



Historic England

Law and Government

Scheduling Selection Guide



Summary

Historic England's scheduling selection guides help to define which archaeological sites are likely to meet the relevant tests for national designation and be included on the National Heritage List for England. For archaeological sites and monuments, they are divided into categories ranging from Agriculture to Utilities and complement the [listing selection guides](#) for buildings. Scheduling is applied only to sites of national importance, and even then only if it is the best means of protection. Only deliberately created structures, features and remains can be scheduled. The scheduling selection guides are supplemented by the [Introductions to Heritage Assets](#) which provide more detailed considerations of specific archaeological sites and monuments.

This selection guide offers an overview of the sorts of archaeological monument or site associated with law and government which are likely to be deemed to have national importance, and for which of those scheduling may be appropriate. It aims to do two things: to set these within their historical context, and to give an introduction to the designation approaches employed.

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Front cover

Offa's Dyke, the later eighth-century boundary of Mercia, near Newcastle-on-Clun, Shropshire.

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Introduction

This selection guide offers an overview of the sorts of archaeological monument or site associated with law and government which are likely to be deemed to have national importance, and for which of those scheduling may be appropriate. It aims to do two things: to set these within their historical context, and to give an introduction to the designation approaches employed. A parallel [Law and Government Buildings](#) listing selection guide treats the selection of buildings for listing, as well as associated structures such as gibbets and whipping posts. Anglo-Saxon and early medieval execution cemeteries are treated in the [Commemorative and Funerary](#) scheduling selection guide.

1 Historical Summary

1.1 Prehistoric

Categories such as ‘Law and Government’, based on medieval or Enlightenment thought, fit uneasily with modern approaches to prehistory. That said, archaeologists find evidence of hierarchical societies and the exercise of power – government, as it would later be termed – in many types of site, although interpretations are frequently contested.

There has always been a temptation to associate Neolithic (from about 4000 BC) monuments such as long barrows and causewayed enclosures with territorially discrete social groups or tribes. In reality where the people who built and used these monuments came from remains largely unknown, though isotope studies hold out the possibility of tracking the lifetime movements of those whose remains were deposited there. From such work to date, far higher than expected levels of mobility have been found, which raises questions about the nature and size of social groups and territorial boundaries in prehistory.

Colin Renfrew’s idea that the large Wessex henges (Avebury, Marden and Durrington Walls, all in Wiltshire, and Mount Pleasant in Dorset) of the third millennium BC represent the emergence of territorial chiefdoms (whose power could be measured by the ‘man hours’ of labour represented in the different monument complexes) has also been much critiqued. Nevertheless, current thinking generally still views these sites to some extent as representing discrete social entities engaged in some kind of competition or emulation, and recently Mike Parker Pearson and others have revived the chiefdom idea by interpreting the cremation burials at Stonehenge as possibly representing ‘the burial ground of a ruling elite family, perhaps

even of Cambrian origin, whose hereditary hold on power is revealed to us by their increasingly dramatic manipulations of workforces moving large stones’.

From the Beaker phase onwards (around 2500 BC) and particularly in the Wessex culture during the first quarter of the second millennium, the emergence of individual burials that refer to the status of the deceased, and the development of barrow cemeteries that seem to reflect genealogical relationships over time, suggest that heredity and hierarchy were becoming more important, though of course the extent to which burial rituals are a direct reflection of someone’s status in life might be questioned (for the designation of barrows and other places of burial see the [Commemorative and Funerary scheduling selection guide](#)). However, access to new ways of expressing wealth through items manufactured from copper/bronze, gold, jet and amber, obtained via long-distance exchange/trade, could well have played a role in defining an emerging social elite, and some of the artefacts (the Bush Barrow ‘sceptre,’ for example, from one of Wiltshire’s richest prehistoric burials) do seem to represent symbols of power or office.

Although later Bronze Age burial rites are generally simple cremations (if found at all), the development of field systems, ringworks (possible elite residences or enclosures) and metalwork hoarding practices suggest the continuing development of social hierarchies, at least in some areas. Whatever the nature of the system that linked social power with the acquisition and deposition of metalwork, it seems to have collapsed at the end of the Bronze Age around 800 BC, and the Early Iron Age remains a rather shadowy period in terms of government and hierarchy, although the emergence of hillforts

and linear boundaries in Wessex and elsewhere suggests that the marking of higher-level territorial divisions became important.

