

Communities, Equality and Local Government Committee

Meeting Venue:
Committee Room 2 – Senedd

Meeting date:
2 July 2015

Meeting time:
09.00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

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Agenda – Supplementary Documents

Historical Environment (Wales) Bill: Stage 1 – Consultation Responses

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

Historic Environment (Wales) Bill: Consultation Responses (Pages 1 – 354)

Agenda Item 3.1

**Y Pwyllgor Cymunedau, Cydraddoldeb a
Llywodraeth Leol**

Bil yr Amgylchedd Hanesyddol (Cymru): Cyfnod 1

**Ymatebion i'r Ymgynghoriad
2015**

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**Communities, Equality and Local Government
Committee**

Historical Environment (Wales) Bill: Stage 1

**Consultation Responses
2015**

	Ymatebion i'r Ymgynghoriad	Consultation Responses
HE 01	Geoff Wainwright	Geoff Wainwright
HE 02	Ymddiriedolaeth Archaeolegol Clwyd-Powys	Clwyd-Powys Archaeological Trust
HE 02a	Ymddiriedolaeth Archaeolegol Clwyd-Powys	Clwyd-Powys Archaeological Trust
HE 03	Ymddiriedolaeth Archaeolegol Dyfed	Dyfed Archaeological Trust
HE 04	Ymddiriedolaeth Archaeolegol Gwynedd	Gwynedd Archaeological Trust
HE 05	Ymddiriedolaeth Archaeolegol Morgannwg Gwent	Glamorgan-Gwent Archaeological Trust
HE 06	Cymdeithas Llywodraeth Leol Cymru	Welsh Local Government Association
HE 07	Cymdeithas Cyfraith Amgylcheddol y DU	The UK Environmental Law Association
HE 08	Ralph A Griffiths	Ralph A Griffiths
HE 09	Ymddiriedolaeth Genedlaethol, Cymru	National Trust Wales
HE 10	Comisiwn Brenhinol Henebion Cymru	Royal Commission on the Ancient and Historical Monument
HE 11	Cymdeithas Ddinesig Caerdydd	Cardiff Civic Society
HE 12	Ymddiriedolaeth Gerddi Hanesyddol Cymru	Welsh Historic Gardens Trust
HE 13	Ffederasiwn Amgueddfeydd ac Orielau Celf Cymru	Federation of Museums and Art Galleries of Wales
HE 14	Ken Richards	Ken Richards
HE 15	Cyd-bwyllgor Polisi Archaeoleg Forwrol	The Joint Nautical Archaeology Policy Committee
HE 16	Trysor	Trysor
HE 17	Adfer Ban a Chwm	Adfer Ban a Chwm
HE 18	Sefydliad Siartredig yr Archeolegwyr	Chartered Institute for Archaeologists
HE 19	Dr Charles Mynors	Dr Charles Mynors

HE 19a	Dr Charles Mynors	Dr Charles Mynors
HE 20	David Thorne	David Thorne
HE 21	Cyngor Sir Ynys Môn	Isle of Anglesey County Council
HE 22	Cytûn Eglwysi Ynghyd yng Nghymru	Cytûn Churches Together in Wales
HE 23	Y Grŵp Sioraidd	The Georgian Group
HE 24	Cyngor Sir Ddinbych	Denbighshire County Council
HE 25	Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr	Bridgend County Borough Council
HE 26	Martin Locock	Martin Locock
HE 27	Cyfoeth Naturiol Cymru	Natural Resources Wales
HE 28	Zoë Henderson	Zoë Henderson
HE 29	Sefydliad Cadwraeth Adeiladau Hanesyddol	Institute of Historic Building Conservation
HE 30	Yr Eglwys yng Nghymru	The Church in Wales
HE 31	Y Gymdeithas Tai Hanesyddol	Historic Houses Association
HE 32	NFU Cymru	NFU Cymru
HE 33	Cyngor Gwynedd	Gwynedd Council
HE 34	Y Sefydliad Cynllunio Trefol Brenhinol	The Royal Town Planning Institute
HE 35	Y Gronfa Treftadaeth Bensaernïol	The Architectural Heritage Fund
HE 36	Bwrdd Hyfforddi'r Diwydiant Adeiladu	Construction Industry Training Board
HE 37	Ymddiriedolaeth Ddinesig Cymru	Civic Trust Cymru
HE 38	Comisiynydd y Gymraeg	Welsh Language Commissioner
HE 39	Ffederasiwn Eiddo Prydain	British Property Federation
HE 40	Cyngor Sir Powys	Powys County Council
HE 41	Grwp Treftadaeth Cymru	Wales Heritage Group
HE 42	Cyd-bwyllgor y Cymdeithasau Amwynderau Cenedlaethol	The Joint Committee of the National Amenity Societies (JCNAS)
HE 43	Y Gymdeithas Diogelu Adeiladau Hynafol	The Society for the Protection of Ancient Buildings (SPAB)

HE 44	Cymdeithas Tir a Busnesau Cefn Gwlad	Country Land and Business Association (CLA)
HE 45	Cyngor Bwrdeistref Sirol Wrexham	Wrexham County Council
HE 46	Awdurdodau Parciau Cenedlaethol Bannau Brycheiniog, Arfordir Penfro ac Eryri	Brecon Beacons, Pembrokeshire Coast and Snowdonia National Park Authorities
HE 47	Stephen Briggs	Stephen Briggs
HE 48	Fforwm Gwyddoniaeth mewn Treftadaeth Genedlaethol	The National Heritage Science Forum (NHSF)
HE 49	Cyngor Sir Fynwy	Monmouthshire County Council

HE 01

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol/

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Geoff Wainwright

Response from: Geoff Wainwright

1. I congratulate the Heritage Bill Team on the quality and detail of the documentation for the Heritage Bill, which tells me everything I need to know. I have only one suggestion.]
2. Modifications to the Scheduled Monument Consent (SMC) process (Sections 5 – 10). I am concerned that applicants for SMC would no longer have an automatic right to a hearing before the determination of their application. In the interests of transparency and justice, I suggest that the same wording is used as for the proposed consultation on scheduling, namely “it is anticipated that the Planning Inspectorate will review the application on behalf of the Welsh Ministers”.

HE 02

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Ymddiriedolaeth Archaeolegol Clwyd–Powys
Response from: Clwyd–Powys Archaeological Trust

22 May 2015

Committee Clerk
Communities, Equality, and Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Dear Sir/Madam

Consultation: Historic Environment (Wales) Bill

Thank you for the opportunity to provide evidence to the Committee on the Historic Environment (Wales) Bill. This letter is a preliminary response in outline, in advance of the Committee meeting on 10th June. A further and more detailed response will be submitted following that meeting.

1. Clwyd-Powys Archaeological Trust

- 1.1 The Clwyd-Powys Archaeological Trust (CPAT) is an educational charity which was established in 1975. Its objective is 'to advance the education of the public in archaeology', and it achieves this with the support of funding from a variety of sources, including Welsh Government. CPAT is one of four Welsh Archaeological Trusts (WATs) which work to help protect, record and interpret all aspects of the historic environment. This includes the provision of advice to local authorities on archaeology and planning, undertaking archaeological projects for private- and public-sector clients, and delivering a programme of community archaeology events and activities.
- 1.2 Governance of the Trust is through a Board of Trustees, which meets four times per year. Other activities of the Trust are advised by an Ethics Committee, an Investment Committee, and the Board of Directors of the CPAT HER Charitable Trust. As an independent Charitable Trust we submit publicly-accessible annual accounts to the Charities Commission, and as a limited company we file returns to Companies House. CPAT is a Registered Organisation with the Chartered Institute for Archaeologists.

2. Giving more effective protection to listed buildings and scheduled monuments

- 2.1 Overall the Bill will increase the effectiveness of the protection of designated heritage assets.
- 2.2 We particularly support the improvements in the Bill to the definition and protection of scheduled monuments. The expansion of the definition to comprise ‘any thing, or group of things, that evidences previous human activity’ is welcome, as are the introduction of enforcement and temporary stop notices for scheduled monuments and powers of entry for the archaeological investigation of scheduled monuments in imminent danger.
- 2.3 The Bill improves the situation with regard to the ‘defence of ignorance’ in the case of damage to scheduled monuments, but in our view there is still room for improvement in this area. In practical terms we are also concerned that there remains insufficient support in the Bill for Welsh Ministers to successfully prosecute cases where damage has occurred without consent, or where the conditions of scheduled monument consent have been breached.

3. Enhancing existing mechanisms for the sustainable management of the historic environment.

- 3.1 Overall the Bill will enhance mechanisms for the sustainable management of the historic environment.
- 3.2 We very much welcome the requirement for local authorities to create and maintain Historic Environment Records. The wording of the clauses in the Bill, and the nature of supplementary guidance, needs careful consideration to ensure that the coherence and consistency of the current arrangements is maintained across Wales. Further comments will be made on this subject after 10th June.
- 3.3 We also support the provisions for Heritage Partnership Agreements, and welcome the consistent approach in this area between scheduled monuments and listed buildings.
- 3.3 The creation of a statutory register for historic parks and gardens is also very welcome, although it is regrettable that similar provision has not been made for World Heritage Sites and registered historic landscapes.

4. Introducing greater transparency and accountability into decisions taken on the historic environment.

- 4.1 Overall the Bill does introduce greater transparency and accountability into decisions taken on the historic environment.
- 4.2 The creation of a Heritage Advisory Panel is a welcome step, but its relationship with the existing Historic Environment Group and other inter-departmental and inter-agency bodies and groupings does need careful consideration.

- 4.3 The general improvements to the consultation, review and designation processes to scheduled monuments and listed buildings are also to be welcomed. Approaches to both types of designated asset will be very similar; together with the relaxation of the conditions for applications for immunity these measures should streamline the system and remove inefficiencies. We also welcome the improvements to the dissemination of information in this area.

Yours sincerely

Paul Belford BSc MA FSA MCIfA
Director
Clwyd-Powys Archaeological Trust

HE 02a

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Ymddiriedolaeth Archaeolegol Clwyd–Powys
Response from: Clwyd–Powys Archaeological Trust

19 June 2015

Committee Clerk
Communities, Equality, and Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Dear Sir/Madam

Consultation: Historic Environment (Wales) Bill

Thank you for the opportunity to provide additional evidence to the Committee on the Historic Environment (Wales) Bill (hereafter referred to as 'the Bill'). This letter follows an earlier outline response which was submitted on 22nd May 2015, and should be read in conjunction with it. Overall we support the direction that the Bill is taking, but have some specific areas of concern where we feel that the Bill could afford greater protection to the historic environment. This letter describes these in more detail, under the terms of reference set out in the letter from Christine Chapman AM dated 8th May 2015.

1. *Clwyd-Powys Archaeological Trust*

- 1.1 The Clwyd-Powys Archaeological Trust (CPAT) is an educational charity which was established in 1975. Its objective is 'to advance the education of the public in archaeology', and it achieves this with the support of funding from a variety of sources, including Welsh Government. CPAT is one of four Welsh Archaeological Trusts (WATs) which work to help protect, record and interpret all aspects of the historic environment. This includes the provision of advice to local authorities on archaeology and planning, the maintenance of the regional Historic Environment Record (HER), undertaking archaeological projects for private- and public-sector clients, and delivering a programme of community archaeology events and activities.
- 1.2 Governance of the Trust is through a Board of Trustees, which meets four times per year. Other activities of the Trust are advised by an Ethics Committee, an Investment Committee, and the Board of Directors of the CPAT HER Charitable Trust. As an independent Charitable Trust we submit publicly-accessible annual accounts to the Charities Commission, and as a limited company we file returns to Companies House. CPAT is a Registered Organisation with the Chartered Institute for Archaeologists.

2. *The general principles of the Historic Environment (Wales) Bill and the need for legislation.*

- 2.1 As previously noted we support the general principles of the Bill. We accept that this is largely an amendment of existing legislation, rather than entirely new legislation. However, we feel that the proposed Bill is workable, and that its approach strikes a sensible balance between the need to legislate and the resources required to produce and implement that legislation.
- 2.2 An important element in the future success of the Bill will be the supporting policy and guidance documents. At the time of writing, the existing drafts do contain some inconsistencies, but we understand that there will be a further process of consultation specifically for these elements at a later stage in the process.
- 2.3 Another important consideration must be the way in which the Bill works with other legislation, and in particular the Planning (Wales) Bill which has now completed its period of intimation.
- 2.4 A further relationship which should be considered in due course is the position of Landscapes of Special Historic Interest in Wales which currently have no statutory status. Welsh Government has established a Panel which is currently reviewing recorded and designated landscapes and amendments to existing legislation concerning these landscapes might subsequently be considered. In that event the position of Landscapes of Special Historic Interest in Wales ought to be reviewed.
- 2.5 We are also disappointed that it has not been possible to enhance the status of World Heritage Sites, and we hope that this will be given further consideration in the preparation of supporting policy and guidance, and in future legislation.

3. *Giving more effective protection to listed buildings and scheduled monuments.*

- 3.1 The Bill will give more effective – and more consistent – protection to listed buildings and scheduled monuments. However in some areas the protection it confers could be stronger, as outlined below.
- 3.2 As noted previously the extension of the definition of Scheduled Monuments is welcome, and should enable the protection of important features that are not currently Schedulable.
- 3.3 We are concerned that the defence of ignorance, although weakened, remains in the Bill. Thus in Section 15 (Control of works affecting scheduled monuments) the proposed insertion at 8A does not remove the defence of ignorance. Similarly in Section 17 of the Bill (Restrictions on the use of metal detectors) the proposed insertion at Subsection 8 potentially allows a defence of ignorance. We believe that damage to a Scheduled Monument should be

strict liability offence, and that these insertions should be amended to reflect that.

- 3.4 On the question of metal detecting, we are also concerned that paragraph A.15 in Annex 1 of TAN 24 allows for Scheduled Monument Consent to be granted for metal-detecting for ‘the recovery of valuable items of modern lost property’. This is a potential loophole which could enable damage to occur under false pretences, and it would be better if that part of paragraph A.15 could be removed.
- 3.5 We welcome the revisions to stop notices and enforcement notices, as set out in Section 12 of the Bill.
- 3.6 We welcome the power of entry for the archaeological excavation of monuments under threat (Section 19). It would be helpful to include the same provision for Listed Buildings. Paragraph 6.5.16 of Planning Policy Wales Chapter 6 places an obligation on local authorities to notify the Royal Commission on the Ancient and Historical Monuments of Wales (RCAHMW) of ‘all proposals to demolish listed buildings’. However in practice it may not be possible for RCAHMW to undertake this work, and so we feel that this paragraph should be amended to include the WATs and other appropriate bodies or individuals. Furthermore there may well be instances where a demolition proposal is not made, but a building is under threat of demolition, collapse or the loss of significant fabric through neglect or eventualities (such as fire). In such cases it would be prudent to allow power of entry for the emergency recording of Listed Buildings, as has been proposed for Scheduled Monuments.
- 3.7 We welcome the introduction of Heritage Partnership Agreements, and have further comments on these at 4.4 below. However it is disappointing to see that the opportunity has not been taken to further reform Ancient Monument Class Consents. As noted in Annex 1 of Technical Advice Note 24 (TAN 24), these will still include ‘agricultural, horticultural and forestry works’. We also note that Class Consent for ‘the placing of survey markers ... for the purpose of measured surveying’ is confined to the RCAHMW, but should include other bodies which undertake these works, such as the WATs.

4. *Enhancing existing mechanisms for the sustainable management of the historic environment.*

- 4.1 Overall the Bill will enhance mechanisms for the sustainable management of the historic environment. However in some areas the wording of the Bill and supporting guidance could be improved.
- 4.2 The references in Section 3 of the Bill to the Schedule note the existence of ‘a map maintained by Welsh Ministers’ [1AA(1)(c)] and an ‘electronic ... list’ [1AB(6)(a)]. Greater clarity would be useful as to the relationship between the two things, or whether they are the same thing, and where this list/map is held, and which version of the list/map is the definitive one.

- 4.3 One of the most significant, and most welcome, measures in the Bill is the statutory requirement for local authorities to maintain HERs. The four regional HERs in Wales represent a unique resource in the UK, having been developed and curated in a coherent way by the four WATs over four decades. This offers excellent value for public money due partly to the economies of scale, and partly because of the expertise held within the WATs. It is assumed that the current system, in which the WATs discharge this duty on behalf of the local authorities, will be continued. However this is not made explicit in the relevant Sections (33-36) of the Bill, although it is implied in Section 35 and is referred to in Paragraph 1.18 of TAN 24. We very much welcome the additional funding to support this resource, which is identified in Paragraph 468 of the Explanatory Memorandum. We believe that this £20,000 per Trust, in addition to existing Cadw grant-aid, is sufficient to maintain a full time HER Officer post. We also welcome Cadw's involvement in ensuring that the agreements between local authorities and the WATs will be consistent across Wales.
- 4.5 The proposal for Heritage Partnership Agreements is very welcome. In practice these may only be applicable in a small number of particular circumstances (such as upland areas or areas of forestry), nevertheless in those situations they will prove useful in enabling long-term sustainable management of a group of designated heritage assets.
- 4.6 As noted previously we welcome the creation of a statutory register for historic parks and gardens.

5. *Introducing greater transparency and accountability into decisions taken on the historic environment.*

- 5.1 The Bill will introduce greater transparency and accountability into decisions taken on the historic environment, and we welcome those measures.
- 5.2 The creation of the Advisory Panel for the Welsh Historic Environment, as noted in Sections 37 and 38 of the Bill is useful. The remit, composition and appointment of this panel will hopefully ensure that its functions do not overlap with existing groups, such as the Historic Environment Group (HEG). The new Panel would to some extent restore the independent advice formerly provided to Welsh Government by the Ancient Monuments Advisory Board and the Historic Buildings Advisory Council, and would also give a wider strategic viewpoint which would be very valuable. This would be enhanced if the new Panel could include members from outside the historic environment sector, from outside Wales, and indeed from outside the UK, where appropriate.
- 5.3 We welcome the various measures to improve consultation, interim protection and review for designations. The modifications to the Scheduled Monument and Listed Building Consent processes (Sections 3-10, 24-26 and 29) make the two systems more closely aligned. The relaxation of the conditions for an application for a certificate of immunity from listing (Section 27) should be helpful in delivering sustainable regeneration.

5.4 We also welcome the reference throughout TAN 24 to the Standards and Guidance produced by the Chartered Institute for Archaeologists (CIfA). This will help to ensure that organisations and individuals undertaking work on the historic environment in Wales are suitably qualified and experienced, and that the public interest is protected through an independent Chartered professional institute.

6. *Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them.*

6.1 As noted above, there are potential issues with resourcing the powers of protection for Scheduled Monuments. The costs identified in the Explanatory Memorandum appear to be reasonable and adequate for the preferred options, but may need reconsideration if the suggestions made above (particularly at 3.3) are implemented.

7. *Whether there are any unintended consequences arising from the Bill.*

7.1 The strengthening of Scheduled Monument protection in Wales is very welcome. This does however introduce the potential for a monument situated in both Wales and England to be treated differently in law. Offa's Dyke, for example, provides a situation where landowners may own parts of the same monument in both countries, and where damage to the monument may result in different legal outcomes. However this is a reason for Wales to lead the way in strengthening the legislation, in the hope that England will follow suit, rather than the other way around.

7.2 There remains the theoretical possibility for an individual local authority to set up its own HER. However resourcing and quality issues make this unlikely, as will Cadw's work on helping to ensure consistency in the transitional period in 2016-2017 (as noted at 4.4 above).

8. *The financial implications of the Bill.*

8.1 Please see the comment at 6.1 above.

9. *The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation.*

9.1 We feel that these powers are appropriate.

Yours sincerely

Paul Belford BSc MA FSA MCIfA
Director
Clwyd-Powys Archaeological Trust

HE 03

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Ymddiriedolaeth Archaeolegol Dyfed
Response from: Dyfed Archaeological Trust

22 May 2015

Dear Chloe Davies

Historic Environment (Wales) Bill – scrutiny by The Communities, Equality and Local Government Committee

Thank you for the invitation to provide evidence before the Committee on the 10th June. As requested this letter provides comments on the Bill's terms of reference. At this stage these are mostly general comments of principle rather than detail, on the assumption that detail will be elicited on the 10th of June and, if required, by a later written response.

The Dyfed Archaeological Trust is a non-profit making educational charity and a private limited company. The Trust was established in 1975 as part of network of four independent archaeological organisations covering the whole of Wales. The object for which the Trust is established (in its *Memorandum and Articles of Association*) is to advance the education of the public in archaeology. The Trust's mission statement is: Improving the understanding, conservation and promotion of the historic environment of Wales.

May we congratulate the Bill team in producing the Bill and supporting documentation, and in particular the concise yet comprehensive, easily understood Explanatory Memorandum. For ease of reference we refer to the headings and pagination in the Memorandum in our comments, rather than to the Bill itself.

Overall, the Bill is to be welcomed. It builds on existing legislation, taking into account several decades of experience and these, coupled with the consultative approach taken by the Bill team have ensured that potential barriers to implementation and any unintended consequences have been avoided.

Measures to introduce greater transparency and accountability -

We welcome the proposal to establish an Advisory Panel for the Welsh Historic Environment, and we are of the opinion that it should be made statutory. Our one comment is that consideration should be given to ensure there is no duplication of the remit of the Panel and the remit of HEG.

