The Society for Nautical Research

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Dear Ms Houghton

RESPONSE TO THE CONSULTATION ON OPTIONS FOR THE MANAGEMENT OF THE WRECK SITE OF HMS VICTORY 1744

INTRODUCTION

1. The Society for Nautical Research was founded in 1910 to foster the study of ships and seafaring throughout all ages and in all seas. It has an international membership open to all. Its refereed journal, The Mariner's Mirror, is recognised internationally as the pre-eminent English language journal on naval and maritime history, nautical archaeology and all aspects of seafaring and lore of the sea world wide and in all ages.

2. In January 1922 the present HMS VICTORY was moved into dry dock No. 2 at Portsmouth following a campaign by the Society to save her before she sank at her moorings. She was docked successfully and then surveyed. As a result the Admiralty decided that she must stay in dock but that the cost of restoration was so high that it could not be met from public funds. On 10 June 1922 the Board of Admiralty wrote to the Society to say that if the Society was prepared to raise money to pay for the ship's restoration to 1805 condition the work could be done in the dockyard and on the basis of the Society's expert advice. The Society's 'Save the Victory Fund' was set up and funds raised. A plaque on board was unveiled by King George V when he visited the newly restored ship in 1928 to record the Society's close involvement with this work. The 'Save the Victory Fund' still exists and still provides monies for the display and conservation of the ship. The Society continues to provide the Chairman for the MoD's VICTORY Advisory Technical Committee.

3. The Society was also instrumental in facilitating the Act of Parliament that established the National Maritime Museum at Greenwich in April 1937. The Society's

collection of artefacts at Portsmouth has grown through the Society's VICTORY Gallery, to become firstly the Royal Naval Museum in 1972 when the collection was gifted by the Society to the Secretary of State and more recently a key component of the National Museum of the Royal Navy. With some reason, therefore, The Society has a real interest in understanding and safeguarding the wreck site of HMS VICTORY's 1744 predecessor and artefacts from her.

4. The Society endorses the overriding aim of the consultation which is to ensure that appropriate management options are developed in accordance with best archaeological practice. We believe these to be as set out in the Annex to the UNESCO Convention on the Protection of the Underwater Cultural Heritage (the UNESCO Convention).

THE CONTEXT OF THE CONSULTATION

5. The wreck is stated to lie beyond the outer boundary of the 12 nautical mile Territorial Sea of the United Kingdom. As we understand it this makes protection of the wreck site under the Protection of Wrecks Act 1973 impossible since the UK has no comprehensive jurisdictional mechanism for protection of Underwater Cultural Heritage (UCH) beyond its territorial waters. Neither can the site be protected under the Protection of Military Remains Act 1986 as the ship sank prior to 4 August 1914. The Society notes that the wreck is regarded as being of international importance in cultural heritage terms and is considered a 'once in a generation find'. We welcome this. The wreck is certainly unique within the South West Approaches since no other 18th century first rate Royal Navy warship was lost in these waters. It is also undoubtedly of international significance. And so the Society not only hopes that the Government will be able to find a way to give this site the fullest protection possible but that this consultation will also pave the way for other significant wreck sites outside the Territorial Sea to be protected as they are discovered. As a first step to this we suggest that the current Register of Wrecks held by English Heritage should be expanded to include all Government owned wrecks in the UK 200 mile economic zone. The Hydrographer and the Royal Naval Historical Branch at Portsmouth should be able to provide this information without any difficulty. The former has after all presumably marked them on the charts; the latter can provide a useful cross check that all such known losses have indeed been charted.

6. It is inevitable given the very considerable and continuing advances in remote sensing technology and the increase in offshore seabed exploration and utilisation, that other culturally significant sites will be found within the UK Economic Zone in the coming years and that the UK will repeatedly face similar situations to that now being considered. It is important, therefore, that the UK equips itself at administrative level as outlined in the paragraph above and also in regulatory terms to meet this coming challenge[1].

7. In the particular case of HMS VICTORY (1744) the Society accepts that the Sovereign Immune status of the wreck confers a degree of civil law protection to the wreck though there seems to be some confusion about how this protection arises[2]

[1] For example Odyssey Marine Exploration (OME) is known to be seeking the wreck of the Merchant Royal, a merchantman that sank in 1641 in the SW Approaches. As a merchant vessel the wreck would not be Sovereign Immune and could quite legally be subject to immediate salvage.