Today, few specialists would see a simple equation between hillforts, tribes such as the Atrebates, Icenii and the Silures, and chiefs in the Iron Age. But in the later Iron Age ‘developed’ multivallate hillforts like Danebury (Hampshire) and Maiden Castle (Dorset), allied to the land boundaries mentioned above, possible hierarchies of enclosed and open settlements, the emergence of regional ceramic styles (in some areas at least) and prestigious objects like the Snettisham (Norfolk) torcs – neck rings made of precious metal – may indicate the coalescing of tribal territories. In the century before the Roman conquest the appearance of the populous settlements termed oppida (arguably true ‘central places’; see the Introduction to Heritage Assets on [Oppida](#)), and the tribal territories marked by coin distributions, are broadly in line with the picture of chieftains and client kings painted by the Roman authors, notably Julius Caesar and Tacitus. That said, the nature of their power and how far it extended remains a matter of debate.

As for law, it is impossible to separate judicial from ritual sanctions in prehistory, or to know what the transgressions were that led to the apparent executions of the ‘Stonehenge archer’, the garrotted Lindow Man (found in a Cheshire moss near Wilmslow in 1984), or the hanged and decapitated Iron Age man discovered at Heslington, York, in 2008. Classical authors mention slavery in later prehistoric Britain, and Iron Age slave-shackles have been found at several sites. Such may as easily be associated with the taking of captives in warfare as with judicial restraint. In general it can be concluded that for prehistory, both the documentary and archaeological record of matters relating to Law and Government is fragmentary. While the former (as recorded by classical authors) is fixed and finite, the known archaeological data set should increase, albeit gradually.

1.2 Roman

The Roman conquest of Britain brought into being interlinked strands of administration, one being the military administration and another a system of civilian administration based on the creation of *civitates*, generally considered to be based on pre-Roman tribal or political groupings that eventually covered most of England south of Hadrian’s Wall. In addition there were areas, such as possibly parts of the Fenland, that were under direct Imperial control, while other elements of the administration, such as the *cursus publicus* (the ‘Imperial Post’, the state-run courier and transportation service) were also part of the Empire-wide Imperial governmental structure. In addition there were four towns (Colchester, Lincoln, Gloucester and York) known as *coloniae*, founded for legionary veterans, which had a particular legal status.

Initially, under Claudius, Britain formed a single Consular Province under a Governor (*Legati Augusti pro praetore*) who had authority over the Legionary Commanders (also called *Legati Augusti*). However, financial responsibility for the province lay with the Procurator *Augusti Britanniae*, who was drawn from the Equestrian order, unlike the Governors who were of Senatorial rank. Initially the capital of the Province was Colchester, but it was displaced by London. Over time the single province was subdivided. Initially, and probably under Severus (Emperor 193-211), it was divided into two – *Britannia Superior* (capital London), and *Britannia inferior* (capital York). Then, by AD 314 at the latest, there was a fourfold division – *Maxima Caesariensis* (capital London), *Flavia Caesariensis* (capital Cirencester), *Britannia Prima* (capital Lincoln), and *Britannia Secunda* (capital York) – which together, under the *Vicarius Britanniarum*, formed a diocese of the ‘Prefecture of the Gauls’.

The physical infrastructure of provincial government is little known and was probably limited, even in the Roman period. However, the governor would have required substantial accommodation, not least because of the staff necessary to administer a province, consequently

the existence of provincial governors' palaces, such as that known from Cologne, can be anticipated. None is known for certain in Britain, although a candidate for the London palace has been suggested to partially underlie Cannon Street Station (City of London). Similarly, the presence of Emperors in Britain, notably Hadrian in the early second century, Severus in the third and Constantine 1 in the fourth, has led to an anticipation of recognisable structural changes, or new building projects designed to accommodate the Emperor and his entourage. The importance of the presence of the Emperor is that, in the Roman system, power travelled with the person – 'the government' would have been where the Emperor was, and on a lesser scale the same will have been true of Governors as their duties took them around their provinces.

The most tangible elements of the Imperial administration are those of the infrastructure of the *cursus publicus*, which in effect held the administration of the Empire together. The key elements are complexes known as mansions (*mansiones*); located at key points on the road system, they provided accommodation and changes of horses for Imperial messengers and other official travellers. Other, less readily recognisable buildings, known as *mutationes*, were smaller establishments that would provide changes of horses and refreshment. Many *mansiones* are known, or have been suggested in England, frequently located in towns or other settlements, such as those at Richborough (Kent) and Catterick (North Yorkshire), while others such as those at Alfoldean and Iping (both West Sussex) appear to have become foci for settlements, the latter presumably consisting of the people necessary to operate and supply the *mansio*. *Mansiones* also appear to have been used as bases for officials associated with the administration of the road system or other duties – inscriptions set up by *beneficarii consulares*, legionary soldiers on the staff of the provincial governor, are known from several sites where *mansiones* are known or suspected and at Catterick a *singularis consularis* set up an altar to 'the god who devised roads and paths'. Peripheral to (but associated with) the system of Imperial government was the Imperial

cult, most lavishly in Britain represented by the Temple of Claudius in Colchester (Essex), but also apparent in dedications to the Emperor's *numen* (his divine power).

