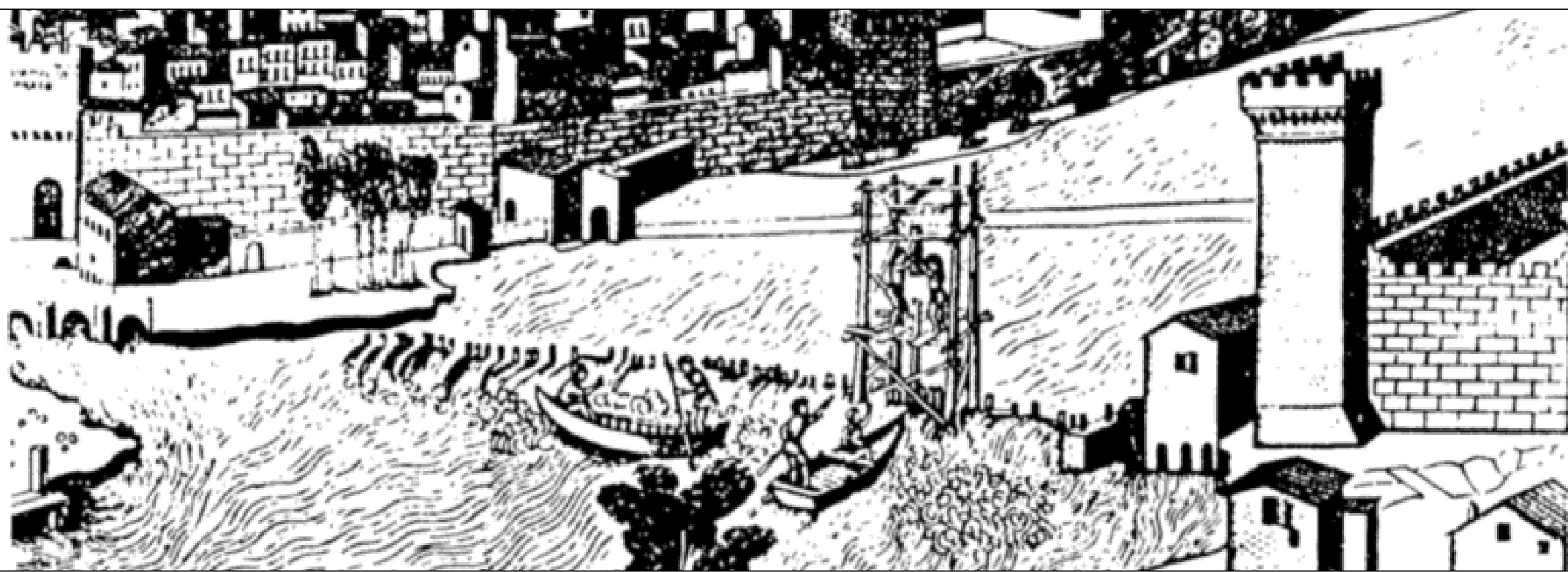


Dam Removal goes Alps: Session 4.4 - Legal Cases and Law Enforcement



Weir Today, Gone Tomorrow? An Approach to Managing and Understanding Weirs in England

Stephen Dean MA BA MCIfA
EA Senior Archaeologist (North West)

Key Aspects of the Legislative and Policy Framework in England



Environment Act 1995

CHAPTER 25

First Published 1995
Reprinted 2002

The Environment Act (1995).

7-1 It shall be the duty of each of the Ministers and of the Agency, in formulating or considering any proposal relating to the Agency:

(c) To have regard to the desirability of **protecting and conserving buildings, sites and objects of archaeological, architectural engineering or historic interest.**

2 (b) To have regard to the desirability of **maintain the availability to the public** of any facility for visiting or inspecting **any building, site or object of archaeological, architectural, engineering or historic interest.**

Ancient Monuments and Archaeological Areas Act 1979.