[2] It should be noted that, contrary to the statement in the Consultation document, the Sovereign Immune status of the wreck does *not* arise because title to it is vested in the Crown. Crown ownership *per se* does not confer Sovereign Immunity. Such immunity arises from *both* Crown ownership (a

but in the absence of a more comprehensive regulatory framework further protective measures are not possible. Consequently the Society urges the Government to review, as a matter of priority, earlier decisions not to sign the UNESCO Convention.

8. It is disappointing that the document 'Coalition: our programme for government', published by the new Government on 20th May 2010 was silent on the broader heritage and cultural issues facing the UK. The Society suggests that DCMS should convene a Working Group to consider what advantages and disadvantages would stem from the UK becoming a signatory to the UNESCO Convention and exactly what obligations this would place upon the UK. Such a Working Group could be similar to the Salvage and Reporting of Discoveries Working Group convened prior to the drafting of the Heritage Protection Bill on which there was pre-legislative consultation a couple of years ago. The Society would be able to lend its expertise to such a Group.

9. The Society also notes that while it is clear that the wreck is located beyond the 12 nautical mile limit of the Territorial Sea, it is not clear whether it lies within the 12 – 24 nautical mile limit that would encompass a Contiguous Zone. But if the site is within such a zone then the zone should be declared as quickly as possible so that the provisions of Article 303 of the United Nations Law of the Sea Convention (UNCLOS) could confer additional legal protection to the wreck.

RISKS TO THE SITE

10. Natural Processes & Physical Damage - It is apparent from the report by Wessex Archaeology that there is insufficient evidence to assess how dynamic the site is and what natural changes may be occurring to the covering sand layer. Consequently, it is impossible at this point to assess fully the threat to the site. It is also apparent from the report that both dredging for shellfish and trawling (arguably the two commercial fishing practices that have the greatest potential to harm the site) are not confirmed as a major threat. Other forms of commercial fishing should also be considered when quantifying the risk to the site from human activities. Shellfish potting is prevalent in the area. This has the potential to ensnare exposed objects and to displace them, possibly causing localised instability in surface layers. That said, it would appear on present evidence that the risk from commercial fishing remains relatively low and there is certainly no need to remove material from the site to protect it from fishing activity. Rather an adjustment to the basic EU Common Fisheries Policy Regulation to allow protection of UCH sites from fishing could make this issue manageable. This is discussed in more detail below.

11. The Common Fisheries Policy already provides the tools through which areas designated (usually by the EU) for marine nature conservation purposes can be protected. (Paragraphs 26 and 27 below deals with the amendment needed to secure protection of historic sites from fishing activity.) The UK's Marine and Coastal Access Act 2009 provides for the designation and protection of additional nationally significant areas and the Act clearly encompasses underwater heritage. All these areas will need to be monitored by the UK Fisheries Protection Squadron and the Marine Management Organisation's ariel over flight contractors and they could easily be tasked with monitoring sites designated primarily for heritage purposes as well at little or no extra cost.

State owned or operated vessel) and the fact that the vessel, as a Royal Naval warship, was a State vessel being used for non commercial purposes. A Crown vessel used for commercial purposes, or the wreck thereof, would not enjoy such immunity.

12. Another way of monitoring underwater sites of historic, cultural or archaeological significance which should be considered is to use them as occasional training areas for RN diving exercises. The divers would be trained and the opportunity could be taken to check for apparent disturbance of the site. The Royal Naval Historical Branch should have no difficulty in identifying such sites offshore in the absence of any statutory protection or listing.

13. The Society notes that unlicensed salvage is considered the greatest threat to the site. The Society welcomes this recognition of the rapid change in technical capabilities of vessels. Even 5 years ago, the recovery of bronze cannon from a depth of approximately 80 metres would be considered a considerable task, requiring a relatively large vessel with lifting equipment. Such a vessel would have to be of a size that required the mandatory fitting of Automatic Identification System (AIS)[3], which would enable the vessel's movements to be ascertained retrospectively. Additionally, the landing of one or more bronze cannons is unlikely to go unnoticed. All in all such an undertaking would not be a 'low profile' activity and is likely to come to the attention of competent authorities.