Consultation, interim protections and review for designations

Greater transparency in the designation process is long overdue, and the provision for interim protection is sensible.

Measures to enable the Welsh Government and local authorities to give more effective protection to the historic environment



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Cadeirydd/Chairman
Prof. B C Burnham

Cyfarwyddwr/Director
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This is also a long overdue proposal, and we support it. As noted in the Explanatory Memorandum fewer than 30 sites will be eligible for scheduling under this proposal, but these are potentially important sites, which will otherwise have no other form of protection.

Amendments to the criminal offences and defences relating to scheduling monuments

This amendment is welcomed, although we are disappointed that the defence of ignorance has not been completely removed. It is likely that damage cases will not be successfully prosecuted if the escape clause 'taken all reasonable steps' is included in the Bill.

Introduction of enforcement and temporary stop notices for scheduled monuments and Powers of entry for the archaeological investigation of an ancient monument in the imminent danger of damage or destruction

This two linked amendments are sensible extensions of existing legislation, and we fully support them.

Creation of a statutory register for historic parks and gardens

The creation of a statutory register is to be welcomed. As entry on the register will no longer be voluntary, we presume that a system of consultation, interim protection and review, similar to that proposed for scheduled ancient monuments and listed buildings, will be put in place.

We are disappointed that protection of Registered Landscapes and of World Heritage sites was not extended in the Bill.

Extension of the scope of urgent works to listed buildings and the recovery of costs

This is outside our area of expertise and we therefore offer no comment.

Introduction of temporary stop notices for listed buildings

This is a sensible amendment, but we ask why no provision has been made to give powers of entry to record a listed building in imminent danger of damage or destruction, similar to that proposed for scheduled ancient monuments.

Requirement for local planning authorities to create and maintain historic environment records

We fully support this proposal. We will provide a more detailed commentary on the proposal prior to the 19th June.

Introduction of heritage partnership agreements; Modifications to the scheduled monument consent process and Relaxation of the conditions for an application for a certificate of immunity from listing

As with many of the other proposals in the Bill, these are sensible amendments, streamlining the system of consents and bringing savings, and we support them in principle.



Yours sincerely

K Murphy
Chief Executive Officer

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Cadeirydd/Chairman
Prof. B C Burnham

Cyfarwyddwr/Director
K Murphy BA MIFA

HE 04

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Ymddiriedolaeth Archaeolegol Gwynedd
Response from: Gwynedd Archaeological Trust



22nd May 2015

Committee Clerk
Communities, Equality, and Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Dear Sir/Madam

Consultation: Historic Environment (Wales) Bill

Thank you for the invitation to provide evidence to the Committee on 10 June. As you requested we have used the terms of reference set by the committee for our response. Our comments are set out to reflect the layout of the Explanatory Memorandum as issued on 1 May 2015, and our headings mirror those set out in the memorandum.

Gwynedd Archaeological Trust is one of four Welsh Archaeological Trusts which, together, provide a historic environment service throughout Wales. The Trust is a non-profit making educational charity and private limited company. It was established in 1975 with the object of advancing the education of the public in archaeology. The Trust has three primary strategic objectives: improving understanding of the historic environment; improving effective management and conservation of the historic environment; and raising awareness and appreciation of the historic environment. The Trust also recognises five strategic objectives for the development of the Trust: ethical management; human resource management; maintaining suitable internal management procedures; maintaining appropriate premises and equipment; and encouraging partnership working with other educational and heritage organisations and institutions.

Our comments follow.

Measures to introduce greater accountability and transparency

Establishment of an advisory panel for the Welsh historic environment

An advisory panel has the potential to provide Welsh Ministers with expert advice and an additional level of scrutiny of policy and strategy in relation to the historic environment of Wales. We are particularly pleased to see that the intention is to maintain a balance between the three core activity areas. The relationship between the advisory panel and the existing



Historic Environment Group (HEG) needs to be carefully defined to ensure they complement one another successfully.

Consultation, interim protection and review for designations

The proposals for consultation, supplemented by interim protection, should ensure greater transparency, and are to be welcomed.

Measures to enable the Welsh Government and local authorities to give more effective protection to the historic environment

Extension of the definition of a scheduled monument

The limitations to scheduling created by the monument definition in the 1979 Act have been recognised for some time, and we support the broadening of the definition.

Amendments to the criminal offences and defences relating to scheduled monuments

These amendments are to be broadly welcomed, however the proposed criteria still allow a degree of defence which may limit the occasions when a successful legal case can be made against offenders.

Introduction of enforcement and temporary stop notices for scheduled monuments

We support these additions to the existing legislation.

Powers of entry for the archaeological investigation of an ancient monument in imminent danger of damage or destruction

We support this addition to the existing legislation.

Creation of a statutory register for historic parks and gardens

We support the creation of a new statutory register for historic parks and gardens. Implementation of this provision will require resources to review the current register, and identify potential additions. There is no provision for the monitoring of sites other than through the planning process. The inclusion of registered parks and gardens in the monitoring process currently undertaken for scheduled ancient monuments would enable any structural changes to be recorded.

Introduction of temporary stop notices for listed buildings

We support this introduction, and it aligns the measures more closely with the proposals for scheduled ancient monuments, though this proposal lacks the addition of powers of entry to carry out archaeological investigation and recording, a proposal which would ensure appropriate records are made of buildings at risk before remedial works remove the evidence.

Measures to enhance existing mechanisms for the sustainable management of the historic environment

Requirement for local planning authorities to create and maintain historic environment records

We fully support this proposal, though we note that additional resources will be required to allow the minimum of a full time HER archaeologist to manage the record.

Introduction of heritage partnership agreements

We support the proposed introduction of heritage partnership agreements.


Modifications to the scheduled monument consent process

We support these proposed modifications which should lead to a more streamlined process.

Relaxation of the conditions for an application for a certificate of immunity from listing

We support this proposed change, which, by allowing developers to apply for a COI prior to any planning application, should encourage improved investment in and sustainability of the historic environment.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Andrew Davidson', followed by a small horizontal dash.

Andrew Davidson
Chief Archaeologist

HE 05

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Ymddiriedolaeth Archaeolegol Morgannwg Gwent

Response from: Glamorgan–Gwent Archaeological Trust

Ms C Davies
Deputy Clerk
Communities, Equality, and Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

22 May 2015

Dear Ms Davies

Consultation: Historic Environment (Wales) Bill

1. Preamble

- 1.1 Thank-you for your invitation to give evidence to the Committee.
- 1.2 As requested we have used the terms of reference set by the committee as a framework for our response. This is focused on the proposals concerning monuments and records rather than the built heritage and whether the proposals will achieve the stated aims.
- 1.3 We have also provided a short summary description of our organisation purpose and key functions. We have previously been invited to contribute to, and have responded to, a number of stakeholder soundings during the preparation of the Bill and associated draft Statutory Guidance and draft new or revised advice notices and documents.

2. The Glamorgan-Gwent Archaeological Trust (www.ggat.org.uk)

- 2.1 We are one of four Welsh Archaeological Trusts working closely with other national, regional and local bodies, to help protect, record and interpret all aspects of the historic environment, and make the results available to the public.
- 2.2 Our stated object is to advance the education of the public in archaeology and our primary focus is within South Wales. In delivering our object our current Forward Strategy is founded on five key strategic objectives: Fostering Public Understanding; Improving Access and Engagement; Discovery and Research; Developing the Trust; Archive Care and Deposition.
- 2.3 We maintain the regional Historic Environment Record, and are retained by Unitary Authorities and other organisations to provide strategic advice, and also case management support where development proposals, agri-environmental, forestry and woodland schemes impact on the historic environment. We also carry out a wide variety of archaeological projects for public and private sector bodies, including environmental impact assessment, field survey, excavation and heritage interpretation. The Historic Environment Record, which has been developed over many years by the Trust, is a key charitable asset. The GGAT HER Charitable Trust holds and owns the record.
- 2.4 The Trust promotes knowledge and learning about the Historic Environment through digital outputs, publications, displays, leaflets,

GLAMORGAN
GWENT
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lectures and talks and enables active engagement through voluntary participation in projects.

3. Will the legislation give more effective protection to listed buildings and scheduled monuments?

3.1 We consider that in broad terms the provisions within the Bill will improve the protection of listed buildings and scheduled monuments.

3.2 We particularly welcome the measures to extend the definition of a Scheduled Ancient Monument, to weaken the 'defence of ignorance', to introduce enforcement and stop notices, and to enable archaeological investigation of an ancient monument in imminent danger of destruction.

3.3 These proposed measures further underpin protection of Wales's archaeological heritage and are consistent with widely held principles. They address a number of shortfalls in the existing legislative provision applicable to Wales.

3.4 The first three, and in most instances the last, should not be difficult or costly to implement. With regard to that potential exception, the Memorandum (Clause 102) notes the particular difficulties caused by Climate Change impacts. Potentially these can be very severe, particularly for sites on the coastline, and although the imminence of danger of destruction is difficult to predict, it has and will continue to occur. In some circumstances the costs of investigation and recording could be significant.

3.5 We particularly note that in the past there has been an apparent reluctance by officials to pursue enforcement of conditions attached to Scheduled Ancient Monument consents (Memorandum Clauses 79, 81, 82), as there was a lack of powers short of taking action through the courts. We note the Memorandum is clear that the provisions of the Bill will allow enforcement of conditions (Memorandum Clause 84, 91, 94), however, we are unsure whether the related clauses in the Bill have sufficient clarity.

4. Will the legislation enhance existing mechanisms for the sustainable management of the historic environment?

4.1 We welcome the provisions in the Bill for local planning authorities to create and maintain Historic Environment Records, to allow Heritage Partnership Agreements, and to streamline the Scheduled Ancient Monument consent process.

4.2 The description of the contents of a Historic Environment Record in the Bill is one that would meet expectations to ensure informed decision-making at local level. Clause 33 (2) 8h) of the Bill has sufficient flexibility to ensure that tangible historic environment remains that do not satisfy criteria to justify national protection are identified. This particular issue will need careful consideration in the proposed Statutory Guidance.

4.3 Whilst we would agree that there should be a need for regulations as envisaged at Clause 33 (9) of the Bill, care needs to be taken that there are not any unintended consequences. We see this provision as designed primarily to allow potential for expansion, for example were it to be

deemed appropriate to require the inclusion of culturally significant sites or intangible heritage. We would prefer to see it expressed in such a way that it could not allow for the removal of the contents established by the passing of the Bill.

- 4.4 We support the principle that Historic Environment Records should be afforded protection to ensure information on the whole historic environment is accessible and used for informed and sustainable decision-making and that the record should be publically accessible. In respect of Publication it may be appropriate in some circumstances and particularly where large datasets are requested for a local planning authority only to issue the data under particular controls (e.g. a licence). Do the powers to do this need to be articulated in the Bill or in the proposed Guidance?
- 4.5 We agree that the Bill should contain provisions to allow one or more authorities to discharge the functions through another *person*, and the need for Welsh Ministers to approve this. We note that a regional approach to the management of Historic Environment Records has particular strengths. Currently 11 of the 12 local planning authorities in South Wales have adopted (for the purposes of the General Development Order) the Historic Environment Record that we maintain and all use it, notably for development control purposes. If it were to be the case that any or all of these authorities were to take up the option to discharge the duty via ourselves we do not see that there are any practical difficulties that would be insuperable. However, we note that this record, now held in a separate Trust that we created and managed, was developed under our powers to support the delivery of our object. It is a key charitable asset that needs to be available to us to support our delivery to both present and future beneficiaries. Whilst we do not want to make any comment on the draft guidance for Historic Environment Records at this time, the Guidance will need to take care in how it addresses the issue of the future protection of such records and particularly of rights (including intellectual property rights) during any transfers of responsibility.
- 4.6 With regard to costs for management and maintenance of our Historic Environment Record we note that currently we have good support from the local authorities to whom we provide planning control support. The grants from each authority are small but together match the current provision for our region from Cadw (Memorandum Clause 460). We also note that the recovery fees for commercial access that we charge are far higher than the figure identified in the Memorandum (Clause 461 and repeated at 470), but that our charges are comparable to those made by local authorities who manage their own Historic Environment Records. We note and welcome the proposal (at Memorandum Clause 468) to increase the Welsh Government support for Historic Environment Records to ensure one full time staff member; in our case it would be detrimental if this was at the expense of the existing local authority support. This and some specific project work has allowed us to have two full time staff equivalents. We need to be able to maintain the higher level of resource to ensure that we could deliver the required service in an area which has a

significant concentration of population and development activity when compared to other regions in the Principality.

4.7 The provisions for Heritage Partnership Agreements is a forward looking measure which should allow both more cost-effective and perhaps more importantly better integrated management of holdings containing one or more heritage assets or individual heritage assets with multiple designations. The Bill would seem to contain ample provisions. Good articulation in regulation of the operational requirements and effective implementation should enable positive and sustainable outcomes.

4.8 The improvements to enforcement notices and temporary stop notices will allow better protection of significant historic assets at risk.

5. Will the legislation introduce greater transparency and accountability into decisions taken on the historic environment?

5.1 The modernising of the consultation process for both Listed Buildings and Scheduled Ancient Monuments, including the method that decisions are communicated, and the incorporation of clearer and more transparent review mechanisms should improve transparency.

5.2 We understand that the establishment of an Advisory Panel for the Welsh Historic Environment is designed to allow expert advice on the formulation, development, resourcing and delivery of historic environment policy and strategy in delivering the core areas of knowledge, conservation, and public engagement and it will have a broad remit in the provision of this advice. We welcome the intention that appointments will be made on Nolan Principles and the Code of Practice for Ministerial Appointments to Public Bodies, we would expect that the size of the panel will be sufficient to include expertise on the diverse components that form the Historic Environment and also have the competence to challenge delivery perspectives.

Yours faithfully



AG Marvell FSA MCifA

Chief Executive

For and on behalf of the

Glamorgan-Gwent Archaeological Trust Ltd

HE 06

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cymdeithas Llywodraeth Leol Cymru

Response from: Welsh Local Government Association

Historic Environment (Wales) Bill

Evidence to the Communities, Equality & Local Government Committee

May 2015

Pack Page 26



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities are associate members.
 2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh local government and the communities they serve.
 3. The WLGA welcomes this opportunity to contribute to the inquiry into the general principles of the Historic Environment (Wales) Bill. As requested, the Association have framed our response in line with the terms of reference.
-

General Principles of the Historic Environment (Wales) Bill

4. The WLGA has been pleased to engage with the drafting of this Bill through its representation on the Bill External Reference Group and through more focused discussions with officials. In general, the Association welcome the Bill and the increased powers of protection of the historic environment afforded to local authorities.
-

Giving more effective protection to listed buildings and scheduled monuments

5. Local authorities and national parks, through their planning powers, are key players in managing Wales' historic environment. Local planning authorities have powers and responsibilities with regards to world heritage sites, listed buildings, conservation areas and historic features such as parks and gardens. Local planning authorities undertake a regulatory role for example by considering listed building consent applications through to a proactive role in securing external funding such as Townscape Heritage Initiative funding from Heritage Lottery Fund and implementing comprehensive schemes of heritage renewal.

6. Local planning authorities have significant powers relating to listed buildings including urgent works. The WLGA welcome the provisions in the Bill to extend the scope of urgent works to occupied and unoccupied buildings alike and the change to facilitate the recovery of expenses from urgent works through a legal charge upon the land. In this financial climate, difficult decisions will have to be made regarding the cost of urgent works against the potential recovery of costs and the timeframe for doing so. After all, if the building requires urgent works it is not likely to attract many buyers should local authorities use their new powers of sale or lease.
 7. The WLGA welcome the new provision to give local planning authorities the power to issue a Temporary Stop Notice to prevent the continuation of unauthorised work on a listed building.
-

Enhancing existing mechanisms for the sustainable management of the historic environment

8. This Bill places a statutory duty on local planning authorities to maintain a Historic Environment Record (HER). Currently this is a voluntary arrangement, discharged in most cases, to one of the four Wales Archaeological Trusts (WATs). The WLGA expect this arrangement to continue and are satisfied that the discharge of this function to the WATs is the most effective future arrangement. The Association also expects that existing funding arrangements to continue, in that Cadw will continue to grant aid the WATs and we are pleased that this is referenced in the Explanatory Memorandum Page 33 paragraph 161. Local planning authorities cannot accommodate any additional expenditure at the current time. A new statutory duty regarding HERs will require LPAs to ensure that the recognised standard of HER is achieved and a more formal service level agreement will be required between the LPA and WAT. The WLGA will comment on the guidance 'Managing Historic Environment Records in Wales' during the formal consultation period.
9. The Bill introduces Heritage Partnership Agreements to Wales. It is not expected that many HPAs will be put in place across Wales, however where they are requested they will take considerable time and resource to develop and agree. Local planning authorities do not have spare capacity to enter lengthy negotiations on HPAs and therefore there may indeed be future resource issues. Although these are voluntary agreements, it is not clear on what grounds LPAs can decline to be involved in a HPA and the repercussions of doing so.

Introducing greater transparency and accountability into decision taken on the historic environment

10. The WLGA welcome the duty on Welsh Ministers to inform owners of a decision to list and the necessary interim protection. The Association also welcome the ability of an owner or occupier to request a review of the decision to list.
-

Any potential barriers to the implementations of the Bill's provisions and whether the Bill takes account of them

11. Over recent years the number of conservation staff in local authorities and national parks across Wales has declined; for example, a survey conducted in 2013 by the Wales Archaeological Trusts (WATs) found that there were forty-eight (FTE) conservation staff directly working for local authorities, with sixteen authorities having just one conservation/historic environment specialist. As this survey took into account external arrangements, such as fixed-term Heritage Townscape Initiative (HTI) grants and associated temporary officer posts, the Association now estimate that the number of (FTE) conservation staff stands at around forty-three, with two local authorities not employing any dedicated conservation officer/historic environment specialist.
 12. Although the Association recognises that LPAs have the desire and potential to play a more active role within the heritage sector, the Association does acknowledge that most LPAs can only concentrate on core statutory functions as a result of funding and capacity pressures, with many already struggling to fulfil current obligations. With the new Planning (Wales) Bill set to create an increased focus on performance and effectiveness of LPAs, in particular timeliness, many if not all LPAs will be forced to make difficult decisions regarding the prioritisation of work; this could hence result in a lack of resources directed towards the implementation of the new provisions in this Bill.
 13. Reasonable consideration also needs to be given towards differences and inconsistencies in capacity, resources and specialist staffing levels across LPAs, along with the potential implications such a variation will have on effectively and consistently delivering on the Bill's provisions across Wales.
-

Unintended consequences of the Bill

14. No comment

Financial Implications of the Bill

15. As it stands the additional cost to local authorities as a result of the provisions in this Bill is minimal; this is welcome and the Association would not want to see this change as a result of amendments.

Appropriateness of the powers in the Bill

16. No comment.

For further information please contact:

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CF10 4LG**

Tel: 029 2046 8515/8616

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Cymdeithas Cyfraith Amgylcheddol y DU
Response from: The UK Environmental Law Association

Introduction

1. The UK Environmental Law Association (UKELA) is pleased to have the opportunity to submit its views and comments to the National Assembly for Wales's Communities Equality and Local Government on the contents of the Historic Environment (Wales) Bill.
2. The UK Environmental Law Association aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.
3. UKELA prepares advice to UK Governments with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared by UKELA's Wales Working Party.

Overview

4. The quality of the environment is fundamental to the well-being of current and future generations in terms of their health, and social and economic well-being. Protection and enhancement of the environment includes Wales's historic environment. This forms an important aspect of the landscape and environment of Wales which is exceptionally diverse and beautiful, and should be protected and enhanced for future generations. The sustainable management of the historic environment should aim to provide an equal balance between the three pillars of social, economic and environmental well-being.

5. It is an established principle of international law, with reference to the Aarhus Convention, that participation should be an essential element of environmental decision making. This principle is also supported by the European Landscape Convention and accepted in the practice of Environmental Impact Assessment. Each of these is relevant to planning procedures in Wales with respect to the protection of the historic environment.
6. The Welsh Government has the chance, through this Bill, to be innovative and unique in the way it takes forward heritage protection. UKELA is offering its comments below to support the development of leading edge legislation that is truly ground breaking. We support the general principles of the Bill but believe that the provisions could be improved, particularly in relation, the co-ordination of this legislation with the Well-being of Future Generations (Wales) Act, public participation in the procedures for designating assets relating to the historic environment and third party damage to scheduled monuments and listed buildings. We have outlined our concerns in relation to the general principles of the Bill, i.e., attempting to provide more effective protection of Wales's heritage and ensure its sustainable management in a transparent and accountable manner. We offer an analysis of the case for change and suggest some amendments to the Bill to improve the legislation in these respects.

The General Principles

7. It is difficult to argue with the general principles of the Bill. However, it is not always clear that these principles are reflected in the measures proposed as outlined in detail below.

Sustainable Management

The Co-ordination of the Historic Environment (Wales) Bill with the Well-being of Future Generations Bill.

8. UKELA welcomes the adoption of the principle of sustainable development in guiding the management of the historic environment in

Wales. However, we believe that there should be a clear link between the legislation on the historic environment in Wales and the provisions of the Well-being of Future Generations (Wales) Act 2015. The Well-being of Future Generations (Wales) Act 2015 aims to ensure that ‘well being’ objectives, vital to the achievement of sustainable development, lie at the heart of government decision making. This is particularly important in the context of the sustainable management of the historic environment. In our view, therefore, the Bill should include a general statutory purpose for those involved in heritage management, linked to the achievement of sustainable development and the Well-being of Future Generations (Wales) Act, along the lines of that provided by amendment to the Planning Bill.

