

# BRIDGEND COUNTY BOROUGH COUNCIL

## REPORT TO DEVELOPMENT CONTROL COMMITTEE

3 MARCH 2022

### REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

#### LISTED BUILDING CONSENT DELEGATION

#### 1. Purpose of report

- 1.1 The purpose of this report is to advise Members of the Development Control Committee of the intention to apply for Listed Building Consent Delegation and to outline the necessary procedures, commitments and benefits of acquiring such delegation.

#### 2. Connection to corporate well-being objectives / other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015**:-

**Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

- 2.2 The Council has statutory duties in relation to the determination of Listed Building Consent applications as part of its Planning Service. The proposal supports the objective of Smarter Use of Resources.

#### 3. Background

- 3.1 Under Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 local planning authorities are required to notify Welsh Ministers (via Cadw) where they are minded to grant listed building consent (LBC). However, wherever possible, Welsh Ministers are keen for LBC decisions to be taken at a local level and they are able to amend the requirement to notify Cadw. For example Welsh Ministers are able to direct that certain categories of applications for LBC need not be notified to them by a local planning authority. There is currently a general direction in place removing the requirement to notify Cadw of an application for LBC for work affecting the interior only of a grade II (unstarred) listed building.

3.2 Certain local planning authorities have successfully applied to extend these arrangements to include all grade II listed buildings (with the exception of applications for total demolition) and one authority has been successful in extending these arrangements to include applications affecting grade II\* (star) listed buildings. CADW refer to these extended arrangements as *LBC delegation*.

#### **4. Current situation/proposal**

4.1 On 9 December 2019 Cadw sent an invitation to all local planning authorities to apply to remove the requirement to notify Cadw of applications for LBC affecting grade II listed buildings (except total demolition). The removal of the requirement to notify Cadw takes out a time-consuming and resource intensive part of the LBC cycle for both Cadw and the local planning authority. It strengthens local decision-making, makes it timely and efficient, and improves the service available to the public. If successful, the notification process will continue to apply to any application which involves the demolition of a listed building or works to grade I or II\* listed buildings. In applying, local planning authorities will need to demonstrate that they have the right expertise and processes in place to make robust and sound decisions which protect and preserve the historic environment.

4.2 Listed Building Consent Delegation is given to local authorities that have a robust local policy framework supported by sound processes, practices and decision making informed by specialist conservation officer advice aimed towards the conservation and protection of the historic environment. Cadw maintains close working relationships with those local planning authorities that obtain delegation through an annual review process and can continue to provide advice and guidance at the request of the conservation officer.

4.3 As a minimum criteria, Cadw requires that each local planning authority should:

- Have a proven robust local policy framework in place, reflecting the principles set out in Planning Policy Wales and TAN24.
- Provide evidence that it is able to provide applicants with clear and informative advice on the management of listed buildings, including a pre-application advice service.
- Demonstrate that at least one of its officers involved in the decision-making process on all listed building consent applications has the necessary specialist expertise and experience to judge the merits of a full range of listed building consent cases (i.e. the named officer). Suitability might be demonstrated through a professional qualification, relevant experience, or a combination of both.
- Confirm that the written advice of this named person or persons will be taken into account in the decision-making process.
- Where the named officer or officers – for whatever reason – will not be able to offer advice on an application, the authority will agree to notify that application to Cadw if it is minded to grant consent. Similarly, the authority will also agree to

notify the application to Cadw if it is minded to grant consent against the advice of the named officer.

- Agree a monitoring schedule with Cadw.
- Indicate an ability and willingness to take enforcement action when necessary.
- Indicate an ability and willingness to address buildings at risk.
- Agree to inform Cadw of any changes in personnel or practices that may affect the handling of listed building consent applications.

4.4 It is intended that an application is made to Cadw in line with the guidance provided with the Senior Conservation and Design Officer within the Communities Directorate identified as the named Officer. Full requirements of the application process are included in **Appendix 1**.

## **5. Effect upon policy framework and procedure rules**

5.1 If this Authority is successful in applying for Listed Building Consent Delegation amendments to the scheme of delegation will be required via full Council approval.

## **6. Equality Act 2010 implications**

6.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh Language have been considered in the preparation of this report. As a public body in Wales the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services and functions. It is considered that there will be no significant or unacceptable equality impacts as a result of this report.

## **7. Well-being of Future Generations (Wales) Act 2015 implications**

7.1 Listed Building Consent Delegation forms part of the Statutory Planning Service and will be progressed in line with the 7 Wellbeing goals and the 5 ways of working as identified in the Act.