14. However advances in hull form and lifting equipment possibly already make it feasible for vessels too short to need to carry mandatory AIS equipment to lift heavy artefacts from the sea bed. But in the near future such vessels will be able to lift. (Indeed, since writing the previous sentence I have been told of two instances where small vessels have successfully lifted heavy items successfully and safely.) Modern fishing vessels provide a clear example of the way in which design changes over only a few years have turned small vessels into all weather machines capable of exerting very significant towing power. DEFRA is currently examining the practicalities of requiring small scale AIS equipment to be fitted to these under 15 metre vessels to report their positions automatically as is already the case with larger fishing vessels. DEFRA, DCMS, MCA and MMO (Marine Management Organisation) may have a shared interest in use of this type of equipment. The lifting exercise might or might not become 'low profile' but the landing of large artefacts would, one hopes, still be likely to come to the attention of the authorities.

15. Perhaps of slightly higher risk would be the diving of the site by divers using advanced gas mixtures and re-breathing equipment, so called 'technical diving'. A diving vessel chartered for such advanced, recreational diving would be likely to be below the current size for mandatory fitting of AIS but the comments above about AIS equipment and lifting capability are applicable. However, such divers could certainly conduct a search on the surface and within the sediments for smaller items, to be collected as personal 'souvenirs'. Such small scale recoveries would be entirely unsystematic in archaeological terms, almost certainly would go unreported to authority and so would result in the loss of potentially important cultural artefacts and contextual information. It is also possible that such activity could destabilise the sedimentary layer in particular locations. However, while such a threat clearly exists, it is understood that the number of technical divers who are capable of safely executing such a dive is relatively limited, perhaps as few as 80 individuals in the UK. Steps could be taken to mitigate and manage this risk and these are discussed below in relation to the three management options.

[3] This system provides real time and recorded location information for vessels fitted with the system. Fitting is mandatory for fishing vessels over 15 metres and commercial vessels over 300 tons. This would include most fishing vessels operating offshore and vessels large enough to engage in salvage of heavy items, such as cannon.

16. The Present State of Knowledge of the Site - the Society wishes to place on record its appreciation of the work conducted within a very difficult time frame by Wessex Archaeology. The most salient points in their desk based assessment appear to be[4]:

a. only limited information is available on the extent and character of the wreck site (5.2.1) and the size of the site is currently unknown (4.5.2). In particular, full recording of visible wooden objects has not yet occurred (4.5.23), the site plan includes only fully exposed objects (4.5.25), it is not clear if some wooden objects are attached to other timbers and therefore in situ (4.5.26) and the extent to which HMS VICTORY (1744) survives on the seabed is unclear (5.2.4);

b. the depth and character of the stratigraphy of the site remains largely unknown (5.3.1), there is insufficient evidence to assess how dynamic the site and the covering sand is (4.5.5) and while there is evidence to support changes to the depth of the sand layer over short periods, further information is required to understand this process (4.5.21);

c. no Bathymetric survey has yet been conducted so the precise form of the seabed and sea surface is unquantified (4.5.9);

d. while there is potential for the whole length of the vessel being present, it is unclear to what extent the wreck survives on the seabed and this demonstrates how uncertain is the current archaeological evidence (5.2.4 & 5.2.6). Until the extent of remains on the site can be established reliably, an accurate assessment of the level of survival and the potential for other artefacts to be discovered cannot be made (6.1.4);

e. Consequently, further investigation needs to be undertaken to fully understand the full context of the site (page 25).

EVALUATING THE THREE MANAGEMENT OPTIONS

17. The Society believes that any evaluation of the three management options posed in the Consultation should be underpinned by the precautionary principle that, wherever possible and as a preference, maritime heritage assets are best preserved in situ as articulated in Rule 1 of the Annex to the UNESCO Convention. While the UK is not a signatory to the Convention it has stated its intention to abide by the terms of the Annex in managing the Underwater Cultural Heritage.

Question 1: What are your views on the options for management of this wreck site in the light of the evaluation produced by Wessex Archaeology?

