underpinned by adequate knowledge of and provision for archaeology.
- Design- and coordinating codes offer the possibility of raising standards and delivering greater certainty but do not automatically guarantee good outcomes.
- We welcome the admission that local authority planning departments are under-staffed and under-skilled. Design needs to be given greater weight.
- The quality of new development will not be improved without the enforcement of policies and codes. We remain sceptical as to how this will be achieved.

1.0 The Chester Archaeological Society

1.1 The Chester Archaeological society was founded in 1849. Its objects are: 'the preservation and improvement of archaeological sites and landscapes, ancient monuments, historic buildings and spaces and other antiquities situated in, discovered in or connected with Chester, Cheshire and North Wales' and the education of the public in these matters.

1.2 As well as publishing articles from the voluntary, commercial, public and academic sectors in a peer-reviewed annual journal with an international readership, the Society responds to local and national consultations on archaeology and built heritage – principally on new development likely to have an impact on these resources (**Questions 2a, 4**). Responses on local matters are perforce largely restricted to the Chester City Centre or suburban Conservation Areas.¹

2.0 General Observations on the White Paper and Scope of Comments

2.1 The reforms are largely aimed at increasing the supply of houses but in fact will affect all categories of development. The White Paper does not itself justify the number of houses that the Government considers is needed or say in which areas they should be built. However, there seems to be a new national target, divided up across the country by an algorithm that is weighted to the south-east and to rural areas rather than to towns and cities; it would be mandatory and leave local authorities no discretion. For Cheshire, it would double the target outlined in the current standard methodology but would be below the actual build rate in recent years.²

¹ For more information on the Society, see <http://www.chesterarchaeolsoc.org.uk>.

² <https://lichfields.uk/grow-renew-protect-planning-for-the-future/how-many-homes-the-new-standard-method/#method>.

- 2.2 There are obvious questions about how the target has been arrived at; the rationale for its distribution across the country and how this relates, for example, to the location of industry, transport and natural resources; the democratic legitimacy of imposed, binding targets and the reduction of control by local authorities and the communities they represent; and whether indeed it is the nature of the present planning system that slows down the construction of houses. Doubtless all these questions will be examined at the political level; they are beyond the remit and expertise of this Society. There are also many other important matters that we do not consider: for example, easier change of use from commercial/retail to residential, which may result in substandard accommodation.
- 2.3 Our comments are limited to two narrow areas: the place of archaeology in any reformed planning system, and the design quality of new developments, especially in conservation areas or which affect historical monuments and buildings. It is important that reforms are evidence-based, and we therefore cite local examples to support our statements, with references where possible. Not all of the points that we raise are covered by questions in the White Paper, but we consider it important that they are made; where they do relate to specific questions, this is indicated **in bold type** (as in para 1.2 above).

3.0 Misapprehensions

- 3.1 Based on our local experience, there are a number of basic misapprehensions in the White Paper: a) that it is the complexities of local plans that delay development; b) that it is special interest groups (such as the Chester Archaeological Society?) who oppose or delay development by 'gaming' the system; c) that evidence-base documents do not sufficiently aid decision-making; and d) that digitisation is a 'silver bullet' that will increase popular engagement and speed up permissions.
- 3.2 a) In our experience, planning applications can be approved very quickly; where they are not, it is because there are real problems with them or there simply are not enough planning officers to process them. The area of Green Belt released for housing under the current Cheshire West and Chester (CWaC) *Local Plan* at Wrexham Road, south of Chester, and the greenfield site at Ledsham Road, near Ellesmere Port, are both being built up rapidly. The problems on 'brownfield' or infill sites within the Chester Conservation Areas tend to be design issues as a result of the apparent inability of developers and their architects to follow clear guidance.³

We therefore do not entirely accept that:

Local Plans do not provide enough certainty around the approved forms of development, relying on vague and verbal statements of policy rather than the popularly endorsed visual clarity that can be provided by binding design codes. This means that quality can be negotiated away too readily and the lived experience of the consumer ignored too readily (White Paper, page 18).

The parameters for design set out in the Cheshire West and Chester (CWaC) *Local Plan Part Two* (eg policies CH 5, CH 6, DM 3, DM 46) and in the *Chester*

³ See, for example, our comments on a crude proposed redevelopment in Lower Bridge Street (Planning Application 18/04893/FUL): http://www.chesterarchaeolsoc.org.uk/wp-content/uploads/2019/01/CAS_Plan_Consult19_LowerBridgeStreet_QuicksGarage_PC_Comments_V01.pdf.