9. A second point is that there is no reference to the importance of heritage protection to future generations in the provisions on scheduled monument consent. The perspective of future generations is essential to the objectives of the Well-being of Future Generations (Wales) Act 2015 and has a particular resonance in relation to the protection of the historic environment in Wales (as outlined in the Explanatory memorandum to this Bill). The current law states that “Any scheduled monument consent ...shall (except so far as it otherwise provides) ensure **for the benefit of the monument and of all persons for the time being interested therein** (emphasis added).” (Scheduled 1 para 1(2)). The lack of any reference to future generations here is therefore, worrying and there is a clear case for introducing an amendment along these lines.

Transparency and Accountability

10. UKELA welcomes the general principle of transparency and accountability in the approach to the protection of the historic environment. However, we are concerned that there is a lack of provision for public participation in the processes for designating scheduled monuments and listed buildings. Public participation is now clearly established at an international level as an essential principle in decision making on environmental protection and sustainable development.

Public participation also plays a significant part in ensuring transparency and accountability in any process of government decision making. The Conservation Principles for the Historic Environment in Wales, endorsed by Welsh Government, support the view that:

“Everyone should have the opportunity to contribute his or her knowledge of the heritage value of different sites, and to participate in decisions about their future, by means that are accessible, inclusive and informed.”

It is our view that the public, and not just experts in the field, have a valuable role to play in contributing “knowledge of the heritage value of different sites” and should therefore have the opportunity to participate in decision making.

Public Participation, Scheduled Monuments, Listed Buildings

11. We are disappointed that the new duties under Section 1AA Ancient Monuments and Archaeological Areas Act 1979 and Section 2A of the Planning (Listed Buildings and Conservation Areas) Act 1990 will only extend to those with a proprietary interest or “special knowledge of, or interest” in the proposed scheduled monument or listed building. We would suggest that an amendment to this effect is included in the Bill.

12. We are also concerned about the proposal to remove the duty, with respect to scheduled monument consent, to hold an inquiry or allow “the applicant, and to any other person to whom it appears to the Secretary of State expedient to afford it, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.” This will remove the opportunity currently afforded to third parties to make representations on proposals for scheduled monument consents at an oral hearing. We would, therefore, suggest removing this provision or at least making provision in regulations regarding the opportunities for public consultation in relation to the procedure for scheduled monument consent.

Public Participation and Heritage Partnerships .

13. We support the provisions in the Bill for Welsh Ministers to create regulations on the arrangements for consultation on a new heritage partnership agreement (or its variation) and the publicity that must be given to this. However, we believe that this should be duty rather than a power and that it should be made clear on the face of the Bill that consultation should involve the public and not be restricted to those with a proprietary interest or “special knowledge of, or interest” in the relevant scheduled monument. This is particularly important given that Heritage Partnership agreements may provide for, and/or restrict, public access to the scheduled monument or its associated land.

The new Advisory Panel for the Welsh Historic Environment (APHE)

14. The protection of the historic environment in Wales is a public function carried out by CADW with the help of the Royal Commission on Ancient Historic Monuments of Wales in maintaining a national archive of such assets. Some independent advice and guidance to Welsh Government on strategic direction is already provided by the Historic Environment Group (HEG). Therefore, it will be important, in a time of scarce resources, to ensure that there is clear divide between the role of the HEG and the new APWHE. It is also important to ensure that the APWHE, as an independent body, is made accountable to government and does not undermine the democratic function of Welsh Government in providing strategic direction to the protection of the historic environment. Therefore, it will be necessary to provide robust regulations on the appointments process and terms of reference for this Panel.

Effective Protection of the Historic Environment

15. UKELA welcomes the provisions on enforcement and stop notices in relation to scheduled monuments that bring the law on heritage protection in line with the well established system of enforcement in planning law.
16. We believe that it is also essential to strengthen the approach to third party damage to both ancient monuments and listed buildings. Third party damage presents a real threat to the maintenance of the historic

environment and it can be hard to prove, evidentially, that a person had knowledge of the special status of such buildings and artefacts.

17. We would, therefore, suggest going further than the current proposal to amend section 28 of the Ancient Monuments and Archaeological Areas Act 1979, and provide two new offences with respect to third party damage to either scheduled monuments or listed buildings. These offences should mirror the approach to the protection of Sites of Special Scientific Interest from third party damage, under s28P Wildlife Countryside Act 1981. Thus, we suggest that two new offences should be included in the Bill as follows:

A person who without reasonable excuse:

- a) Intentionally or recklessly destroys or damages a scheduled monument or listed building, and
 - b) knew that what he destroyed or damaged was a protected monument or listed building
- is guilty of an offence and is liable on summary conviction, or conviction on indictment, to a fine.

A person who without reasonable excuse

- a) Intentionally or recklessly destroys or damages a scheduled monument or listed building,
- is guilty of an offence and is liable on summary conviction, or conviction on indictment, to a fine not exceeding Level 4 on the standard scale.

18. A similar approach could be taken to offences relating to the use of metal detectors in respect of ancient monuments.

May 2015

Dr Victoria Jenkins

UKELA – Wales Working Party

HE 08

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Ralph A Griffiths
Response from: Ralph A Griffiths

In response to the consultation on the above bill which has recently been announced, may I offer the following comments. I am not responding on behalf of any organization.

1. I welcome the Bill and, in most respects, its provisions. In particular I welcome the following, which would be a notable improvement and extension of current legislation and practice:

- the inclusion of a register of historic parks and gardens (Part 2),
- the requirement that each Local Planning Authority should publish an historic environment record (Part 4),
- the re-establishment of an advisory panel for the Welsh Historic Environment (Part 4),
- the provision for adequate and appropriate consultation by Welsh ministers (as in Part 2.2 (1), and
- the specific inclusion of monuments in the territorial sea.

2. Of more detailed comments, may I offer the following:

page 6 (4) and page 28 Part 3, and page 55, 2(3). The provision that in most circumstances 'the validity of any decision taken by the Welsh Ministers on the review [of decisions relating to monuments] is not to be questioned in any legal proceedings' does not seem to take into account the possibility of judicial review, which is 'a legal proceeding'. Moreover, from the public's point of view, to enshrine such a provision in law gives an unfortunate impression.

page 8 The nature of the discretion conferred on Welsh Ministers in relation to applications for scheduled monument consent might benefit from some explanation/qualification.

Part 3 page 45. Advisory Panel and its functions and responsibilities. The Welsh government's proposal to restore such a provision for independent

and expert advice to ministers is to be welcomed and will be a great relief to many. But on 38(7), should not the disqualification extend to any employee of the Welsh government in order to ensure independent, expert advice? This is especially important in view of page 48 (2), the ability of the Welsh Assembly to annul the regulations being proposed. I hope these remarks are of some help to you.



**Ymddiriedolaeth
Genedlaethol
National Trust**

HE 09

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Yr Ymddiriedolaeth Genedlaethol, Cymru
Response from: National Trust Wales

Introduction

National Trust Wales places great importance on the conservation and management of all aspects of the historic environment, including archaeological sites, designed and cultural landscapes, buildings, architecture and parks and gardens. We want the special places of Wales to be available forever, for everyone.

We care for 175 Scheduled Ancient Monuments and 381 listed buildings. We have three sites in guardianship – managed by Cadw on behalf of Welsh Government. We have 15 registered Parks and Gardens and own a significant part of Wales' registered historic landscapes. We work with many partners to protect and promote enjoyment of the historic environment, including Cadw, the Royal Commission for Ancient and Historic Monuments Wales, four archaeological trusts, Natural Resources Wales, the Institute of Historic Building Conservation, Wales Environment Link, the Campaign for the Protection of Rural Wales and the Council for British Archaeology. We are also an active member of the Historic Environment Group.

We welcome the Historic Environment (Wales) Bill as the first Wales-only legislation for the care and protection of our distinct historic environment. In many ways the Bill shows a willingness to build on and expand the current legislative framework for protection of our historic environment and as such it is a consolidation and enhancement rather than a radical new approach. We support the direction of travel and believe many of the provisions do represent a positive change for our historic environment. Our primary concern is around the implementation of the new measures, specifically those at Local Authority level, where resource pressures may lead to a lack of capacity to take work forward. Our hope is, that Welsh Government will go beyond this Bill to take a proactive approach to our historic environment and bring forward more radical solutions to reduce the number of historic buildings, monuments and landscapes at risk.

Llywydd/President: HRH The Prince of Wales
Cadeirydd Pwyllgor Cymru/ Chair of the Wales Committee: Mr Keith James OBE
Cyfarwyddwr Cymru/Director for Wales: Mr Justin Albert

Registered office:
Heelis, Kemble Drive, Swindon, Wiltshire SN2 2NA
Registered charity number 205846

Bill Formation Process

We have found the process of the formation of the Historic Environment Bill to be consultative and well-communicated.

The National Trust was part of process from the beginning and greatly welcomed the opportunity to participate. We support the open approach taken by Cadw when first exploring the potential opportunities provided by new legislation such as the horizon scanning workshops. It could be argued that such an approach will raise expectations beyond what can actually be achieved through any given piece of legislation. However, we feel this risk is more than justified by the engagement and ideas generated by such exercises.

We particularly appreciated working with Cadw on the specific aspects of the bill especially the 'Landscapes, Parks and Gardens and Battlefields' workshop at Stackpole which we jointly hosted.

Once the process was clarified we supported the steady progress through the legislative process and believe that the level of consultation was appropriate. Towards the end of the process the steps being taken and their justification was easy to understand. The connection between the Bill and the supporting documents such as changes to planning guidance and statutory guidance is clear.

The General Principles of the Historic Environment (Wales) Bill

Below we outline our views on individual elements of the Bill;

Greater Protection for Scheduled Ancient Monuments

We strongly support the measures in the Bill that will give greater parity to the protection of Scheduled Ancient Monuments. Provision of the same type of statutory care as Listed Buildings will provide better protection to much of our Welsh heritage.

Interim Protection and Temporary Stop Notices

National Trust Wales can see the value in introducing temporary stop notices in providing more effective protection to Listed Buildings and Scheduled Ancient Monuments. However, we believe that a major issue currently inhibiting the effective use of stop notices is that Local Planning Authorities are wary of the potential cost of delaying works which they might later have to compensate the owner for. This issue is not currently addressed in the Bill, but if it could be the use of stop notices would be more frequent and so heritage protection more effective.

We agree that interim protection is essential in preventing damage to a monument or building while consultation is being undertaken prior to designation. Interim protection should apply for all assets from when an application is made to throughout the consultation, decision-making and review period.

Control of Works Affecting Scheduled Monuments

National Trust Wales wholly welcomes measures outlined in the Bill which place a responsibility on the individual to take reasonable steps to find out whether there is a scheduled monument in the area where works are planned, in order to prevent damage and destruction of them. We agree that there has been a need to better defend our protected monuments and places and believe that the proposed measures will make a valuable contribution to this protection in the future.

Buildings at Risk

We are pleased to see the Bill's provisions to lend greater protection to Listed Buildings, however, we would have wished to see far greater emphasis on Buildings at Risk in the Historic Environment Bill. We wish to see greater monitoring, greater intervention, greater reporting, and far more emphasis on reducing the buildings at risk in Wales. The Bill needs to stimulate a far more proactive approach to partnership solutions to Buildings at Risk in Wales, and a greater dialogue on solutions to loss of heritage.

Landscapes

As an organisation particularly concerned with the protection and conservation of the Welsh landscape we feel that the proposals in this document which address landscape are weak. From our perspective this is an area in which the Historic Environment Bill has failed to deliver. We acknowledge the difficulties in registering and protecting large areas, but this legislation has failed to address the issue. In doing so misses the 'bigger picture' in terms of protecting our Historic Environment.

We do not agree that the register of historic landscapes delivers the Welsh Government's contribution to the European Landscape Convention. An active and holistic approach is needed. In order to achieve this holistic approach it must be ensured that provisions relating to landscape in the Heritage and Environment Bill are integrated and the management and protection of the historic environment is firmly embedded in any ecosystems approach to landscape management.

The complexity of working with the Natural Resources Management Plan have not been considered by this Bill. Our understanding is that the proposed natural resources planning areas will be established through the Environment Bill. The strong suggestion is that these will be catchment based which will conflict with the boundaries of the registered historic landscapes. We are extremely concerned that how to marry these approaches has not been considered. Without evidence of real joined up thought and working we cannot feel confident that the historic environment will be given due consideration in what will be a complex and multi-stakeholder process. We would still like to see a formal process through which Cadw and other bodies with expertise in heritage and the historic landscape can provide input to the Natural Resource Management Planning.

Register of Historic Parks and Gardens

We very much welcome a statutory basis to the Register of Historic Parks and Gardens in Wales as provided in the Bill. We hope that the Welsh Government to commit the necessary resources to maintain and enhance the register.

However, we are concerned about the Minister's power of deletion of parks and gardens from the register. We would welcome clarification about the circumstances under which a park or garden might be deleted from the register and the process by which this would be judged in an open and

public manner.

Heritage Partnership Agreements

We strongly support introduction of Heritage Partnership Agreements and contributed to early discussions as to how this might work. We are encouraged to see that the proposal for Heritage Partnership Agreements has been based on pilot schemes in England and Wales which we hope have provided valuable lessons for implementation.

This approach could help to avoid duplication of work for us, for Local Planning Authorities and for Welsh Government. Such a system would benefit properties like Dolaucothi where large areas are protected but the significance of the archaeology varies. It would help us carry out routine tasks such as erecting signs and temporary structures and cyclical maintenance which is needed at such a property.

There will, however, be front-loaded resource implications if the establishment of such partnerships is going to be successful. If there are delays in establishing this process at LA level then take up of such agreements will suffer and potential for efficiency savings in the future will be lost.

Historic Environment Registers

We are pleased with the Bill's provisions which place a duty on LPAs to create and maintain HERs either within their own organisational or by a third party is being revisited. We view statutory footing for HERs as essential to effective planning. Organisations such as National Trust Wales are reliant on accessing sound HER data as are many other organisations. We would advocate learning from the Welsh Archaeological Trusts who have run a successful system up to this point.

Again we would like to raise the issue of resource in LAs for work on HERs. It may be the case that a service level agreement will allow the current arrangement to continue. If however, the work on the registers is to be bought inside LAs then resources need to be allocated to maintaining the registers and their conversion to SPG. Many of the staff who have a suitable skill set may find their jobs under threat due to cuts at Local Government level, making us question the feasibility of this role being performed by LAs long term.

Advisory Panel for the Historic Environment

National Trust Wales believes that the establishment of an Advisory Panel for the Historic Environment is a good idea. We support the Welsh Government taking a consultative approach to the historic environment in Wales and utilising expertise which sit outside of government.

However, we have previously raised concerns about the lack of differentiation between the role on the Advisory Panel for the Welsh Historic Environment and the Historic Environment Group currently in existence, and these concerns have not been addressed by the wording on the face of the Bill.

Duplication and overlap between the two groups will mean additional and unnecessary work for all involved. There is also a high cost associated with the creation of such a panel and given the stretched resources we refer to elsewhere in this document we feel consideration could be given to how else this money might be used.

Barriers to Implementation

1. Resource

The primary barrier to implementation will undoubtedly be resource at Local Authority Level. Existing arrangements do not work to their full potential where they are not properly resourced and this will be no different for the new provisions made in the Bill. Our concern is that, at a time when Heritage and Built Conservation staff are at the front line of staffing cuts at Local Authority level the Bill may place additional requirements on these individuals without provision of additional resource. The HERs, for example, if bought back into LAs will require staff time to create and maintain, and will need to be followed up with all the process requirements for converting the register to formal Statutory Planning Guidance. Again when it comes to HPAs Welsh Government must ensure that resource and training are provided to ensure that the Authority is capable of putting the provisions of the Bill are put into practice.

2. Prioritisation at LA level

Going hand in hand with this is the recognition of the importance the historic environment in Local Authorities. Where the Planning Bill addresses culture change in Local Authorities this is not addressed in the Historic Environment Bill. If the Bill is going to place extra requirements on local authorities at a time of resource reduction there may be a need to look into how local authorities prioritise and resource decision making in the historic environment.

3. Supporting Documents

Although the Historic Environment (Wales) Bill will make important legislative changes, it cannot stand alone. There is a need for new draft policy, advice and guidance documents to be brought forward alongside the Bill. We are aware that this process is being undertaken within Welsh Government, and that many documents are coming forward from Cadw currently, and would value the opportunity to comment on supporting documents as they are brought forward.

In order to discuss this evidence further please contact;

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HE 10

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales)
Bill

Ymateb gan: Comisiwn Brenhinol Henebion Cymru

Response from: Royal Commission on the Ancient and Historical
Monuments of Wales

1.0 Background

1.1 We are the national body of historical environment survey and record for Wales, established by Royal Warrant in 1908. One of our principal activities is the maintenance of the National Monuments Record for Wales, and in that capacity we are responsible for monitoring the development of the Historic Environment Records (HERs) that are maintained by the four regional Welsh Archaeological Trusts.

1.2 These two different types of record are different but complementary. In essence HERs constitute a catalogue of information about the past, containing high-level data. The National Monuments Record adds depth of information, consisting of many different types of data, including and interpretative drawings, plans, sections, excavation reports, field notes and 150-years' worth of photographs.

1.3 Because of our role in maintaining National Monuments Record for Wales and for monitoring the development of the Historic Environment Records, our evidence to the Communities, Equality and Local Government Committee will focus mainly on Part 4 of the Historic Environment (Wales) Bill, dealing with the requirement for local planning authorities in Wales to create and maintain HERs.

2.0 The value of HERs

2.1 We very much welcome clauses 33 to 36 of the Bill, requiring each local planning authority in Wales to 'prepare and publish a historic environment record relating to its area'. There are several reasons why we support this measure. HERs are a valuable and accessible source of knowledge about the historic environment that can be used to:

support conservation efforts and responsible stewardship of the historic environment

inform property owners and developers of any heritage assets that might have an impact on the ways in which they can use their land and property, and thus provide them with the clarity they need in order to prepare successful planning applications

inform decision-making within the planning and development control system, including pre-application discussions and consent applications

support environmental improvement, cultural tourism and educational initiatives

empower people to explore, enjoy and understand local heritage.

2.2 The need for high standards

In order to achieve all these objectives, HERs need to be accessible, accurate and up to date: and for that reason we very much welcome the emphasis in the Bill and Statutory Guidance on HER service providers being subject to audit by the Royal Commission at five-year intervals. We also welcome the statement that Welsh Ministers will regularly review the discharge of their HER responsibilities by local authorities and work with those that fail to comply to agree a plan of rectification

3.0 Existing HERs

3.1 HERs do, of course, already exist, and have been managed and developed by the four regional Welsh Archaeological Trusts over a number of decades, so we do not consider the Bill places an especially onerous burden on local planning authorities. The initial start-up investment has already been made, but HERs could rapidly cease to perform their proper role within the planning system if they become out of date. So there is a need for continuing investment in their maintenance and enhancement. The Statutory Guidance makes clear that appropriately qualified and competent curatorial staff should be employed to undertake this task. As the responsibility for having access to a HER will rest with local planning authorities it will be important to ensure that there is recognition on the part of these authorities that they will need to provide a reasonable and proportionate share of these essential costs.

4.0 Alternative service providers and

4.1 However we note that the Bill does not specify that the existing HERs should be used and the associated Statutory Guidance on Historic Environment Records in Wales does not assume that this will be the case. Instead the Statutory Guidance sets out what a HER should contain, how it should be managed and what standards must be met, and it is theoretically possible that some local authorities might decide to go outside the existing HER provision to set up and maintain their own HER, or to contract the work to different service providers than the Welsh Archaeological Trusts.

4.2 There is therefore a risk of a multiplicity of approaches to HERs and we are concerned that this could lead to fragmentation; notwithstanding the Statutory Guidance on standards, this could lead to regrettable a lack of national consistency that could confuse users and present barriers to the wider use of HERs. This should be avoided and emphasis placed on the key role of the Historic Wales Portal in providing a clear entry point to a number of records that have been devised for different purposes and which are complementary

5.0 The Historic Wales portal

- 5.1 The Royal Commission has worked hard in recent years to bring the historic environment data held by various bodies in Wales under one umbrella: the Historic Wales on-line portal brings together HERs data and information held by such organisations as Cadw, the National Trust, National Museum Wales and our own National Monuments Record Wales, thus creating what might be termed the 'extended national HER'. This extended HER is critically important for anyone needing a greater depth of information than is held within the existing, and the move towards common standards and greater integration is one that we would commend in preference to greater plurality.
- 5.2 Our own experience of working with the existing HERs held by the Welsh Archaeological Trusts has demonstrated that they are well managed. We undertook audits in 2005 and 2010 and we are currently undertaking another five-year audit in order to inform their forward work programmes. We would especially like to commend their creativity in providing for wider public access and enabling the public to access HERs data, and upload their own observations, via tablets and mobile phones.