Planning (Listed Buildings and Conservation Areas) Act 1990.

Regulatory Reform Act 2013

National Planning Policy Framework (Chapter 16). Revised 2018 Conserving and enhancing the historic environment.

194. 'Any harm to, or loss of the significance of a designated heritage asset (from its alteration or destruction... should require clear and convincing justification.'

Curtilage Listed Structures

The law (*Planning (Listed Buildings and Conservation Areas) Act 1990*) provides that buildings and other structures that pre-date July 1948 and are within the curtilage of a listed building are to be treated as part of the listed building.

Legal precedent is important in understanding curtilage. The courts have laid out three key factors to be taken into consideration when assessing whether a structure or object is within the curtilage of a listed building:

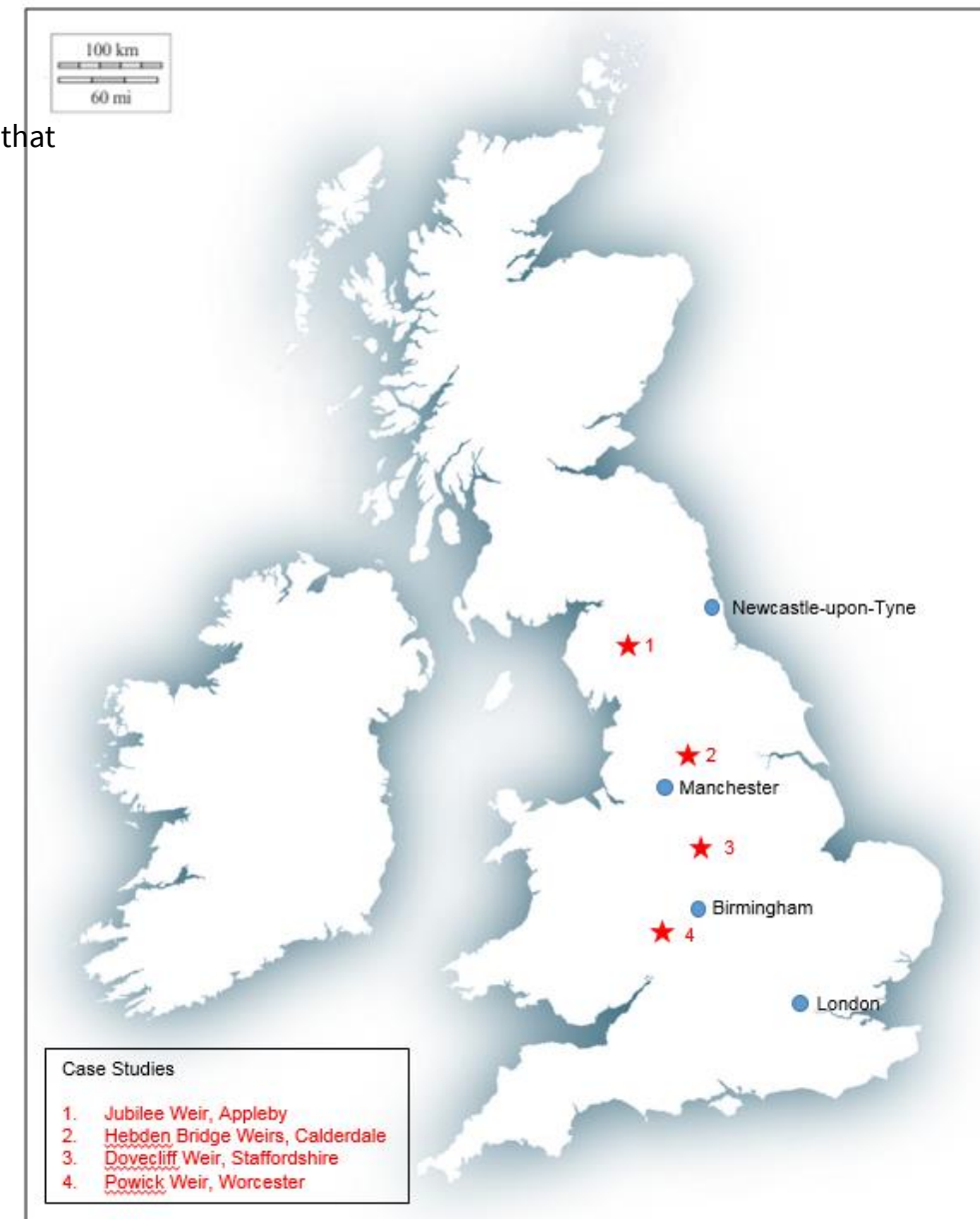
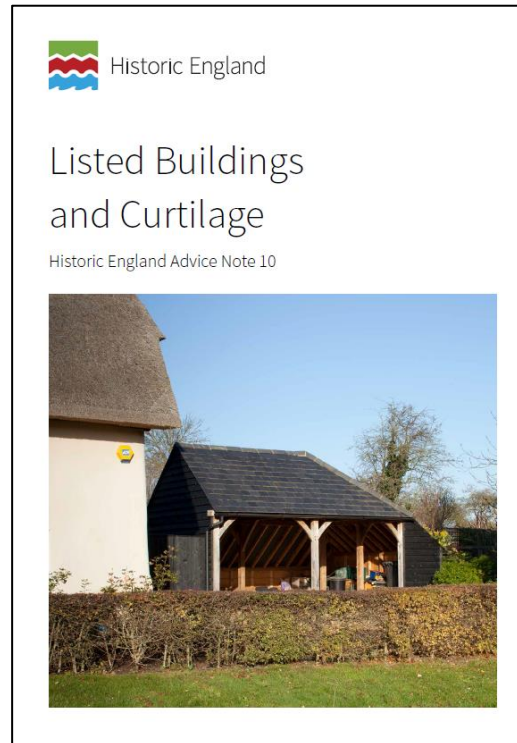
- The physical layout of the listed building and the structure in question;
- Their ownership, both historically and at the time of listing; and
- The use or function of the relevant building both historically and at the date of listing.