Characterisation Study are certainly verbal but they are not in the least vague.⁴ However, they are certainly negotiated away, by planning officers, followed by councillors, on the pretext of 'sustainable development' or under the threat of appeal, and they may simply be ignored by government planning inspectors, by Historic England inspectors, and indeed by the local authority itself. (See further under 6.0 below)

b) In the past decade the Chester Archaeological Society has not opposed the principle of any development in the borough; having participated in the consultations on the current *Local Plan*, it would be hard put to oppose developments consistent with the plan. However, it has made numerous criticisms of the details of proposals, but wherever possible with constructive comments on how they might be improved.

c) If we are to add certainty to development and 'build better', evidence base studies behind local plans will continue to be important in providing essential information and avoiding unforeseen complications. For example, the *Chester Characterisation Study* referred to above provides the background information on the townscape of the city's Conservation Areas that is needed to guide sympathetic development. Likewise the *Chester Archaeological Character Zones* and *Chester Archaeological Plan* (parts of the Chester Archaeological Database: http://www.cheshirearchaeology.org.uk/?page_id=156) summarise the character, significance and likely depth of archaeology across the city, the likely constraints on development, and the procedures that need to be followed to avoid delays (**Question 10**).

d) The White Paper underestimates the extent of existing digitisation. In CWaC, planning processes have been moving increasingly online since 2012 at least, and it is through the planning portal on the council website that this Society engages with application consultations, sometimes alerted by local online news (**Question 3**). At the moment there are two borough-wide interactive maps showing planning constraints, with links to the text of the relevant *Local Plan* policies (<https://maps.cheshirewestandchester.gov.uk/cwac/webmapping>; <https://maps.cheshirewestandchester.gov.uk/cwac/localplan>); a third map shows planning applications. It is clear that a lot of progress has been made; equally there appears to be scope for rationalisation and improvement.

However, digitisation is not a 'silver bullet'. Old-fashioned notices on lamp posts are a reasonable way of bringing planning applications to people's attention – especially those who do not usually engage with the process. Moreover, even with digitisation, we are sceptical of the idea that worthwhile public engagement can be made simple. Planning is by its nature complex, with many factors needing to be considered, and if the government wants higher-quality developments with longer lives, then it will become more complicated. Public meetings to discuss ideas for sites are an established means of consultation, but they need to be held at an early stage so that alternatives can be taken on board. From our experience we are sceptical of some 'consultation' sessions held by the local authority and by private developers; these have usually been held at a late stage, when it is difficult and expensive to make

⁴ CWaC *Local Plan Part Two*: https://cheshirewestandchester.objective.co.uk/portal/cwac_ldf/adopted_cwac_lp/parttwo_adopted; *Chester Characterisation Study*: https://inside.cheshirewestandchester.gov.uk/policies_plans_and_strategies/planning_policy/local_plan/key_social_economic_and_environmental_planning_evidence_base/chester_characterisation_study.

changes to a scheme, and consequently turn out to be little more than cosmetic (**Question 11**).

4.0 Archaeology

4.1 Despite the welcome references to World Heritage Sites, conservation areas, historic buildings and areas and designated heritage assets (pages 56–8), there is no explicit mention of archaeology in the White Paper. There is a reference to international law and treaties in connection with the environmental impact of development, but there is no reference to the Valletta Convention of 1992 (based on the London Convention of 1969).

4.2 Current Practice

Over the past thirty years most archaeological excavation in England has been developer-funded. This has led to the discovery and investigation of a wider range of sites across a much broader landscape than before, transforming our knowledge of the country's past. 'Heritage assets' are to be found not just in traditional 'honeypot' sites like the centre of Chester (ie in what may become 'Protected Areas'), but in 'Growth' and 'Renewal' areas as well – especially the last-mentioned, which by definition have seen previous occupation. The character and significance of archaeological sites will often be largely unknown before excavation; indeed, existing knowledge may do little more than hint at their existence, and *a fortiori* they are not designated. The problem of site recognition is particularly acute across much of rural lowland north-west England (ie potential Growth areas), where archaeology is often not easily visible on the surface, eg through aerial photos, finds discovered through fieldwalking or metal-detecting, because of the nature of the terrain and the long-term history of the region.⁵ In Renewal areas, where archaeological remains may have been recorded in the course of previous development, the degree of survival may nevertheless vary considerably over a small distance, eg because of cellarage.⁶