## **8. Financial implications**

8.1 Funding is in place to support the Senior Conservation and Design Officer, the named officer, within the Communities Directorate until December 2023. If delegation is successful, external funding opportunities will be sought to maintain the dedicated staff arrangements beyond this date to deal with listing building consent applications, their subsequent monitoring of proposals on site and enforcement.

## 9. Recommendations

9.1 It is recommended that the Development Control Committee:-

- note the contents of this report
- support an application for listed building consent delegation
- receive a further report on the outcome of that application

**Janine Nightingale**  
**Corporate Director Communities**

3rd March 2022

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Team Leader Conservation and Design

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Communities Directorate  
Civic Offices, Angel Street  
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CF31 4WB

**Background documents:**

None



Llywodraeth Cymru  
Welsh Government

Plas Carew, Uned 5/7 Cefn Coed  
Parc Nantgarw, Caerdydd. CF15 7QQ  
Ffôn 0300 025 6000  
ebost [cadw@llyw.cymru](mailto:cadw@llyw.cymru)  
[www.cadw.llyw.cymru](http://www.cadw.llyw.cymru)

Plas Carew, Unit 5/7 Cefn Coed  
Parc Nantgarw, Cardiff. CF15 7QQ  
Tel 0300 025 6000  
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[www.cadw.gov.wales](http://www.cadw.gov.wales)

Chief Planning Officers

Eich cyfeirnod  
Your reference

Ein cyfeirnod  
Our reference

Dyddiad  
Date

9 December 2019

Llinell uniongyrchol  
Direct line

0300 025 6203

Ebost  
Email:

Dear Sir / Madam,

## INVITATION TO APPLY FOR LISTED BUILDING CONSENT DELEGATION

### 1. Background

1.1 Under Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 local planning authorities are required to notify the Welsh Ministers (in practice, Cadw) where they are minded to grant listed building consent (lbc).

### 2. Aim

2.1 However, wherever possible, the Welsh Ministers are keen for lbc decisions to be taken at a local level and they are able to amend the requirement to notify Cadw. For example, the Welsh Ministers are able to direct that certain categories of applications for lbc need not be notified to them by a local planning authority.

2.2 There is currently a general direction in place removing the requirement to notify Cadw of an application for lbc for work affecting the interior only of a grade II (unstarred) listed building. However, certain local planning authorities have successfully applied to extend these arrangements to include all grade II listed buildings (with the exception of applications for total demolition) and one authority has been successful in extending these arrangements to include applications affecting grade II\* (star) listed buildings. In shorthand, we call these extended arrangements *LBC delegation*.

### 3. Impact

3.1 The removal of the requirement to notify Cadw takes out a time-consuming and resource intensive part of the lbc cycle for both Cadw and the local planning authority. It strengthens local decision-making, makes it timely and efficient, and improves the service available to the public. Further detail is given in paragraphs 5.18 to 5.21 [Technical Advice Note 24: the Historic Environment](#),


#### **4. Formal Invitation**

4.1 We would therefore like to invite local planning authorities to apply to remove the requirement to notify Cadw of applications for lbc affecting grade II listed buildings (except total demolition). If you are successful, the notification process will continue to apply to any application which involves the demolition of a listed building or works to grade I or II\* listed building. In applying you will need to demonstrate that you have the right expertise and processes in place to make robust and sound decisions which protect and preserve the historic environment.

#### **5. Further Information**

5.1 Further details are set out in Annex A and applications should be sent to our Senior Heritage Planning and Designations Manager [matthew.coward@gov.wales](mailto:matthew.coward@gov.wales) However, before you apply please make contact with Matthew as he will be able to provide you with examples of previous successful applications which may help in preparing your own case.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gwilym Hughes', with a horizontal line extending to the right.

Gwilym Hughes  
Head of Cadw

## **Guidance on Listed Building Consent Delegation and Cadw's Role in the Consenting Process**

### **1. Background**

1.1 Listed Building Consent Delegation is given to local authorities that have a robust local policy framework supported by sound processes, practices and decision making informed by specialist conservation officer advice aimed towards the conservation and protection of the historic environment. Cadw maintains close working relationships with those local planning authorities that obtain delegation through an annual review process and can continue to provide advice and guidance at the request of the their conservation officer.