The official infrastructure of the major towns, in essence the *coloniae*, the provincial capital(s) and the administrative centres of the *civitates*, is more readily recognisable, with the forum-basilica being the key component – the basilica being a public hall and the forum a market place. However, although multiple phases of these structures are known at some towns, such as in London and Silchester (Hampshire), at other places the acquisition of public infrastructure may have been a fairly slow process and there are major differences in scale from town to town – the forum-basilica at Caistor St Edmund (Norfolk) occupying little more than 10 per cent of the area of the second forum-basilica in London. The plan form appears not to derive from Mediterranean models, but rather from the headquarters buildings of Roman forts that would be well-known in Britain.

Mansiones may have provided an administrative focus in the settlements within which they were located, but whether a small town or roadside settlement would have dedicated administrative buildings is in effect unknown. Furthermore, in the absence of a recognisable 'official plan', such as that of a forum-basilica, and barring the fortuitous discovery of an informative inscription or other material culture suggesting an administrative function, distinguishing such buildings from others of uncertain function in a settlement would be difficult.

Urban public buildings, in general, are an aspect of the earlier part of the Roman period in Britain. In most places investment in the later Roman period in what might be considered public works is primarily concerned with the provision of defences. In the fourth century, at least in some towns, public buildings or parts of them were turned over to other uses, such as metalworking in the forum-basilica at Silchester.

In the areas of the north where the army was present throughout most of the Roman period the administrative picture may have been somewhat different, with local military commanders having considerable influence, particularly in the *vici* (territories) associated with their command. However, *civitas* capitals are known at Aldborough (North Yorkshire), probably Brough-on-Humber (East Riding of Yorkshire) and from the later second century Carlisle (Cumbria). It is known that forts had *territoria* on the evidence of an inscription from Chester-le-Street (County Durham), and each legionary fortress would have controlled an area known as the *prata legionis*. The physical evidence for both *territoria* and *prata* is likely to be restricted to inscriptions, such as the dedication slab from Chester-le-Street (Northumberland) that mentions the fort's *territoria*, or boundary stones, such those known from Spain delimiting the *prata* of *legio IIII Macedonica*.

At the lowest level of the known governmental hierarchy are the *vici* and *pagi* (rural districts); while subordinate to the *civitates*, their administrative roles and arrangements are essentially unknown. However, there are inscriptions that refer to *vicani*, and at Old Carlisle one that records the dedication of an altar by 'the masters of the villagers' suggests the existence of an administrative structure in the *vicus*. No inscriptions or other physical evidence relating to *pagi* are known from Britain, and without such evidence they are unlikely to be recognisable in the archaeological record.

In comparison with what is known for areas such as North Africa, the understanding of Imperial Estates in Britain is relatively limited. Initial exploitation of mineral resources appears to have been directly controlled by the Emperor through the army; later, leasing to contractors became the norm. Equally, the existence of Imperial Estates has been argued on the basis of an absence of villas in areas such as Salisbury Plain and Cranbourne Chase (both Wiltshire), and the Fens where the site at Stonea (Cambridgeshire) has been suggested as an estate centre.

1.3 Anglo-Saxon and Viking

The political geography of the 600 years between the end of Roman Britain and the Norman Conquest was complex, and constantly evolving. By the seventh century smaller territories were coalescing into larger kingdoms such as Kent, Sussex, Wessex, Mercia, East Anglia, Essex, and Northumbria, although smaller sub-kingdoms or short-lived units are documented, and presumably many more go unnoticed in the relatively sparse documentary record.

John Blair suggests that in AD 600 English kings may have been counted in dozens, and several known, or possible, palace sites have been identified. Boundaries between these kingdoms need not necessarily have been fixed and marked physically, although natural features such as rivers are known to have functioned in this way. Very exceptionally man-made monuments were erected, typically in times of conflict to define boundaries (real or claimed): the later eighth-century Offa's Dyke (many sections of which in Shropshire and Herefordshire are scheduled), apparently when constructed the claimed western boundary of Mercia, is the best-known and most impressive example. The governance of many, if not all, kingdoms included a periodic Witenagemot ('meeting of wise men') also known as the Witan (more properly the title of its members), probably evolving from ancient Germanic folkmoots. In England these had evolved by the seventh century into convocations of the land's most powerful and important people, including ealdormen, thegns and senior clergy, to discuss matters of national and local importance. Witenagemots – held, for instance, at the scheduled Cheddar palace site in Somerset in 941, 956 and 968 – continued to be convened until the eleventh century. Presumably such assemblies were normally accommodated in the large halls known at palace sites, although the amphitheatre-like structure excavated at the seventh-century palace at Yeavinger (Northumberland; Fig 1) shows that alternative provision for addressing large groups was possible.