4.3 Currently investigation takes place on a site-by-site basis, typically with a desk-based assessment of existing information to assess the likelihood of archaeological remains and then trial excavation (evaluation) pre-determination to clarify their character, significance and degree of survival, and an archaeological programme before construction imposed as a planning condition. Thus the archaeological response is

⁵ Eg The Chester Business Park excavation in 2003, on a greenfield site 3km south of the city centre, revealed a Roman rural settlement in a part of the country where these are difficult to locate. The investigation was prompted by records of just a handful of coins in the general area, and remains were found only after extensive trial trenching and topsoil stripping. Again, the environs of the former Saughton Army Camp, 3km SE of the centre of Chester, built on a greenfield site prior to World War II, produced few clear surface indications of archaeology. When the camp was redeveloped for housing, investigations by archaeologists working alongside a number of developers over at least seven years recovered the remains of Roman and medieval farmsteads. The former produced wholly unexpected fragments of statuary, suggesting higher-status buildings nearby.

⁶ The former Odeon cinema in the centre of Chester was recently extended over the site of a basemented 1960s office block. Archaeological excavation found the predicted end of a Roman building previously investigated on an adjacent site, and additional buildings whose existence could be guessed at. However, it was uncertain whether anything would survive because of the basement, and this had to be established by trial excavation. The latest results make a valuable contribution to our knowledge of the plan and function of the Roman legionary fortress. (This example comes from a conservation area, but the point about inter-site variability in survival stands).

carefully tailored to the development - no more or less than needed. Groundworks may be modified to avoid disturbing remains more than is inevitable, with the result that more survives to be investigated by future generations: archaeological remains are an irreplaceable cultural resource. This is infinitely better than the situation in the 1960s, when some sites were excavated in their entirety (sometimes to a low standard) prior to development, leaving nothing behind for future generations to re-examine, and others not investigated at all and destroyed without record. It is essential that this nuanced approach survives if there is a system of designated 'Growth' and 'Renewal' areas (and even 'Protected' conservation areas will see some renewal).

4.4 *Recommendations*

4.4.1 We agree with the *Joint Initial Response to 'Planning for the Future' White Paper*, 7 August 2020 by the Council for British Archaeology and the Chartered Institute for Archaeologists:

More than 90% of all known heritage assets are undesignated and these assets make a key contribution to local placemaking and identity, as well as carrying vital information about our heritage. Many heritage assets also remain undiscovered and it is critical that processes for managing archaeological discoveries through the planning system exist.

4.4.2 There should be an explicit acceptance of the Valletta Convention, which recognises archaeological heritage as a source of collective memory and as an instrument for historical and scientific study and integrates its conservation, investigation and enhancement into urban and regional planning policies. The present system of developer funding works well in minimising the damage to irreplaceable remains and securing appropriate investigation and should be retained so far as possible.

4.4.3 Growth, Renewal and Protected areas should be treated according to the same principles: ie the designation of areas for outline planning permission, masterplans, design- and coordinating codes for new construction and any remaining 'one-off' permissions need to be informed by an appropriate level of knowledge of the archaeological resource and should protect it as far as possible; where loss is unavoidable, there should be arrangements for appropriate recording. The 'proactive plan-making' that the White Paper envisages for local government planning officers (page 70) therefore needs to be extended to archaeological officers as well. Extensive urban surveys such as the *Cheshire Historic Towns Survey* (http://www.cheshirearchaeology.org.uk/?page_id=173) will be necessary to identify areas of archaeological potential, with more detailed information such as that in the Chester Archaeological Character Zones indicating the likely general constraints on groundworks associated with new development. Where this detailed level of information does not exist, evaluation will be necessary. Even where the archaeology of a historic settlement is well known, there will be gaps in knowledge that are relevant when designing individual buildings, with further evaluation required to permit mitigation through modifications to design, followed by an archaeological programme where necessary. On greenfield sites, documents such as the Cheshire Historic Landscape Project (http://www.cheshirearchaeology.org.uk/?page_id=175) are also likely to be relevant.