Listed Building Consent is required for works that affect the character of a listed building.

A building or structure within the curtilage of a listed building may have its own special architectural or historic interest or may contribute to the special interest of the principal building as part of a group. **As such it is considered to be Listed for the purposes of Listed Building Consent.**

Failure to apply for Listed Building Consent or undertaking works outside the bounds of Listed Building Consent **constitutes a criminal offence** and the Local Planning Authority **may issue an enforcement notice to have any works reversed.**

Permitted Development Rights do exist for some works but, under the Environment Act (1995), the Environment Agency must 'have regard to the desirability of protecting and conserving...' historic Structures.



Weirs as Cutilage Listed Structures



Jubilee Weir, Appleby

Current weir and Bongate Mill date to 1819.

Weir is in poor condition and is 'half-orphaned'. The mill leat was filled in ca. 70 years ago.

Weir considered to be a grade II curtilage listed structure.



Bridge Mill Weir, Hebden Bridge

Current weir and mill date to the early 19th century.

Weir and mill leat are still operational providing power to the mill. Weir is in good condition and ownership is understood.

Weir not considered to be a curtilage listed structure

1. Desk-Based Research

Understand archaeological risk.

Inform the team as to recent impacts, contaminated land

Inform discussions with curators.

Inform the design of the scheme.

