

# Environment Bill inquiry, Written evidence submitted by The Heritage Alliance to the EFRA Committee

The  
Heritage  
Alliance

5-11 Lavington Street,  
London SE1 0NZ

T: 0207 233 0500 F: 0207 233 0600  
policy@theheritagealliance.org.uk

28 October 2019

1. The Heritage Alliance is delighted to submit written evidence to the EFRA Committee which is considering the Environment Bill.
2. [The Heritage Alliance](#) is England's coalition of independent heritage interests. We unite more than 140 organisations which together have over seven million members, volunteers, trustees and staff. We sit, alongside DEFRA, on the [Government's Heritage Council](#) and the Alliance is represented on DEFRA's Rural Development Programme Monitoring Committee and DEFRA's Agriculture Bill Tests and Trials Stakeholder Groups. Members of our Rural Heritage Advocacy Group include, amongst others: The National Trust, Historic Houses, Country Land & Business Association, English Heritage, Chartered Institute for Archaeologists, Council for British Archaeology, Inland Waterways, Ancient Monument Society, Canal and River Trust, The Gardens Trust, The Historic Religious Buildings Alliance, RESCUE, Campaign to Protect Rural England, Wessex Archaeology, Association of Local Government Archaeological Officers and various academic institutions. Most of England's historic environment (including more than half of rural England) is owned, managed or cared for by Heritage Alliance members.
3. The Environment Bill is a unique opportunity to ensure the protection of natural environment as a whole. However, **The Heritage Alliance has grave concerns about the exclusion of historic environment from the definition of natural environment in Clause 39, and the practical consequences of that exclusion.**
4. **Key points:**
  - The 25-Year Environment Plan said that "our failure to understand the full value of the benefits of environment and cultural heritage has seen us make poor choices. We can change that".
  - To ensure that the previous neglect of cultural heritage does change, one of the 10 specific goals set out in the 25 Year Environment Plan is "enhancing beauty, heritage and engagement with the natural environment." This was warmly welcomed by the heritage sector, and has been carried through into the Agriculture Bill.
  - In contrast, the drafting of the Environment Bill, which provides a statutory basis for the 25 Year Environment Plan and future Environment Improvement Plans, excludes the historic environment from its definition of "natural environment".

- This means that future Environmental Improvement Plans will only be required to cover natural heritage, not the historic environment. It also means that heritage is likely to be omitted from the data gathering and reporting undertaken on the current Plan. The historic environment is therefore likely to be deprioritised in decision-taking and funding, as it was in the past because the historic environment was excluded from EU Directives. This approach also creates an artificial distinction between the historic and natural elements of the environment. The historic and natural environments should be considered as one whole, because this in practice is how they occur in both land management and spatial planning.
- We would like to see the historic environment brought within the scope of the “environment” in this Bill and explicitly part of future Environmental Improvement Plans. This would bring the statutory definition of “environment” in line with existing Government policy and ensure that future environmental planning and monitoring seeks to enhance and protect these crucial features of our landscape hand in hand with the natural features from which they are indivisible. We are not seeking to have heritage included in the Bill’s enforcement provisions. What matters is the definition of the environment, and that the Bill’s requirements to measure and report progress extend to all of the 25 Year Plan’s goals.
- **If the historic environment is excluded from the Bill’s definition of environment, and excluded from the measuring and reporting remits of the Secretary of State and the OEP, it is highly likely that heritage will be downgraded and severely underfunded as it was in the past, when it was similarly excluded from EU Directives. This needs to change.**

5. The Heritage Alliance is responding to the following questions.

**Question 2. Does the Bill ensure that the Government and public bodies will act in accordance with environmental principles and law and be held to account if they don’t?**

6. No. The definition of environment, which currently excludes the historic environment (Clause 39), will guide Secretaries of State in future when creating Environmental Improvement Plans (future versions of the 25 Year Environment Plan), as well as when gathering data and reporting against progress made. As a result, future versions of the Plan will not be required to consider the historic elements of our environment, which risks creating an artificial separation in how natural and historic features are treated. Similarly this definition is also relevant to the remit of the OEP, and while we do not seek to recreate the role of Historic England or envisage handling complaints about the historic environment within the remit of the OEP, we are concerned that the influence of the protection of the historic environment on the natural environment should be acknowledged and that the OEP should consider the need to protect the historic environment in its advisory function to Government and when making recommendations for remedies or actions as part of its complaints function. The historic environment is otherwise likely to be deprioritised in decision-taking and funding, as it was in the past because the historic environment was excluded from EU Directives. This approach also creates an artificial distinction between the historic and natural elements of environment. The historic and natural environments should be considered as one whole, because this in practice is how they occur in both land management and spatial planning.

7. With particular regard to the enhancement of biodiversity for example, Clause 89.6.b – which intends to enable public authorities to take actions for the purpose of “conserving, restoring or otherwise enhancing a particular type of habitat” – undervalues the possibility that historic environment and cultural heritage are often habitats for many species. For example, marine environment wrecks provide an ideal habitat for many fish species, while in the rural countryside traditional barns provide a shelter for bats. Traditional agricultural practices, part of our intangible heritage, help preserve the historical field system which not only is characteristic of British landscapes, but also helps in maintaining biodiversity.

**Question 3. Will the Office for Environmental Protection (OEP) have the powers, resources and independence from Government to effectively fulfil its role?**

8. The exclusion of historic environment from the definition in Clause 39 means that the OEP would not necessarily have any staff with appropriate expertise to understand the impact of cultural historic elements and practices on landscape and the protection of biodiversity (see also response to question 4). We strongly recommend also the need for OEP to have a duty to consult the appropriate statutory advisory bodies, such as Historic England, to ensure that they have access to the right advice on one of the ten pillars of the 25 Years Environment Plan.