6.0 Section 17 of the Bill

- 6.1 We are pleased to see an effort being made to strengthen the law in relation to the 'defence of ignorance' relating to Metal Detecting. To allow 'ignorance' to be used as a defence means that it will be almost impossible to prosecute illegal activity, because the onus will be on the prosecutor to prove that the detectorist was fully aware of any protective designations in force.
- 6.2 Instead it is right that,, just as a metal detectorist should seek the landowner's permission before undertaking a search, so the onus should be on the detectorist to check whether or not a place is protected. The level of easily accessible information on line via the Historic Wales portal means that it is very easy to check whether land is designated or not, and the 'ignorance' defence is even more difficult to justify now than at any time in the past.

7.0 Section 37 of the Bill

- 7.1 We note that Section 37 of the Bill places a requirement on Welsh Ministers to establish an Advisory Panel for the Welsh Historic Environment, to 'give advice on matters relating to the formulation, development and implementation of policy and strategy in relation to the historic environment of Wales'. The Panel will be required to publish a work programme setting out the 'matters on which it plans to provide the Welsh Ministers with advice during the subsequent three years'.
- 7.2 We would like to seek reassurance that such an advisory panel will draw on a wide range of advice in setting its agenda, and seek evidence in their deliberations from the wide range of heritage bodies that exist in Wales. We would be happy to offer some assistance to Cadw in supporting the operation of the Panel, so as to ensure that its work programme is representative of the functions that we and others carry out as well as those led by Cadw.

8.0 Maritime provision

- 8.1 Finally, as the national body that is charged with the task of making a record of maritime and offshore heritage, we are concerned that the current Bill and the supporting guidance are primarily concerned with terrestrial heritage. At a time when our territorial waters are subject to ever greater development pressures, there is an urgent need for comprehensive and up to date information about the rich maritime heritage of Wales to underpin future planning decisions. We hope that measures to address this need will be incorporated into this Bill or future legislation and guidance addressing maritime heritage and offshore development.

HE 11

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cymdeithas Ddinesig Caerdydd

Response from: Cardiff Civic Society

Representations on the Historic Environment (Wales) Bill

There is little or no provision in the draft bill for changing the law regarding Conservation Areas. This is a missed opportunity to reform an area of heritage planning legislation that is now outdated inappropriate and cumbersome in operation.

Current legislation and guidance on Conservation Areas dates back to the 1960s. Then the concept was rather to enhance 'pretty' built environments by providing hanging baskets or the like rather than the identification and protection of urban environments of particular historical or architectural importance.

Hence there is a requirement to produce a 'Conservation Area Enhancement Plan' but not a much more important Conservation Area Design Guide to aid consideration of planning applications in the CA. Moreover there is no time limit set for the local authority to produce the CA Enhancement Plan so that some CAs still have no Plan decades after being declared.

The CA legislation is the only remaining piece of planning legislation where it is mandatory to hold a public meeting. This confrontational form of consultation has long been discarded in all other areas of Planning in favour of more participatory forms such as exhibitions, workshops and 'charettes'.

The process for declaring a CA in the first place is most unsatisfactory. In the past local authorities could just declare one without any survey or plan or consultation exercise with those affected. Sometimes they were declared just to attempt to frustrate a locally controversial planning application. Thus many CAs do not really justify designation and a thorough review of existing CAs is long overdue. Before that occurs, however the procedures for de-designating such areas also need a thorough overhaul. Although tightened up in more recent guidance the declaration procedure is still unsatisfactory compared to other plan making regulations.

The effectiveness of Conservation Area designation in protecting the historic environment has always been limited. The main elements of protection were the requirement to obtain consent (for which there is no fee) to demolish a building in a conservation area and also to chop down a tree (leading to much debate over what exactly constitutes a tree rather than eg a shrub or sapling). The Shimitzu ruling in 1997 however effectively removed even this limited protection by establish the Conservation Area consent was not needed to demolish part of a building, even if this amounted to 90% of the structure! This absurd ruling has yet to be rectified through legislation.

Cardiff Civic Society therefore suggests that the Historic Environment (Wales) Bill directly addresses the defects in Conservation Area legislation as follows;

1. Restoring the requirement to obtain consent for demolition of any building **or part of a building** in a Conservation Area by enshrining it in law.
2. Requiring a local authority wishing to declare a Conservation Area to;
 - a. Submit a **character appraisal** of the proposed area to Cadw for approval
 - b. **Serve notice** on every household and business premises in the proposed area.
 - c. Carry out a **public consultation exercise** (guidance on which to be produced separately by circular or TAN but *not* including a mandatory public meeting)
 - d. **Identify on a plan of the area all trees** that would require consent for removal or lopping. Only trees so identified would be covered by the requirement to seek such consent.
3. A local authority seeking to de-designate a Conservation Area or part of a Conservation Area be required to;
 - a. **Inform Cadw** of the reasons for the proposed de-designation. Cadw to have the right to 'call in' the proposal for its own determination if it considered it necessary.
 - b. **Serve notice** on households and businesses in the area of its intention notifying them of a statutory 6 week period in which to raise objections.
 - c. Be required to consider all objections and consider reviewing its proposal in the light of them **publish a report** on its final decision and the reasoning behind it.
4. Within 12 months of the declaration of a Conservation Area being confirmed the Council must produce a **Design Guide** to aid consideration of planning applications in the CA and to advise householders and businesses on how to retain the character of premises in the CA that contribute to the CA status.
5. Production of a Conservation Area Enhancement Plan to be optional but both CA Design Guides and Enhancement Plans should follow the same consultation procedures as those for declaring the CA as described above.

In addition to legislation on Conservation Areas each Planning Authority should, within a reasonable but defined period, be required through circular or other appropriate executive action, to review existing Conservation Areas and consider whether they should be retained, extended, reduced or extinguished.

Consideration should also be given to enabling civic societies registered with Civic Trust Cymru the ability to initiate the procedure for declaration of a Conservation Area (eg by the submission of a proposed boundary and character appraisal to the Local Authority).

HE 12

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Ymddiriedolaeth Gerddi Hanesyddol Cymru

Response from: Welsh Historic Gardens Trust

Overall, we very much support the initiative of the Welsh Government in bringing forward the Bill to address concerns about safeguarding the heritage of Wales by strengthening the protection, mechanisms for support and public awareness of our historic environment. We welcome the creation of an expert panel to advise the Minister and trust that this will include persons with specific skills and knowledge of historic parks and gardens, particularly since the decision by Cadw not to continue the post of Inspector of Parks and Gardens. We also support the strengthening of the basis of the Historic Environment Records by making it a duty for Local Authorities.

Naturally, our particular concern and interest is with Part 4, Section 18 of the Bill: 'Register of historic parks and gardens' and with the amendment to regulations to enable Welsh Ministers to issue directions to LPAs to consult Cadw on all planning applications affecting grade I and II* sites and with a nominated amenity society on all planning applications affecting registered parks and gardens.

We especially support the proposed statutory status of the register which is long overdue and essential to fulfil the ambitions of the Bill. However, we note that it will not be accompanied by the introduction of a new consent regime. This appears to be at odds with the new Section 41A subsection (3) to be inserted in the Ancient Monuments and Archaeological Areas Act 1979 where Welsh Ministers take powers to modify the register by adding, amending or removing an entry. Does this mean that the Minister's decision is subject to the consent of the owner of the site?

The Welsh Historic Gardens Trust (WHGT) was set up in 1989 in response to the very real threat to many historic parks and gardens in Wales. It is the only amenity organisation based in Wales specifically concerned with the protection and conservation of historic parks and gardens. Its main aims and objectives are to conserve, document and promote the historic parks, gardens and designed landscapes of Wales and to campaign for their protection. The Trust gained charitable status in 1994 and consists of a central body with county branches throughout Wales. WHGT has long and wide-ranging experience in helping to conserve and enhance the historic parks and gardens of Wales and in responding to planning applications concerning them and welcomes the opportunity to become the amenity body required to be consulted by LPAs in relation to planning applications. The thresholds for consultation on historic parks and gardens that we would like to be applied are that the Trust be consulted on all grades (I, II* and II) of registered parks and gardens and their settings. WHGT believes that since many of the major threats in the past have been to Grade II listed landscapes and gardens these sites should also come under the jurisdiction of the new heritage legislation.

Initial discussions with staff of Cadw earlier this year suggest that WHGT might be the amenity society appointed to this task. Taking on such a responsibility would, of course, involve many implications for our organisation and we would like some indications included in the Bill both of the policy intentions behind the legislation and how this might work in practice. For example, who will nominate the amenity society; how will they do so and when is this likely to take place? Would the amenity society be consulted about this?

We are also concerned about the nomenclature used, in connection with the absence of the word 'statutory' in the Bill. We understand that other amenity societies who undertake such work (e.g. The Garden History Society, The Georgian Group, The Victorian Society, The Twentieth Century Society, The Society for the Protection of Ancient Buildings etc.) are classed as 'statutory consultees' which gives the Local Planning Authorities a statutory obligation to consult with them and therefore they are Statutory Consultees. Why would this not be the situation in relation to the historic parks and gardens of Wales?

If the WHGT is to undertake such work it would wish to seek parity with the other amenity societies and sufficient funding to be able to support a part-time case-worker. It cannot fund an operation of this magnitude and complexity on its own. However, we note that in the Voluntary Sector Impact Assessment for the Bill it is stated that 'the Bill does not contain any provision which will impact directly on the voluntary sector other than those with a significant landholding containing historic assets'. This is not realistic in relation to this consultation process especially in relation to the time consuming but productive role that pre-application discussion can play in influencing applications concerning these listed sites. Although some consultation does occur already this is inconsistent and partial and falls far short of the Wales wide standard you would expect.

Finally, we see the new responsibility in Section 41A (6) to publish the up to date register as a significant step forward especially since the intention is for this to be available on line and in a map format.

Jean Reader, PhD.,

Chairman.

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HE 13

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Ffederasiwn Amgueddfeydd ac Oriolau Celf Cymru

Response from: Federation of Museums and Art Galleries of Wales

The Communities, Equality and Local Government Committee inquiry into the general principles of the Historic Environment (Wales) Bill.

The Federation of Museums and Art Galleries of Wales is the independent strategic body for museums and art galleries in Wales. We advocate for the highest standards of museum provision throughout Wales.

The Federation has followed the development of the above Bill from its early beginnings as the Heritage Bill. We were encouraged at the early stages to hear directly from various Government Ministers that the Bill would include reference to the portable heritage of Wales (and thus protect the value of museums and their collections). We were somewhat dismayed when the Bill became solely focussed on the Historic Environment (as valuable as the proposals in the Bill are). We do not wish to comment directly on the content of the current Bill but sincerely hope that the committee will be able to put pressure on the Welsh Government in the future to reconsider the original objectives of the Heritage Bill as it relates to the protection and promotion of the wider heritage of Wales.

HE 14

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Ken Richards

Response from: Ken Richards

Submission to: the Communities, Equality and Local Government Committee regarding the principles of the Historic Environment (Wales) Bill. (First Reading, May 5, 2015).

1. The Historic Environment (Wales) Bill [Proposed Bill] leaves the impression that it addresses issues rather than the historic environment in Wales. The Proposed Bill should be clearly positioned within the framework of laws that includes the Well Being of Future Generations Act (Wales) Act, 2015, in conjunction with proposed planning and environmental laws. It should be reframed and enhanced to provide a firm foundation for the adoption of regulations, policies, and guidelines to facilitate the management of the historic environment in Wales, commensurate with sustainability as a fundamental operating principle.
2. Assessment of the Proposed Bill and documents listed on the web page Consultation: Historic Environment (Wales) Bill,¹ was influenced by:

Change in Governance and Management in Wales: Reports and background documents regarding the historic environment, the environment and planning in Wales issued by the Welsh Government in the development of the Proposed Bill and other proposed laws in the context of the Well Being of Future Generations Act (Wales), 2015.

Landscape, Places and People: A background report titled 'Historic Landscapes and Cultural Heritage in the Designated Landscapes of Wales,' submitted as an unsolicited document to the Review Panel of Designated Landscapes of Wales in April 2015.²

Knowledge and Learning: The influence and effect of new information and communications technology on the cultural heritage sector in Wales and in other jurisdictions³

Civil Society: the role of locally based historic, archaeological and cultural groups in the generation of knowledge and learning regarding

¹<http://www.senedd.assembly.wales/mgConsultationDisplay.aspx?id=176&RPID=637441&cp=yes>

² The report concludes that: The Designated Landscapes of Wales should be learning grounds and exemplars of a dynamic, collaborative, outward looking approach to the representation and interpretation of the cultural heritage of Wales.

The report considers the concept of e-culture as a policy for the generation of value in the cultural heritage sector, The report also calls for an enhanced role for civil society in the generation of historical and cultural knowledge in the designated landscapes of Wales.

³ E-culture in the Netherlands: <http://virtueelplatform.nl/english/what-is-e-culture/>

the historic environment in communities throughout Wales. ⁴

Statement of purpose

3. The Proposed Bill should include a Statement of Purpose, such as:

“This Bill provides for the protection, conservation and stewardship of the historic environment of Wales for future generations.”

Definition of the Historic Environment in Wales:

4. The Historic Environment in Wales includes Physical Elements in the environment, and Records pertaining to the historic environment, as provided by Knowledge, Information and Learning institutions in Wales:

Physical Elements:

Landscapes-Seascapes and Place Names (see paragraph XX), World Heritage Sites, Historic Parks and Gardens, Ancient Monuments, Historic Buildings, Marine Historic Sites and Wrecks, Abandoned Slate Quarries and Mines, Conflict Sites and Conservation Areas.

Knowledge, Information and Learning:

Knowledge and learning institutions⁵ provide independent, expert, accredited advice to government, local authorities and the public regarding the historic environment in Wales through survey, research, and the creation and management of collections and databases.

Primary Data Bases (Historic Environment Records): Coflein, Registered Historic Landscapes of Wales, Geiriadur Prifysgol Cymru, Archif Melville Richards and Cynefin (Tithe records of Wales). Casgliad y Werin.

5. Historic Environment Records and Databases: The value generated by primary databases in Wales is respected and used by learning, research and cultural organizations throughout the world, and in Wales by local authorities and local historic, archaeological and cultural groups, and the public at large.

6. It is recommended that the Proposed Bill and associated documents:

⁴ There are approximately 700 groups associated with the historical environment in Wales. See the report: Mapping Community Organizations in Wales, Wales Council for Community Action, 2014.

⁵ Institutions in Wales include the National Library of Wales, National Museums, Royal Commission on the Ancient and Historical Monuments of Wales, Academic and Local Authority Archives, Research in Academic Institutions, Welsh Archaeological Trusts.

Recognize significant databases regarding the historic environment as knowledge and learning assets and resources in the national interest,

Assign responsibility to Welsh Ministers to develop policies and/or guidelines regarding the development, protection and maintenance of valued electronic resources in conjunction with the institutions concerned.

Explain the primacy of these sources in the draft document 'Historic Environment Records in Wales: Statutory Guidance.'

Management of the Historic Environment

7. The management of the historic environment in Wales should be based on principles of protection, conservation and stewardship in the context of the Well Being of Future Generations Act (2015). The provisions of the Proposed Bill as they relate to the management of the historic environment should be positioned alongside the Planning (Wales) Bill and the Environment (Wales) Bill so that the laws complement each other in the management of the historic environment.

Well Being of Future Generations Act 2015		
Environment (Wales)	Historic Environment (Wales)	Planning (Wales)

8. The Proposed Bill incorporates provisions of the Ancient Monuments and Archaeological Areas Act, 1979. It is unclear if the procedures described in this act are compatible with the Well Being of Future Generations Act, 2015 as regards sustainability, or, procedures associated with the proposed Planning (Wales) and Environment (Wales) bills.

9. It is recommended that:

Sections of the Ancient Monuments and Archaeological Areas Act, 1979, as currently incorporated in the Proposed Bill, are reviewed for compatibility with the Well Being of Future Generations Act 2015, and other proposed bills regarding the environment and planning.

Historic Landscapes

10. The historic landscapes of Wales add value to the economy, and provide opportunities for learning about cultural heritage. Historian John Davies (1938-2015), geographer Emrys Bowen (1900-1983) and scholar and writer Bedwyr Lewis Jones (1933-1992), and others, understood the importance informing and educating the people of Wales about the intrinsic values of historic landscapes and of place names.
11. The present status of The Register of Landscape of Historic Interest in Wales (Register) is unclear. Local authorities, developers, and local groups use the

Register in conjunction with characterization studies compiled by the four Welsh Archaeological Trusts to generate knowledge, learning and education about their communities.

12. It is recommended that:

The Proposed Bill provide for the Register of Historic Landscapes of Wales as a Schedule.

A list or register is prepared of seascapes, marine historic sites and wrecks in anticipation of the designation of marine protected or conservation areas around the coast of Wales.⁶

13. That the Draft Guidance Document titled 'Managing Historic Environment Records in Wales' be revised to:

List the Register Historic Landscapes of Wales.

Clarify the connection between the Register and the detailed characterization studies compiled by the four Welsh Archaeological Trusts for all 58 areas on the Register as an aid to local authorities in the preparation of plans.

Clarify the status and usage of place names in Wales.⁷

Management practices

14. It is important to be aware of, and consider, the application of additional or alternative approaches and instruments to the management of the historic environment to deliver greater sustainability.⁸ There are effective instruments and practices in the field of resources and ecosystem management with the potential to support the protection and conservation and stewardship of the historic environment in Wales. Examples include heritage impact statements, stewardship agreements and community based conservation/heritage plans.⁹
15. Moreover, the concept of "Partnership" as in "Heritage Partnership Agreements" (Agreements) is difficult to understand. Review of this provision suggests that the onus for performance is on the property owner, not necessarily the other parties to the agreement. Such agreements are asymmetrical. The phrase "Heritage Agreement," without the word ~~"partnership"~~ is appropriate.

⁶ The proposed list (database) would enhance historical, archaeological and cultural values associated with the Wales Coastal Path/Llwybyr Arfordir Cymru, and the cultural heritage section of a proposed Marine Plan for Wales.

⁷ See "Guide to Welsh Origins of Place Names in Britain" published by the Ordnance Survey in 2004.

⁸ Protecting Community Assets: Consultation Document. Number WG 25371

⁹ Stewardship agreements are associated with the concepts of land stewardship and environmental stewardship. Community based conservation encourages local stewardship and integrates social and environmental priorities into management practices.

16. It is recommended that:

The Proposed Bill provide for a range of management measures, instruments and practices tailored to address the historic environment of Wales. Measures, instruments and practices should be based on sustainability as an operational principle, and compatible with the Environment (Wales) and Planning (Wales) bills.

Advisory Committee

17. The Proposed Bill should include a clear statement of purpose for the Advisory Committee, such as to:

Advise the Welsh Ministers on the sustainable management of the historic environment in Wales.

Increase public awareness and understanding of the value of the historic environment to the economy and wellbeing of people and communities in Wales.

18. It is recommended that:

The Advisory Committee function as a collaborative, consensus based, multi-professional group based on the principles of cooperation and collaboration beyond engagement¹⁰.

The competencies of members aligned with the management requirements of a sustainable historical environment in Wales, such as: Archaeology, History, Conservation Skills, Education, Knowledge and Technology Transfer, Cultural/Heritage Tourism, and Governance.

Representatives of the Public at Large be appointed to the Advisory Committee to ensure liaison with historical, archaeological and cultural groups in Wales, and the involvement of groups in the preparation of plans, proposals and reports.¹¹

Regulatory Impact Assessment

19. The valuation of “non-quantifiable” values is a developing field in the context of sustainability.¹² For example, knowledge and information produced by

¹⁰ “Collaboration beyond engagement:” an opportunity for groups in civil society to play an active and participatory role in the determination, representation and interpretation of historical, archaeological and cultural values in their communities.

¹¹ The Welsh Government’s Consultation Document: Protecting Community Assets (WG 25371) is instructive in this regard.

¹² Section 4.4 Activities, Outcomes and the Concept of Value Creation in: “Performance Improvement and Assessment of Collaboration: Starting points for networks and communities of practice.” International Institute for Sustainable Development.

leading institutions in Wales generates “ applied value” about the historical environment. This provides “realized value” through the activities of others in the representation and interpretation of the historical, archaeological and the cultural past, which, in turn, may lead to investments and projects to enhance the local and tourist economy.

HE 15

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cyd-bwyllgor Polisi Archaeoleg Forwrol

Response from: Joint Nautical Archaeology Policy Committee

1. The Joint Nautical Archaeology Policy Committee (JNAPC) has pleasure in providing evidence to the Communities, Equality and Local Government Committee on the Historic Environment (Wales) Bill

2. The JNAPC was formed in 1988 from individuals and representatives of institutions who wished to raise awareness of the United Kingdom's underwater cultural heritage and to persuade government that underwater sites of historic importance should receive no less protection than those on land. Some information on the JNAPC is shown in appendix 1.

3. The JNAPC has a membership (see appendix 2) that includes most of the governmental, academic, commercial and voluntary organisations concerned with submerged heritage assets in the UK, including the Nautical Archaeology Society, university professionals, various governing bodies for recreational diving, a number of archaeological contractors prominent in the marine sector, the Council for British Archaeology, the Chartered Institute for Archaeologists.

4. JNAPC welcomes the introduction of a Bill which addresses the historic environment in Wales. However, the Bill fails in any meaningful way to engage with the marine historic environment or to address the challenges which it faces (for instance, as regards the regulation of archaeological activity at sea, the protection of marine historic assets from inappropriate exploitation and other harm and the creation and maintenance of marine archives).

