

# Scrutiny of the draft Environment (Principles and Governance) Bill inquiry

The  
Heritage  
Alliance

29 January 2019

1. We are grateful for this opportunity to respond to the Environment, Food and Rural Affairs Committee's scrutiny of the draft Environment (Principles and Governance) Bill inquiry.
2. The Heritage Alliance is England's largest coalition of independent heritage interests. We unite more than 115 organisations which together have over seven million members, volunteers, trustees and staff. Most of England's historic environment (including more than half of rural England) is owned, managed or cared for by Heritage Alliance members. The Alliance is represented on DEFRA's Rural Development Programme Monitoring Committee, and the Alliance's specialist Rural Advocacy Group has written this paper.

### 3. Why are we responding?

4. Alongside environmental charities and the public<sup>1</sup>, the Heritage Alliance strongly supports the 25-Year Environment Plan's objectives of leaving the environment in a better state and of delivering world-class environmental governance<sup>2</sup>. It is therefore concerning that the draft Environment Bill specifically fails to include the historic environment.
5. **As with the natural environment, the scale of the historic environment challenge is huge:** we have already lost half of our traditional farm buildings to agricultural change and redundancy, and hundreds of thousands more are in decay. Almost half of scheduled monuments are under threat, as are stone walls, parkland, and historic field systems<sup>3</sup>. These, along with other historic structures and archaeological sites, are our shared history. They help us understand who we are and how we got here. They contribute to the richness of our landscapes and countryside, and are a vital part of the character and distinctiveness of rural places. Our historic environment sits alongside natural features, sharing the same physical spaces and facing similar challenges. The historic environment thus belongs to us all. It is also, as DEFRA's Health and Harmony consultation<sup>4</sup> said, "a non-renewable resource which, once lost, cannot be recreated".
6. We need a new statutory framework for the environment, to ensure that there is no loss of protection or regression of the current state of the environment, and to make sure that the 25-Year Environment Plan is delivered. This needs to sit alongside effective funding to drive improvements to heritage as a public good; past public funding for heritage has been effective where it happened<sup>5</sup>, but that was only on a tiny scale: because the EU excluded heritage from its competence and thus from EU Directives, it has been heavily deprioritised by UK Governments.

Funding for the historic environment is now about ¼ of 1 per cent of total funding under the CAP, or just ⅓ of 1 per cent even of public goods funding.

7. The 25 Year Environment Plan forthrightly acknowledges these past problems, noting 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”. The solutions it outlines – especially transferring funding away from direct payments to environmental public goods – can be transformational.
8. **Legislation – especially the Environment Bill – is crucial in ensuring that this ambition translates into action.** It must integrate the natural and historic environments; ensure a strong statutory framework; and ensure the setting of long-term objectives, targets, metrics, and monitoring to ensure targets are being met, and that effective measures will be taken if they are not. **The Bill needs to cover the 25 Year Environment Plan’s sixth goal - “enhancing beauty, heritage and engagement...” - as effectively as (with other legislation) it covers the other nine. The first draft section published in December 2018 does not yet do this.**

## **9. What the Principles and Governance part of the Environment Bill needs to deliver**

10. More specifically, the Principles and Governance part of the Environment Bill needs:
  11. **A holistic definition of the environment.** In line with the 25-Year Environment Plan, and the Agriculture Bill and its Policy Statement<sup>6</sup>, the Environment Bill needs to address the environment as a whole: it needs a statutory definition of the environment which explicitly covers both the historic and the natural environments. They are inseparable, and there are multiple benefits for both in managing them in an integrated way. The historic environment does not need to be within the remit of environmental law for the purposes of compliance, overseen by the new Office for Environmental Protection (OEP). But otherwise this parity of approach is essential throughout the Environment Bill, in the Environmental Principles, in the Statutory Policy Statement, and in the wider remit and powers of the OEP.
  12. **A requirement for the 25-Year Environment Plan’s sixth goal, heritage, landscape, and engagement, with effective indicators, to be included in the Secretary of State’s annual reports on progress on the Plan** (see Bill clause 8).
  13. **A requirement for that sixth goal, heritage, landscape, and engagement, with effective indicators, to be included in the OEP’s annual state-of-the-environment reports** (clause 14).
  14. **A requirement for the Secretary of State to include heritage, landscape, and engagement in every future Environmental Improvement Plan, as in the 25-year Environment Plan** (clause 9).

15. **A requirement for the OEP to balance the historic and natural environments when giving advice to Ministers and issuing notices requiring action** (clauses 16-29). It is vital to ensure that the historic environment is properly taken into account, and also to avoid unintended consequences in which environmental enforcement leads to the physical destruction of heritage.

