

2/2011 PLANNING AND ARCHAEOLOGY

PLAN

Planning Advice Note

PAN 2/2011

PLANNING AND ARCHAEOLOGY

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PLANNING SERIES:

- **Scottish Planning Policy (SPP)** is the statement of the Scottish Government policy on nationally important land use planning matters.
- **National Planning Framework (NPF)** is the Scottish Government's strategy for Scotland's long term spatial development.
- **Circulars**, which also provide statements of the Scottish Government's policy, contain guidance on policy implementation through legislative or procedural change.

Statements of Scottish Government policy in the SPP, NPF, Designing Places, Designing Streets and Circulars may be material considerations to be taken into account in development plans and development management decisions.

Designing Places, Designing Streets and the West Edinburgh Planning Framework have the same status in decision making as the SPP and NPF.

Planning Advice Notes (PANs) provide advice and information on technical planning matters.

Design Advice Guidance will provide guidance and information on design matters covering a range of practical projects and roles.

Further information on the Scottish Government's role in the planning system is available on <http://www.scotland.gov.uk/Topics/Built-Environment/planning>

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INTRODUCTION

1. This Planning Advice Note (PAN) supersedes PAN 42 Archaeology – the Planning Process and Scheduled Monuments Procedures. It sits alongside [Scottish Planning Policy \(SPP\)](#), [Scottish Historic Environment Policy \(SHEP\)](#) and the [Managing Change in the Historic Environment Guidance Notes](#), which together set out the Scottish Ministers' policies for planning and the historic environment. This PAN is intended to inform the day-to-day work of a range of local authority advisory services and other organisations that have a role in the handling of archaeological matters within the planning process. It should be noted that there are specific controls for works directly affecting monuments scheduled under the Ancient Monuments and Archaeological Areas Act 1979. These are set out in SHEP and managed by Historic Scotland on behalf of Scottish Ministers.

THE IMPORTANCE OF ARCHAEOLOGY

2. Archaeology is the study of the material remains of the human past. Archaeological remains are a finite and non-renewable resource containing unique information about how Scotland's historic and natural environments developed over time, contributing to our local, regional and national identities. Archaeological remains are valuable for their own sake, for the important contribution they make to sense of place, and as a leisure, education and tourism resource. There are remains of every period and many types, ranging from upstanding masonry structures and historic buildings to less obvious features, such as artefact scatters, cropmarks, ancient settlements and field systems, and urban archaeological deposits. In some parts of Scotland, extensive areas obviously influenced and characterised by archaeological features are recognised as archaeological landscapes. This includes Battlefields. Many important archaeological features also exist under the sea such as ship wrecks and submerged landscapes.
3. There are formal records of over 300,000 sites and monuments in Scotland, with records increasing each year. Over 8,000 of these are designated as of national importance and are protected as scheduled monuments under the [Ancient Monuments and Archaeological Areas Act 1979](#). Not all nationally important sites have yet been designated. The policy of Scottish Ministers on scheduling and scheduled monument consent is set out in chapter 2 of SHEP. Many archaeological sites in the marine environment are protected by scheduling or by designation under the [Protection of Wrecks Act 1973](#), the [Protection of Military Remains Act 1986](#) or the [Marine \(Scotland\) Act 2010](#). Our understanding is continually expanding, as many important archaeological features remain undiscovered.

ARCHAEOLOGY AND PLANNING

4. Scottish Ministers' policy for protecting archaeological remains through the planning system is contained in SPP. Government policy is to protect and preserve archaeological sites and monuments, and their settings, *in situ* wherever feasible. Where preservation *in situ* is not possible, planning authorities should consider applying conditions to planning consents, listed building consents and conservation area consents to ensure that an appropriate level of excavation, recording, analysis, publication and archiving is carried out before and/or during development. The interpretation and preservation *in situ* of archaeological remains should be seen as a positive resource that can contribute to a sense of place in new development.
5. In considering planning applications, planning authorities should take into account the relative importance of archaeological sites. World heritage sites are of international importance and scheduled monuments are of national importance and should be preserved *in situ* and in an appropriate setting. However, not all archaeological sites and monuments are of equal importance.
6. In determining planning applications that may impact on archaeological features or their setting, planning authorities may on occasion have to balance the benefits of development against the importance of archaeological features. The weight that should be given to archaeological considerations will depend on a number of factors, including:
 - the relative rarity of the archaeological feature concerned;
 - the completeness of the feature / whether it is a particularly good example of its type;
 - the historical or cultural associations of the feature;
 - the value given to the feature by the local community;
 - the potential value of the feature as an *in situ* educational or research resource; and
 - the potential value of retaining the feature for tourism or place-making.

