

Memorandum of Understanding on Archaeological Matters

Agreed between the
Construction Industry Group and the
Northern Ireland Environment Agency

April 2011



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The purpose of the Memorandum of Understanding (MOU) is to provide a framework within existing legislation, policy and practice to enable the construction and quarrying sectors to progress with their development activities, whilst carrying out appropriate archaeological mitigation having regard to a set of principles and actions agreed by all parties.

AGREED PRINCIPLES:

The MOU is guided by the following agreed principles:

1. The Northern Ireland Environment Agency (NIEA) has a responsibility to protect and promote the natural environment and built heritage; and to aid in the planning and management of development in a sustainable way which is responsive to the needs of the community. The Built Heritage Directorate is the part of NIEA that is responsible for the recording, protection, conservation and promotion of the historic environment.
2. The Construction Industry Group Northern Ireland (CIGNI) is a private sector body consisting of 4 groupings: Professional Bodies; Contractors; Specialist Sub-Contractors and Suppliers. CIGNI ensures that the Northern Ireland construction industry operates efficiently and effectively to meet the needs of modern society by promoting excellence in all aspects of the work of the industry. CIGNI will engage with NIEA through two groups:
 - The Suppliers: The extractives industry is the supplier of construction aggregates and is represented by the Quarry Products Association NI (QPANI) promoting a sustainable aggregates industry and protecting QPANI members' licence to operate.
 - The Contractors: The Construction Employers Federation (CEF) is the certified employers association for the construction industry in Northern Ireland. Its role is to promote the interests of the Northern Ireland construction industry.

This guidance will also apply to main contractors, suppliers & professional consultants with regard to Public Sector works.

3. The MOU is without prejudice to the decision-making role of Planning Service. The MOU recognises that it is the role of the planning system to reconcile the need to protect and enhance the historic environment with the equally important requirement for economic growth and sustainable development.
4. Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (PPS6) sets out the Department's planning policy for the protection and conservation of archaeological remains and features of the built heritage. Further guidance can be found within regional and local development plans.

5. A steady, adequate and sustainable supply of minerals is essential to economic development in Northern Ireland. Both archaeological remains and mineral resources are finite and irreplaceable assets that often overlap in location. This inevitably means that from time to time the processes involved in the extractives industry will have archaeological implications.
6. Given that mineral resources can only be worked where they exist, and archaeological heritage is also a non-renewable resource, the presence of known archaeological sites or the anticipation of potential sites must be a major consideration in the selection of extraction and development sites.
7. Appropriate strategies will be developed to eliminate or minimise adverse impacts on archaeology whilst taking account of safety implications, environmental and other impacts and costs.
8. Mitigation planning at the earliest opportunity will normally minimise the impact on our archaeological heritage and lessen mitigation costs for the developer.
9. NIEA will advise the construction and quarrying industries on archaeological matters whenever required or asked to do so, treating the quarrying and construction industries in a fair and equitable manner.
10. The quarrying and construction industries will finance a balanced and cost effective approach to archaeological investigation, excavation and mitigation. This will be done as an integral element of good environmental management, the planning process and development costs. Proposals should only proceed if the quarry operator or developer considers the commercial risk of archaeological mitigation acceptable.
11. Each party reserves the right to appeal decisions. If requested, NIEA will act as arbitrator in such matters and the decision of NIEA will be binding on both parties.
12. All parties agree to establish a team to monitor the operation of the MOU and carry out a formal review within one year of its adoption and at agreed intervals thereafter.

AGREED ACTIONS:

The quarrying and construction industries will:

1. Undertake investigation of the archaeological implications of a development proposal at the initial planning stages with a view to informing selection of areas for development, ensuring that appropriate weight is given to archaeological implications in identifying the preferred location of the development. Industry will seek to eliminate or minimise adverse impact to archaeological sites and within areas of archaeological potential.
2. Consult with the NIEA Built Heritage in pre-application discussions, desk based surveys, throughout the design process of a development and during any archaeological mitigation and post-excavation work.
3. Employ a reputable archaeology contractor to complete any necessary Archaeological Impact Assessments for inclusion into an Environmental Statement and to undertake excavation and post-excavation works. The contractor must normally be a member of the Institute of Archaeologists of Ireland (IAI) or the Institute for Archaeologists (IfA) and abide by the codes of conduct of those organisations.
4. Where it cannot be reasonably avoided, finance the excavation and recording of all archaeological remains that are impacted upon by the development or extraction works, in accordance with agreed methodologies and allow sufficient time for such recording to be carried out to the satisfaction of the NIEA.
5. Provide the necessary finance to fulfil the post-excavation requirements of the NIEA including the conservation of archaeological objects, the provision of scientific analysis and dating, as well as the production of reports on all archaeological work to a standard which will meet the approval of the NIEA.
6. Publish suitable reports on a dedicated industry website. These may be Data Structure Reports or fuller publications dependent on discussion and agreement with NIEA in each case. Publications on the industry website should be aimed at the general public.