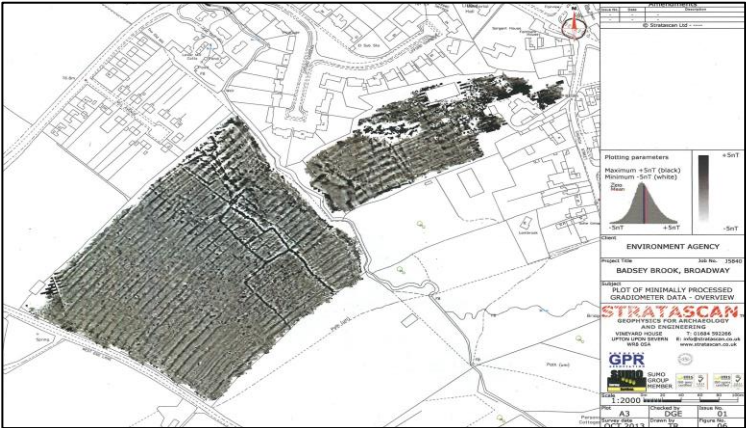


2. Non-Intrusive Investigation followed by Field Evaluation.

This can take the form of geophysical survey, ground investigation (GI) including coring through a structure and targeted trial trenching.

Carried out at an early stage these techniques can allow us to understand and manage archaeological risk.

The results of this work are also fed back into the design process.

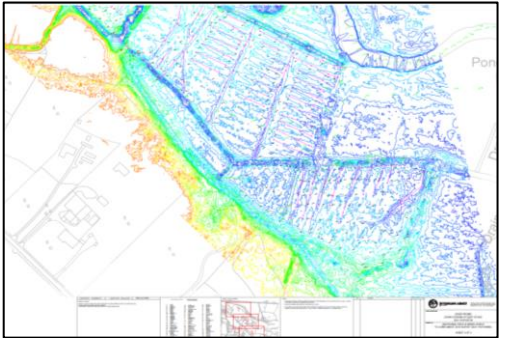


3. Mitigation.