## **16. What the full Environment Bill needs to deliver**

17. **The full Bill to be published later in 2019 needs explicit reference to the historic environment as well as the natural environment in the Bill's headlines.** If it has sections on the other goals of the 25-Year Environment Plan, it needs a section on the historic environment and landscape. Legislation needs to be holistic, and driven by national need, and deliver on the ambition to be world-leading - not just recreate EU Directives.
18. **An explicit duty on Governments and public bodies to enhance the environment, including the historic environment.** The Bill needs to drive real improvement on the ground by identifying specific environmental characteristics (including historic environment, landscape, and engagement) that must be enhanced, and the Government must set clear and measurable targets against these characteristics to drive delivery and demonstrate that they are meeting their duty. **It also needs a strong legislative framework, with clear and funded enforcement mechanisms.**
19. **A requirement for mechanisms across the whole environment to establish robust baseline data (for example by expanding the SHINE database of heritage features already created by Natural England and Historic England), 'SMART' objectives, targets, interim milestones, and metrics, and effective annual public reporting mechanisms to ensure that the targets are being met, or that action is taken to ensure that they are.** Transparency and consultation are vital.
20. **A requirement on Governments to set multi-annual budgets that reflect the scale of financial need required by the policy objectives over the long term.**
21. **The OEP should be required to include sufficient heritage expertise in its governance and staffing.** The criteria for appointing Board members and other senior staff must ensure it has the right resource and specialist knowledge to deliver its remit for both natural and historic environments.
22. **Clarification of the sustainable development principle.** This needs to go beyond the basic principle of not compromising future generations, to specify the three objectives – environmental, economic, and social – of sustainable development. There are usually win-win solutions rather than unavoidable conflicts: the natural and historic environments cannot survive

without (i) economic activity to fund their management and maintenance, and (ii) public involvement and enthusiasm.

23. **Two clauses should be included in the heritage part of the longer 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.** This has already been done in Wales. 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<sup>7</sup>.** This has already been done in Wales and Scotland.

## **24. What other policy and legislation, including the Agriculture Bill, needs to deliver**

25. **A duty on Governments to have an environmental land management scheme (ELMS), underpinned by a delivery plan, targets, and indicators.** That duty should be based on the 25-Year Environment Plan goals, the environmental public goods listed in Clause 1(1) of the Agriculture Bill, national issues and needs, and public consultation. ELMS can and should be world-leading.
26. **If a Natural Capital approach is used, this must explicitly include the historic environment, or complementary methodologies like cultural capital should be used alongside or instead<sup>8</sup>.**

## **27. Taking this forward**

28. **The historic environment has extensive public support,** demonstrated for example by membership of heritage organisations (seven million people belong to Heritage Alliance member organisations), formal and informal visits to heritage, and constant coverage in the media. That large constituency would be very concerned if the Bill failed to follow the lead of the 25-Year Environment Plan in giving parity to the natural and historic environments, and in ensuring that Government and the OEP will treat the historic environment as integral to, and as important as, the natural environment.
29. **DEFRA needs to work with all relevant stakeholders, including the Heritage Alliance, Historic England, and DCMS, to take this forward. Provided that happens, this approach has the potential to be transformative, to reverse decades of decline, and to achieve the aims of the 25-Year Environment Plan for both the natural and historic environments. The alternative is for**

another Government, in 25 years' time, to be saying again that "our failure to understand the full value of the benefits of environment and cultural heritage has seen us make poor choices..."

**30. Contact:**

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32. For further information, please contact The Heritage Alliance

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<sup>1</sup> 70% of UK adults support an Environment Act to hold governments to account. Source: poll commissioned by the National Trust, summer 2018. <https://www.nationaltrust.org.uk/press-release/10-million-project-to-bring-uk-rivers-back-to-life-launched-by-national-trust-as-director-general-calls-on-government-to-act-now-on-its-green-brexite-promises>.

<sup>2</sup> [www.gov.uk/government/publications/25-year-environment-plan](http://www.gov.uk/government/publications/25-year-environment-plan)

<sup>3</sup> For example, almost half of scheduled monuments are threatened by burrowing, cultivation, or scrub (Historic England, 2017).

<sup>4</sup> *Health and Harmony, Evidence Compendium*, p55 (February 2018)

<sup>5</sup> *Agri-Environment Schemes in England: a review of effectiveness*, Natural England (2009).

<sup>6</sup> [www.gov.uk/government/publications/the-future-for-food-farming-and-the-environment-policy-statement-2018/health-and-harmony-the-future-for-food-farming-and-the-environment-in-a-green-brexite-policy-statement](http://www.gov.uk/government/publications/the-future-for-food-farming-and-the-environment-policy-statement-2018/health-and-harmony-the-future-for-food-farming-and-the-environment-in-a-green-brexite-policy-statement)

<sup>7</sup> This requires slight amendment to the definition of a 'monument' in the Ancient Monuments and Archaeological Areas Act 1979, s61(7). This has already been done in Wales (Historic Environment (Wales) Act 2016, s22) and in Scotland (Historic Environment (Amendment) Scotland Act 2011, s14) and should be straightforward and uncontroversial.

<sup>8</sup> Work is being undertaken on these by DCMS, Historic England, and others.