18. Applying the precautionary principle and in view of the limited nature of our knowledge about the site, especially:

i. the extent and character of the wreck site;

ii. its dynamic characteristics;

[4] Numbers in brackets refer to paragraph numbers or page numbers of the Archaeological desk Based Assessment by WA.

iii. the depth of the sand layer;

iv. the need for further information to allow an understanding of whether sand movement is occurring and if so the process of movement;

the Society believes that at this stage and with the current lack of knowledge any intrusive operations directed at the site, whether in the form of surface recovery or more extensive excavation, would be premature and unjustified. Accordingly, the preferred management option is that of management in situ, combined with a proactive programme by the UK authorities to:

i. monitor the site and develop an understanding of any dynamic process determining the depth of the covering sand layer;

ii. mitigate the risks to the site from commercial fishing and intrusive diving or other operations;

iii. establish a public education programme designed to afford constructive, as opposed to actual, public access to this unique marine heritage asset. This is a role that the National Museum of the Royal Navy would appear to be particularly well fitted to take on.

19. The potential for programmes to identify the full extent of the site and the natural processes in play on it, mitigate the risks to the site and afford public educational opportunities is discussed further

SURFACE RECOVERY

20. Surface recovery may have a role to play at some later stage provided that a detailed protocol can be devised and adhered to so as to ensure the accurate logging of the points from which material is removed; and removal of such material only when there is a high probability that the target material is no longer connected to other sections of the wreck. However, the reality is that with present knowledge of the state of the site the exercise could not guarantee the simple removal of objects visible on the surface of the seabed without becoming a substantial operation which would result in the disturbance of surrounding sediments by excavation. In the case of visible timbers, for example, it is not known if these are attached to further, possibly substantial, structural remains, which would then involve either disarticulation or further, more intrusive excavation and recovery. In all cases disturbance of surrounding sediments would be inevitable and given our lack of the knowledge of the dynamics of the site, especially that of the covering sand layer, there is a presently unquantifiable risk of destabilising the site. This, in turn, could expose further objects, which would require further surface recovery and sediment disturbance. In this manner, what commenced as a very limited recovery operation could set up a chain reaction whereby increasing intrusion into the site's sediments became necessary, possibly leading unintentionally to a substantial excavation programme, the costs of which may not be sustainable. Nor would potential financial and curatorial difficulties end with recovery. The recovered artefacts would require ongoing conservation and appropriate deposition in an accredited museum, in accordance with the principles of best practice as stated in the Annex to the UNESCO Convention. Conservation of even a relatively modest number of artefacts would have potentially significant financial implications, while curatorial facilities are already under considerable pressure and the Chancellor's Budget Statement on 22 June carried a clear message about funding and staffing levels in the public sector.

21. For these reasons we consider that even a limited surface recovery programme at this stage and with very limited knowledge of the site represents a significant and unjustifiable physical, financial and curatorial risk to the site and its artefacts.

FULL ARCHAEOLOGICAL EVALUATION AND EXCAVATION

22. All of the considerations that apply to Surface Recovery apply with even greater vigour to conducting a Full Archaeological Evaluation and Excavation. An exercise of this nature at this depth to prevailing standards of best practice, while not unprecedented, would be an extremely challenging and costly operation. In order to attempt to quantify the potential scale of costs involved in such an extensive operation DCMS might like to consult with the Mary Rose Trust to gain an idea of the costs of that recovery. The costs would obviously need considerable enhancement to take proper account of inflation in the years since 'Mary Rose' was identified and lifted and the costs would also need significant further enhancement to account for the very different circumstances of working on a shallow site off the Isle of Wight and a deep water site in the western approaches. Given the complexities, both physical and financial, of such an operation we do not believe it will be a viable option for the foreseeable future.

Question 2: Would you seek to offer any support, whether physical or financial, towards the future management of the site and its artefacts?

23. The bulk of the Society's resources are locked in Charities or other restricted funds and so are not available to support a project such as this. Nonetheless, and as already indicated at paragraph 8, the Society and its members would be willing to engage in the exercise and make their expertise available.

Question 3: Would you seek to offer any support, whether through expertise, interpretation or funding, towards furthering public understanding of naval heritage which may be gained from the site?

24. The simple answer is 'yes' as education is part of the Society's remit as a Charity. But we could only commit to a particular role after a thorough study of the implications for us.