Since this list is not exhaustive, in considering these factors, it will benefit planning authorities to seek professional advice from their archaeological advisor.

7. Some development proposals with archaeological implications will benefit from permitted development rights. For instance, many operations by public utilities do not require planning consent, although this does not remove the need for other consents such as scheduled monument consent. In these circumstances it is still essential to comply with the Scottish Ministers' vision for the historic environment as set out in the SHEP and to consult the local authority archaeologist at an early stage for advice about potential presence of archaeological remains, and guidance on how to proceed. Where development has a direct impact on a scheduled monument, developers should contact Historic Scotland.

8. Marine planning legislation, governed by [Marine Scotland](#), allows effective management of the majority of competing demands on marine resources. However, planning of marine aquaculture development falls to local authorities unless those powers have been specifically ceded to Marine Scotland. For all developments, the principles of preservation *in situ*, or mitigation where necessary, outlined in SPP, SHEP and this document apply equally to sites on land or under water. Scotland's marine historic environment records are generally held by RCAHMS.
9. Archaeological issues are often significant in minerals planning. A steady supply of minerals is essential to our economic, infrastructure and community needs but the extraction of minerals can present a threat to archaeological remains. Because minerals can only be worked where they are found there may be less flexibility over the choice of location than for other forms of development. In considering the information necessary to make decisions on applications for extraction, and in designing programmes of mitigation when consent is granted, there is a need to pay particular attention to the affordability of archaeological requirements. Only sufficient information to characterise the archaeological content and potential of application areas should be required with applications. Phasing of post-consent mitigation programmes should be considered the norm, rather than seeking to have all mitigation work done before any winning of minerals commences. Where scheduled monuments are in the vicinity of minerals developments, developers should discuss their proposals with Historic Scotland at the earliest opportunity to avoid delays later in the planning process. [Minerals Extraction and Archaeology: A Practice Guide \(2008\)](#) prepared by the English Minerals and Historic Environment Forum, provides useful guidance on dealing with archaeological remains as part of mineral development, offering advice on approaches to preservation, excavation, reporting and analysis.

HISTORIC ENVIRONMENT RECORDS

10. It is essential that every planning authority has access to a Sites and Monuments Record (SMR) / Historic Environment Record (HER) (a record of all known sites), curated by a professional archaeologist on behalf of the local authority or a dedicated heritage body.
11. Information held within SMRs / HERs represents an indispensable tool for the formulation of development plans and the determination of planning applications. More generally, the creation and analysis of a SMR / HER is an important first stage in the positive management and preservation of the historic environment for the purposes of education and recreation, and as an input to local history, conservation and tourism projects.
12. An effective SMR / HER will be regularly maintained and updated and easily accessible to the public. It requires 4 main features to be effective:
 - professionally competent curatorship and analysis;
 - a list and description of all known monuments and archaeological sites and finds within the geographic area, to support accurate assessment of their importance;
 - a map record (commonly at a scale of 1:10,000) or digital application which identifies the location and extent (where known) of each monument, site and find-spot; and
 - detailed additional supporting information for specific sites, such as photographs, survey and excavation reports and references to relevant published and unpublished sources, plus links or cross-references to other sources of information, such as the lists of statutorily designated historic environment assets created and maintained by Historic Scotland and the national inventory of sites and monuments held by the Royal Commission on the Ancient and Historic Monuments of Scotland (RCAHMS).

DEVELOPMENT PLANS

13. As stated in SPP, planning authorities should safeguard historic assets through their development plans. Local Development Plans, and where appropriate supplementary guidance, should contain policies to protect archaeological sites. Planning authorities should consider the impact of their spatial strategy on the archaeological resource in their area. Considering the likely impacts at the early stages of the plan preparation process will allow authorities to take into account the implications of proposed allocations. SPP also states that development plans should reconcile the need for development with the interests of archaeology. Planning authorities should base their development plan policies and proposals on a reasoned, critical evaluation of the significance of the archaeological remains in their area, supported with robust data.