Stage 2 also informs us as to the need for any further archaeological investigations (Mitigation), where this should be carried out and what techniques should be used.

It will also allow us to consider opportunities for community engagement and education opportunities.

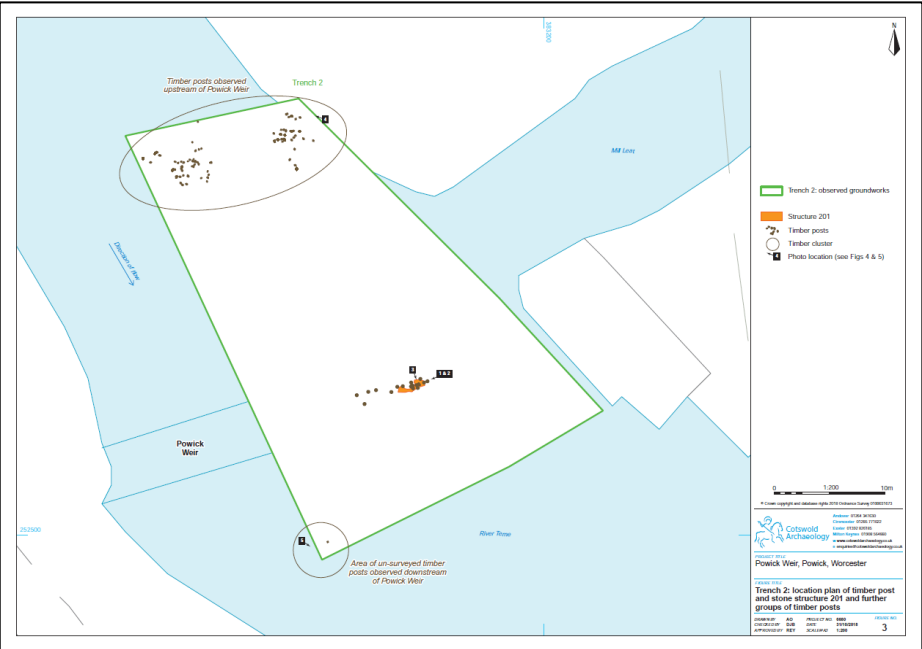
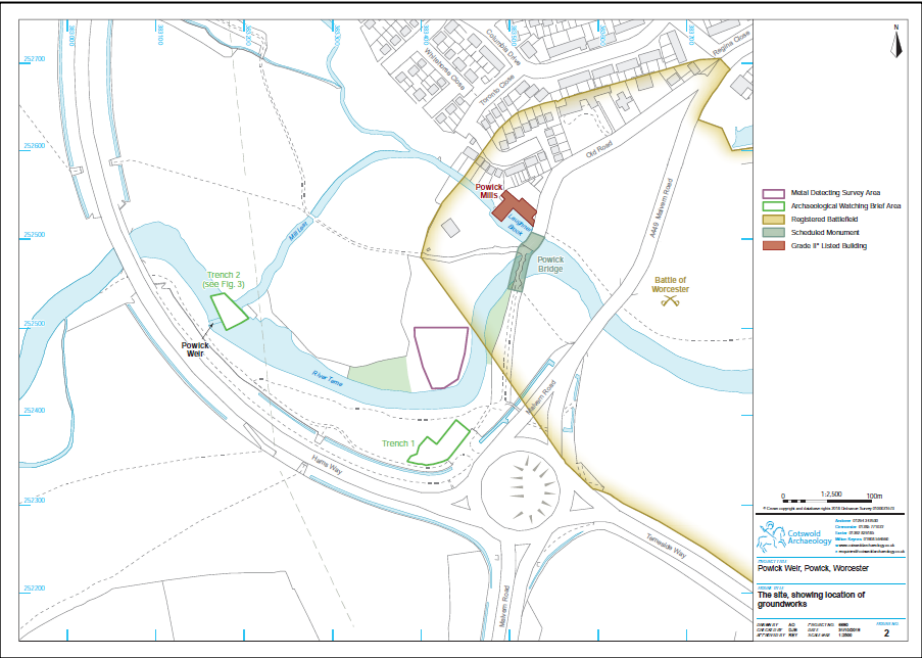
Finally we must consider how this information will be disseminated and where the archaeological archive will be deposited.