Figure 1

Reconstruction of the seventh-century palace at Yeavering, in north Northumberland, based on excavations which identified (from foreground to

background) a fort, a great hall, and what is interpreted as a triangular amphitheatre.

It is reasonable to assume, and hinted at by the documentary sources and place-names, that once stability came to post-Roman England public assemblies started to be held at specific places. The opening clause, for instance, of the laws of Aethelberht, king of Kent (compiled about AD 602-603), states 'Breach of the peace shall be compensated doubly when it affects a church or meeting place'. The earliest specific mention of a meeting place (or moot) is in a charter of 826 of Egbert, king of Wessex, relating to Calbourne, on the Isle of Wight, which mentions a *gemot beorh* (assembly mound) as an estate boundary marker.

Beneath kingdoms were shires, predecessors of the post-Conquest counties (from the French *comté*, meaning count). Some shires were based

on ancient tribal divisions (Kent, Cornwall and Devon are Celtic names), while others were probably created for military purposes in the eighth and ninth centuries around royal estates or towns. East midland shires were created under the Danelaw during the ninth or tenth centuries, centred on Viking army base-towns like Derby. Both shire and town had assemblies of notables – respectively twice and three times a year – when local and regional matters of import were discussed and decided.

Counties were subdivided into hundreds, where matters of more local administration and military organisation were dealt with and whose courts passed judgements on offenders. These developed with counties, along with the thegnly

classes, in the ninth and tenth centuries. From at least the time of Edward the Elder (899-911) ‘hundred’ courts were convened four-weekly by the king’s reeve (his representative, or shire reeve – later sheriff). Meetings were predominantly held, it seems, in the open air at natural or topographic features including bridges, crossroads and standing stones, as well as mounds. Some of the last were dug into by antiquarians, usually in the hope that they were grave-mounds. Of the twelve documented excavations of meeting places only one, that at the meeting place of Secklow Hundred (Bedfordshire; a Scheduled Monument), was a deliberate, targeted, modern investigation of a hundred mound, and this found no evidence earlier than the thirteenth century.

Insofar as hundred mounds can securely be characterised, they comprise circular, flat-topped, turf-covered mounds, generally lower and wider than prehistoric barrows. Dimensions vary from

43m in diameter by 3m high at Cuckhamsley Hill (Berkshire) to 18m by 2m at Bledisloe Tump (Gloucestershire). Another example near Alsop Dale (Derbyshire) is 18m by 1.2m. The mound is usually surrounded by a ditch and sometimes an inner berm (a flat ledge between mound and ditch); the ditch is frequently 1m wide and 0.5m deep. A small number, such as that near Knox Bridge (Kent) are scheduled).

Where a standing stone was used to mark a moot site it will typically resemble a prehistoric standing stone – but is usually smaller and located in what for a prehistoric standing stone would be an atypical position, as at Tibblestone (Gloucestershire; listed Grade II). Sometimes a material such as quartz was chosen which would stand out in the landscape. For boundary stones and other administrative markers in general see the [Street Furniture](#) listing selection guide.



Figure 2
The shire meeting place at cwicelmeshlœw, on the Ridgeway near East Hendred, Oxfordshire.

In the Danelaw shires (Derbyshire, part of Lancashire, Leicestershire, Nottinghamshire, Rutland and Yorkshire (perhaps excepting the East Riding)) ‘wappentakes’ performed a similar function to hundreds, while in Northumberland, Cumbria, and Durham their approximate equivalents were called wards. All had fixed assembly points. By the third quarter of the tenth century there were also shire and borough courts, for which there are limited mentions in written sources.

The overall number of hundred mounds and similar in England is unknown. It is thought that there are at least 29 meeting places in Northamptonshire, while at least 40 places in Somerset used as hundred meeting places have been identified. Extrapolating from this it would seem reasonable to suggest that at least a thousand places were used for judicial and administrative gatherings in Anglo-Saxon and post-Conquest England.