5. This Bill may not be the appropriate place to address all of these issues but JNAPC is concerned that, without further steps, the Bill alone does not provide an adequate framework for the management and protection of the marine historic environment.

6. Those further steps include

- the introduction of historic marine protected areas (as in the Marine (Scotland) Act 2010) to address deficiencies in the application of the Ancient Monuments and Archaeological Areas Act 1979 at sea

- the adoption by Welsh Government of the Annex to the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001 as best practice for any form of activities, or marine licensing of activities, directed at underwater cultural heritage in the Territorial Sea.
- support by Welsh Government for the ratification of the 2001 UNESCO Convention in conjunction with the British Government in order to provide additional protection of marine historic assets in both territorial and international waters.

JNAPC and its members would be happy to assist in the formulation of any further measures for the management and protection of Wales' marine historic environment.

JOINT NAUTICAL ARCHAEOLOGY POLICY COMMITTEE

THE JNAPC - PAST, PRESENT AND FUTURE

The JNAPC was formed in 1988 from individuals and representatives of institutions who wished to raise awareness of Britain's underwater cultural heritage and to persuade government that underwater sites of historic importance should receive no less protection than those on land.

The JNAPC launched *Heritage at Sea* in May 1989, which put forward proposals for the better protection of archaeological sites underwater. Recommendations covered improved legislation and better reporting of finds, a proposed inventory of underwater sites, the waiving of fees by the Receiver of Wreck, the encouragement of seabed operators to undertake pre-disturbance surveys, greater responsibility by the Ministry of Defence and the Foreign and Commonwealth Office for their historic wrecks, proper management by government agencies of underwater sites, and the education and the training of sports divers to respect and conserve the underwater historic environment.

Government responded to *Heritage at Sea* in its White Paper *This Common Inheritance* in December 1990 in which it was announced that the Receiver's fees would be waived, the Royal Commission on the Historical Monuments of England would be funded to prepare a Maritime Record of sites, and funding would be made available for the Nautical Archaeology Society to employ a full time training officer to develop its training programmes. Most importantly the responsibility for the administration of the 1973 Protection of Wrecks Act was also transferred from the Department of Transport, where it sat rather uncomfortably, to the then heritage ministry, the Department of the Environment. Subsequently responsibility passed to the Department of National Heritage, which has since become the Department for Culture, Media and Sport.

The aim of the JNAPC has been to raise the profile of nautical archaeology in both government and diving circles and to present a consensus upon which government and other organisations can act. *Heritage at Sea* was followed up by *Still at Sea* in May 1993 which drew attention to outstanding issues, the *Code of Practice for Seabed Developers* was launched in January 1995, and an archaeological leaflet for divers, *Underwater Finds - What to Do*, was published in January 1998 in collaboration with the Sports Diving Associations BSAC, PADI and SAA. The more detailed explanatory brochure, *Underwater Finds - Guidance for Divers*, followed in May 2000 and *Wreck Diving - Don't Get Scuttled*, an educational brochure for divers, was published in October 2000.

The JNAPC continues its campaign for the education of all sea users about the importance of our nautical heritage. The JNAPC will be seeking better funding for nautical archaeology and improved legislation, a subject on which it has published initial proposals for change in *Heritage Law at Sea* in June 2000 and *An Interim Report on The Valletta Convention & Heritage Law at Sea* in 2003. The latter made detailed recommendations for legal and administrative changes to improve protection of the UK's underwater cultural heritage.

The JNAPC played a major role in English Heritage's review of marine archaeological legislation and in DCMS's consultation exercise *Protecting our Marine Historic Environment: Making the System Work Better*, and was represented on the DCMS Salvage Working Group reviewing potential requirements for new legislation. The JNAPC has also been working towards the ratification of the UNESCO Convention on the Protection of the Underwater Cultural heritage 2001 with the preparation of the *Burlington House*

Declaration, which was presented to Government in 2006 and the Seminar on the Protection of Underwater Cultural Heritage in International Waters Adjacent to the UK in November 2010.

The JNAPC continues to work for the improved protection of underwater cultural heritage in both territorial and international waters.

Appendix 2

Joint Nautical Archaeology Policy Committee

Chairman

Robert Yorke

Member Organisations

Association of Local Government Archaeological Officers
British Sub Aqua Club
Chartered Institute for Archaeologists
Chartered Institute for Archaeologists, Maritime Affairs Group
Council for British Archaeology
Maritime Archaeology Trust
ICOMOS
Maritime Archaeology Sea Trust (MAST)
National Maritime Museum
National Museums & Galleries of Wales
Nautical Archaeology Society
Professional Association of Diving Instructors
RESCUE
Sea Change Heritage Consultants
Shipwreck Heritage Centre
Society for Nautical Research
Sub Aqua Association
United Kingdom Maritime Collections Strategy
Wessex Archaeology

Robin Daniels
Jane Maddocks
Tim Howard
Graham Scott
Mike Heyworth
Garry Momber
Christopher Dobbs
Jessica Berry
Gillian Hutchinson/Nick Ball
Mark Redknap
Adrian Olivier
Suzanne Smith
Stephen Appleby
John Gribble
Peter Marsden
Ray Sutcliffe
Stuart Bryan
Christopher Dobbs
Euan McNeill

Individual members

Sarah Dromgoole
Antony Firth
David Parham
Michael Williams

Affiliation

University of Nottingham
Fjordr Limited
Bournemouth University
Plymouth University

Observers

Advisory Panel on Historic Wrecks, English Heritage
Cadw
The Crown Estate
Department for Culture, Media and Sport
Department for Transport
Historic England
Department of the Environment (Northern Ireland)
Foreign and Commonwealth Office
Historic Scotland
Maritime and Coastguard Agency, Receiver of Wreck
Ministry of Defence
National Trust
Royal Commission on the Ancient
and Historical Monuments of Scotland

Tom Hassall
Polly Groom
Iain Mills
Helen Williams/Hannah Jones
Robert Cousins
Ian Oxley
Rory McNeary
Lowri Griffiths
Philip Robertson
Alison Kentuck
Nick Kelsall
Ian Barnes

Alex Hale

HE 16

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales)
Bill

Ymateb gan: Trysor

Response from: Trysor

1. Who are Trysor

- 1.1. Trysor is a small, independent, heritage partnership which was established in 2004 by ourselves, Jenny Hall and Paul Sambrook. We are both Members of the Chartered Institute for Archaeologists (MCIfA) and Trysor is a Registered Organisation with the CfA, one of many such organisations working in Wales, only 6 of which are solely based here.
- 1.2. We have both previously worked within the Welsh Archaeological Trust (WAT) system for a decade. Jenny Hall had 10 years' experience managing the Sites and Monuments Record (SMR) for Dyfed, now known as the Dyfed Historic Environment Record (HER).
- 1.3. We are HER users on a daily basis for research purposes, for a wide range of clients, including community groups, tourism organisations and commercial clients. We regularly use all four Welsh HERs.

2. Analysis of HER data

- 2.1. Trysor carries out a large number of appraisals or assessments for planning purposes at present. These require that we have to study blocks of landscape of 2km radius around proposed developments. We use the HER for each of these assessments and closely scrutinise the content of the record in preparing impact assessments on historic and archaeological

features. Our professional standards require us to assess the quality of the data in the sources consulted.

2.2. We have also undertaken archaeological field surveys and heritage resource audits over extensive landscapes. These also require detailed scrutiny of the HER for the relevant landscapes.

2.3. It is usual for us to identify new archaeological or historic sites in our daily work and we record these in our own project databases and reports, copies of which are supplied to the relevant HERs and the National Monument Record (NMR).

2.4. The exceptions to this rule are a series of upland field surveys we undertook for the RCAHMMW's Uplands Initiative programme between 2005 and 2015. The results of these projects were supplied only to the NMR. To give some indication of the importance of the work of field archaeologists outside the Trust system, we note that Trysor alone recorded approximately 9,500 new archaeological sites in that decade as part of this project.

2.5. This background gives us very good oversight of the HERs as users. It also allows us to make statistical analyses based on our own experience.

2.6. For the purposes of this submission, we have examined the last 22 historic environment assessments we have undertaken. They tend to focus on the southwest and central districts, but experience in northwest and southeast is comparable.

2.7. The important figures derived from this analysis are;

2.7.1. We made use of 966 HER records across the 22 assessments.

- 2.7.2. 19 (1.97%) of these were mislocated sites i.e. they had an incorrect grid-reference and were actually located outside the 2km radius study area.
- 2.7.3. 8 sites (0.8%) were poorly recorded i.e. the locational information provided did not appear correct but there was insufficient detail to remedy the problem.
- 2.7.4. 52 (5.38%) sites had incorrect NGRs i.e. they were mislocated but within a scale of tens to hundreds of metres from the location at which the HER had recorded their position and still lay within the 2km radius study area.
- 2.8. Collectively, this means that 8.18% of locational information for HER records scrutinised were incorrect. If this sample is taken as being representative across the HERs, this means that over 8,000 sites of the 100,000 sites which are said to be currently recorded in the HERs (as stated on the Archwilio website) are wrongly located. Such discrepancies can cause significant problems in some instances, including wasting time and resources in association with planning applications and developments. This can undermine the credibility of the system and the wider heritage profession.
- 2.9. Trysor created records for 117 new sites for this group of assessments/appraisals, which would mean a 12% increase on the number of recorded sites. Only sites of relevance to the matter under study, or of great importance, would usually be recorded so this figure does not fully represent the number of new records that could be created by each project.
- 2.10. Some of these new sites will be derived from the RCAHMW's National Monuments Record (NMR) which includes many sites and buildings not included in the HERs.
- 2.11. It is evident that the omission of many sites from the HER means that the HER does not provide comprehensive coverage

for every community at present. They cannot be used in isolation and to be effective as a tool have to be used in conjunction with the NMR as well as new research. Cadw's Scheduled Ancient Monuments and Listed Buildings descriptions are also useful sources of additional information. A study of any area is never complete until original research is blended with the material in these sources, although the details from each of them often need updating.

2.12. The proposal to make the HERs statutory records is to be welcomed, but more thought is needed with regard to the expectations placed upon the HERs and the resources allocated to them before such a step is taken.

3. The Scope of Welsh HERs at present

3.1. At present the language of the Guidance Notes (3.1 (h)) implies that all sites of archaeological, historical and architectural interest are to be included in their HERs;

3.1.1. "Details of every other area, site, or other place in a local planning authority's area which the authority considers to be of historic, archaeological or architectural interest" (Draft Bill, Part 4, Section 33 (2) (h))

3.2. This wording, we believe, could be interpreted to mean that any areas, sites or buildings which are NOT included in the HERs would not have to be considered of "historic, archaeological or architectural interest". Planning problems could arise from this impression.

3.3. The wording of 3.1 (h) is based on a misunderstanding of the purpose of the HERs from their inception.

3.3.1. The HERs were originally established as Sites and Monuments Records for archaeological purposes. This

archaeological record was intended to help identify where damage would be done to physical archaeological remains by development.

3.3.2. Although all the HERs used similar sources, such as the Ordnance Survey Archaeology record cards to create their first records, all four HERs have developed individual characteristics in the past four decades and they are not consistent in their content. For example, some HERs have not put emphasis on recording buildings in the past, some have put emphasis on recording place names (i.e. field names and farm names) of potential archaeological significance.

3.3.3. Importantly, it must be remembered that the HERs now reflect where archaeologists have undertaken work, not necessarily where the archaeology is to be found.

3.3.4. The HERs are evidently not comprehensive records of the Welsh archaeological resource and are best used in conjunction with other sources and original research.

3.3.5. The HERs were never intended to act as historical records and they are by their very nature not reliable as sources of historical information.

3.3.6. Similarly, they are not reliable as sources of architectural information.

3.4. To date the HERs have suffered from a degree of understaffing and uncertainty of funding which has meant that problems which are well known to HER managers and users cannot be tackled. Despite the difficulties, the Welsh HERs are a strong framework within which the heritage sector can work and grow, but an external audit of the system is greatly needed.

- 3.5. Although the HER's are periodically audited by the RCAHMW, and internally, the questions that are asked in these audits do not appear to be tackling issues such as those raised above.
- 3.6. An external audit of the HERs would fully identify the problems within each HER, including the coverage of the record to date, backlogs in updating or adding material to the HERs, and the quality of the data already recorded. We have focussed here on the issues with locational data but there are also problems with other parts of a record of a site such as site type, period and description.
- 3.7. It could also help identify the tasks which need to be undertaken to correct any deficiencies within the HERs and create a record that better presents the heritage of Wales to a wide range of interested parties.
- 3.8. At present the charges raised by the 4 Welsh HERs for commercial enquiries vary from £60 +VAT to £100 +VAT, which pays for an hour of staff time. Standardisation of the fee across the 4 HERs would be of assistance to HER users.
- 3.9. The HERs do have feedback forms, but greater consultation with HER users in all sectors, including the commercial sector, could help facilitate improvements to the system.

Comment on giving more effective protection to listed buildings and scheduled monuments

4. A Note on Scheduled Ancient Monuments

- 4.1. Trysor believe that much more attention needs to be paid to informing landowners who have Scheduled Ancient Monuments on their property as to the expectations placed upon them. An "Owner's Manual" or "Site Passport" which can

be regularly checked and updated, and transferred to new owners at a point of sale, should be considered as vital to ensure that owners will not be ignorant of their roles and responsibilities in future, reducing the potential for damage to our most important monuments. It is our experience that many landowners have a vague understanding of their role in managing Scheduled Ancient Monuments at present.

Jenny Hall, BSc, MCIfA
Paul Sambrook, BA, PGCE, MCIfA

Trysor
Registered Organisation with CIfA
www.trysor.net
18 June, 2015

HE 17

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Adfer Ban a Chwm

Response from: Adfer Ban a Chwm

Adfer Ban a Chwm [ABC] is a buildings preservation trust whose aim is to re-instate derelict and redundant vernacular buildings to provide affordable homes for local people in rural Wales. Our focus is on buildings that usually have no statutory protection, but nevertheless play a fundamental part in defining the character of the rural Welsh landscape.

The Historic Environment Bill (May 2015) recognises the contribution made to the nation's economy by the historic environment, and its role as a catalyst for regeneration in both urban and rural areas. The built historic environment is attractive to visitors and underpins much of the revenue generated by the tourism industry in Wales. Historic buildings are identified as providing foci for regeneration projects, which increase community confidence and attract inward investment, stimulating development and economic growth.

Our traditional buildings contribute substantially to the character of Wales' unique and cherished historic landscapes. The Bill identifies the imprint of the historic environment on our national culture and identity, and stresses the contribution this makes to local distinctiveness and community pride, people's sense of place and belonging, and ultimately the well-being of the people of Wales.

Adfer Ban a Chwm feels it is important to recognise the contribution made to this by our domestic traditional buildings which are not protected by statute (ie. those which are neither listed nor scheduled). Many are still occupied, many have been abandoned, but they account for a large proportion of our built heritage. Careless or unwitting damage occurs more often to buildings with no statutory protection that have survived for generations, and even small changes which erode original fabric will eventually cause the loss of some, and the decline of others. The overall effect will be incremental but if left unchecked will eventually have an enormous impact on the historic landscapes of Wales.

Aside from the impact on the historic environment, the wider environmental benefits that appropriate care of traditional buildings could bring have only just begun to emerge from ongoing research. More research will ensure that the innate advantages of traditional construction are fully explored and understood. The rapid changes in 21st century Wales are noted as reason for careful and 'sustainable' management of the historic environment in order to retain its special qualities. The term 'sustainability' has wide appeal, but in Wales this has particular importance as we have the highest proportion of existing housing stock made up of traditional buildings in Britain, and much of Europe. Improving energy efficiency in our existing housing cannot rely on a single strategy, but it is becoming increasingly clear that traditional buildings perform much better environmentally when well-maintained using appropriate materials and techniques. This makes 'best practice' and the approaches used for listed buildings relevant to many more buildings in Wales than currently have direct access to guidance on the subject.

The memorandum attached to the Bill notes the educational opportunities associated with the historic environment, and these opportunities are clear in relation to traditional buildings. They offer chances to learn from the past, and to develop skills for the future. Disregarding the role our un-listed traditional buildings could play in this would be an opportunity missed. Training enough people with appropriate skills to ensure that our traditional building stock is properly maintained will bring social, environmental and economic benefits, allowing the potential locked up in our un-listed traditional buildings to be fully recognized and acted on in order to create opportunities within Wales.

Encouraging appropriate treatment through education, greater public understanding of and engagement with our un-listed traditional buildings would ultimately give more effective protection to listed buildings as well. This would have a major impact on the number and quality of traditional buildings which survive into the future, and serve to enhance the effectiveness of existing mechanisms for the sustainable management of the built historic environment.

ABC would like to see greater emphasis on educating the public about traditional buildings, and encouraging best practice. These buildings (grass-roots heritage) could make a huge contribution to the strong focus on promoting community and identity, and opportunities for learning within the intended outcomes of the Bill.

We also ask that the independent advisory panel to be established on historic environment policy and strategy at a national level in Wales includes representation for un-listed traditional buildings, so that their crucial role within the historic environment is recognized and adequately reflected. Thank you very much.

HE 18

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Sefydliad Siartredig yr Archeolegwyr

Response from: Chartered Institute for Archaeologists

1. Summary

1.1 This submission confirms the support of the Chartered Institute for Archaeologists for the general principles of the Historic Environment (Wales) Bill and endorses the aims of the Bill to improve the management and protection of the historic environment and to increase transparency and accountability in decision-making.

1.2 The Institute particularly welcomes the proposed introduction of a statutory duty on local planning authorities in relation to Historic Environment Records. The detailed drafting of these provisions is crucial in order to define what a Historic Environment Record must contain (and thus avoid lip service being paid to compliance) and to ensure that it is supported by an effective historic environment service (without which a Historic Environment Record can be a closed book).

1.3 The Bill does not seek to effect a fundamental overhaul of heritage protection for Wales and the Institute does not take issue with this approach. Nonetheless, there are further, discrete reforms which could have more far-reaching effects. These include the introduction of archaeological conservation areas on land and of historic marine protected areas at sea and the reform of class consents for scheduled monuments. Some, if not all, of these may more appropriately be dealt with in other legislation (whether primary or secondary), but should be considered when addressing the general principles of the Bill.

2. Introduction

2.1 The Chartered Institute for Archaeologists (CIfA) is a professional body for the study and care of the historic environment. It promotes best practice in archaeology and provides a self-regulatory quality assurance framework for the sector and those it serves.

2.2 CIfA has over 3,200 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and

environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors.

2.3 This submission has been compiled with the assistance of ClfA's Wales / Cymru Group which has over 300 members practising in the public, private and voluntary sector in Wales.

3. General

More effective protection of listed buildings and scheduled monuments

3.1 The Bill will give more effective protection to listed buildings and scheduled monuments, although we consider that the Bill's aims should extend beyond this, seeking more effectively to protect historic assets generally (by which we mean those assets of sufficient significance to warrant consideration in the planning system). The historic environment comprises many assets which are neither listed nor scheduled.

3.2 Notwithstanding this caveat, ClfA welcomes all the measures listed on page 5 of the Explanatory Memorandum under the heading *Measures ... to give more effective protection to the historic environment* and, in particular:

(1) the extension of the definition of 'monument' in the Ancient Monuments and Archaeological Areas Act 1979 (clause 22), although the extended definition will not necessarily cover palaeoenvironmental material that is not in any way influenced by human activity but provides important background and context for that activity

(2) the modification of the 'defence of ignorance' for offences relating to scheduled monuments (clauses 15-17), which should reduce the scope for the culpable to avoid prosecution

(3) the introduction of temporary stop notices for scheduled monuments (clause 13) and for listed buildings (clause 29)

(4) the introduction of enforcement notices for scheduled monuments (clause 12) which provide a more flexible alternative (or additional) action to prosecution, although it would be helpful to make clear in statute that '*works ... to alleviate ... the effect of works carried out without scheduled monument consent*' in proposed section 9ZC of the 1979 Act include such steps as recording and the conservation of material recovered from site

(5) the introduction of interim protection in relation to scheduling (clause 3) and listing (clause 24). Although not listed under this heading in the

Explanatory Memorandum, this is a very necessary measure to protect assets considered for scheduling or listing as evidenced in Wales and elsewhere in the United Kingdom (most recently in London: see <http://www.independent.co.uk/news/uk/home-news/developers-who-destroyed-historic-london-pub-without-permission-could-be-ordered-to-rebuild-brick-by-brick-10212893.html>).

3.3 The main barrier to the effective implementation of these provisions in the Bill is likely to be a lack of resource at national and local government level. The financial implications of such provisions are unlikely to be great (for instance, the extended definition of ‘monument’ will not produce a throng of new sites for scheduling; improved enforcement mechanisms should facilitate more prompt enforcement action and closing loopholes in defences to prosecution should reduce the opportunity to ‘spin out a defence’). Nevertheless, scheduling, enforcement and proactive management of the historic environment all take time and money. Unless Cadw, local authorities and other bodies are properly funded, fit-for-purpose provisions to protect the historic environment will count for nothing and the unintended consequence of the Bill may be public dissatisfaction with bodies which have the tools but not the resources to do the job.