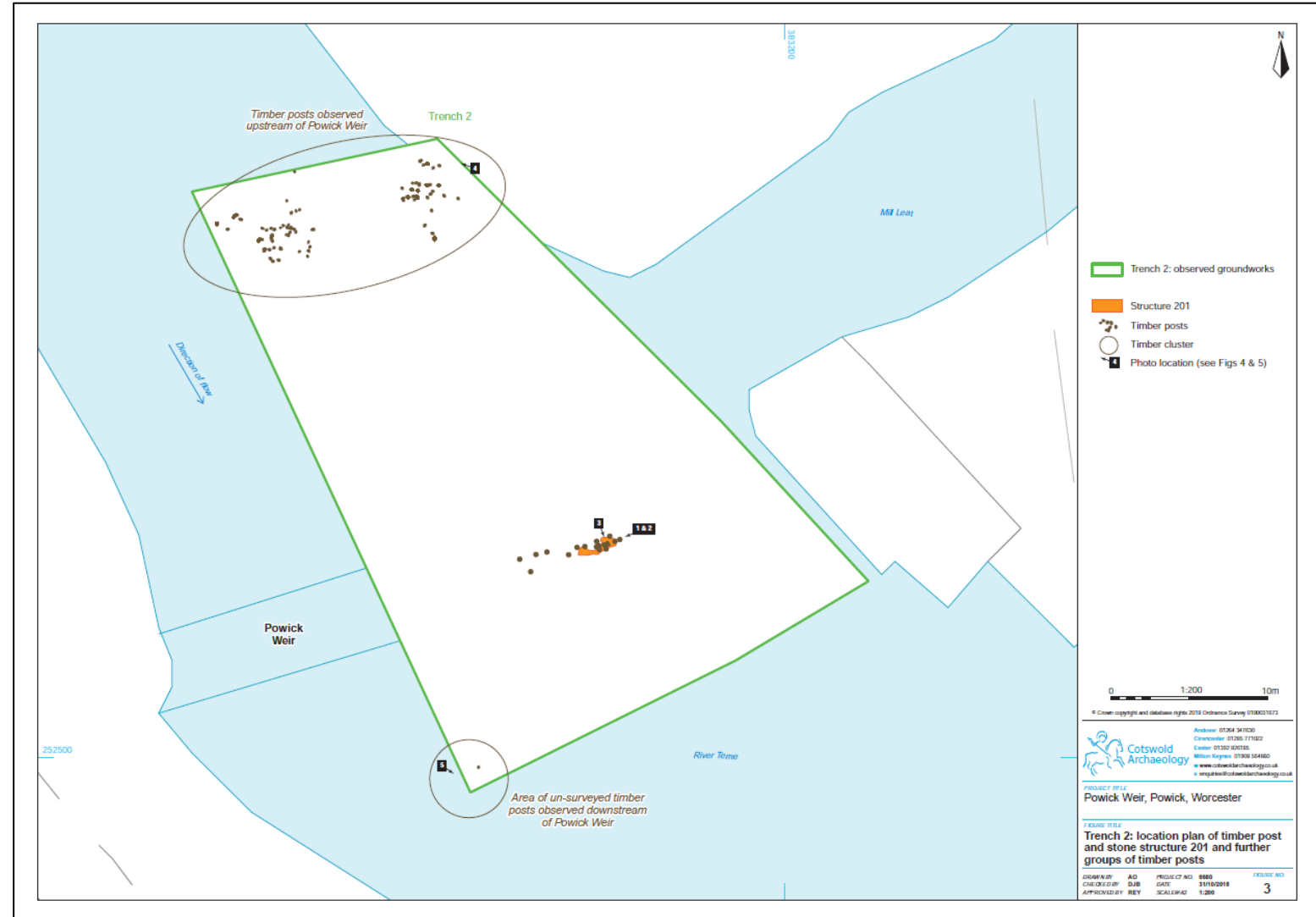
1. Full Weir Removal, Dovecliff Weir, Staffordshire