PLANNING APPLICATIONS

14. The archaeological development management process is summarised in a flowchart in the annex to this PAN. When determining a planning application, the desirability of preserving a monument (whether scheduled or not) and its setting is a material consideration. Early consultation with the local authority archaeologist is essential to assess the likely impact of development proposals and to set out the parameters and scope of possible mitigation measures. The objective should be to assure the protection and enhancement of monuments by preservation *in situ* in an appropriate setting (perhaps with a degree of interpretation) or, when preservation *in situ* is not possible, by recording and/or excavation followed by analysis and publication of the results.

EARLY DISCUSSIONS BETWEEN DEVELOPERS AND PLANNING AUTHORITIES

15. Prospective developers should undertake an initial assessment of whether a property or area is known or likely to contain archaeological remains as part of their pre-planning application research into development potential. Developers may wish to commission their own professionally competent archaeological organisation or consultant, whose work should meet the Institute for Archaeologists (IfA) quality standards, to develop this aspect of their proposals. It is strongly recommended that developers seek early advice from the local authority archaeologist before considering the submission of a planning or a listed building application in cases where remains are known or thought likely to exist. Such pre-application consultations and discussions can identify potential archaeological issues at an early stage, thereby assisting the smooth processing of a planning application by minimising unnecessary and potentially costly delays. Where a proposed development may affect a scheduled monument or its setting contact should be made with Historic Scotland at the earliest opportunity.
16. When archaeologists know or have good reason to believe that significant remains exist, developers should be open to modifying their plans to reduce the risk of delays later in the planning process; for example, by re-designing foundations which avoid or minimise disturbance or by raising the ground levels on which a proposed structure is to be built, or by careful siting of landscaped or open areas. Techniques are available for sealing archaeological remains under buildings or areas of landscaping.
17. Planning authorities should also seek to include the assessment of archaeological matters in Processing Agreements for the handling of major development applications.

ENVIRONMENTAL IMPACT ASSESSMENT

18. Certain types of development may require Environmental Impact Assessment (EIA) under the [Town and Country Planning \(EIA\) \(Scotland\) Regulations 2011](#). Where EIA is required, the developer must provide an Environmental Statement (ES) setting out the information specified in schedule 3 to the regulations about the site and the likely significant effects of the proposed development on the environment. This should include information relating to any likely significant effects on material assets and archaeological heritage and the measures envisaged to prevent, reduce or offset adverse effects. Practice has shown that the stage of the process at which effects on the historic environment can most readily be taken into account and effective mitigation strategies devised is prior to the submission of an application and its associated ES.
19. Historic Scotland is consulted on EIA through the Scottish Ministers at the key stages of the process and can provide information and advice as part of any pre-application discussions that take place. Local authority archaeologists should also be consulted on each ES in their geographical area. Local authority archaeologists can provide information and advice to developers required to produce environmental assessments and can advise planning authorities on the content of submitted statements. Further information about the EIA procedures can be found in [Planning Circular 3 2011: The Town and Country Planning \(EIA\) \(Scotland\) Regulations 2011](#).

ARCHAEOLOGICAL ASSESSMENTS AND FIELD EVALUATIONS

20. In many cases a Desk Based Assessment (DBA) of existing information from the SMR/HER and other appropriate sources may be sufficient to allow authorities to make a planning decision. But where the professional judgement of the authority's archaeological advisor, based on available evidence, indicates that significant archaeological remains may exist, it is reasonable for the planning authority to request the prospective developer to arrange for an archaeological field evaluation to be carried out before the planning application is determined. However, where archaeological field evaluation is proposed on the site of a scheduled monument, separate consent will be required. In such cases, the planning authority should seek advice from Historic Scotland. Planning authorities should require only the information necessary to enable them to take an informed decision on the proposal, and this should be proportionate to the importance of the potential resource. Archaeological field evaluation is normally a rapid operation, involving a range of techniques including ground survey, historic building assessment, walk-over survey and trial trenching, carried out by a professionally competent archaeological organisation or person. Field evaluations of this kind help to define the character and extent of any remains that exist in the area of a proposed

development, and thus indicate the strength of the case for preservation. They also provide information useful in identifying potential options for minimising or avoiding damage. The work should conform to the [Standards and Guidance for Field Evaluation \(2009\)](#) prepared by the Institute for Archaeologists.

21. When it is evident that a particular development proposal is likely to affect archaeological remains or their setting, 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 outline a strategy for mitigation of the impact of their development upon the archaeological remains.
22. Developers should provide the results of desk based assessments and field evaluations as part of their planning application. They should ensure that all materials recovered by any field evaluation are appropriately disposed of, regardless of the success of an individual planning application.

