

REPORT OF THE CORPORATE DIRECTOR – COMMUNITIES

BCBC RESPONSE TO WG CONSULTATION – PROPOSALS FOR SECONDARY LEGISLATION TO SUPPORT THE HISTORIC ENVIRONMENT (WALES) ACT 2016 AND VARIOUS BEST PRACTICE GUIDANCE DOCUMENTS

1. Purpose of Report

- 1.1 To advise Development Control Committee Members of the Council's formal response to the Welsh Government's (WG) consultation (Appendix 1).
- 1.2 The consultation sought views on four proposals for secondary legislation with one draft ancillary guidance document and five draft best-practice guidance documents. All have been developed as components of a wider programme to improve the protection and management of the Welsh historic environment that is linked to the implementation of the Historic Environment (Wales) Act 2016

2. Connection to Corporate Improvement Plan / Other Corporate Priorities

- 2.1 The planning system in Wales plays an important role in helping to support economic prosperity, promote sustainable development and address the challenges posed by climate change, whilst safeguarding our access to a quality environment. These objectives are reinforced by the Planning (Wales) Act 2015 ("the 2015 Act") which aims to ensure that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales, in accordance with the Well-being of Future Generations (Wales) Act 2015.
- 2.2 The planning system plays a significant role in the protection and conservation of the historic environment while helping it to accommodate and remain responsive to present-day needs.
- 2.3 The delivery of the County Borough's statutory planning function has links to the Council's corporate priorities in particular number 1 – supporting a successful economy.

3. Background

- 3.1 The historic environment is central to Wales' culture and its character and contributes to our sense of place and cultural identity. It is vital that the historic environment is appreciated, protected, actively managed and made accessible for the general well-being of present and future generations.
- 3.2 The Historic Environment (Wales) Act 2016, which received Royal Assent on 21 March 2016, was enacted to make important improvements to the existing systems for the protection and management of the Welsh historic environment. It will also stand at the centre of an integrated package of secondary legislation, new and updated planning policy and advice and best-practice guidance on a wide range of topics. Taken together, these will support and promote the careful management of change in the historic environment in accordance with current conservation philosophy and practice.

3.3 The consultation covers proposals on:

A. Regulations under the Historic Environment (Wales) Act 2016 to set the interest rate for costs accrued from urgent works

B. Procedures to claim for compensation associated with temporary stop notices for scheduled monuments and listed buildings

C. Simplification of scheduled monument consent procedures

D. A requirement to include heritage impact statements as part of the application process for scheduled monument consent, listed building consent and conservation area consent and associated guidance

3.4 It also includes the following best-practice guidance documents:

E. *Managing Change to Listed Buildings in Wales*

F. *Managing Change in World Heritage Sites in Wales*

G. *Managing Conservation Areas in Wales*

H. *Managing Lists of Historic Assets of Special Local Interest in Wales*

I. *Setting of Historic Assets in Wales*

3.5 The WG consultation documents can be accessed by Members using this hyperlink:

<https://consultations.gov.wales/consultations/proposals-secondary-legislation-support-historic-environment-wales-act-2016-and-draft>

4. Next Steps

4.1 The LPA's formal response to the Welsh Government's (WG) consultation was submitted before the deadline of 3rd October, 2016 (30th September, 2016) under delegated powers.

4.2 The WG intends to publish a summary of the responses to this document.

5. Effect upon Policy Framework & Procedure Rules

5.1 The consultation paper complements and sets out the detail required to support provisions contained in the Historic Environment (Wales) Act 2016 for the protection and sustainable management of the Welsh historic environment.

6. Equality Impact Assessment.

6.1 An Equality Impact Assessment Screening has been undertaken and the proposed recommendations are unlikely to have an impact on equality issues.

7. Financial Implications

7.1 None.

8. Recommendation

(1) That Members note the content of this report and the LPA's response to the WG consultation (Appendix 1).

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Corporate Director Communities

Contact Officer

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Team leader Conservation and Design

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Background documents

Appendix 1: BCBCs Consultation Response to the WG

Consultation on proposals for secondary legislation to support the Historic Environment (Wales) Act 2016 and various best-practice guidance documents

Consultation response form

Since this consultation treats a wide range of topics relating to the historic environment, you may find that some of the following questions fall outside your interest or experience. Therefore, please feel free to answer as many or as few of the questions as you like.

Please return this form to reach the Welsh Government no later than 3 October 2016.