Evidence for imprisonment early in the Anglo-Saxon period is sketchy, but in Wessex, by the reign of Ine (688-726), ealdormen may have been responsible for confining offenders. By the end of the eighth century there seem to have been prisons on Mercian royal estates, and greater clarity is provided by the laws and other writings of Alfred in the late ninth century and in some Saints’ lives. By the earlier tenth century, during the reign of Aethelstan (927-939), the place of prisons in the judicial system is documented in greater detail, and sheriffs were increasingly involved in the application of justice. Physical evidence for these, however, remains elusive. At the Anglo-Saxon palace at Cheddar the excavator suggested a group of postholes near the Period 1 Long Hall may have been a prison, while even less certainly the suggested possible functions of a sunken room at Wearmouth (County Durham), the renowned seventh-century Anglo-Saxon monastery, may have included a prison. Law codes exist from early in the Anglo-Saxon period, and from the time of King Athelstan laws were made more frequently, and in greater detail. Anglo-Saxon and early-medieval execution cemeteries are treated in the [Commemoration](#) scheduling selection guide.

1.4 Medieval

Prison was first prescribed as a punishment in the 890s, and at the Council of Whittlebury (Northamptonshire) in about 930 King Athelstan imposed it as a fitting punishment for juvenile thieves.

The Normans introduced additional controls, including Forest Law which operated alongside Common Law, while under Henry II (1154-1189) there were major constitutional and legal reforms, sufficient to gain him the soubriquet ‘the father of English common law’. Subsequently Magna Carta (1215) established limits to royal power, and as reissued became a statement of law; some chapters remain on the statute book to this day. In terms of place, it was Westminster Hall (first used 1199) which lay at the heart of English legal and judicial systems.

Many courts, administrative and judicial, lay and ecclesiastical, were established or developed in the Middle Ages; most met in domestic or multi-purpose buildings, although occasionally a dedicated courthouse was provided.

Prisons were principally used to hold persons awaiting either trial or punishment. However, by the thirteenth century people were being jailed for a wide variety of reasons until they paid a release fine, and increasingly for fixed periods of time for particular offences, and especially for repeat offences.

Many administrative and judicial functions in medieval England were carried on at castles, which could also act, at least temporarily, as prisons. Turrets, and undercrofts or cellars (the last termed pits, or ‘dungeons’, a term in use from the fourteenth century), could be so used. So, too, could small buildings built expressly for the purpose in the castle yard termed cages, which the word *gaola* seems originally to have meant. A number of castles (Oxford, Lancaster) have retained their legal and penal functions right up until the present day.