CONSULTATIONS BY PLANNING AUTHORITIES

23. Planning authorities should ensure that they are fully informed about the nature and importance of the archaeological resource itself, and the importance of its setting. In the case of a development proposal that is likely to affect the site or setting of a scheduled monument, schedule 5 of the [Town and Country Planning \(Development Management\) \(Scotland\) Regulations 2008](#) requires planning authorities to consult Historic Scotland.

PLANNING DECISIONS

24. Once the planning authority has sufficient information, there are a range of options for the determination of planning applications affecting archaeological remains and their setting. In some cases it will be appropriate to refuse permission for development proposals that have an adverse impact on important remains, whether designated or not. Each case must, however, be assessed on its individual merits, taking into account archaeological policies in the development plan together with all other relevant policies and material considerations.

ARRANGEMENTS FOR MITIGATION

25. There will be occasions when planning authorities decide that the significance of the archaeological remains is not sufficient when weighed against all other material considerations, including the benefits of development, to justify their physical preservation *in situ*. Where preservation of remains *in situ* is not justified, a range of measures may be undertaken to mitigate and offset the adverse impacts on the archaeological resource.

26. In such cases, before development commences, planning authorities will need to satisfy themselves that the developer has made appropriate and satisfactory arrangements for the survey, excavation, recording and analysis of the archaeological remains and publication of the results. If such arrangements are not already in place, planning authorities should consider granting planning permission subject to conditions requiring appropriate provision to be made. Recording should be undertaken by a professionally competent archaeological organisation or consultant, whose work should meet the Institute for Archaeologists (IfA) Standards and guidance for [archaeological excavation](#) and [archaeological investigation and recording of standing buildings and structures \(IfA 2008\)](#).
27. Archaeological excavations can offer developers community and media relations opportunities. Excavation results should be published in formats which are suitable for and accessible to both the archaeological community and the wider public. Sometimes it may be possible and desirable to incorporate some aspects of the findings into the development. Such opportunities might include the naming of elements of the development, the provision of information in public spaces, or site open days in addition to the more formal reporting procedures, publications and museum storage and display.

PLANNING CONDITIONS

28. Planning authorities should seek to ensure that potential conflicts are resolved and agreements with developers concluded before planning permission is granted. They may also wish to impose planning conditions designed to protect remains or their setting; to secure archaeological excavation prior to development commencing or, if the expectation of archaeological deposits is limited, to ensure arrangements are made for a watching brief before and during the construction period and to secure appropriate recording of such work and the provision for analysis and publication of results.
29. While the power to impose planning conditions is wide, it should be exercised in a manner which is fair, reasonable and practicable, applying the tests in [Planning Circular 4/1998 - The Use of Planning Conditions in Planning Permission](#). Planning authorities should take professional archaeological advice in drafting conditions.

ARTICLE 4 DIRECTIONS

30. Where planning authorities are aware of a real and specific threat to a significant archaeological site, or its setting, as a result of the potential exercise of permitted development rights as set out in Schedule 1 of the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992](#), they may wish to consider the use of powers under Article 4 of the Order to withdraw those rights and to require specific planning permission to be obtained before development can proceed. Where time allows, it is recommended that the intention to obtain such an Article 4 Direction is stated in the development plan. Most such Directions require the approval of Scottish Ministers, either before they come into effect or within 6 months of being made.

DISCOVERY OF ARCHAEOLOGICAL REMAINS DURING DEVELOPMENT

31. Even following the best pre-planning application research, there may be occasions when the presence of archaeological remains becomes apparent only once development has commenced. In these circumstances, the local authority archaeologist should be informed immediately, and will be able to offer practical advice on the mitigation measures which should be applied by the developer to ensure appropriate excavation, reporting and analysis if preservation *in situ* cannot be achieved. Failure to report may result in a temporary stop notice being issued by the planning authority. Where fresh archaeological discoveries are deemed by Scottish Ministers to be of national importance, in accordance with their published criteria, they have the power to schedule the remains. This can be done in a matter of days. In that event developers would need to seek separate scheduled monument consent before continuing work. A reserve power to revoke planning permission is also available to the planning authority or Scottish Ministers. If exercised compensation may be capable of being claimed.
32. Planning Authorities and developers should be aware of the legal requirement to report the discovery of human remains and archaeological artefacts whether recovered in planned investigation or by chance. Human remains should be reported to the police. Archaeological artefacts should be reported for identification and assessment as possible "[Treasure Trove](#)", or as "[wreck](#)" if found under water. Human remains and artefacts must if possible be left *in situ* while the archaeologist is summoned, rather than being lifted and taken off site.