**Question 4. Are there concerns about the powers and provisions (including on setting targets) relating to air quality, biodiversity, water resource management and waste management and whether they will be effective? Has the Government provided enough detail on the secondary legislation, or other non-legislative policy measures, that would be required?**

9. As noted earlier, one of the 10 specific goals set out in the 25 Year Environment Plan is “enhancing beauty, heritage and engagement with the natural environment.” This was warmly welcomed by the heritage sector, and has been carried through into the Agriculture Bill. In contrast, the drafting of the Environment Bill, which provides a statutory basis for the 25 Year Environment Plan and future Environment Improvement Plans, excludes the historic environment from its definition of “natural environment” in Clause 39.
10. There are few landscapes in the UK that can be considered to be entirely “natural”. Human activity has been leaving its impact on our physical environment for as long as we have existed, and after thousands of years of our presence, the world around us is as much a human creation as a product of natural processes. Our heritage is embedded alongside nature in our landscapes, sharing the same physical spaces and facing similar challenges. What impacts one aspect may well also impact the other. Historic structures and buildings often support wildlife and biodiversity, also in marine environment, as well as being a key part of the character and distinctiveness of rural places. Looking only at the “natural” elements of the environment does not tell the full story; while working to protect and conserve nature and heritage in harmony can deliver improvements to both, failure to consider the historic environment when seeking to enhance nature on its own can do harm. Indeed, the explicatory note n. 196 (related to Clause 20.2.b on the objectives of the OEP) does not take into account the contribution that the protection of cultural heritage and intangible heritage can have on the protection of natural environment.
11. The heritage sector would like to see the definition of “natural environment”, and the scope of future Environmental Improvement Plans, widened to include the historic environment.

**Question 5. Does the Bill allow for common frameworks for governance and principles to ensure there is coherent implementation of environmental policy across the UK? What steps do the UK Government and Devolved Administrations need to take to make that a reality?**

12. Supporting and enhancing landscape, and considering historic and cultural features alongside the natural is not new to environmental policy or legislation in the UK. Actually, the Department responsible for heritage in England from 1970 to 1992 was the Department of the Environment. Moreover today, for example, the statutory role of National Parks in England and Wales is “to conserve and enhance natural beauty, wildlife and cultural heritage.” Natural England has a statutory purpose to conserve and enhance the landscape as a whole, and agri-environment support under the Common Agricultural Policy (CAP) has – to the relatively small extent that it has been available – played an effective role in protecting and supporting heritage. 84% of scheduled ancient monuments are found on farmland, and a combination of funding measures including basic cross-compliance requirements, grant aid for capital works (including restoration of historic farm buildings), and agri-environment schemes such as Environmental Stewardship, have helped protect heritage on farmland. 24,000 historic sites in England have been protected through Environmental Stewardship alone since the start of the scheme. But, because of the exclusion of heritage from EU Directives, the scale has always been inadequate: heritage funding currently is only  $\frac{1}{4}$  of 1 per cent of total CAP funding, and just  $\frac{3}{4}$  of 1 per cent even of the funding specifically for ‘environmental public goods’.
13. The Agriculture Bill introduced in the previous session, which we hope will be brought back to the House as soon as possible, recognised that the natural and historic need to be protected alongside each other, and provided for future environmental land management schemes to continue to support and fund cultural heritage. The narrow definition of “natural environment” in the Environment Bill stands out as an exception to these much broader approaches taken elsewhere in UK law and policy.
14. While it would be possible for Secretaries of State to decide to include heritage in future Environmental Improvement Plans, as was done for the first 25 Year Environment Plan, there is no requirement for this. Instead, the duty to prepare Environmental Improvement Plans refers to plans for “significantly improving the natural environment”, where the understanding of natural environment specifically excludes the buildings and structures that form part of the landscape, as well as man-made features such as historic field systems. This presents a strong disincentive to the inclusion of policy addressing such features.
15. Although we recognise that this may not be the right time to press for more specific reforms, a greater coherence in environmental policy could be reached through the introduction of measures already in place in Scotland and Wales. Two clauses should be included in the heritage part of the Bill to fill specific gaps in protection which need primary legislation. Firstly, there are gaps in the designation process which allow damage to heritage which is under consideration. A clause in the Bill should provide for statutory interim protection during the listing and scheduling process, and a right of appeal after listing. Secondly, a clause is needed to allow the protection of a small number of nationally-important archaeological sites which cannot now be designated because they lack structures.

16. More information on the position of the Heritage Alliance can be found in our previous document about what a positive Environment Bill could and should include, "[Delivering the 25-Year Environment Plan for the Historic and Natural Environments: The Environment Bill](#)", and our [Environment Bill Briefing for the House of Commons](#).
17. Any queries regarding this submission can be addressed to Heritage Alliance, Rural Heritage Advocacy Group: [lizzie.glithero-west@theheritagealliance.org.uk](mailto:lizzie.glithero-west@theheritagealliance.org.uk) 020 7233 0800.

Our members are non-government, voluntary and private organisations that promote, conserve, study and involve the public in **our heritage**.

The Heritage Alliance is an operating name of Heritage Link. Heritage Link is a company limited by guarantee registered in England and Wales Registered No. 4577804 Registered Charity No.1094793 Registered Office: 5-11 Lavington Street, London SE1 0NZ