3.4 Other measures which should be considered to protect the historic environment more generally, whether in this Bill or elsewhere, include

(1) historic marine protected areas (as introduced in Scotland by section 73 of the Marine (Scotland) Act 2011). If the provisions in clause 20 are a precursor to scheduling the 6 protected wrecks in Welsh waters (see proposal P7 in *The Future of our Past*) this does not address the practical difficulties of scheduling at sea. Historic marine protected areas would provide a more flexible means constructively to manage marine heritage assets.

(2) reform of the class consents system for scheduled monuments in Wales. The threat to scheduled monuments from agricultural activity (and particularly ploughing) has long been recognised in the United Kingdom (see, for example, *Ripping Up History: Archaeology under the Plough* (2003) English Heritage) and the removal of agricultural class consents would do much to address these issues. There may be some compensation implications but it is not expected that these would be unduly onerous. Such expenditure would be a wholly justifiable price for the significant additional protection of historic assets that would be achieved.

(3) archaeological conservation areas. ClfA would support legislative change to enable conservation areas to be designated because of their special archaeological interest (as opposed, or in addition, to their special

architectural or historic interest). This would, for instance, facilitate the restriction of permitted development rights in areas of high archaeological potential where the area is not currently of sufficient interest to warrant designation. The exercise of permitted development rights pose significant problems for historic assets and particularly those which are undesignated. In some instances, permitted development rights are excluded where assets are listed, scheduled or otherwise designated, but in the majority of cases undesignated assets (including many archaeological sites) do not have this advantage.

Enhancing existing mechanisms for the sustainable management of the historic environment

3.5 Measures such as the introduction of heritage partnership agreements (clauses 11 and 28) and relaxation of the conditions for an application for a certificate of immunity from listing (clause 27) mirror provisions already introduced in England and should facilitate the sustainable management of the historic environment. Modifications to the scheduled monument consent process (clauses 5-10) should also achieve this aim, although CIfA would also like to see the reform of class consents (see paragraph 3.4(2) above).

3.6 The Institute strongly supports the introduction of a statutory duty in relation to Historic Environment Records (HERs) (clause 33). HERs and the historic environment services which support them play a key role in the sustainable management and protection of the historic environment.

3.7 The detailed provisions (clauses 33-36) supporting the implementation of a statutory duty will be central to its success. CIfA endorses Welsh Government's approach to these matters, in particular, welcoming

(1) the requirement in clause 33 to keep HERs up to date – a HER needs to be a dynamic tool

(2) the definition in clause 33 of what a HER should contain (provided that clause 33(2)(h) is sufficiently robust to ensure that information about undesignated assets is properly and consistently recorded). Without this, local planning authorities could claim to have complied with their statutory duties by maintaining an inadequate database. Concerns about the efficacy of requirements properly to record information about undesignated assets are compounded by the phrasing of the accompanying draft statutory guidance, *Managing Historic Environment Records in Wales*, which states at page 10 that '*Entries might [not must] include non-scheduled archaeological sites, non-listed historic buildings or structures, historic parks and gardens, battlefields and landscapes that do not appear on the relevant registers or inventories, or locations with important palaeo-environmental evidence*'

(3) the requirement for local planning authorities to *'make available to a person wishing to inspect its historic environment record advice on or assistance with retrieving and understanding information contained in the record'* (clause 34(1)(c). This provision is crucial to ensure that HERs are supported by appropriate expertise and is the key to unlocking an invaluable community resource (in addition to facilitating sustainable development)

(4) the arrangement for discharge of functions (clause 35) which will allow the Welsh Archaeological Trusts to continue their role of maintaining and supporting regional HERs. ClfA is strongly supportive of the Trusts (all of which are registered under the Institute's Registered Organisations scheme: <http://www.archaeologists.net/regulation/organisations>) and their roles

(5) the provisions enabling Welsh Ministers to issue guidance (clause 36). Guidance will have an important part to play in ensuring that the historic environment is managed sustainably, addressing such issues as the application of professional standards (see <http://www.archaeologists.net/codes/ifa>) and requirements for work to be carried out and advice provided by accredited experts.

3.8 The limited additional expenditure envisaged in paragraphs 468 – 471 is wholly justifiable in order to underpin a key function in the sustainable management of the historic environment. ClfA endorses the conclusions at paragraphs 476 and 477 of the Explanatory Memorandum.

Greater transparency and accountability in decisions taken on the historic environment

3.9 Provisions for consultation prior to scheduling (clause 3) or listing (clause 24) and review of decisions to schedule (clause 3) or list (clause 24) appear coherent and effective to introduce greater accountability and transparency into the process. ClfA supports these measures, provided that the necessary interim protection mechanisms are in place.

3.10 The establishment of an advisory panel for the Welsh historic environment on a statutory basis (clauses 37 and 38) is welcomed. We agree that it would recognise *'the need for long-term integrated policy development and planning'* (paragraph 483 of the Explanatory Memorandum) and contribute to greater transparency and accountability in decision-making. However, care will need to be taken to ensure that there is no duplication of the roles of other bodies (such as HEG).

HE 19

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Dr Charles Mynors

Response from: Dr Charles Mynors

HISTORIC ENVIRONMENT (WALES) BILL

EVIDENCE BY DR CHARLES MYNORS, FRTPI, FRICS, IHBC, BARRISTER

Introduction

1. I am a barrister in private practice in London, specialising in planning law and, in particular, the law as it relates to the historic environment, trees and forestry, outdoor advertising, and ecclesiastical law. Before being called to the Bar I was a planning officer in a London borough for nine years, dealing with design, historic buildings and planning policy. I am also a lecturer in historic buildings law at Oxford Brookes University (where I am a visiting professor) and at the University of Bath. And I am Chancellor of the Diocese of Worcester.
2. I have degrees in architecture, and town and regional planning, and a diploma in law. I am a Fellow of the RTPI and the RICS, a founder member of the IHBC, and called to the Bar in England and Wales and in Northern Ireland. I was awarded a doctorate (in law) by the University of Cambridge in 2010.
3. I have for many years been the leading authority on the law relating to the historic environment, and my text book *Listed Buildings, Conservation Areas and Monuments* (first edition, 1989; fourth edition, 2006) is the leading authority in the field. The fifth edition will be published by Sweet & Maxwell (under the title *Listed Buildings and Other Heritage Assets*) in late 2015.
4. I am also actively involved in law reform, and am working with the DCLG in London, the Office of Parliamentary Counsel, the Welsh Government and the Law Commission on a project to consolidate and codify planning law in England and Wales – to replace the 63 statutes dealing with this area of activity with, at most, nine for England and nine for Wales. Attached is the text of a paper delivered at a conference in Liverpool in 2014, and more recently at the Statute Law Society in London (updated to incorporate the result of the recent General Election).
5. Although I am associated in various capacities with the organisations referred to above, and others, my views do not necessarily represent those of any particular organisation.

The Bill as drafted

6. The general principles of the Bill are sensible. If historic buildings are to be protected, that protection should be effective; the management of the historic environment should be sustainable; and all decisions should be transparent and accountable.

Scheduling and listing procedure

7. In terms of transparency, it seems desirable that there should be consultation on scheduling and listing, although it will lead to a number of unmeritorious claims that particular monuments and buildings – especially the latter – are not worthy of protection. But that is better than court action that almost always fails.
8. The proposals to require consultation on proposed scheduling (**clauses 3 and 4**) and listing (**clauses 24 to 26**) therefore seem sensible, provided that interim protection is provided in the meanwhile, and compensation in the event of the item not being scheduled or listed.
9. Making statutory the register of parks and gardens (**clause 18**) is sensible – although it is noticeable that the existing non-statutory register seems to function satisfactorily. It might be worth considering extending it to other forms of assets, including battlefields – which would seem to be more appropriately designated by a national body (Cadw) rather than by local authorities (see **clause 33(2)(e)**).

Selection of buildings etc to be protected

10. Clearly one critical element in any system of protecting the historic environment is to be clear as to what is being protected, and why. That will largely be a matter of policy, as every building is from the moment of its first occupation a historic building – it has a history – the question is whether it has significance sufficient to justify its protection being a material consideration in planning decisions. But that will be a matter of planning policy, not law – and a balance will have to be struck between a number of competing factors.
11. As for which monuments and buildings should be selected for special protection, that has to be a matter for Ministers, on the basis of specialist advice. But the statutory criterion – special architectural or historic interest – should remain intact, and should not be watered down, for example by the inclusion of the particular circumstances of the owner (financial or otherwise). Such factors can perfectly properly be taken into

account when a particular proposal is being put forward, but should not affect in any way the initial decision to protect.

12. Proposed section 1AE(6)(a) of the 1979 Act (to be introduced by **clause 3(1)** of the Bill) and section 2D(6)(a) of the 1990 Act (to be introduced by **clause 24(1)**) should be considered accordingly. Removal from a schedule or a list should be justifiable if it can be shown that there was an administrative error (for example, the wrong building was included – it happens!) or if it can be demonstrated that the monument is not of national importance or that the building is not of special architectural or historic interest.

Scheduled monument consent

13. The existing scheduled monument consent legislation is poorly drafted – the Bill was apparently the last one to be considered by Parliament before the 1979 election – but the relevant provisions are not much used in practice, and so there is no great imperative to improve them. However, the various provisions in the Bill designed to tighten up controls over works to scheduled monuments and related offences (**clauses 5 to 10, 12, and 15 to 17**) seem perfectly sensible.
14. The miscellaneous provisions relating to archaeology (**clauses 17, 19 to 22**) also seem reasonable.

Injunctions and temporary stop notices for monuments and listed buildings

15. A specific power for the Ministers to serve an injunction (**Clause 14**) in relation to monuments may be useful, since courts are more likely to be sympathetic to the use of specific powers rather than more generalised powers relating to criminal activity.
16. However, given that unauthorised works to scheduled monuments and listed buildings already constitute a criminal offence, and are or will be subject to specific powers as to injunctions, there seems little point in introducing temporary stop notices (**clauses 13 and 29**).

Non-listing certificates and heritage partnership agreements

17. The extension to Wales of the changes to the certificates of non-listing (**clause 27**) introduced by the 2013 Act seems sensible enough, although it is not clear why a separate section 6A is required – but that is merely a drafting point.

18. The introduction of heritage partnership agreements (**clause 28**) seems sensible in principle. Again, given that legislation already exists for this in England, it might have been more straightforward simply to adopt that into the law of Wales.
19. And extending the same idea to monuments seems reasonable (**clause 11**).

Other provisions

20. The changes relating to urgent works notices (in **clause 30**) seems to be sensible; it will be interesting to see whether they are in due course extended to England..
21. The provisions as to historic environment records (**clauses 33, 34**) are to be welcomed. Here too, it would be helpful to have a corresponding provision for England.

Other provisions that could be considered

22. The Bill as drafted is thus in general perfectly satisfactory. It is noticeable that some of its provisions are simply adopting those made for England by the 2013 Act, but are none the worse for that.
23. But it is perhaps worth considering whether this is not a unique opportunity to go further and have a system in Wales that is actually better than the one operating in England. The attached Annex accordingly makes a number of suggestions as to additional provisions that might be worth considering for inclusion. They are inevitably detailed, and I would be more than happy to discuss them with the relevant officials of the Welsh Government.

General duties in relation to heritage assets

24. There already exists a general duty in relation to the exercise of stay functions with respect to conservation areas, but this could usefully be extended to relate to any enactment, and to take into account the special considerations that apply in relation to land near the boundary of an area. But the existing duty in respect of listed buildings is, surprisingly, much more narrowly drafted, and could with advantage be extended. These two provisions – in the form of amendments to the Planning (Listed Buildings and Conservation Areas) Act 1990 – are in clause 1 in the Annex.
25. There is at present no similar duty in relation to scheduled monuments. This could be introduced into the Ancient Monuments [etc] Act 1979 – see clause 3 in the Annex.

26. These duties are specifically referred to in the context of the determination of planning applications in a proposed amendment to section 70 of the Town and Country Planning Act (TCPA) 1990, to be introduced by clause 5 in the Annex.
27. It would also be possible to introduce a new duty in relation to world heritage sites, which are currently hardly mentioned in UK primary legislation. This could perhaps be in the body of the Bill, rather than being in the form of an amendment to existing legislation. The precise wording of such a duty would need to be carefully considered.

Listing procedure

28. It is perhaps unfortunate that the opportunity has not been taken to clarify the status of buildings and structures ancillary to those buildings included in the list, the significance of listing grades, and the date when the curtilage of a listed building is to be examined – all of which are issues that cause problems in practice.
29. The provisions of Schedule 1 in the Annex insert new sections 1A and 1B into the P(LBCA)A 1990, to provide a basic procedure for listing in Wales, and an improved definition of a “listed building”. Care would be needed to mesh these provisions with the section 2A to be introduced by clause 24.

The control of works to listed buildings

30. In England, the 2013 Act abolished the need for “conservation area consent” to be obtained for the demolition of unlisted buildings in a conservation area, and instead introduced a new offence of failing to obtain planning permission for such demolition – which is of course already development by virtue of TCPA 1990, section 55(1A)(a). It is noticeable that the present Bill has not adopted that approach.
31. But it would be possible to adopt that approach not only in relation to demolition in a conservation area, but also in respect of all works to listed buildings and scheduled monuments. At present, any works to a heritage asset require not only planning permission but also either listed building consent, scheduled monument consent, or (in Wales) conservation area consent. This is hugely wasteful of resources, since in practice either both types of consent are granted or both are refused. But there have to be two applications, two sets of drawings, two committee reports, two decisions, two appeals, and two enforcement notices. And no fee is payable for the extra application.

32. To avoid this, all that is necessary is to amend slightly the definition of development that requires planning permission. Clause 4 in the Annex thus inserts a definition of “heritage development” (as a new section 55(5A) of the TCPA 1990), which essentially encompasses all the works that currently require any of the “special” consents. And Clause 6 extends section 196D of the TCPA 1990 to include all heritage development – thus ensuring that there is no loss of control over such works.
33. Once the scope of “development” has thus been extended to include such works, there is then no need for the separate parallel consent regimes of listed building consent, scheduled monument consent and conservation area consent, which can simply be done away with – see clauses 7 and 8 in the Annex.
34. There would need to be a series of detailed consequential amendments, principally to the TCPA 1990, to ensure that the special features of those regimes are imported into the mainstream planning permission regime – again, to ensure that there is no loss of control. The necessary provisions are set out in Schedule 2 in the Annex. This looks complex, as it is necessary to retain the existing regime in relation to England; but if England were to follow suit it would be possible simply to repeal the greater part of the P(LBCA)A 1990 without further ado.
35. The result of these changes would be to simplify hugely the overall control system, so that only one application was needed for any works to a listed building, with one committee report, one appeal, and one enforcement notice.

Areas of archaeological importance

36. The Government undertook some years ago to scrap these – which have never been used in Wales in any event. This would be a good opportunity to fulfil that promise – see clause 9 in the Annex.

Consolidation

37. A number of those who have responded to this Bill and to other pieces of legislation proposed in either England or Wales have commented that it is surely time for amending legislation of this kind to be followed by a major exercise of consolidation. But this is a much larger exercise than just looking at the legislation affecting the historic environment. The paper attached explores one way in which this might be achieved.

38. The law in Wales is a key element in this, as a significant element in the justification for a major consolidation exercise is to produce two parallel statutory codes – one for England, and one for Wales – initially similar but distinct, and maybe gradually diverging over the coming years.
39. This fits in with the aim of the Law Commission to improve planning law in Wales generally.

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18 June 2015

ANNEX.

ADDITIONAL PROVISIONS TO BE INSERTED INTO THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

1. General duties relating to listed buildings and conservation areas

- (1) The Planning (Listed Buildings and Conservation Areas) Act 1990 shall be amended as follows.
- (2) After section 6, insert –

“6A General duty as respects listed buildings in Wales

- (1) This section applies where any powers under any enactment are exercised with respect to –
 - (a) a listed building situated in Wales; or
 - (b) any land that forms part of the setting of such a building.
- (2) In any case to which this section applies, special attention shall be paid to the desirability of preserving and enhancing the building, its setting and any features of special architectural or historic interest which it possesses.”
- (3) After section 71, insert –

“71A General duty as respects conservation areas in Wales

- (1) This section applies where any powers under any enactment are exercised with respect to any buildings or other land in or in the immediate vicinity of a conservation area in Wales.
- (2) In any case to which this section applies, special attention shall be paid to the desirability of preserving and enhancing –
 - (a) the character and appearance of the relevant area and
 - (b) every building in the relevant area, its setting and any features of special architectural or historic interest which it possesses.
- (3) The “relevant area” referred to in subsection (2) is –
 - (a) the conservation area containing the buildings or other land with respect to which the powers referred to in subsection (1) are to be exercised;
 - (b) the part of that conservation area containing those buildings or that land;
 - (c) any other conservation area whose character or appearance will be affected by the exercise of those powers; and
 - (d) any part of any conservation area mentioned in paragraph (c) whose character or appearance will be affected by the exercise of those powers.
- (4) Sections 56 and 90(2) to (4) shall have effect in relation to buildings in conservation areas in Wales as they have effect in relation to listed buildings, subject to such exceptions and modifications as may be prescribed by regulations.”

2. Listing procedure

- (1) The amendments to the Planning (Listed Buildings and Conservation Areas) Act 1990 in Schedule 1 shall have effect.

3. General duties relating to scheduled monuments

- (1) After section 1A of the Ancient Monuments and Archaeological Areas Act 1979, insert –

“1B General duty as respects scheduled monuments in Wales

- (1) This section applies where any powers under any enactment are exercised with respect to –
 - (a) a scheduled monument in Wales; or
 - (b) any land that forms part of the setting of such a monument.
- (2) In any case to which this section applies, special attention shall be paid to the desirability of preserving and enhancing the monument, its setting and any features of special historic, architectural traditional, artistic or archaeological interest which it possesses.”

4. Heritage development

- (1) Section 55 of the Town and Country Planning Act 1990 is amended as follows.
- (2) In the title of the section, after “of “development”” insert “, “heritage development””.
- (3) After subsection (1A) insert:

“(1B) For the purposes of this Act, the carrying out of any works consisting of or including heritage development shall be taken to be development.”
- (4) At the start of subsection (2) insert “Subject to subsection (1B), ”
- (5) After subsection (5) insert –

“(5A) In this Act “heritage development” means the carrying out of works in Wales –

 - (a) for the demolition of a listed building;
 - (b) for the alteration or extension of –
 - (i) the exterior of a listed building, or
 - (ii) the interior of a principal listed building, within the meaning of section 1(5)(a) of the Planning (Listed Buildings and Conservation Areas) Act 1990,in any manner which would affect its character as a building of special architectural or historic interest;
 - (c) for the demolition of a building in a conservation area;
 - (d) resulting in the demolition or destruction of or any damage to a scheduled monument;

- (e) for the purpose of removing or repairing a scheduled monument or any part of it or making any alterations or additions to it;
- (f) any flooding or tipping operations on land in, on or under which there is a scheduled monument.”

5. Determination of planning applications

- (1) For subsection 70(3) of the Town and Country Planning Act 1970 substitute –
- “(3) Subsection (1) has effect subject to –
- (a) the following provisions of this Act;
 - (b) section 11 of the Countryside Act 1968;
 - (c) in England, sections 66, 67, 72 and 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
 - (d) in Wales, sections 6A and 71A of that Act and section 1B of the Ancient Monuments and Archaeological Areas Act 1979; and
 - (e) section 149 of the Equality Act 2010.
- (3A) Section 39 of the Planning and Compulsory Purchase Act 2004 shall apply to the carrying out by an authority in Wales of their functions under this section as it applies to the carrying out of the functions referred to in subsection (1) of that section.”

6. Unauthorised heritage development

- (1) Section 196D of the Town and Country Planning Act 1990 is amended as follows.
- (2) For the heading above the section, substitute –
- “Conservation areas and heritage development*
- 196D Offence of failing to obtain planning permission for demolition in conservation areas in England and heritage development in Wales”**
- (3) In subsection (1), for “relevant demolition” substitute “works to which this section applies”.
- (4) In subsection (2), for “relevant demolition” substitute “such works”, and after that subsection insert:
- “(2) This section applies to the carrying out of works for:
- (a) relevant demolition in England; and
 - (b) heritage development in Wales, within the meaning of section 55(5A).”
- (5) In subsection (4)(a) and (c), for “relevant demolition was” substitute “works were”; and in subsection (4)(d), for “relevant demolition” substitute “works”.

7. Listed building consent not required

- (1) The following provisions of Part I of the Planning (Listed Buildings and Conservation Areas) Act shall not apply in relation to works to listed buildings wholly within Wales:
- (a) sections 7 to 26 (authorisation of works affecting listed buildings);
 - (b) sections 26C to 26G (orders granting listed building consent);
 - (c) sections 26H to 26K (certificates of lawfulness);
 - (d) sections 28, 28A and 30(1)(b) (compensation);
 - (e) sections 32 to 37 (listed building purchase notices);
 - (f) Chapter IV (enforcement);
 - (g) Chapter VI (miscellaneous and supplemental);
 - (h) Schedule 2A (local listed building consent orders: procedure).

8. Scheduled monument consent not required

- (1) Sections 2, 3 and 4 of and Schedule 1 to the Ancient Monuments and Archaeological Areas Act 1979 (control of works to scheduled monuments) shall not apply in relation to works to scheduled monuments wholly within Wales.