ENFORCEMENT

33. Planning authorities should be aware of the need to ensure that breaches of planning control do not damage or destroy archaeological remains. While it is always desirable that any breach be resolved informally if possible, it may be important to act immediately to prevent damage or loss once it is established that there is or has been a breach. In particular it may be considered appropriate to issue a temporary stop notice requiring an immediate halt to activity and allowing time for further enforcement action to be put in place to protect the site or archaeological remains. Full details of the enforcement powers available to planning authorities are set out in [Planning Circular 10/2009: Planning Enforcement](#). The [Historic Environment \(Amendment\) \(Scotland\) Act 2011](#) introduced new powers to enable Scottish Ministers to serve scheduled monument enforcement notices, complemented by temporary stop notices where unauthorised works are taking place on a scheduled monument.

KEY BODIES AND ORGANISATIONS

PLANNING AUTHORITIES

34. [Planning authorities](#) should include appropriate and proportionate archaeological policies in the development plan and supplementary guidance. They should take proper account of the importance of protecting and recording archaeological remains when making planning decisions. Planning authorities should ensure they have access to professional archaeological advice, working with a properly maintained SMR / HER.

DEVELOPERS

35. Developers should consider the possibility of archaeological remains at an early stage in the planning of their development, and enter into early discussions with the local authority archaeologist where remains may be present. Developers should be prepared to undertake appropriate excavation and/or recording before and/or during development, and to support consequential analysis, publication and archiving of the results, and this can be required by the planning authority through the use of conditions or a legal agreement.

HISTORIC SCOTLAND

36. [Historic Scotland](#) is a key agency in the development plan process and will engage with planning authorities in their preparation. Historic Scotland is a Consultation Authority for Strategic Environmental Assessment and can provide information and advice to responsible authorities preparing policies, plans and programmes that may have a significant effect on the historic environment. It is a statutory consultee for developments affecting an Inventory garden or designed landscape, scheduled monument or its setting or a category A listed building or its setting. Historic Scotland is also a consultee, via Scottish Ministers, under the terms of the Environmental Impact Assessment (Scotland) Regulations 2011. Historic Scotland will be available to offer advice to planning authorities and developers where any of the assets identified above are known to exist. Historic Scotland also undertakes the scheduling of monuments and manages the scheduled monument consent process on behalf of Scottish Ministers.

ASSOCIATION OF LOCAL GOVERNMENT ARCHAEOLOGICAL OFFICERS (ALGAO SCOTLAND).

37. [ALGAO Scotland](#) represents most of the Local Authority and National Park archaeological services in Scotland who provide archaeological advice to planning authorities and is part of the UK-wide organisation, ALGAO:UK.

ROYAL COMMISSION ON THE ANCIENT AND HISTORICAL MONUMENTS OF SCOTLAND (RCAHMS)

38. [RCAHMS](#) collects, records and interprets information on the architectural, industrial, archaeological and marine heritage of Scotland. It maintains a national inventory and holds the national collection of the built and historic environment of Scotland. RCAHMS regularly works in partnership with those archaeologists who provide records and give advice to planning authorities, building on the Statement of Co-operation that was agreed between the RCAHMS and the local authority archaeologists in 2005. RCAHMS does not provide advice direct to planning authorities but exchanges and links data with historic environment records.

INSTITUTE FOR ARCHAEOLOGISTS (IFA)

39. The [IfA](#) is a professional body for the study and care of the historic environment. It sets standards for archaeological processes and products, for its members and for its Register of professionally accredited organisations.