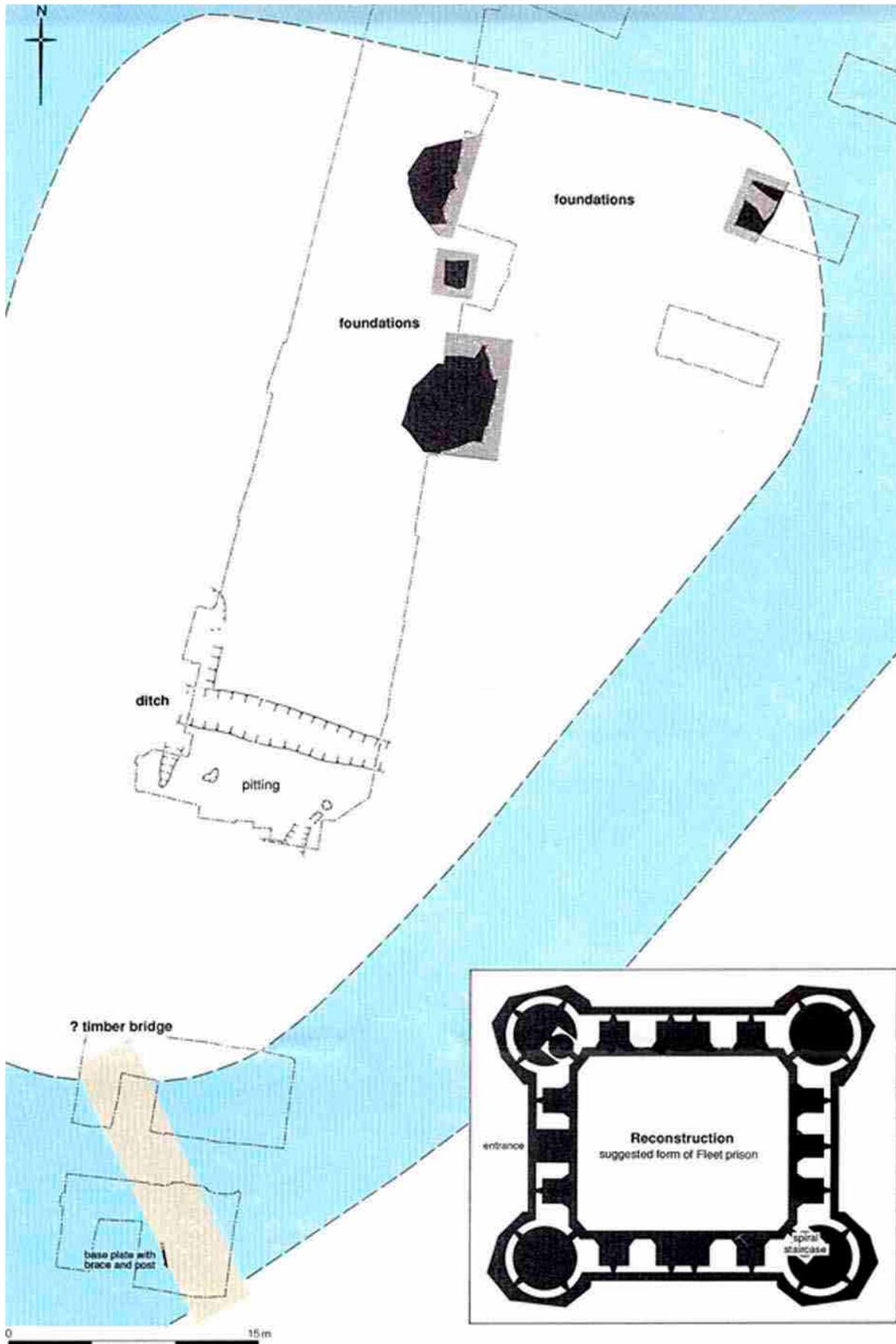


Figure 3
Reconstruction, based on excavated evidence, of The Fleet Prison, London.



Figure 4
Hexham Old Gaol, Northumberland. Built by the Archbishop of York in 1330-32, this had two dungeon prisons, with residential accommodation above.

By the mid-twelfth century sheriffs were regularly indenting for the expense of keeping prisoners, and for building and maintaining jails, and in 1166 all sheriffs in counties where no jail existed were enjoined to build one, nominally using timber. The documentary evidence suggests prisoners were segregated by class, sex or offence using different floors or rooms; the basement, ‘the depths of the gaol’, seems typically to have been a place of dishonour.

Purpose-built prisons included London’s Fleet prison (maintained and used by the sheriffs of Middlesex and London), which has been excavated (Fig 3). This was a square tower with polygonal turrets on all four corners, constructed on an upstream eyot on the River Fleet about 1180. The channel around the eyot acted as a natural moat until the period 1230-1261 when an artificial moat and a ragstone perimeter wall around the entire eyot were constructed. The prison lived on, through various phases of rebuilding, until 1845. The oldest surviving jail, a tower-like building of two storeys with a basement vault, is Hexham Old Gaol, built 1330-1332 for the Archbishop of York, Lord of the Liberty of the Regality of Hexham (Northumberland; Fig 4). Alongside is the late

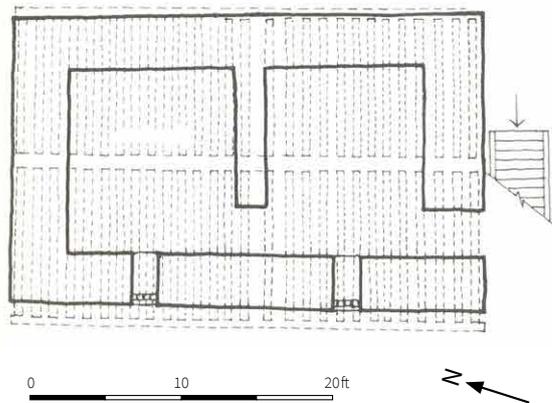
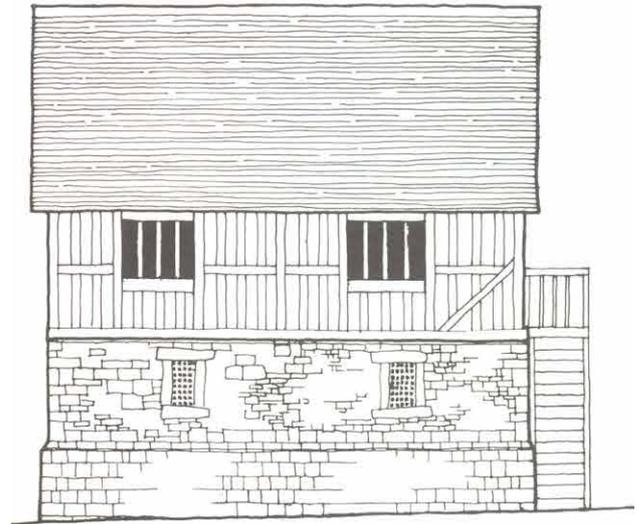


Figure 5
In 1577 a courthouse was erected in Much Wenlock, Shropshire, on top of an earlier two-cell stone jail. The latter was mentioned in 1541, but could be markedly older; a late fourteenth-century date is commonly suggested.

fourteenth-century Moot Hall, the Archbishop’s courthouse. A smaller example, again possibly fourteenth-century, is at Much Wenlock (Shropshire; Fig 5).



