

REPORT OF THE CORPORATE DIRECTOR – COMMUNITIES

BCBC RESPONSE TO WG CONSULTATION - PROPOSED TECHNICAL ADVICE NOTE 24 – THE HISTORIC ENVIRONMENT

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 relating to a new Technical Advice Note 24 relating to the Historic Environment (Appendix 1).
- 1.2 The draft policy document reflects informal feedback received on an earlier version made available to inform the scrutiny of the Historic Environment (Wales) Bill. It complements the recent consultation on Chapter 6 of *Planning Policy Wales* and a parallel consultation on secondary legislation to support the Historic Environment (Wales) Act 2016 and various good-practice guidance documents (which is also reported to DC Committee for information).
- 1.3 The WG consultation paper proposes the provision of planning guidance that will:
 - reflect WG objectives for a well-protected and accessible historic environment, and,
 - meet the need to consider how changes affecting the historic environment are managed through the planning system.

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 received Royal Assent on 21 March 2016. The Act forms part of a suite of legislation, policy, advice and guidance that makes important improvements to the existing systems for the protection and sustainable management of the Welsh historic environment.
- 3.3 A draft Technical Advice Note (TAN) for the historic environment was made available in 2015 to inform the scrutiny of the Historic Environment (Wales) Bill during its passage through the National Assembly for Wales.

3.4 The TAN will provide detailed planning advice on the historic environment of Wales and the purpose of this consultation is specifically to consider the new TAN.

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

<https://consultations.gov.wales/consultations/proposed-technical-advice-note-tan-24-historic-environment>

4. Next Steps

4.1 The LPA's formal response to the Welsh Government's (WG) consultation on TAN24 was submitted to the WG 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. The TAN will provide detailed planning advice on the historic environment of Wales.

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).

Mark Shephard
Corporate Director Communities

Contact Officer

Mrs. Claire Hamm

Team leader Conservation and Design

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Background documents

Appendix 1: BCBCs Consultation Response to the WG

Annex 2

CONSULTATION FORM

Technical Advice Note 24: The Historic Environment

We want to know your views on the proposed changes to the Welsh Government's planning policy on the historic environment.

Please submit your comments by 3 October 2016

If you have any queries on this consultation, please email: planconsultations-b@wales.gsi.gov.uk or telephone: 029 2082 6802 / 3524

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.

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 on any documents we produce please indicate here

If you do not want your response to be shown in any document we produce please indicate here

CONSULTATION FORM

Technical Advice Note 24: The Historic Environment		
Date	29 th September 2016	
Name	Claire Hamm	
Organisation	Bridgend County Borough Council	
Address	Civic Offices Angel Street Bridgend CF314WB	
E-mail address	Claire.hamm@bridgend.gov.uk	
Telephone	01656 643164	
Type <i>(please select one from the following)</i>	Businesses	<input type="checkbox"/>
	Local Planning Authority	x <input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

Q1	<p>Do you agree that the approach taken achieves a balance between the sustainable management of change and the protection of the historic environment in Wales? If not, how do you think this can be done?</p> <p>Section 1 of the draft TAN contains advice on the sustainable management of change affecting the historic environment.</p>	
Agree		x
Neither Agree nor Disagree		
Disagree		
Further comments		
<p>Whilst the approach in the revised TAN appears to be balanced, the outcome will ultimately depend on how each factor is weighted by the local planning authority. The most evident example of this will be where statutory control is limited e.g where extensive permitted development rights in conservation areas or historic assets of special local significance are located outside of conservation areas. In these cases, the protection of historic character may be unachievable. This is compounded by the apparent gap of not requiring a HIA or a DAS for all development proposals in a conservation area (i.e only for conservation area consent and new dwellings and not for minor works / extensions and alterations requiring planning consent). This approach reinforces the misunderstanding that only major developments have the potential to have a detrimental impact on the character or appearance of a conservation area whereas conservation area appraisals often evidence that more minor developments / alterations can cause the gradual deterioration of character. To redress this balance and misconception by local communities, it is recommended that a HIA is required for all development requiring planning consent in a conservation area.</p> <p>Training sessions will be required for the preparation of Heritage Impact Assessments for Developers /Agents/Architects , ideally delivered by Welsh Government / Cadw. Documenting and learning from decisions is a key element of Conservation Principles, it would be useful to understand how the “learning” will be shared or communicated.</p>		