4.4.4 While such a system may provide speed and certainty for developers once outline planning permission has been granted, the time and cost of the preparatory work

indicated above should not be underestimated. Regarding cost, one solution might be for local authorities to pay for any 'upfront' archaeological work out of the proposed Consolidated Infrastructure Levy, and the eventual developers to pay for the work arising from the construction of particular buildings; the latter would still provide an incentive to minimise the loss of the archaeological resource and the consequent cost to the developer. A possible problem is that there will inevitably be competing demands for money from the proposed levy, and one can easily envisage that local authorities will try to minimise the amount devoted to archaeology (**Question 22**).

5.0 Built Environment

- 5.1 One of our interests as a Society lies in preserving historic monuments and buildings and enhancing their settings and conservation areas generally through the quality of new design. In recent years we have also increasingly advocated a reduction in car use within the city walls at Chester to protect its historic character from continual demands for road-widening and additional car parks and to allow people to explore and enjoy its built heritage more easily, as well as for the health benefits. We have also advocated the restoration of historical green space (**Questions 16 and 21**).⁷
- 5.2 We agree with much of the section 'Planning for Beautiful and Sustainable Places' in the White Paper (pages 44–59) and with the *National Design Guide*, especially the 'Components for Good Design' (pages 5–7) and the 'Ten Characteristics of Well Designed Places' (pages 10–29). The concept of design- and coordinating codes (eg White Paper, pages 48, 52 and 70) may be useful in making existing local background studies and policies (eg those in the *Chester Characterisation Study* and the *Cheshire West and Chester Local Plan Part Two*) more clearly applicable to specific streets and localities, especially when communities and local authorities are dealing with unscrupulous developers (**Question 17**).
- 5.3 Rather than the present situation, where development schemes can be drawn up more up or less *in vacuo* and may only be judged against local plan policies at the last moment, a system where local authority planners proactively draw up design- and coordinating codes with community involvement could offer certainty not only to developers but to planning committee members, who would not feel obliged to approve poor-quality schemes *faute de mieux* or in fear of an appeal, and to residents who have to live with the results (**Question 10**).
- 5.4 However, while some codes, eg those that respond to the nuances of topography and existing high-quality buildings and environments, may work well, they do not automatically guarantee success; the results can be wholly uninspired: see the blog by Prof M Carmona (Bartlett School of Planning, UCL), *Do zoning and local design codes offer a fast-track route to beauty?* <https://matthew-carmona.com/2020/08/10/74-do-zoning-and-local-design-codes-offer-a-fast-track-route-to-beauty/>.
- 5.5 A weakness in the White Paper (page 35) is that it foresees development in Protected areas (eg conservation areas) continuing to come forward through planning applications to the local authority and being judged purely against policies in the

⁷ See our responses to the CWaC 'Walk, Ride, Thrive' consultation: http://www.chesterarchaeolsoc.org.uk/wp-content/uploads/2020/06/CAS_PlanConsult20_CWaC_WalkRideThrive_PC_Comments_V02.pdf and to the CWaC High Street, Town and City Centre Commission: http://www.chesterarchaeolsoc.org.uk/wp-content/uploads/2020/07/CAS_PlanConsult20_CWaC_HighStreetCommission_PC_Comments_V03.pdf para 2.4.1.

National Planning Policy Framework. If the government is serious about protecting historical buildings and areas, it is vital that local design- and coordinating codes are devised for these as for other areas and are strictly enforced. In these areas above all, Permitted Development Rights need to be subject to clear design constraints.

- 5.6 As with archaeology, while a system of codes may provide speed and certainty once outline planning permission has been granted, the time of the preparatory work outlined above should not be underestimated.

6.0 Implementation and Enforcement

- 6.1 We welcome the recognition that local government planning departments are under-resourced and under-skilled, especially in design. The treatment of buried archaeology by CWaC has been competent and sometimes imaginative, but decisions on new build have been, as the White Paper states (page 18), discretionary and inconsistent, despite the existence of clear and detailed policies and guidance in the *Local Plan Part Two* and the *Chester Characterisation Study*.⁸ There has been a maladroitness in deflecting poor-quality schemes, which have sometimes been rejected by Planning Committee in accordance with the *Local Plan* only to be allowed by government inspectors on appeal.⁹ Advice from Historic England has likewise been inconsistent, again probably in part because of the shortage of staff in the regional office: their support for the protection of buried archaeology has been

⁸ For the Northgate Development Phase One, a large site in the Chester City Centre Conservation Area, CWaC has given itself permission to build a market-cum-cinema and multi-storey car park wholly out of scale and character with neighbouring buildings and local topography (19/02187/FUL and 19/02222/S73), contrary to *Local Plan Part Two* policies, eg CH 1, 5 and CH 5, and the criteria set out in the *Chester Characterisation Study*. The Chester Design Review Panel 'did warn against the overall impression of the scheme in terms of form, and material feeling like a 1990's shopping area. Within the context of localism, the panel would suggest further thought on how the scheme can be adjusted to reflect the locality more creatively.' A similar critique was made of an earlier iteration by this Society, but it and the comments of the Design Review Panel were ignored.