9. Areas of archaeological importance

- (1) Part II of the Ancient Monuments and Archaeological Areas Act 1979 (areas of archaeological importance) and Schedule 2 to that Act (designation orders) shall be repealed.

10. Consequential amendments

- (1) The amendments in Schedule 2 shall have effect, being amendments to ensure that the abolition of listed building consent and scheduled monument consent do not lead to any loss of protection for listed buildings and scheduled monuments.

SCHEDULE 1. LISTING PROCEDURE

1. The Planning (Listed Buildings and Conservation Areas) Act is amended as follows.
2. (1) Section 1 (listing of buildings of special architectural or historic interest) is amended as follows:
 - (a) At the end of the heading, insert “in England”;
 - (b) In subsection (1), after “historic interest”, insert “in England”;
 - (c) Omit subsection (2);
 - (d) In subsection (4), omit “in relation to buildings which are situated in England, ”.
- (2) After section 1 of that section insert –

“1A. Listing of buildings of special architectural or historic interest in Wales

 - (1) For the purposes of this Act and with a view to the guidance of local planning authorities in the performance of their functions under this Act and the principal Act in relation to buildings of special architectural or historic interest, the Welsh Ministers shall compile lists of such buildings, or approve, with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list so compiled or approved.
 - (2) In considering whether to include a building in a list compiled or approved under this section, the Welsh Ministers may take into account not only the building itself but also—
 - (a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and
 - (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a manmade object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.
 - (3) Before compiling, approving (with or without modifications) or amending any list under this section the Welsh Ministers shall consult with such other persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.
 - (4) In this Act and in the planning Acts, subject to the provisions of this section –
 - (a) “listed building” means, in relation to a building situated in Wales, a building which is for the time being included in a list compiled or approved by the Welsh Ministers under this section 1 (referred to in this Act as a “principal listed building”), and
 - (b) any object or structure –
 - (i) that is by its nature, location and function ancillary to a principal listed building, and has been so since before the date on which that building was first included in the list, and
 - (ii) that is one to which subsection (5) applies,shall, subject to subsection (8), be treated as part of the building.

- (5) An object or structure is one to which this subsection applies if –
 - (a) it is not fixed to a principal listed building but –
 - (i) is within its curtilage, and has been so since before the date on which it was first included in the list, and
 - (ii) forms part of the land, and has done so since before 1 July 1948; or
 - (b) it is fixed either to a principal listed building or to a building that is one to which paragraph (a) applies, and has been continuously so fixed since before the date on which the principal listed building was included in the list.
- (6) Each principal listed building in Wales shall be identified in the list by means of a description, and shall be assigned a grade.
- (7) The description of a building in the list shall be only for the purpose of enabling its identification, and it shall not be assumed that any object, structure or feature mentioned in that description is necessarily itself of special architectural or historic interest or that any object, structure or feature not so mentioned is necessarily not of any such interest.”
- (8) In a list compiled or approved under this section, an entry for a building situated in Wales may provide—
 - (a) that an object or structure mentioned in subsection (4)(b) is not to be treated as part of the building for the purposes of this Act;
 - (b) that any part or feature of the building is not of special architectural or historic interest.

3. After section 1, insert –

“1B Amendment of list in Wales

- (1) The Welsh Ministers may amend any list compiled or approved under this section 1 in relation to buildings situated in Wales, and such an amendment may consist of –
 - (a) the inclusion of a building in a list;
 - (b) the exclusion of a building from a list;
 - (c) the amendment of the description identifying a building in a list or of the grade assigned to it; or
 - (d) the amendment of the entry in relation to the matters referred to in subsection 1A(8).
- (2) In considering whether to make any such amendment, the Welsh Ministers shall take into account the matters mentioned in section 1A(2),
- (3) Before amending any list under this section the Welsh Ministers shall consult with the persons or bodies mentioned in section 1A(3).
- (4) Where an amendment is made under paragraphs (c) or (d) of subsection (1) with respect to the listing of any building, the references in section 1A(4) and (5) to the date on which the building was included in the list shall have effect as if they were to the date of any such amendment.”

SCHEDULE 2. HERITAGE DEVELOPMENT: CONSEQUENTIAL AMENDMENTS

Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

1. The Ancient Monuments and Archaeological Areas Act 1979 is amended as follows.
2.
 - (1) Section 2 (control of works affecting scheduled monuments) is amended as follows.
 - (2) In subsection (2), after “following works” insert “carried out in relation to a scheduled monument other than one which is wholly within Wales”.
 - (3) For subsections (8) to (11) substitute –
 - “(8) In proceedings for an offence under this section, it shall be a defence to prove all of the following matters –
 - (a) that works to the monument were urgently necessary in the interests of safety or health or for the preservation of the monument;
 - (b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the monument by works affording temporary support or shelter;
 - (c) that the works carried out were limited to the minimum measures immediately necessary; and
 - (d) that notice in writing justifying in detail the carrying out of the works was given either to the local planning authority or (in Scotland) to the Secretary of State as soon as reasonably practicable.
 - (9) Where works to which this section applies are executed without first having been authorised, and, scheduled monument consent is subsequently granted by the Secretary of State under section 2A of this Act, that grant of consent shall not effect the liability of any person to be prosecuted for an offence under this section.
 - (10) A person guilty of an offence under this section shall be liable –
 - (a) on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to imprisonment for a term not exceeding six months or a fine not exceeding £20,000 or both; or
 - (b) on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
 - (11) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or which appears likely to accrue to him in consequence of the offence, or which at the time the offence was committed appeared likely to accrue to him in consequence of it.”
3. After section 2 insert –

“2A Scheduled monument consent

 - (1) Scheduled monument consent may be granted either unconditionally or subject to conditions.

- (2) Without prejudice to the generality of subsection (1), conditions attached to a scheduled monument consent may include
 - (a) conditions with respect to the manner in which or the persons by whom the works or any of the works are to be exercised; and
 - (b) a condition requiring that the Secretary of State or a person authorised by him be afforded an opportunity, before any works authorised by the permission are begun, to examine the monument and its site and carry out such excavations as appear to be desirable for the purposes of archaeological excavation.
- (3) Part I of Schedule 1 to this Act shall have effect with respect to applications for, and the effect of, scheduled monument consent.”

4. After section 7 (compensation for refusal of scheduled monument consent), insert –

“7A Compensation for refusal of planning permission

Sections 7 to 9 of this Act shall apply in relation to a scheduled monument within Wales as if reference to scheduled monument consent were a reference to planning permission that is necessary only because the monument in question is a scheduled monument.”

Town and Country Planning Act 1990 (c. 8)

5. The Town and Country Planning Act 1990 is amended as follows.

6. In subsection 57(7) (planning permission required for development), after “subject to” insert “the provisions of section 317A (which relate to ecclesiastical buildings) and those of”.

7. After section 65 insert –

“65A Publicity for applications for heritage development

(1) This section applies where an application for planning permission (other than permission under section 73A) for any development of land in Wales is made to a local planning authority and the development would, in the opinion of the authority, affect –

- (a) a listed building or its setting;
- (b) a scheduled monument or its setting; or
- (c) the character or appearance of a conservation area.

(2) The local planning authority shall –

- (a) post on its website; and
- (b) for not less than seven days display on or near the land,

a notice indicating the nature of the development in question and naming a place within the locality where a copy of the application, and of all plans and other

documents associated with it, will be open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice under paragraph (a) or, if later, the posting of the notice under paragraph (c).

- (3) Regulations under section 62 may make provision in relation to applications to which this section applies or to particular categories of such applications –
- (a) requiring local planning authorities to notify some or all applications to the Welsh Ministers, or to other persons as may be so specified, by sending to them such details as may be specified;
 - (b) specifying a period or periods starting with the date of such notification within which authorities are not to grant permission; and
 - (c) requiring authorities to send to those who were notified of applications the decision taken by the authorities on those applications.”

8. In section 77 (reference of applications to Secretary of State), after subsection (2) insert –

“(2A) Without prejudice to the generality of subsection (2), a direction under that subsection may require applications for planning permission to be referred to the Welsh Ministers instead of being dealt with by the local planning authority in any case where the permission is required for heritage development included in an application for an order under section 1 or 3 of the Transport and Works Act 1992.”

9. In section 78 (right to appeal against planning decisions etc), after subsection (4) insert –

“(4A) In the case of an appeal which relates to:

- (a) a listed building in Wales; or
- (b) a building in Wales that is for the time being subject to a building preservation order under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990,

the appellant may include as the ground or one of the grounds of appeal a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Welsh Ministers under section 1A of that Act or, as the case may be, should not be included in such a list.

- (4B) In the case of an appeal which relates to a monument in Wales that is included in a schedule compiled and maintained by the Secretary of State under section 1 of the Ancient Monuments and Archaeological Areas Act 1979, the appellant may include as the ground or one of the grounds of appeal a claim that the monument is not of national importance and ought to be removed from the schedule.”

10. After section 79 insert –

“79A Determination of appeals: supplementary

- (1) In the case of an appeal such as is mentioned in section 78(4A)(a), the Welsh Ministers may exercise their power under section 1B of the Planning (Listed Buildings and Conservation Areas) Act 1990 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.
 - (2) In the case of an appeal such as is mentioned in section 78(4A)(b), the Secretary of State may exercise –
 - (a) his power under section 1 of that Act to amend the list compiled or approved under that section by including in it the building to which the appeal relates, or
 - (b) his power under section 3 of that Act to notify the local planning authority that he does not propose to include that building in that list.
 - (3) In the case of an appeal such as is mentioned in section 78(4B), the Secretary of State may exercise his power under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 to exclude from the schedule compiled under that section the monument to which the appeal relates.”
11. In section 143(4)(b) (effect of Secretary of State’s action in relation to purchase notice), after “of this Act or” insert “, in England,”.
12. In section 171B (appeal against enforcement notice), in subsection (2), after “relevant demolition (within the meaning of section 196D)” insert “in England or heritage development in Wales”.
13. In section 173 (contents and effect of enforcement notices), for subsection (12) substitute –
“(12) Where –
 - (a) an enforcement notice requires steps to be taken which amount to or include development for which planning permission would otherwise be required; and
 - (b) all the requirements of the notice with regard to those steps have been complied with,planning permission shall be treated as having been granted by virtue of section 73A in respect of that development.
14. (1) Section 174 (appeal against enforcement notice) is amended as follows.
(2) After subsection (2) insert –
“(2A) In the case of an appeal against a notice which relates to:
 - (a) a listed building in Wales; or

- (b) a building in Wales that is for the time being subject to a building preservation order under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990,

the appellant may include as the ground or one of the grounds of appeal a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Welsh Ministers under section 1A of that Act or, as the case may be, should not be included in such a list.

- (2B) In the case of an appeal against a notice which relates to a monument in Wales that is included in a schedule compiled and maintained by the Welsh Ministers under section 1 of the Ancient Monuments and Archaeological Areas Act 1979, the appellant may include as the ground or one of the grounds of appeal a claim that the monument is not of national importance and ought to be removed from the schedule.

- (2BA) In the case of an appeal against a notice which relates to works to a building in a conservation area in Wales, the appellant may include as the ground or one of the grounds of appeal a claim that the restoration of the building to the condition in which it was prior to the carrying out of the works, or that the carrying out of the works required by the notice, is not necessary in the interests of the preservation or enhancement of the character and appearance of the area.

- (c) in subsection (2C) –

- (i) after “relevant demolition (within the meaning of section 196D)” insert “in England or heritage development in Wales”; and
- (ii) for “relevant demolition was”, in both places where it occurs, substitute “works were”.

15. After section 176(2A) (determination of appeals) insert –

“(2B) In the case of an appeal such as is mentioned in section 174(2A)(a), the Welsh Ministers may exercise their power under section 1A of the Planning (Listed Buildings and Conservation Areas) Act 1990 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.

- (2C) In the case of an appeal such as is mentioned in section 174(2A)(b), the Welsh Ministers may exercise –

- (a) their power under section 1A of that Act to amend the list compiled or approved under that section by including in it the building to which the appeal relates, or
- (b) their power under section 3 of that Act to notify the local planning authority that they does not proposes to include that building in that list.

- (2D) In the case of an appeal such as is mentioned in section 174(2B), the Welsh Ministers may exercise their power under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 to exclude from the schedule compiled under that section the monument to which the appeal relates.”

16. Before section 318 (ecclesiastical property), insert:
- “317A Exceptions for certain ecclesiastical buildings**
- (1) Subject to the following provisions of this section, planning permission is not required for the carrying out of heritage development if it affects only the interior of an ecclesiastical building in Wales which is for the time being used for ecclesiastical purposes.
- (2) For the purposes of subsection (1) –
- (a) a building shall be taken to be used for the time being for ecclesiastical purposes if it would be so used but for the carrying out of the development in question; and
- (b) a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.
- (3) The Welsh Ministers may by regulations provide that subsection (1) shall only apply in such cases as may be specified, and such regulations may –
- (a) make provision for buildings generally, for descriptions of buildings or for particular buildings;
- (b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or buildings in different uses;
- (c) make such provision in relation to part of a building as may be made in relation to a building, and may make different provision for different parts of the same building;
- (d) make different provision with respect to works of different descriptions or according to the extent of the works.
- (4) Regulations under this section may contain such supplementary and incidental provisions, including consequential adaptations or modifications of the operation of any provision of this Act, or of any instrument made under this Act, as may appear to the Secretary of State appropriate.”

Planning (Listed Buildings and Conservation Areas) Act 1990

17. The Planning (Listed Buildings and Conservation Areas) Act 1990 shall be amended as follows.
18. In section 7(1), after “listed building” insert “in England”.
19. In section 66(1) (general duty as respects listed buildings),
- (a) in the heading to the section, after “listed buildings” insert “in England”.
- (b) in subsection (1), after “a listed building” insert “in England”;
- (c) in subsection (2), after “a local authority” insert “in England”.

20. In section 72(1) (general duty as respects conservation areas)
 - (a) in the heading to the section, after “conservation areas” insert “in England”; and
 - (b) in subsection (1), after “a conservation area” insert “in England”.

21. In section 73 (publicity for applications affecting conservation areas),
 - (a) in the heading to the section, after “conservation areas” insert “in England”.
 - (b) in subsection (1), after “a conservation area” insert “in England”.

22. In section 75(11) (cases in which section 75 does not apply), for “demolition of unlisted etc buildings in conservation area” substitute “heritage development”.

HE 19a

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Dr Charles Mynors

Response from: Dr Charles Mynors

Planning legislation: merely consolidated or completely overhauled?

CHARLES MYNORS¹

I. Introduction

Many of those who try to navigate their way around what is laughably called the 'statute book' would probably share the feelings of King Edward VI:

I would wish that the superfluous and tedious statutes were brought into one sum together, and made more plain and short, to the intent that men might better understand them; which thing shall most help to advance the health of the Commonwealth.²

That was in 1550, and the problem has grown more than a little since then.

One area of public life that has seen a particular growth in Government activity over the last century – with a corresponding increase in both legislation and guidance – is the management and control of the use and development of land. Unfortunately, however, there is a broad measure of agreement within the professional community that the planning system is now far too elaborate, and that it significantly prevents the provision of much needed housing, infrastructure and other new development.³ It also has very significant consequences for all those engaged in land transactions.

After a period of languishing in obscurity, planning issues also seem to have recently attained greater prominence with the public and the media; and the resulting political enthusiasm for change has resulted in a system that is as misunderstood as it is criticised.

Thus, lay commentators habitually refer to 'the need to reform planning law' when what they actually mean is 'the desirability of reforming planning policy and procedure' (national and local). But policy and law are inextricably linked, and a well-structured and conceptually coherent legal framework is likely to facilitate the emergence of a system of land use management that is both usable by professionals and generally acceptable to the public. The 'planning manifesto' recently produced by a firm of city solicitors suggested that the first of four themes underpinning further reform was simplification – defined as 'making the existing system, guidance,

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² Cited at the start of Office of the Parliamentary Counsel, Cabinet Office, *When Laws Become Too Complex: A Review into the Causes of Complex Legislation* (March 2013).

³ See, eg 'A New Vision for Planning – there Must be a Better Way', a paper by Leonora Rozee, the former Deputy Chief Executive of the Planning Inspectorate, in *Planning Theory and Research* (March 2014); *The Planning System: The Need for a Real Overhaul*, Martin Goodall's Planning Law Blog (21 August 2014); 'Let's Rebuild our Rambling System', Angus Walker, in *Planning* (12 September 2014).

regulation and advice simpler; to save time, reduce waste, and avoid a culture where legally challenging everything is the norm'.⁴

The Government is at least to some extent aware of this problem. In recent years, it has started the process of structural reform by vigorously pruning the policy guidance issued by various relevant central Government departments⁵ over many years and still in force. In March 2012, it introduced the National Planning Policy Framework (NPPF), a single document to replace a raft of 21 planning policy guidance notes and statements (PPGs and PPSs) and 23 other pieces of Government guidance.⁶ Two years later, on 6 March 2014, a further 155 Circulars, Good Practice Guides, and other Government policy documents were scrapped, following the appearance of the on-line Planning Practice Guidance (PPG), which in turn resulted from the review of guidance by Lord Taylor.⁷ And, significantly, the Labour Party made it plain that it intended to retain the NPPF if it were to win the election in 2015.⁸ However, simply cancelling guidance is relatively straightforward.

The slightly more complex, and politically less exciting, task of simplifying secondary legislation has also begun to be tackled. The first move was the appearance of the Town and Country Planning (Development Management Procedure) (England) Order 2010 – which replaced 16 statutory instruments (SIs), but which was itself amended five times before being replaced just before the General Election in 2015.⁹ At the same time, the Town and Country Planning (General Permitted Development) Order 1995 and the 22 Orders amending it were finally consolidated into one order.¹⁰ And the Government has also undertaken, in response to the recent Red Tape Challenge, to consolidate a further 74 SIs into a more manageable 20; and to cancel altogether another 35, without replacement.¹¹ This too is a major step in the right direction – although it remains to be seen whether the remaining elements of that package will actually be implemented.

But all that, whilst extremely commendable, still leaves untouched the jungle of primary legislation. There are currently in force around 44 Acts that deal with land use and planning (including access and rights of way), and significant parts of a further 16 or so. Of those 60 Acts, about a third are relatively insignificant remnants of provisions that are now wholly or largely redundant. However, many of the remaining 40 or so are still substantial pieces of legislation, and the overall pattern of what topics are dealt with in which statutes, and in what level of depth, is completely unclear. They also omit many of the principles that have emerged in the

⁴ Addleshaw Goddard, *A Forward Looking Planning Manifesto* (August 2014).

⁵ The DOE, the DETR, the DCMS, the DTLR, the ODPM, the DCLG.

⁶ planningguidance.planningportal.gov.uk/blog/policy/achieving-sustainable-development/annex-3-documents-replaced-by-this-framework/.

⁷ www.planningportal.gov.uk/uploads/cancelled-guidance_06032014.pdf.

⁸ Roberta Blackman-Woods MP, Shadow Planning Minister, at the Housing and Planning Conference, 16 September 2014.

⁹ See now SI 2015/595; and TCP (Development Management Procedure) (Wales) Order 2012 (SI 2012/801).

¹⁰ See now TCP (General Permitted Development) (England) Order 2015 (SI 2015/596); the 1995 Order remains in force in Wales.

¹¹ www.redtapechallenge.cabinetoffice.gov.uk/themehome/planning-administration/.

courts over the last 70 years, by way of clarifying the statutory text. It would seem to be desirable to draw them together into a clearly structured and consistently drafted legislative code, which can be readily understood and easily used by professionals, the public and the politicians.

The statutes regulating the development and use of land and related topics are thus arguably as “superfluous and tedious” as any, and certainly need to be brought together, and made more plain and short, so that men and women might better understand them.

This chapter explores how that might be achieved. It might be considered by some that its title is inaccurate, in that what is being advocated is in essence simply a programme of consolidation, with a measure of codification – which is not particularly ‘radical’. However, the scope of the proposed exercise is ambitious, in that it seeks to cover not just planning but also cognate topics such as the built heritage, access to land, and compulsory purchase. It is also more radical than is likely to be immediately attractive to politicians, who tend to be more concerned with ‘improving’ the system of land-use control, rather than enabling the existing system to operate more effectively and to be generally understood.

II. The Law Regulating the Use and Development of Land

A. The Emergence of Primary Legislation

The increasing population and resulting development pressures in the period between the two World Wars saw the appearance of various pieces of town planning legislation, albeit in a somewhat embryonic form – culminating in the Town and Country Planning Act (TCPA) 1932 and the Town and Country Planning (Interim Development) Act 1943. That period also saw the emergence of the Rights of Way Act 1932, which would now be regarded as being at the border between planning law and highways law.

However, the modern planning system, as a universal mechanism to control the use and development of land, started with the passage of the New Towns Act 1946, the TCPA 1947, and the National Parks and Access to the Countryside Act 1949, which together set up the system that still exists, more or less, today. As will be clear from their titles, these were concerned with more than simply the regulation of development, and also started to facilitate the promotion of public development, and access to private land. Indeed, from today’s perspective, it is perhaps surprising that the New Towns Act came first; but that emphasises the expectation at the time that the emerging system would be spearheaded by proactive involvement by the public sector to create a brave new world, whereas today it is to a large extent reactive.