Q2	<p>Do you agree that the advice regarding the relationship between nature conservation and the historic environment is clear? If not, how do you think the advice can be improved?</p>	
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	Section 1 of the draft TAN contains advice on the relationship between nature conservation and the historic environment.	
	Agree	
	Neither Agree nor Disagree	x
	Disagree	
Further comments		
<p>It is recognised that there is a delicate balance to be achieved between protecting and sustaining an historic building and the protection of any relevant nature conservation interest. In reality it is extremely difficult to reach a satisfactory balance and the nature conservation interest of the building normally prevails which can affect the condition use / ongoing vacancy of an historic building thus affecting the future of an important habitat. Revised TAN 24 does not provide any further assistance in these situations and it is therefore recommended that Welsh Government consider joint working between Cadw and NRW to develop and promote approaches/examples that have worked in Wales where there is equal consideration of the needs of both to sustain them for the future in harmony. This is particularly important as there seems to be an inconsistency in controls and proactive measures to satisfy both areas of legislation. Further guidance/good examples /best practice could be made available to ensure consistency of decision making and bureaucracy.</p>		

Q3	<p>Do you agree that the advice to local planning authorities to develop locally distinctive policies and guidance on the historic environment is clear? If not, how can it be improved?</p> <p>Section 2 of the draft TAN contains information on how the development plan process should consider the historic environment.</p>	
	Agree	x
	Neither Agree nor Disagree	
	Disagree	
Further comments		

It must be recognised that each local authority is at a different stage in the development / review of its local development plan and this revised guidance will be reflected, therefore, at different stages. Many of the numerical indicators suggested for the SEA are potentially influenced by external factors and resources available and cannot therefore truly reflect the performance of a local authority. It should be stated that the list is not exhaustive.

Reference should be made in the revised TAN, and in local development plans of the generic guidance documents produced by Cadw and the opportunity to adopt the documents as additional supplementary planning guidance to increase their weight in decision making. Alternatively Conservation Officers can be encouraged to pool their expertise and existing guidance to address gaps in supplementary planning guidance due to lack of resources.

There is an opportunity for Cadw /Welsh Government to provide guidance/best practice to local authorities (Property departments) in the disposal of historic assets which is becoming the harsh reality. A requirement to produce a Heritage/Conservation Plan, Development Brief and an acknowledged flexibility in the “best consideration” assessment may result in improved outcomes for the historic assets including schools / libraries/community halls and also through community asset transfers.

Q4	Do you agree that the advice on how World Heritage Sites are to be considered in the planning process is clear? If not, how do you think this can be improved?	
	Section 3 of the draft TAN contains information on World Heritage Sites.	
	Agree	x
	Neither Agree nor Disagree	
	Disagree	
Further comments		
N/A		

Q5	Do you agree that the advice on how archaeological remains are to be considered through the planning	X
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	<p>process is clear? If not, how do you think the advice can be improved?</p> <p>Section 4 of the draft TAN contains information on archaeological remains.</p>	
Agree		x
Neither Agree nor Disagree		
Disagree		
Further comments		
<p>There is some inconsistency in terminology. In Planning Policy Wales Ch 6 “protection” is used and “conservation” in PPW. There is a need for consistency in the language and as the focus is now on the “positive management of change” it is unfortunate that para 4.2 starts with “potential conflicts”.</p> <p>Paragraphs 4.2-4.7 It is necessary to reference the designation of Archaeologically sensitive areas and there is a need to produce supplementary planning guidance to assist developers</p>		