Most egregiously, despite a warning from this Society, CWaC was content to approve development in Newgate Street (18/01456/FUL) immediately adjacent to the historic city walls (a Scheduled Ancient Monument and Grade I Listed Building) that resulted in the collapse of the wall: see http://www.chesterarchaeol社.org.uk/wp-content/uploads/2018/05/CAS_Consult18_15-19_Newgate_Street_PC_Comments_V02.pdf.

Examples of sympathetic design include the new Bus Interchange on Gorse Stacks and Hotel Indigo on Grosvenor Park Road. The best and worst developments in Chester are listed in Chester Civic Trust's annual 'Good, Bad and Ugly' awards, which are largely consistent with our own judgements (see most recently <https://chestercivictrust.org.uk/winners-of-2020-good-bad-and-ugly-awards/>).

⁹ See our objections to an application for student accommodation at Hunter Street in the heart of the Chester City Centre Conservation Area (16/02586/FUL), based on Local Plan policies: http://www.chesterarchaeol社.org.uk/wpcontent/uploads/2017/02/CAS_PlanConsult16_HunterStreetStudentHousing_PC_Comments_V02.pdf. The application was rejected by CWaC Planning Committee (rightly in our view) against the advice of officers but was allowed by the government planning inspector on appeal.

A recent application for a large, slab-sided eight-storey block of student accommodation on Black Diamond Street, near to the railway station (16/05458/FUL), in an area of two- and three-story housing and just outside the Conservation Area, was unanimously rejected by CWaC Planning Committee but allowed by a government inspector on appeal on the grounds that there were buildings of varying heights in the wider area. However, these either stand in their own grounds or have a broken roof line. This application has now lapsed but a precedent has been set and an even more featureless hotel has perforce been approved (19/03845/OUT).

meticulous, but the quality of comments on new design has varied wildly.¹⁰ It is no wonder that developers persist in submitting poor-quality schemes and that the standard of approved development is sometimes low (**Question 15**). No policies will succeed unless all relevant authorities have the resources, skills and determination to implement them.

Thus again we agree with Prof Carmona (*loc cit*):

It is evident that more often than not the current planning system delivers unsustainable and unattractive large-scale development..... Planning needs to take its share of the blame for this sad state of affairs, but the root cause is a shared and systemic failure of housebuilders, local authorities (highways authorities as well as planning) and successive governments. Collectively, and for decades, they have failed to prioritise the delivery of well designed coherent bits of city that maximise 'place value'. To the extent that this is a failure of planning [it] stems, not fundamentally from the type of system (when it works well it works really well), but from the systematic decimation of skills, capacity and the confidence to proactively shape development for the better.

6.2 Overall we consider that CWaC has so far done well in managing archaeology. However, despite appropriate and clearly worded policies, its record in securing high-quality new development has been patchy and, acting as a developer, the council has conspicuously infringed those policies. The position of Historic England has been erratic, and government planning inspectors have supported appeals to permit poor-quality developments and have thus conspired to drive down standards. We therefore return to the question in our title: '*Quis custodiet ipsos custodes?*' 'Who will inspect the inspectors?' The use of binding codes for developments in all areas, large or small, could remove any ambiguity about what is permissible, but there also needs to be a change in attitudes. The appointment of a knowledgeable and authoritative chief officer for design and placemaking could lead to greater weight being given to these matters and greater consistency in local decision-making (**Question 18**). However, there also needs to be a change of attitude in the government's planning inspectorate. For example, the White Paper (page 37) envisages inspectors siding with developers against local authorities. Perhaps, instead, their role should be to uphold agreed local plans and drive up the standard of development.

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5 October 2020

¹⁰ Because of the underlying archaeology and number of Listed Buildings, Historic England frequently comment on planning applications in the centre of Chester. While their comments on the design of some proposed buildings have been well considered, in other cases (especially with regard to iterations of the Northgate Development) they have clearly 'pulled their punches', and like CWaC they overlooked the danger to the city walls posed by the Newgate Street development.