The NIEA will:

1. Ensure that there is consistency in planning responses proportionate to the archaeological potential of a site and reasonable in all other respects.
2. Respond to pre-application discussions and consultations with industry in a timely manner. The current NIEA Service Level Agreement target with Planning Service is 15 working days. This target is also adopted here for direct correspondence between the industry and NIEA on archaeological matters.
3. Specify format and standards of reports to be submitted.
4. Issue licenses for archaeological excavations within 4 weeks of receipt of application.
5. Agree criteria for the purposes of identifying sites and areas of archaeological potential, which will inform the extent of archaeological investigation to be undertaken.

6. Agree with the client and their employed archaeology contractor an appropriate programme of works for archaeological mitigation and/or test trenching and a system for excavations, which will include recommended timescales (subject to control and monitoring by the NIEA).
7. Appoint an official of NIEA (or appropriate contracted staff) to meet on a regular basis with the client and their employed archaeology contractor.
8. Agree that where unexpected archaeological discoveries are made during testing, monitoring of topsoil removal or the operation phase, the most practical method of archaeological mitigation is to excavate and record except where the NIEA is of the opinion that the site is of such significance that it should be preserved in situ.
9. Assist the industry with media representation and visitor days to ensure positive coverage of important excavations and finds.
10. Where a CEF or QPA member is in dispute on archaeological matters with their contracted archaeological company the NIEA will, if requested by either party, intervene and give guidance or instruction.

Signed:

Signed:

The official signing will take place at the
CIG Meeting 20/04/11.

John McMillen
Chief Executive NIEA

Jim Crooks
Chair CIGNI

Date: 20th April 2011

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Choosing an Archaeological Contractor

Advice for CEF & QPANI Members

**Guidance agreed between the
Construction Industry Group and the
Northern Ireland Environment Agency**



This Guidance should be read in conjunction with the [NIEA Guidance Booklet 'Development and Archaeology'](#)¹ regarding the satisfaction of archaeological issues in planning conditions in Northern Ireland. A flow-chart in the booklet shows the main steps to be taken when undertaking archaeological mitigation on a development site.

1. Development and Archaeology

Where any intrusive archaeological works are required, either to inform a planning decision or as mitigation, there is a procedure to be followed by developers and their contracted archaeologists. In these cases, a level of archaeological mitigation will be necessary.

This can include:

- an evaluation, to determine the likelihood and nature of archaeological survival;
- a watching brief, where an archaeologist monitors topsoil stripping and other intrusive works to identify possible archaeological remains and deal with them appropriately; or
- an area excavation, where the site must be archaeologically investigated to reveal and record the existing features.

The developer will be responsible for providing the necessary archaeological expertise on site. There are archaeological companies and individual specialists who can be contracted for this purpose and a list of practitioners can be forwarded upon request. Acting on behalf of the developer, the archaeologist will conduct a desk-top survey of the area to ascertain the known or anticipated archaeological survival on site, and its probable age and nature. They also produce a Programme of Archaeological Works for identifying, investigating and recording archaeological features; this Programme of Archaeological Works must be agreed with the Department as being an appropriate approach to satisfy the planning condition.

2. Understand your responsibility

It is the responsibility of the CEF or QPANI member to appoint an archaeological contractor. NIEA cannot recommend individual companies or archaeologists but advises that any contractor hired should normally be a member of either the

¹ Download: www.qpani.org/documents/hm_development_and_archaeology-3.pdf

Institute of Archaeologists of Ireland² (IAI) or the Institute for Archaeologists³(IfA) and abide by the codes of conduct of those organisations.