2. Partial Weir Removal, Powick Weir, Worcester



Photograph 1: General photograph of surviving historical weir, looking south-west (1m scales)

2. Partial Weir Removal, Powick Weir, Worcester cont...



Sensitive Design on a Scheduled Monument?



Calver Weir, part of the Calver Mill Scheduled Monument in the Derwent Valley Mills World Heritage Site.



A Series of Weirs close to Hebden Bridge – The WFD Conumdrum

Fjodr

Marine and Historic Environment Consulting

Heritage, Natural Capital & Ecosystem Services Case Studies on the Dorset Stour and Tyne to Tees Marine Area

Antony Firth
January 2020

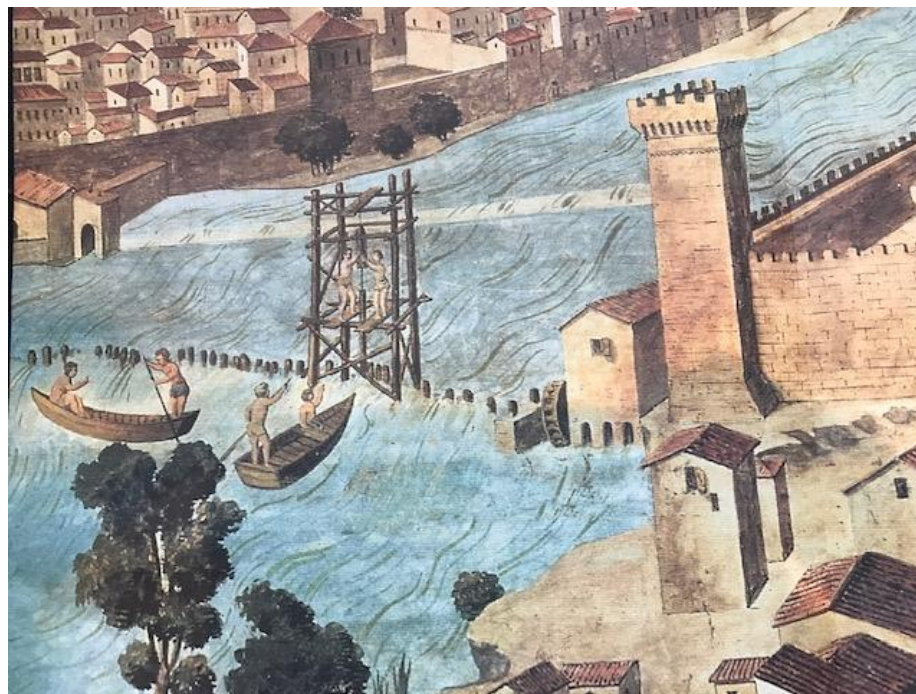


A report for Historic England

Fjodr ref: 16440 / 16450

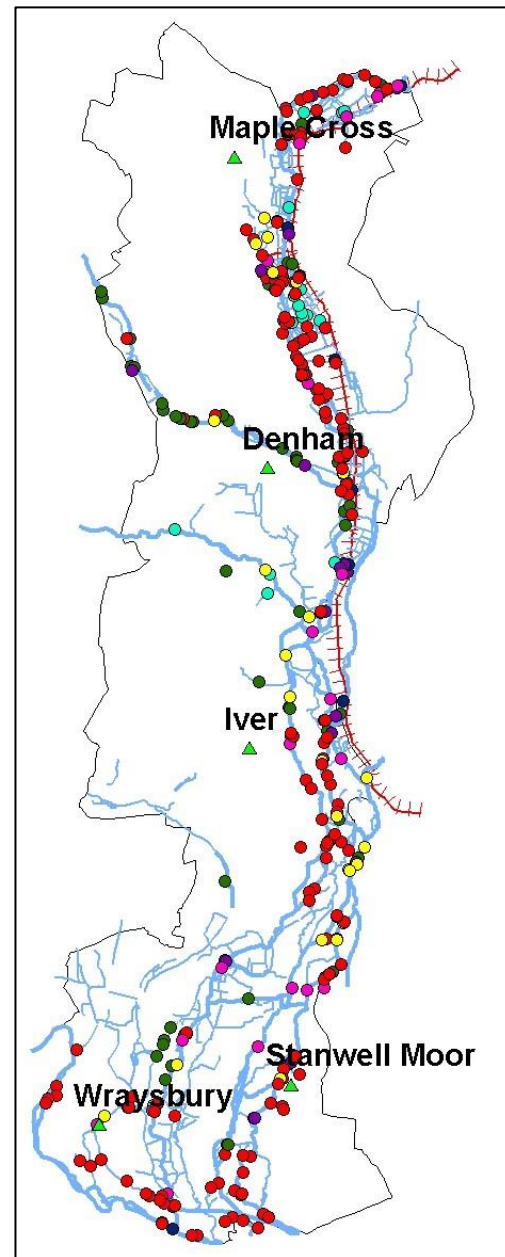
Historic England ref: HE 7751 / HE 7752

River Catchments: More than meets the eye

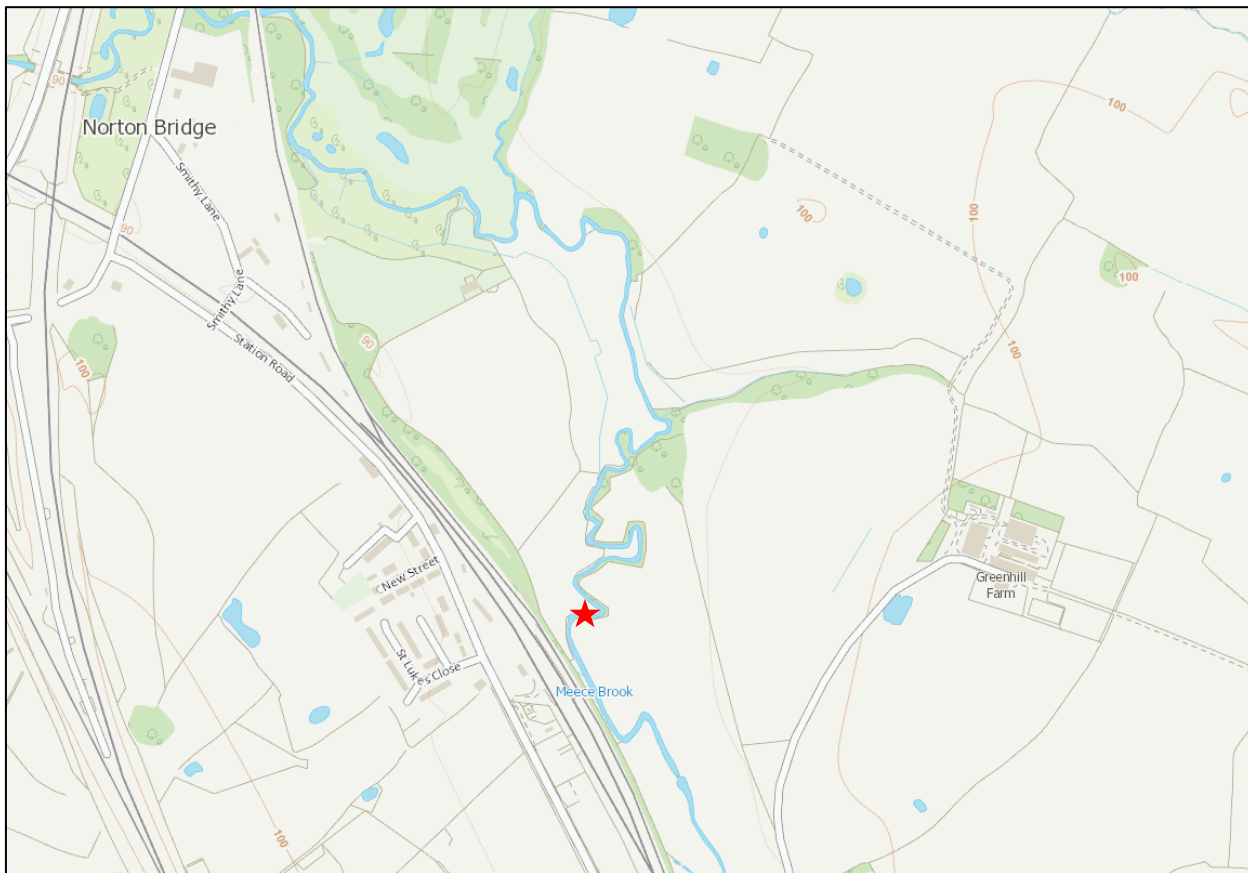


----- canal	● lock
— river channel	● mill
● bridge	● sluice
● ford	● weir
● footbridge	

Structures on the river network
OS 1st edition 1880 in the Colne
Valley (2007).



<http://www.fjodr.com/downloads.html>



**Non-Weir Archaeological Activity.
Norton Bridge Rail Realignment,
Staffordshire.**



Final thoughts...

- Early consultation with specialists and curators is crucial;
- Early understanding and engagement with specialists could identify alternative solutions;
- A heritage designation does not necessarily preclude its partial or complete removal. However any such proposal must be informed, wholly exceptional and have a clear and demonstrable public benefit ;
- What looks like a modern weir could hide significant archaeological remains within it;
- Always bear in mind that rivers have been important to people for millennia. The presence of a weir or dam could point to the potential for other buried archaeological remains nearby; and
- Many river systems look natural. Recent studies in England indicate that this might not necessarily be the case;

THANKYOU