### **2. Criteria for Obtaining Listed Building Consent Delegation**

2.1 As a minimum, each local planning authority should:

- Have a proven robust local policy framework in place, reflecting the principles set out in Planning Policy Wales and TAN24.
- Provide evidence that it is able to provide applicants with clear and informative advice on the management of listed buildings, including a pre-application advice service.
- Demonstrate that at least one of its officers involved in the decision-making process on all listed building consent applications has the necessary specialist expertise and experience to judge the merits of a full range of listed building consent cases (i.e. the named officer). Suitability might be demonstrated through a professional qualification, relevant experience, or a combination of both.
- Confirm that the written advice of this named person or persons will be taken into account in the decision-making process.
- Where the named officer or officers – for whatever reason – will not be able to offer advice on an application, the authority will agree to notify that application to Cadw if it is minded to grant consent. Similarly, the authority will also agree to notify the application to Cadw if it is minded to grant consent against the advice of the named officer.
- Agree a monitoring schedule with Cadw.
- Indicate an ability and willingness to take enforcement action when necessary.
- Indicate an ability and willingness to address buildings at risk.
- Agree to inform Cadw of any changes in personnel or practices that may affect the handling of listed building consent applications.

### **3. Monitoring the Delegation Arrangements**

3.1 Cadw monitors delegation arrangements to assess their effectiveness and ensure that appropriate standards are being maintained. It is hoped that, once made, it will not be necessary to suspend any delegation, but the results of monitoring and the evaluation of the performance of the individual authority will inform whether or not to suspend the delegation or remove it altogether.

### **4. Reporting Requirements**

4.1 Each successful local planning authority is expected to submit an annual report (based on the financial year) which should include details of approved applications delegated for local determination and details of any enforcement action taken by the local authority during the reporting period (see below). Alongside the annual report, each authority is expected to agree a schedule of visits with Cadw's regional inspector to inspect and review a small sample of cases where consent has been granted.

4.2 The annual report should include the following information which is set out in the form of a checklist:

#### **Part 1 – Written Summary Report**

- summary of policy position and general update on service provision;
- brief overview of case-work, including overall numbers and outcomes, with information on pre-application discussion, consultation process, timescales and outcomes, including appeals;
- summary of other activities of conservation officer – including contribution to general planning advice, regeneration activity etc;
- summary of enforcement activity and actions to address buildings at risk.

#### **Part 2 – Casework**

- tabular summary of listed building consent applications, including summary of works, time taken and decision;
- tabular summary of enforcement cases including works, remedy, time taken and outcome;
- tabular summary of repairs notices, urgent works undertaken and building preservation notices issued.

### **5. Cadw's Role**

5.1 Irrespective of the delegation arrangements Cadw can:



- Provide advice on national strategy and policy, including the general policies and principles against which any proposals for change should be considered.
- Provide advice on local strategies and policies for the historic environment, for example in relation to local listing, traditional building skills, buildings at risk and heritage-led regeneration.
- Offer pre-application advice on specific cases. [Planning Policy Wales](#) (PPW) strongly recommends that pre-application discussions are undertaken between the applicants, the local planning authority, and where appropriate, Cadw, to clarify what works will require listed building consent, what level of information will be needed, and what other issues need to be resolved. [Managing Change to Listed Buildings in Wales](#) explains that Cadw should be involved in pre-application discussion where the proposed changes are likely to have a major impact on the significance of the building. Cadw is not able to discuss the merits of particular cases once an application has been submitted.
- Provide advice on call-in. Most local planning authorities need to notify Welsh Ministers (Cadw) before listed building consent is granted. The purpose of notification allows Cadw to consider whether the correct procedures and guidance have been followed, or whether the application raises issues of more than local interest which may warrant determination by the Welsh Ministers. In practice, listed building consent applications are very rarely called in.
- Provide advice to the Planning Inspectorate (PINS) on appeals. Applicants have a right of appeal where a local planning authority refuses consent for works to a listed building, issues consent subject to conditions, refuses an application to vary or discharge conditions attached to a listed building consent application, does not decide an application within the agreed period of time or issues an enforcement notice. In such cases, Cadw's views are sought on the merits of the building and the impact of the works.
- Help build capacity and resilience. Cadw will work with local planning authorities to build the capacity and resilience of their conservation services, through training and mentoring.
- Facilitate cross-departmental working, and bring in expertise from across Welsh Government and other home nations.
- Provide a forum to discuss general issues, and facilitate the exchange of experience and good practice from across Wales. Examples of this might include sharing advice relating to protected species or specialist conservation techniques. Cadw is able to facilitate this informally through discussions with its historic buildings inspectors who have a breadth of experience across local authority areas. It also convenes the Built Heritage Forum which provides a regular opportunity to share policy information and good practice.

## **6. Who to Contact**

6.1 If you would like to discuss any of this in more detail, please contact Matthew Coward (details as above) or Judith Alfrey, Head of Conservation and Regeneration at [judith.alfrey@gov.wales](mailto:judith.alfrey@gov.wales).

Cadw  
December 2019