FURTHER OBSERVATIONS ON THE MITIGATION OF RISKS TO THE SITE FROM COMMERCIAL FISHING AND INTRUSIVE DIVING OPERATIONS, THE COORDINATION OF RESOURCES FOR MONITORING AND THE EDUCATIONAL POTENTIAL OF HMS VICTORY (1744)

UNCLOS

25. Attention has already been drawn to the present serious lacuna in the regulatory framework for the protection of underwater cultural heritage sites beyond the UK 12 mile Territorial Sea. Should the wreck lie within 24 nautical miles of the points from which Territorial Sea baselines are generated then the declaration of a Contiguous Zone by the UK would, under Article 303 of UNCLOS, allow the UK to introduce further regulatory measures. At paragraph 9 we have urged an early declaration of a Contiguous Zone. The UK becoming a party to the UNESCO Convention would also assist protection of this and similar sites for as we have explained in paragraph 6 advances in technology will ensure that more highly significant sites are located in future years. The UK needs to be prepared for this.

COMMERCIAL FISHING

26. The Society was surprised that the Consultation did not discuss how existing assets might be coordinated and deployed to secure protection for the site from commercial fishing, intrusive diving and other operations. In terms of fishing the assessment by WA concludes the risk from trawling is low. This is why there is no short term need for artefacts the lifted off the site. It is well known that commercial trawling vessels are 'risk adverse' in terms of the possibility of snagging their gear on seabed obstructions, whether natural or manmade. This may explain why impressions in the seabed from trawling appear near to but not actually on the site and why there is little evidence of recent disturbance from trawling. There is a very real possibility that the existence of the site as a potential 'snag' is well known to the trawling industry. Ensuring that the site, marked as an obstruction, is promulgated on appropriate charts including the Sea Fish Industry Authority's 'Kingfisher' charts and brought to the attention of the industry could secure adequate mitigation in this respect. A change to the EU Common Fisheries Policy's basic regulation, which is currently being reviewed and must be replaced before 1 January 2012, to the effect that the CFP can be used to protect historic sites in the marine environment would provide legal and enforceable protection from fishing activity for the HMS VICTORY (1744) site and for others outside Territorial Waters. DCMS needs to get in touch with DEFRA and the MMO about this aspect if it has not already done so.

27. Commercial fishing in terms of potting for crustaceans is more problematic. Such fishing often targets wrecks, since they provide a congenial habitat to such creatures and modern hydraulic winches are capable of physically ripping pots free of obstructions in many instances. This has the potential to disturb even large items on the site, such as cannon. Arguably such activity is a trespass to Sovereign Immune property and could be restrained by a competent court both in the UK and in foreign jurisdictions. Practically, such restraint would only be feasible in the case of known, repeated violations by identified individuals and be unlikely to provide an effective deterrent, except in the case of known repeat 'offenders'. However, in the light of the assessment by WA that disturbance to the site appears to have been slight, one should be careful of overstating this risk and continued visible monitoring of the site should be an adequate mitigation for the present. The arrangement and coordination of resources for surface monitoring is discussed further below.

INTRUSIVE 'TECHNICAL DIVING'

28. As noted above, the threat to the site from such diving is extant but is relatively limited. The technical diving community is by its nature very small and it is likely that knowledge of any sustained diving activity on the site by UK nationals is likely, sooner or later, to come to the attention of the authorities. Moreover, a degree of publicised surface monitoring or underwater monitoring as a part of RN diver training is likely to reveal any sustained diving activity on the site and act as a deterrent to such activity. This is discussed further below.

29. The 'technical diving' community should be seen as a potential resource, as well as a potential threat. Avocational divers have made significant contributions to the protection, monitoring and understanding of UCH within the UK's territorial waters. Some avocational groups have engaged in sustained and dedicated archaeological work on specific sites over years, while schemes such as the Nautical Archaeology Society's 'Adopt a Wreck' scheme have involved more main stream recreational divers in monitoring and surveying a specific site on a more intermittent basis. In both cases such activity has served not only to monitor seabed

conditions but also, and perhaps equally importantly, to instil a sense of 'public ownership' in UCH sites that has facilitated their protection. It could be advantageous for DCMS and MOD to investigate, through English Heritage and relevant Diving Organisations, the potential for avocational technical divers to be encouraged to engage in a monitoring programme for the site on a voluntary basis. Such divers could, for example, place sediment level indicators into the seabed, as diving groups have done on inshore sites; such indicators are extremely cheap to manufacture (most groups make their own on a DIY basis) and the engagement of such divers in helping to secure the future of the site may well foster a protective sense of 'public ownership', which in such a small, close knit recreational community could do much to ensure 'self regulation' and prompt disclosure to the authorities of any unauthorised and intrusive diving activity by a UK based group.