Figure 6
Lydford Castle, Devon. This late twelfth-century castle, rebuilt in the mid- thirteenth, was a prison for Dartmoor Forest and for Lydford's stannary courts.

As well as royal and archiepiscopal jails (in 1222 two blasphemers were sent to an episcopal prison to live out their days on bread and water), there were also county, borough, private and debtors prisons many, but far from all, in urban locations. Pugh's *Imprisonment in Medieval England* (see below, Select Bibliography) reveals the surprisingly wide range and large number of prisons, and also the number of prisoners who could be confined at any one time – in summer 1316 28 men died in Wallingford jail, presumably in an epidemic. Prisons also formed part of the infrastructure supporting Forest Law which, from

1066, protected deer and trees in the royal forests, of which there were 143 in the early thirteenth century. Forest courts and prisons were often accommodated in castles – St Briavel's castle for the Forest of Dean (Gloucestershire), for instance. Especially in smaller forests there seem to have been multi-function lodge-prisons. The late thirteenth-century Forester's Lodge, at Millichope (Shropshire), is an example; others survive archaeologically as moated sites, although a definite identification of such a site with a place recorded in the documentary record is not always possible – a caveat which, of course, has general applicability.

Turning to local administration, the hundred survived in England as an administrative unit until the nineteenth century, albeit shedding functions over time as new administrative and judicial institutions were established. The fluctuating boundaries of hundreds meant that some meeting places would have been re-located, and new ones established, in each case perhaps with mounds or markers. The ninth to the thirteenth centuries probably represent the highpoint in the use and construction of moot mounds, although during the post-Conquest period many hundred or moot courts were moved into standing buildings, or migrated to urban areas.

1.5 Post-Medieval

Under the Tudors and Stuarts, systems of law and local government continued to develop on the framework laid down in earlier epochs. Increasing numbers of civic buildings were built, and survive from the late seventeenth century onwards, including town halls, whose functions included the holding of assizes. Prison reform, and the construction of new purpose-built gaols, came in the eighteenth century. For further details and listing selection criteria see the listing selection guide on [Law and Government Buildings](#).

2 Overarching Considerations

2.1 Scheduling and protection

Archaeological sites and monuments vary greatly in character, and can be protected in many ways: through positive management by owners, through policy, and through designation. In terms of our designation system, this consists of several separate approaches which operate alongside each other, and our aim is to recommend the most appropriate sort of protection for each asset. Our approach towards designation will vary, depending on the asset in question: our selection guides aim to indicate our broad approaches, but are subordinate to [Department for Digital, Culture, Media and Sport \(DCMS\)](#) policy.

Scheduling, through triggering careful control and the involvement of Historic England, ensures that the long-term interests of a site are placed first. It is warranted for sites with real claims to national importance which are the most significant remains in terms of their key place in telling our national story, and the need for close management of their archaeological potential. Scheduled monuments possess a high order of significance: they derive this from their archaeological and historic interest. Our selection guides aim to indicate some of the grounds of importance which may be relevant. Unlike listed buildings, scheduled sites are not generally suited to adaptive re-use.

Scheduling is discretionary: the Secretary of State has a choice as to whether to add a site to the Schedule or not. Scheduling is deliberately selective: given the ever-increasing numbers of archaeological remains which continue to be identified and interpreted, this is unavoidable. The Schedule aims to capture a representative sample of nationally important sites, rather than be an inclusive compendium of all such assets.

Given that archaeological sensitivity is all around us, it is important that all means of protecting archaeological remains are recognised. Other designations such as listing can play an important part here. Other sites may be identified as being of national importance, but not scheduled. Government policy affords them protection through the [planning system](#), and local authorities play a key part in managing them through their archaeological services and Historic Environment Records (HERs).

The Schedule has evolved since it began in 1882, and some entries fall far short of modern standards. We are striving to upgrade these older records as part of our programme of upgrading the National Heritage List for England. Historic England continues to revise and upgrade these entries, which can be consulted on the [Historic England website](#).

2.2 Heritage assets and national importance

Paragraph 194 and footnote 63 of the [National Planning Policy Framework](#) (July 2018) states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification and for assets of the highest significance should be wholly exceptional; ‘non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets’. These assets are defined as having National Importance (NI). This is the latest articulation of a principle first raised in PPG16 (1990-2010) and later in PPS5 (2010-2012).