ACKNOWLEDGEMENTS

40. This PAN was written by the Scottish Government with the support of a working group.

WORKING GROUP

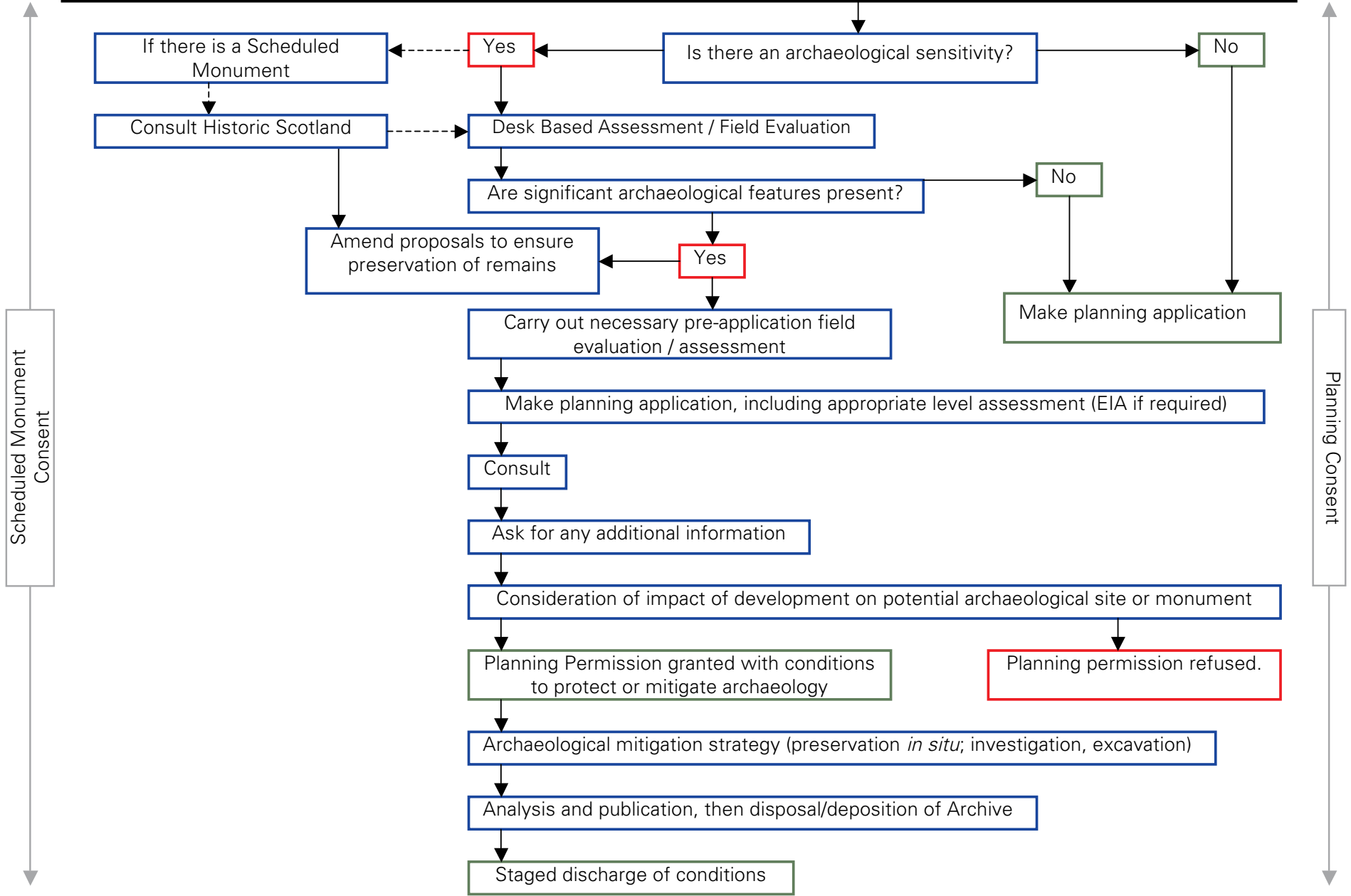
- Aberdeenshire Council
- British Aggregates Association
- ALGAO Scotland
- City of Edinburgh Council
- Fife Council
- Heads of Planning Scotland
- Historic Scotland
- Institute for Archaeologists
- Institute of Historic Building Conservation
- Minerals Products Association Scotland
- Rathmell Archaeology
- RCAHMS
- Shetland Council

FURTHER INFORMATION

41. This Planning Advice Note and further information on the Scottish Government's role in the planning system can be found on the Scottish Government website at: <http://www.scotland.gov.uk/Topics/Built-Environment/planning>. Further information about safeguarding the nation's historic environment can be found on Historic Scotland's website at www.historic-scotland.gov.uk. Queries on the PAN should be addressed to Jane Smith on 0131 244 7530 or email jane.smith@scotland.gsi.gov.uk.

Annex: Flowchart –Outlining the Consideration of Archaeology in Planning Decisions

Pre-application advice on archaeological sensitivity, likely impact of development and information required in support of a planning application (including the need for EIA) in consultation with the local authority archaeologist



Scheduled Monument Consent

Planning Consent



**The Scottish
Government**

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