30. At paragraph 12 and elsewhere we have drawn attention to the possibility of sites being used for training purposes by RN divers both to provide training and to monitor changes to the condition of sites.

COORDINATION OF RESOURCES FOR MONITORING

31. The location of the site makes constant, intensive surface monitoring of suspicious activity on or over the site impossible. However, the site is not completely remote, in that it is not far from a shipping route and encompassed within both a Royal Navy Exercise Area and a fishing area. This means that on occasions the UK has resources physically present in the area in the form of Fisheries Protection vessels, MMO ariel over flight patrols and Royal Navy warships on exercise. In addition, presumably the latter would also involve over flight by Royal Air Force maritime reconnaissance aircraft.

32. The MMO also operates a satellite based vessel monitoring system (VMS) from its fisheries monitoring centre, which tracks the positions of fishing vessels exceeding 15 metres in length. The MMO's enforcement role will in any event, following implementation of the Marine and Coastal Access Act 2009, require an increasing amount of its enforcement effort to be devoted to monitoring sites designated for marine nature conservation purposes. This will progressively become 'normal business' for the MMO and for the Fisheries Protection Squadron and the over flight service. There really is no reason why this task could not be extended to the surface monitoring of underwater heritage sites. Subject to the terms of the designation of a site probably any intervention could only be restricted to advising the vessel in question of the location of the site and that any disturbance of the site could amount to a breach of the purposes of the designation. But even so this visible enforcement activity would have a deterrent effect.[5]

33. As such tasking would be 'secondary', in that it would depend upon the resource being present in the area for its primary purposes it should not involve additional expenditure of resources and would therefore be on a 'sunk cost' basis and revenue neutral. On this basis it is suggested that DCMS and MOD explore with DEFRA and the MMO, the possibility of partnership working of the sort

[5] It should also be remembered that a further resource applicable to protection of the site is AIS (VMS on fishing vessels over 15 metres). Constant surveillance of AIS is not realistically possible in resource terms and vessels have been known to turn it off for clandestine purposes. However, it is another evidentiary resource applicable in some situations. (Fishing vessel VMS reports automatically to the Marine Management Organisation every 2 hours.)

described. For inshore waters the Sea Fisheries Committee's patrol capability should also be considered.

HMS VICTORY (1744) AS AN EDUCATIONAL RESOURCE

34. The Society was disappointed that the Consultation document does not contain any reference to the educational potential of the site of HMS VICTORY (1744), especially if the first option of management in situ is pursued. The site may well turn out to have considerable educational potential, both in terms of the specific vessel and in terms of in situ management of the UCH. As noted in paragraph 18(iii) above the National Museum of the Royal Navy seems well placed to lead on the educational role.

35. In terms of the specific vessel, the Society believes that an interesting and informative display, focusing on the story of the vessel, its construction and use, as well as the discovery and present nature of the wreck site, could be created. The design developments that were made between HMS VICTORY (1744) (launched in 1737) and HMS VICTORY at Portsmouth to-day (launched in 1765) could also be made clear. Both photographic and historical documentary data already exist, as well as two salvaged bronze cannon. This data, which could be narrated, would illustrate the site as it presently is and combined with textual sources, could explain its cultural significance.

36. However, the educational potential of the site extends beyond merely the vessel itself. Management in situ is the preferred option for all UCH and this principle is enshrined in the European Convention on the Protection of the Archaeological Heritage (Revised)[6] (Valetta Convention), to which the UK is a signatory, and in the Annex to the UNESCO Convention with which the UK has indicated that it will abide. As such it will be the management strategy adopted for the vast majority of the UK's UCH sites. Unfortunately, the principle of management in situ is regarded by the UK recreational diving community as having little credibility. This regrettable state of affairs stems largely from the management of the wreck of HMS Stirling Castle, an 18th century warship lost on the Goodwin Sands in the Great Storm of 1703. The wreck emerged from the sand virtually intact, though structurally very weak. A strategy of in situ management was pursued, despite increasing evidence that tidal action was removing much material from the site. The result was the loss of material, without the opportunity to recover and record it. To the diving community this was a unique opportunity lost through what was perceived as blind adherence to archaeological dogma and this attitude has done much to foster reservations, even hostility, to the principle of in situ management amongst the UK's recreational diving community.