2.3 Selection criteria

The particular considerations used by the Secretary of State when determining whether sites of all types are suitable for statutory designation through scheduling are set out in their [Scheduled Monuments Policy Statement](#).

3 Considerations by Period

3.1 Prehistoric

The sites and monument types discussed above associated with what is here termed law and government will generally already be scheduled, or strong candidates for such if new discoveries.

3.2 Roman

Similarly, Roman sites associated with law and government will generally already be scheduled (typically as elements of settlements), or strong candidates for such if new discoveries. However, scheduling will not always be the most appropriate designation for Roman towns and cities which lie beneath later conurbations (for a wider discussion of this point see the [Settlement Sites](#) scheduling selection guide).

3.3 Anglo-Saxon and Viking

Where sections of linear frontier earthworks like Offa's Dyke survive, and sometimes where their line can be traced by survey methods such as air photography, they will generally be scheduled.

Hundred mounds (and their equivalents elsewhere in England) represent the physical manifestation of emerging legal and judicial systems, about which there is a finite documentary record. Their place in the landscape – natural, as well as political and administrative – and their date of

construction, are but two of the ways in which they have the potential to tell us more about the important topics of legal and judicial history. Although the potential number of historic meeting places may number a thousand or more, the number of known mounds and other man-made structures is relatively small.

Where examples can be positively identified that are tied in with a documented meeting place, serious consideration should be given to scheduling. Many mounds will have been dug into, especially by antiquarians, in the mistaken belief they were burial mounds. Nevertheless, this will rarely have so denuded the structure of the mound that it has lost its archaeological potential, and unless the damage is very severe designation will still be appropriate. Where a mound did re-use a barrow, the successive uses will add to its interest, and may lead to the designation of a damaged or denuded example which otherwise might not be selected for scheduling.

Marker or boundary stones, such as the Four Shire Stone, Oxfordshire, are normally designated by listing, in this case at Grade II. These are treated in the [Street Furniture](#) listing selection guide.

The sites of palaces and other high-status places where meetings for governance were held will often be schedulable particularly when they have not been built over; they are discussed in the [Settlement Sites](#) scheduling selection guide.

3.4 Medieval and later

The majority of early prisons and courthouses seem to have stood in urban areas and have been demolished and built over, or were (or have later been) subsumed into larger, and generally later, complexes including castles. Most of the latter will

already be designated via listing or scheduling. If the site of a medieval or later purpose-built prison (up to the 1770s), courthouse, guildhall or the like is known (that is, a structure which survives only as a ruin or below-ground archaeological site) it may be a candidate for scheduling if not severely compromised by later development.

4 Select Bibliography

4.1 Prehistoric

Birley, A. R., *The Roman Government of Britain* (2005)

Needham, S., Lawson, A. and Woodward, A., ‘“A Noble Group of Barrows”: Bush Barrow and the Normanton Down Early Bronze Age Cemetery Two Centuries On’, *Antiquaries Journal* 90 (2010), 1-39.

Parker Pearson, M. and others, ‘Who was Buried at Stonehenge?’ *Antiquity* 83 (2009), 23-39.

Renfrew, C., ‘Monuments, Mobilisation and Social Organisation in Neolithic Wessex’, pp. 539-58 in Renfrew, C. (ed.), *The Explanation of Culture Change* (1973).

Sharples, N., *Social Relations in Later Prehistory: Wessex in the First Millennium BC* (2010)

Yates, D., *Land, Power and Prestige: Bronze Age Field Systems in Southern England* (2007)

4.2 Roman

Black, E. W., *Cursus Publicus: The Infrastructure of Government in Roman Britain* (1995)

Salway, P., *Roman Britain* (1981)

4.3 Anglo-Saxon and later

Brodie, A. and others, *English Prisons: An Architectural History* (2002)

Pugh, R.B., *Imprisonment in Medieval England* (1968)

Reynolds, A., Anglo-Saxon Deviant Burial Customs (2009), 18-21

Reynolds, A., ‘Crime and Punishment’, pp 892-913 in Hamerow, H., Hinton, D.A. and Crawford, S. (eds), *The Oxford Handbook of Anglo-Saxon Archaeology* (2011)

Winchester, A., *Discovering Parish Boundaries* (2nd edn. 2000)

5 Where to Get Advice

If you would like to contact the Listing Team in one of our regional offices, please email: customers@HistoricEngland.org.uk noting the subject of your query, or call or write to the local team at:

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Acknowledgments

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Figure 1: Past Perfect/Northumberland and Durham County Councils

Figure 2: Sarah Semple

Figure 3: Museum of London Archaeology VAL 88

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Figure 5: F W B Charles with Mary Charles, from *Conservation of Timber Buildings* (1984), **173**

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