Q6	<p>Do you agree that the advice on how particular historic assets, namely ‘historic parks and gardens’ ‘historic landscapes’ and ‘assets of special local interest’, are to be considered through the planning process is clear? If not, how do you think the advice can be improved?</p> <p>Sections 7 to 8 of the draft TAN contain information on how such assets are to be considered through the planning process</p>	
Agree		x
Neither Agree nor Disagree		
Disagree		
Further comments		
<p>Difficulties occur when the historic park and garden has a clear relationship with an historic building and there is no statutory protection (including demolition) afforded to the historic</p>		

building. As there is no separate consent regime, significant works could be undertaken without any need for consent or an approach to the LPA. It is essential therefore that a good relationship is developed with owners of the site and it could be made essential for a heritage partnership agreement/management plan to be drawn to ensure essential features are maintained. Not all sites are located in Conservation Areas for example.

The status of local historic assets of special interest remains unclear as there is no control over demolition outside of conservation areas. The compilation and publication of local lists may lead local communities to think that there is an additional level of protection so this will have to be a completely transparent process if Local Authorities have the resource to take this forward .

Q7	If you have any related issues which we have not addressed, please let us know.	
	Agree	x
	Neither Agree nor Disagree	
	Disagree	
Further comments		
Additional Comments with reference to Section 5 :Listed Buildings:		
<p>Paragraph 5.5 Can it be assumed that the LPA will also be consulted on any such proposal to list or de-list a building.</p> <p>Paragraph 5.7 Some listing descriptions are extremely limited and need updating and often interiors of buildings are not referenced due to lack of access or because the building has been listed due to its contribution / value as part of a wider group of buildings. Can resources be dedicated to updating the building listings. Not all descriptions detail the special interest</p> <p>Para 5.14 Proposed change to the use of “competent and qualified specialist”...as local authorities we cannot recommend but can we refer to a centralised list supplied by Conservation Officers who have worked on other listed buildings and hosted by Cadw (on the website)/Design Commission or refer to building conservation website? Has there been any progress in the development of the Heritage recognised qualification as previously promoted by the Heritage Lottery Fund?</p> <p>Para 5.15 – 4Ttests for demolition are welcomed but further guidance is needed on what is the minimum time period that the building should be offered for sale and at a reasonable price. These tests are also relevant in LA disposals of buildings</p>		
Additional Comments with Reference to Section 6 Conservation Areas:		
<p>Paragraph 6.1& 6.3 – There is a missed opportunity here to tighten up how often the review of conservation areas and the formulation and publication of proposals should be undertaken. Consequently, in times of limited resources, these will always be put on the back burner</p>		

unless an appropriate/reasonable recommendation is made e.g with the longest interval of every 10 years etc or at the review of each local development plan so that resources can be managed effectively. This is particularly significant if development management decisions are to be judged against the character of an area as identified in the appraisal and management document.

Para 6.13 Where demolition of a building in a conservation area is deemed acceptable on the basis of the 4 tests(para5.23) , there needs to be a contract in place to deliver replacement prior to demolition occurring and a completion date agreed to ensure that a detrimental impact is not incurred by a vacant/gap site caused by significant delays or non- completion of a scheme.

How to respond

Please submit your comments by 3 October 2016, in any of the following ways:

Email	Post
<p>Please complete the consultation form and send it to : planconsultations-b@wales.gsi.gov.uk [Please include Technical Advice Note 24: The Historic Environment’ in the subject line]</p>	<p>Please complete the consultation form and send it to: TAN 24 Consultation Planning Policy Branch Planning Directorate Welsh Government Cathays Park Cardiff CF10 3NQ</p>

Additional information

If you have any queries about this consultation, please contact:

Email: planconsultations-b@wales.gsi.gov.uk

Telephone: 029 2082 6802 / 3524