If you have any questions, please email:

historicenvironmentleg@wales.gsi.gov.uk

or telephone:

01443 336091 / 01443 336090

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Annex 7 — Consultation response form

Consultation on proposals for secondary legislation to support the Historic Environment (Wales) Act 2016 and various best-practice guidance documents		
Date	27 th September 2016	
Name	Claire Hamm	
Organisation	Bridgend County Borough Council	
Address	Civic Offices Angel Street Bridgend CF314WB	
Email address	Claire.hamm@bridgend.gov.uk	
Telephone	01656 643164	
Type <i>(please select one from the following)</i>	Individual	
	Business	
	Local planning authority	x
	Government agency/Other public sector body	
	Professional body/Interest group	
	Voluntary sector (community group, volunteer group, self-help group, cooperative, enterprise, religious group, not-for-profit organisation)	
	Other group not listed above	

Confidentiality — Responses to consultations may be made public on the internet or in a report.	
If you do not want your name and address to be shown in any documents that we produce, please indicate here	
If you do not want your response to be shown in any documents that we produce, please indicate here	

Proposals for regulations and procedural changes

A. Regulations to set the interest rate for costs accrued from urgent works

Q1.	Do you agree that the interest rate that should be included in regulations is the Bank of England Base Rate plus 2%?		
	Yes	x	No
<p>This will be useful in introducing an element of consistency across local authorities where these powers are used regularly. In practice the introduction of a land charge is unlikely to encourage more local authorities to undertake urgent works at their own initial cost due to resources and the unlikely scenario of claiming back funds due to the inherent nature of these situations where buildings are not sold on other than through an enforced sale procedure or compulsory purchase.</p>			

B. Procedure to claim for compensation associated with temporary stop notices for scheduled monuments and listed buildings

Q2.	Do you agree with the time period in which a claim for compensation associated with a temporary stop notice must be made?		
	Yes	x	No
<p>Agree with consistency with other compensation timescales.</p>			

C. Simplification of the scheduled monument consent process

Q3.	Do you agree with the mechanism proposed for a simplified scheduled monument consent process for uncontentious works?		
	Yes	x	No
<p>Further clarification and guidance is needed on what constitutes minor works but this is particularly useful in light of local authority owned SAMs where for example funding becomes available unexpectedly at the end of a financial year. I assume a similar, more regular arrangement for minor works can be covered by a Heritage Partnership Agreement which may be particularly useful where LPA's own a number of similar structures/ in close proximity.</p>			

D. Heritage impact statements and associated guidance

Q4.	Do you agree that a heritage impact statement should be required for every application for scheduled monument consent (unless otherwise agreed with the Welsh Ministers), listed building consent and conservation area consent?		
	Yes	x	No
<p>A requirement infers that an application should not be registered without a HIS. Unfortunately it is only regarded as “best practice” for all development in conservation areas or other historic assets and whilst there is still the requirement for a Design and Access statement in Conservation Areas for certain developments (proposals for 1 or more dwellings and development over 100msq area) there are gaps where minor development still requiring planning consent do not require the submission of either. The deterioration in character in our current day conservation areas is a result of minor incremental changes and it should be considered whether there should be a requirement for a Heritage Impact Assessment for all works requiring planning consent in a CA/ affecting the setting of an historic asset with the assessment/statement be proportionate to the works proposed. It is the thought process that the applicant goes through which is significant in considering the options that is often as significant as the statement itself.</p>			

Q5.	Do you agree that heritage impact statements should replace design and access statements for listed building consent applications?		
	Yes	x	No
<p>Based on the quality of the design and access statements submitted, there needs to be an agreed minimum requirement of detail submitted and not just the headings listed. Training will be needed for both local Authority Planning and Conservation Staff as well as agents / applicants.</p>			

Q6.	Do you agree that an access statement should be required in any heritage impact statement where the proposed works would alter the means of access to or within a listed building?		
	Yes	x	No
<p>Alternatively, it could be included as a standard consideration that all applicants should consider when they develop proposals for listed buildings if enhanced accessibility is a Welsh Government objective to improve access in the future.</p>			

Annex 7 — Consultation response form

Q7.	Do you agree with the proposed contents for a heritage impact statement?		
	Yes	x	No
<p>Local planning Authorities will need to make a judgement on registration whether the HI Assessment / Statement is sufficiently detailed with the guidance in mind. Local Planning Authorities ideally receive the assessment at the pre-application advice stage. An assessment should be included on the impact of the scheme on the setting of nearby historic assets and the impact on the conservation area.</p>			

Q8.	Does the guidance, <i>Heritage Impact Assessment in Wales</i>, clearly articulate when, why and how to use the heritage impact assessment process and provide useful advice on the presentation of the heritage impact statement?		
	Yes	x	No
<p>Guidance is detailed and useful for Planning and Conservation Staff but as well as training for agents and developers, consideration should be given to developing a template which can be completed by a developer and can therefore be structured fluently. For example, with reference to page 12, it is considered the following order should be followed:-</p> <ul style="list-style-type: none"> • Proposed Objective • Significance of the asset • Proposed Works • Justification • Potential Heritage Benefits • Potential harmful impact • Mitigation Strategy. <p>In line with the guidance therefore the HIA will help develop proposals and identify alternative approaches with the significance of the asset being at the forefront of the process in developing proposals. Its only when the above approach has been followed that the presentation of the statement in Section 7 in line with the above will work. Point 5 in Section 7 of the guidance should be sub divided further in terms of the order of consideration.</p>			

Best-practice guidance documents

E. *Managing Change to Listed Buildings in Wales*

Q9.	Will <i>Managing Change to Listed Buildings in Wales</i> provide useful guidance for the owners of listed buildings and their agents?		
	Yes	x	No
Do you have any suggestions as to how it can be improved?			
Paragraph 5.3 – It should reference that some local authorities may charge for the advice. The checklist of supporting information is extremely useful for applicants and Local Planning Authorities.			