It is a legal requirement that the archaeological contractor employed must apply to NIEA to grant a licence for any archaeological excavation works undertaken in Northern Ireland; this should be applied for at least 4 weeks in advance of any work commencing. NIEA must also seek to ensure that the correct mitigation is being proposed. Consequently, we also advise that CEF or QPANI members do not agree any contract on archaeological works without having discussed the site and required mitigation with the appropriate authority in NIEA.

Before work commences, a Programme of Works should be agreed which will include all post excavation work. The Programme of Works should be proportionate to the anticipated risk of archaeological discovery. This can be assessed through the use of NIEA maps and data bases and with NIEA assistance.

3. Best Value

Archaeological deposits are a finite resource and all archaeological fieldwork must be undertaken to the highest possible standard. However, NIEA, CEF and QPANI recognise that value for money must also be a key factor in the undertaking of any archaeological works.

Commissioning archaeological projects is not like buying a normal product or service provision. For most products and services the quantities of materials, time taken in manufacture and most other factors are fairly well understood and a firm price can be given. For archaeological sites the archaeologists often have no definitive idea of what they might uncover and cannot always give a single fixed price. Many briefs may include the need for a 'contingency'. This is an additional period of time used to deal with unexpectedly complex archaeological remains. Nevertheless, you as the client should always try and obtain a fixed price, or at least a maximum price, before you agree to any archaeological project.

What happens on site is only one part of an archaeological project. Once the on-site works are finished the archaeologists must complete the post-excavation phase of the works. This will include cataloguing all records and finds to produce a required report for NIEA. At this stage, a number of other specialists are often

² Institute of Archaeologists of Ireland www.iai.ie

³ Institute for Archaeologists www.archaeologists.net

involved (artefact, environmental, illustration specialists etc.) in order to provide the final report. You may also have to publish an account of the archaeological remains uncovered at your site, but this will only happen in consultation with, and if required by, NIEA.

You should be confident that whatever the archaeological contractor is doing for you, it will achieve its aims. You will usually have to satisfy the condition of a planning permission or provide further information in order to determine a planning application. If your contractor does not satisfy this you may find yourself in breach of the permission, as it is your responsibility to ensure the conditions are met. The proposal you are sent by the contractor should contain sufficient information to allow you to be confident that a good job will be done.

It is the responsibility of the CEF/QPANI member to control the work of the archaeologist, to ensure that the agreed action plan is adhered to and ensure that all costs incurred are reasonable. If there are any deviations from the action plan these must be justified and agreed in advance. NIEA may be able to offer further guidance on this matter.

- The Institute of Archaeologist of Ireland (IAI) and the Institute for Archaeologists (IfA) are two main professional guiding bodies. If your contractor is registered with either body then they and their staff must abide by the relevant Codes of Conduct.

4. Study the proposal and seek more than one quote

We recommend that you seek more than one quote for every job. When seeking quotes from contractors you must ask that a breakdown of costs is provided. This should be in sufficient detail to enable you to accurately assess what the final costs may be and allow comparisons between different service providers:

- Does the proposal give enough detail on what will actually be done? There may be technical details that you do not understand, any contractor should be happy to explain these to you.
- Does the proposal only give a daily rate and make no attempt to give a ceiling or fixed price? If so you should seek further advice and justification.

- Do you think that everything has been allowed for? Are any items marked or implied for you to provide at your expense or which will be added to the cost quoted?
- The necessary mitigation should be explained and broken down into clear tasks or stages
- Where possible the person days to be spent on each task should be clearly indicated (usually only the fieldwork can be estimated at an initial stage – post-excavation works should be discussed and agreed in a similar manner before the end of fieldwork).
- The rates used to calculate project cost for staff, other non-staff costs (e.g. travel, plant hire, equipment, materials etc.) and overheads must also be clearly set out.

5. Seek independent advice!

Before work can commence, the contractor's proposal must be seen and approved by the Built Heritage-Historic Monuments Unit of NIEA in order to ensure that it fulfils the aims of the brief. The Historic Monuments Unit (HMU) is happy to give advice on the methodological statements provided by contractors, but will not generally comment on costs. You are advised not to enter into a contract until the relevant senior archaeological inspector from HMU has approved the proposal.

Useful Contacts:**NIEA Built Heritage**

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