37. In terms of the general public there appears to be little or no awareness of the existence of the principle, yet alone the reasons justifying its application. This lack of understanding is perhaps not difficult to understand. The majority of the public probably access nautical archaeology through television programmes, newspaper and magazine articles and items on the internet. Typically these will feature the discovery of previously unknown archaeological remains, which are then intrusively investigated, recovered, analysed and conserved and deposited in a museum. Documentaries and articles are principally there to entertain, and education is a secondary objective. Understandably, it is hard to make an entertaining programme or write such an article about in situ management and non intrusive monitoring.

[6] ETS 143.

Therefore what is presented to the public is almost exclusively an atypical archaeological process. While this process accurately reflects the management of some sites, these are a minority and will remain so, especially for maritime heritage assets. Yet the impression fostered with the public is that archaeology consists of intrusion, recovery, analysis, conservation and display. Such a public understanding will probably be reflected in the public's response to the site of HMS VICTORY (1744). A decision by DCMS and MOD to manage the site in situ will thus meet with a lack of understanding as to why excavation is not occurring. In fact, in situ management will be the inevitable management strategy for the majority of the UK's UCH, since the lack of resources in the foreseeable future will dictate it and DCMS will need to be prepared to explain and defend the rationale of such a decision.

38. The discovery of HMS VICTORY (1744) and the adoption of a management strategy of in situ preservation presents an opportunity to educate the public as to the realities facing the management of the UK's UCH. A display on the subject of HMS VICTORY could provide a platform and context to educate the public in terms of the destructive nature of excavation, the difficulties of conserving objects which have been submerged for extended periods in a maritime environment, the formidable resource implications and the necessity for a very selective use of intrusive investigations. This would help to adjust the public's distorted perception of the archaeological and maritime heritage management processes and would make public acceptance of and acquiescence in future management decisions easier to achieve. To that extent HMS VICTORY (1744) can provide a possibly significant educational contribution while remaining undisturbed.

CONCLUSIONS AND SUGGESTIONS

39. It is our conclusion that the preferred management option at this stage of very limited knowledge of the site is that of management in situ.

40. In addition we suggest that :

A. management in situ should be combined with a proactive programme to:

i. monitor the site and develop an understanding of the natural dynamic process determining the depth of the covering sand layer;

ii. mitigate the risks to the site from commercial fishing, intrusive diving and other operations;

iii. to establish a public education programme designed to afford constructive, as opposed to actual, public access to this unique marine heritage asset.

B. That the Government reviews, as a matter of priority, earlier decisions not to sign the UNESCO Convention.

C. That the Government convenes a Working Group to consider what advantages and disadvantages would stem from the UK becoming a signatory to the UNESCO Convention and exactly what obligations this would place upon the UK. Such a group should be modelled on DCMS's previous Salvage Working Group.

D. That should the UK declare a Contiguous Zone, consideration should be given to utilising Article 303 of UNCLOS to confer protection upon UCH in that zone.

E. That evaluation of the three management options identified in the Consultation should be underpinned by the precautionary principle that, wherever possible and as a preference, maritime heritage assets are best preserved in situ.

F. That it would be advantageous for DCMS and MOD to investigate, through English Heritage and relevant Diving Organisations, the potential for avocational technical divers (and Royal Navy divers for training purposes) to be encouraged to engage in a monitoring programme for the site on a voluntary basis.

G. That MOD reviews the limitations of the application of the Protection of Military Remains Act 1986, with a view to amending the Act to remove these limitations.

H. That DCMS and MOD investigate with DEFRA, the MMO and, for inshore waters, the Sea Fisheries Committees/Inshore Fisheries and Conservation Authorities, the possibility of putting in place partnership working arrangements to monitor surface activity on UCH sites and follow up suspicious surface activity over the site.

I. That the educational potential of HMS VICTORY (1744) as a platform to inform the public of the necessity for and principles of in situ site management for the majority of the UK's UCH be investigated.

41. The Society is, of course, ready to discuss further any of the matters we have raised.

Yours sincerely,

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HONORARY SECRETARY