F. *Managing Change in World Heritage Sites in Wales*

Q10.	Will <i>Managing Change in World Heritage Sites in Wales</i> be effective in helping decision makers protect the Outstanding Universal Value of Welsh World Heritage Sites?		
	Yes	x	No

Q11.	Will the guidance assist in the consistent management of World Heritage Sites in Wales, especially those which are located in more than one local authority area?		
	Yes	x	No

G. *Managing Conservation Areas in Wales*

Q12.	Will <i>Managing Conservation Areas in Wales</i> encourage local planning authorities to adopt a consistent approach to conservation areas across Wales?		
	Yes	x	No
<p>Do you have any suggestions as to how it can be improved?</p> <p>It would be useful for further clarification relating to appropriate timescales for reviewing areas, appraisals and management plans. The guidance could state e.g ideally every 5 years for urban areas or up to 10 years for rural conservation areas to ensure that they can be programmed in to budgets a time of limited resources.</p> <p>Section 5 - further clarification should be included on what constitutes a public meeting and whether a formal public meeting is still required and is this supplemented by wider consultation or replaced by it? A public meeting is not an efficient use of resources in our experience and you are offered a narrow view of a limited few with an extensive resource input. It is therefore suggested that it is more beneficial to undertake consultation on an informal basis.</p> <p>Section 6.2 Reference should be made to the potential to identify areas of special advertisement control. Large companies often have a “heritage” design for advertisements in sensitive areas and local authorities should consider asking for these.</p>			

H. *Managing Lists of Historic Assets of Special Local Interest in Wales*

Q13.	Do the general principles and advice on good practice in <i>Managing Lists of Historic Assets of Special Local Interest in Wales</i> provide sufficient guidance for local planning authorities to set up and use local lists?		
	Yes	x	No
<p>Do you have any suggestions as to how the guidance can be improved? A useful selection criteria in section 2.2 is provided but it is unlikely that Local Authority's will be in a position to compile a local list from scratch, particularly as comprehensively as set out in paragraph 3.1. The systematic survey approach by Community area (led by a local Civic Trust) or by asset type funded by the HLF for example (across local authority boundaries even) may be a more realistic approach.</p> <p>When engaging community groups it must be made entirely clear from the outset that local list status does not necessarily afford protection to the building to avoid future potential Local Authority criticism.</p>			

I. *Setting of Historic Assets in Wales*

Q14.	Does <i>Setting of Historic Assets in Wales</i> adequately explain why setting is important and how it should be assessed?		
	Yes	x	No
<p>Fast facts and factors contributing to setting (page 3) are both very useful. As developments affecting the setting of historic assets do not require a Heritage Impact Assessment (Only a D&A on major development or certain development in a Conservation Area) then it is for the Local Authority to fully assess the impact on the setting in many instances Page 6 – Stage 5 should include Recording of documents – when setting has been identified. Can setting be defined on a plan by Cadw or can a criteria be developed for listed buildings (see page ii for Scheduled Monuments).</p>			

Annex 7 — Consultation response form

Q15.	Does the guidance explain the visual and especially the non-visual components of setting sufficiently?		
	Yes	x	No
<p>Some case studies would be useful or worked up examples</p> <p>However, the non-visual/intangible elements may be significantly more difficult to evidence or justify as reasons for refusal, particularly appeal</p>			

Q16.	Does the guidance explain how to take the visual and non-visual components of setting into account during the assessment process?		
	Yes		No
<p>Do you have any suggestions as to how it can be improved?</p> <p>See above.</p>			

Additional comments

Q17.	We have asked a number of specific questions. If you have any related issues that we have not specifically addressed, please raise them here.
Is it recommended that local authorities adopt the best practice guidance framework, along with others guidance emerging as supplementary planning guidance or adapted as required to take on local considerations?	

How to respond

Please submit your comments by 3 October 2016 by email or post.

Email
Please send the consultation form to : historicenvironmentleg@wales.gsi.gov.uk [Please include ' Consultation on historic environment regulations and best-practice guidance ' in the subject line.]

Post
Please send the consultation form to: Regulations and Guidance Consultation 1 Legislation and Policy Team Historic Environment Service (Cadw) Welsh Government Plas Carew Unit 5/7 Cefn Coed Parc Nantgarw Cardiff CF15 7QQ