The 1946 Act has been replaced by the New Towns Act 1981, and the programme of new towns has since been largely wound up. The statutory scheme under the 1981 Act still exists, at least on paper; but the emphasis is now more on special development bodies of one kind or another, such as development

corporations; and even they have been to some extent superseded. Essentially it has been realised that, not surprisingly, the shortage of public finance has limited the extent to which public authorities can on their own achieve major regeneration of existing urban areas; and the increasing encouragement given to public participation has led to major opposition to development on new sites outside built-up areas.

The 1949 Act is still at least partially in force, albeit supplemented by much subsequent legislation (notably the Countryside Act 1968, the Wildlife and Countryside Act 1981 and the Countryside and Rights of Way Act 2000). These together provide for the regulation of access to land, rights of way, and wildlife protection. The Law Commission is currently considering the reform of wildlife law; but the other elements of that package are still in existence, albeit in a somewhat unclear pattern. And the most recent development has been the unexpected growth in significance of commons and village green legislation, to the point where the Government is now seeking to rein it in as far as is politically acceptable.

The 1947 Act – as it turned out, much the most significant of the three original pieces of legislation – was substantially amended (in particular by the Town and Country Planning Act (TCPA) 1954, which largely repealed the financial provisions that had lain at the heart of the original post-war scheme), before being replaced by the TCPA 1962. That was a consolidating Act, and was in turn amended by the TCPA 1968 and other Acts, which were all, in turn, replaced by the next consolidating Act, the TCPA 1971. The 1971 Act lasted slightly longer than its predecessors, but was amended by (amongst others) the Town and Country Planning (Amendment) Act 1972, the Town and Country Amenities Act 1974, the Local Government, Planning and Land Act 1980 and the Housing and Planning Act 1986.

B. The 1990 Acts

In due course, the 1971 Act and the various Acts that had amended it were all swept away by four new Acts:

- the Town and Country Planning Act 1990 (dealing with mainstream planning control);
- the Planning (Listed Buildings and Conservation Areas) Act 1990 (P(LBCA)A);
- the Planning (Hazardous Substances) Act 1990; and
- the Planning (Consequential Provisions) Act 1990.

But the resulting clarity did not last. Since 1990, the pace of new legislation being enacted has, if anything, increased. Thus, immediately after the 1990 consolidation, the Planning and Compensation Act 1991 made significant changes to enforcement procedures. The Transport and Works Act 1992 introduced a new mechanism for gaining approval for transport projects. The Planning and Compulsory Purchase Act (PCPA) 2004 changed the system of development plans; and removed Crown immunity. The Planning Act 2008 introduced a system of ‘development consent’ for nationally significant projects. Further changes, not always particularly carefully considered, have been made by the Localism Act 2011, the Growth and

Infrastructure Act 2013 and the Enterprise and Regulatory Reform Act 2013. And a variety of other amendments have been made to the detailed provisions of the 1990 Acts

Further, whereas in the past there was at any time only one Town and Country Planning Act, which was from time to time amended, there are now a plethora of Acts of Parliament, with somewhat similar provisions; and many are freestanding pieces of legislation. There is thus no overall coherent scheme of statute law governing this whole area of activity; there are in fact, as noted at the outset, some 60 general Acts currently in force that deal in whole or in part with these issues, as listed in Table 1 – as well as some local legislation, especially in London. No doubt others could be added.

Table 1: Planning and development law as it is . . .

1. Green Belt (London and Home Counties) Act 1938 (the whole Act)
2. National Parks and Access to the Countryside Act 1949 (the whole Act)
3. Mineral Workings Act 1951 (the whole Act)
4. Town Development Act 1952 (the whole Act)
5. Agricultural Land (Removal of Surface Soil) Act 1953 (the whole Act)
6. Historic Buildings and Ancient Monuments Act 1953 (the whole Act)
7. Town and Country Planning Act 1954 (the whole Act)
8. Opencast Coal Act 1958 (the whole Act)
9. Town and Country Planning Act 1959 (the whole Act)
10. Caravan Sites and Control of Development Act 1960 (the whole Act)
11. Land Compensation Act 1961 (the whole Act)
12. Town and Country Planning Act 1962 (the whole Act)
13. Town and Country Planning Act 1963 (the whole Act)
14. Compulsory Purchase Act 1965 (the whole Act)
15. Civic Amenities Act 1967 (the whole Act)
16. Agriculture Act 1967 (Part III, Schedule 5 (rural development boards))
17. Forestry Act 1967 (Part II)
18. Caravan Sites Act 1968 (the whole Act)
19. Countryside Act 1968 (the whole Act)
20. Protection of Wrecks Act 1973 (the whole Act)
21. Mobile Homes Act 1975 (the whole Act)
22. Development of Rural Wales Act 1976 (the whole Act)
23. Inner Urban Areas Act 1978 (the whole Act)
24. Ancient Monuments and Archaeological Areas Act 1979 (the whole Act)
25. Local Government, Planning and Land Act 1980 (Parts XV, XVI, XVII, XVIII)
26. New Towns Act 1981 (the whole Act)
27. Wildlife and Countryside Act 1981 (Parts II, III; Schedules 10A–17)
28. Compulsory Purchase (Vesting Declarations) Act 1981 (the whole Act)
29. Acquisition of Land Act 1981 (the whole Act)
30. Derelict Land Act 1982 (the whole Act)
31. National Heritage Act 1983 (sections 32–38)
32. Wildlife and Countryside (Amendment) Act 1985 (the whole Act)
33. Wildlife and Countryside (Service of Notices) Act 1985 (the whole Act)
34. New Towns And Urban Development Corporations Act 1985 (the whole Act)
35. Mineral Workings Act 1985 (the whole Act)
36. Housing and Planning Act 1986 (the whole Act)
37. Environmental Protection Act 1990 (Part VII)

38. Town and Country Planning Act 1990 (the whole Act)
39. Planning (Listed Buildings and Conservation Areas) Act 1990 (the whole Act)
40. Planning (Hazardous Substances) Act 1990 (the whole Act)
41. Planning (Consequential Provisions) Act 1990 (the whole Act)
42. Planning and Compensation Act 1991 (the whole Act)
43. Transport and Works Act 1992 (Part I)
44. Leasehold Reform, Housing and Urban Development Act 1993 (Part III)
45. Environment Act 1995 (Part III, Schedules 7–10 (national parks); section 96, Schedule 13, 14 (mineral planning permissions); section 97 (hedgerows))
46. Regional Development Agencies Act 1998 (the whole Act)
47. Countryside and Rights of Way Act 2000 (the whole Act)
48. National Heritage Act 2002 (the whole Act)
49. Planning and Compulsory Purchase Act 2004 (the whole Act)
50. Natural Environment and Rural Communities Act 2006 (Parts 1, 5, 6)
51. Commons Act 2006 (provisions relating to village greens)
52. Sustainable Communities Act 2007 (the whole Act)
53. Planning Act 2008 (the whole Act)
54. Planning and Energy Act 2008 (the whole Act)
55. Marine and Coastal Access Act 2009 (Part 9)
56. Localism Act 2011 (Part 5, Chapter 3; Part 6; Part 8, Chapter 2)
57. Growth and Infrastructure Act 2013 (first part)
58. Mobile Homes Act 2013
59. Enterprise and Regulatory Reform Act 2013 (sections 60,61,63, Schedules 16, 17: heritage planning)
60. Criminal Justice and Courts Act 2015 (sections 91, 92, Schedule 16).

And it is not just the number of statutes; they are getting longer. Thus the 1946, 1947 and 1949 Acts together contained 161 sections and 18 Schedules. By contrast, the four 1990 Planning Acts alone – as they first appeared – contained 479 sections and 26 Schedules. But they have now been significantly lengthened, to around 550 sections, as a result of numerous amendments over the last 24 years; and they have been supplemented by separate provisions in other Acts (notably the PCPA 2004 and the Planning Act 2008) introducing a further 300 or so sections and numerous Schedules. Alongside all this, the separate Acts dealing with new towns, access, and countryside matters, amongst others, still remain.

The number of Acts would not of itself necessarily be a problem; but the way in which the legislation has emerged has led to the law on different topics being spread, apparently randomly, over a number of different Acts, which makes it difficult for those seeking to use and apply it – and indeed for Parliament when it seeks to introduce amendments. Law that is not clear is not helpful even to professionals working regularly in the field, who find it difficult to work with – and it is incomprehensible to ordinary citizens or to those, such as CABs, advising them – as is recognised by the Good Law Project currently being promoted by the Cabinet Office. It is noticeable, for example, that the principal reference work in this particular field, the *Encyclopaedia of Planning Law*, has expanded from three to nine volumes over the last 30 years; and that its editors still find it difficult to keep up with the numerous changes.

In the words of one seasoned professional, 'the planning system is a mess'.¹²

C. The Resulting Problem

There is periodically some enthusiasm on the part of Parliament for changing and 'improving' the system – although the experience of history is that such changes are not always for the better. But there has hitherto been little appetite within the political establishment (of any party) for simplifying the legislation that already exists, so as to have a clearer framework to guide present decisions, and to act as a stimulus for future change. Nor has there been much impetus on the part of the relevant central Government department to address this problem.

In the past, mainstream planning legislation has been consolidated every so often – generally by the Law Commission (as in 1962, 1971 and 1990) – although that has not dealt with the legislation in related fields. More recently, the Commission has produced a substantial review of the law of compulsory purchase and compensation; but that is yet to be implemented. And it is currently reviewing the law on the protection of wildlife. But it has no plans at present to tackle the 1990 planning legislation itself, far less the other related statutes.

It was suggested that, as part of its twelfth programme, starting in 2014, the Commission might wish to tackle a major exercise of simplifying this body of statutory law, along the lines indicated here; it declined, on the grounds that doing so would involve substantial resources of professional time and, more significantly, that these days it only tackles a project if there is an undertaking from the relevant Government department that indicates a serious intention to take forward law reform in that area. It commented:

Our discussions with the Department for Communities and Local Government strongly suggest that they would not give us such an undertaking at present. The Department's view is that, given the significant amount of substantive law reform of planning law that has taken place in recent years, these changes should be allowed to become established before any further law reform takes place.¹³

That seems unfortunate, since it is precisely because there has been so much substantive law reform that there is the need for simplification. And simplification, as opposed to substantive change, fits in with the oft-repeated desire of Governments – of all parties – that the processes of central and local government, and the legislation regulating them, should be effective, efficient and proportionate, and that the planning system should be straightforward. More recently, therefore, Government officials have indicated that there may be a greater willingness to contemplate a more wide-ranging simplification exercise of the kind contemplated here, possibly in association with the Good Law Project.

What is needed is a major programme of consolidation and rationalisation, which would on any analysis take several years – during which, as the recent changes

¹² Rozee (n 2).

¹³ Letter to the author, 14 March 2014.

become established, it may indeed emerge that minor adjustments are needed to avoid resulting problems. More recently, as noted above, a number of commentators have started to press for a more substantial reform of the legislation.¹⁴ And support has been forthcoming from the Planning Officers' Society, whose members would have the responsibility for implementing any changes.¹⁵ It is hoped that, now the election is out of the way, ministers will be in a position to supply the necessary political backing for reform.

And, of course, this problem will get gradually worse; and so some measure of simplification will have to take place sooner or later. The legislation will not sort itself.

III. What Could be Achieved

A. General Approach

What is now required is thus a major programme of simplification. That would be primarily consolidation, but also some rationalisation, since it is inevitable that such an exercise would throw up a number of areas where there is scope for technical improvement, to remove redundant or overlapping provisions, and to clarify those that are obscure or inconsistent.

It would be good to ensure that, as far as possible, all the relevant legislation is adjusted on a consistent basis to ensure that broad principles are set out in primary legislation whereas detailed procedural provisions should in future all be in secondary legislation – in line with the approach that has been increasingly followed in recent years. That would facilitate the making of future changes to detailed procedures without the waste of parliamentary time. Similarly the detailed arrangements as to the operation of the various public bodies should be in secondary legislation – so that each body can look to a single set of regulations that provides for its day-to-day requirements.

It is noteworthy that there are certain statutory controls that are largely the subject of freestanding sets of regulations – such as those governing hedgerows, protected trees, and outdoor advertising.¹⁶ Doing this simplifies the relevant Act itself, and also helps users as they can find all the law they need in one place. It would be sensible to see whether there are any other codes that could similarly be taken out of primary legislation.

It would also be helpful to include some of the principles established by the courts by way of interpreting the text of the statutes. For example, the concept of planning permission being required for a change in the use of a parcel of land begs the question of which parcel should be considered; but the doctrine of the 'planning

¹⁴ See Note 2 above

¹⁵ 'This has considerable merit'; email to author, 23 July 2014.

¹⁶ Hedgerows Regulations 1997, TCP (Control of Advertisements Regulations) 2007 (SI 2007/783), and TCP (Tree Preservation) Regulations 2012 (SI 2012/605).

unit’ – the device invented by the courts to deal with this issue¹⁷ – is nowhere mentioned on the face of the statute. And the extent of the curtilage of a building is to be considered at different dates for different purposes.¹⁸ The common feature of such points is that they came before the courts as a result of uncertainty or confusion as to the interpretation of existing legislation, which were (to a greater or lesser extent) resolved by the resulting judicial rulings. It would be good if the resulting definitions and concepts were to be incorporated into the body of the relevant statute.

The same is true of certain principles that have, entirely non-controversially, been incorporated for many years within Government guidance but which have, in effect, acquired the status of legal principles – such as the tests to be applied to determine the validity of planning obligations and conditions.¹⁹

Finally, it would obviously be good to examine how other countries have dealt with the legislation relating to these topics – the underlying problems are, after all, the same, even if the political and legislative arrangements are different. France, for instance, revised its planning laws in 2007 because of their complexity and the consequent over-involvement of judicial bodies in planning matters. And Ireland has a system that is similar to the UK, but somewhat less elaborate. There may well be lessons that can be learnt.

If an exercise of consolidation also includes an element of codification, or indeed other forms of change, they would require Parliamentary approval, which would open up the possibility of the whole exercise becoming procedurally over-complex, resulting in nothing being achieved. However, it would be sensible at least to consider what technical changes would in principle be desirable, and whether they would be politically desirable or otherwise.

In accordance with those principles, the general aim should thus be to consolidate the 60 or so Acts dealing in whole or part with these issues, and to reduce them to a consistently drafted set of new Acts, each dealing with a discrete topic. Clearly there may be a number of ways in which the overall subject area could be divided, but the eight headings below together indicate one possible statutory scheme.

B. Specific Topics

i. Planning Authorities and Planning Policy

The starting point should be a clarification of the various public authorities administering the system. There should be a clear rule that ‘the planning authority’ means the unitary local authority, where there is one, and the district council in areas where there is a two-tier system; save that national parks authorities, the Broads Authority and development corporations would remain the sole planning

¹⁷ *Burdle v Secretary of State* [1972] 1 WLR 1207.

¹⁸ Compare *Morris v Wrexham CBC* [2002] 2 P&CR 7 and *Lowe v Secretary of State* [1991] 1 PLR 58.

¹⁹ NPPF, paras 204, 206.

authority in their respective areas.²⁰ County councils, where they exist, would then only be planning authorities where specifically provided for in relation to a specific function (as with, for example, minerals and waste planning) – although of course a county council could be appointed as such in a particular case by an agreement under the Local Government Act 1972.

In the past, Parliament has created a variety of other types of authority that have been capable of being planning authorities – including enterprise zone authorities, AONB conservation boards, housing action trusts, and English Partnerships.²¹ In practice these authorities have never been made planning authorities. It would of course always be possible in the future for a new body simply to be given the same powers as a development corporation – as was effectively done with the Olympic Delivery Authority.²²

The Planning Inspectorate is also a key player; but is nowhere regulated – as it is in Ireland.²³ That may be satisfactory, but it should at least be considered.

Secondly, there needs to be a clear statement of what is the policy basis for the planning system. There is a hierarchy of policies, which in England includes the following:

- the National Planning Policy Framework, and Planning Practice Guidance;
- national policy statements relating to specific topics (introduced by the Planning Act 2008);
- the spatial development strategy, development plan documents, and the sustainable community strategy (now regulated under Parts 2 and 3 of the PCPA 2004, and the Sustainable Communities Act 2007);
- neighbourhood plans (introduced by the Localism Act 2011); and
- supplementary planning documents.

This all needs to be given a logical statutory basis. For example, central Government policy (the first item on the list) is hugely influential in practice, but is nowhere mentioned on the face of the statute. And the much-vaunted primacy of the development plan is to be found not in the TCPA 1990, but in section 38(6) of the PCPA 2004, which has itself been much altered. Indeed, curiously, the 1990 Act now contains nothing at all about planning – as opposed to development control.

The procedural details as to the actual production of each type of policy should be governed by secondary legislation. But thought should be given as to the extent to which primary legislation should influence the topics that may or should be the subject of policies – why, for example, is there a specific Act allowing the inclusion in the development plan of policies encouraging energy efficiency?²⁴ The

²⁰ TCPA 1990, Pt 1, Sch 1.

²¹ TCPA 1990, s 6; Housing Act 1988; Countryside and Rights of Way Act 2000, s 86.

²² London Olympic Games and Paralympic Games Act 2006, s 5.

²³ Planning and Development Act 2000 (An Bord Pleanála), Pt VI.

²⁴ Planning and Energy Act 2008.

emergence of a single statement of central Government policy is a good time for this to be reviewed.

ii. Countryside

The next step logically is to provide for the protection of the natural environment, including but not limited to the countryside. This is largely the subject of a plethora of statutes going back over many years: Parts I, II and III of the National Parks and Access to the Countryside Act 1949, Part II of the Forestry Act 1967, the Countryside Act 1968, Part II of the Wildlife and Countryside Act 1981, the Wildlife and Countryside (Amendment) Act 1985, the Wildlife and Countryside (Service of Notices) Act 1985, Part VII of the Environmental Protection Act 1990, Chapter I of Part VIII of the TCPA 1990, Part III and section 97 of the Environment Act 1995, Parts III and IV of the Countryside and Rights of Way Act 2000, and Parts 1 and 5 of the Natural Environment and Rural Communities Act 2006.

The administration of Government policy in this area has suffered numerous changes, with the arrival and departure of the Countryside Commission, the Countryside Agency, the Commission for Rural Communities, and English Nature. The starting point here should be to make plain the structure and role of Natural England, the national parks authorities, and (possibly) the Broads Authority.

There is then a hierarchy of different types of designation – including national parks, areas of outstanding natural beauty (AONBs), and nature reserves, as well as special protection areas under European legislation. These need to be clarified, along with the need for consent to be obtained for operations affecting them. Also relevant is the law relating to works to trees, recently simplified in the Planning Act 2008, and hedgerows.

The legal framework for wildlife management – described recently by the Law Commission as ‘overly complicated, frequently contradictory and unduly prescriptive’ – is clearly related to this topic. However, it may be more appropriate for this to be the subject of a separate statute, in the light of any conclusions emerging from the Commission’s review.²⁵ And thought should be given as to whether forestry legislation should remain separate, or be brought within the general scope of the present simplification exercise, especially following the creation of Natural Resources Wales, which has taken over the Forestry Commission’s functions in Wales.

iii. Built Heritage

There is then the relatively limited topic of identifying those elements of the built heritage which are to be afforded special protection – referred to in recent Government policy as ‘designated heritage assets’.²⁶ They include world heritage sites (governed by the Unesco World Heritage Convention, but hardly mentioned in

²⁵ lawcommission.justice.gov.uk/areas/wildlife.htm.

²⁶ NPPF, Glossary.

UK legislation), scheduled monuments (under the Ancient Monuments and Archaeological Areas Act 1979), listed buildings and conservation areas (under the Planning (Listed Buildings and Conservation Areas) Act 1990, amended by Part 5 of the Enterprise and Regulatory Reform Act 2013), protected wrecks (under the Protection of Wrecks Act 1973, and registered parks and gardens (largely outside legislation).

The relevant statutory provisions simply need to be brought together. The powers as to the carrying out of repairs and the giving of grants (in the Historic Buildings and Ancient Monuments Act 1953 and the 1990 Act) could also be simplified. It would also be sensible to give statutory force to the new structure of English Heritage and Historic England, introduced in April 2015²⁷ – replacing the provisions currently in the National Heritage Acts of 1983 and 2002.

Areas of archaeological importance (under the 1979 Act) have not been much used, and the Government agreed twenty years ago to abandon that system at the first appropriate legislative opportunity.²⁸ That could be done as part of this exercise.

iv. Promotion of Development

As noted already, the original core of the planning and development legislation was the encouragement and facilitation of development by public bodies, principally through the programme of new towns. It is perhaps not surprising that there have been periodically calls for the reinstatement of such a programme, as reliance on private sector development alone has not been sufficient to generate the required level of new building activity. The Government has also started to promote the idea of new garden cities.²⁹ Latterly, the preferred vehicle for public-sector urban regeneration has been the urban development corporation, usually created for a specific period and, more recently, mayoral development corporations in London.³⁰

It would be sensible to consolidate and update the relevant legislation, which can then be harnessed to support any future development initiative by the government of the day. This is to be found in the Inner Urban Areas Act 1978, Parts XV, XVI and XVIII of the Local Government, Planning and Land Act 1988, the New Towns Act 1981, the New Towns and Urban Development Corporations Act 1985, Part III of the Leasehold Reform, Housing and Urban Development Act 1993, and Chapter 2 of Part 8 of the Localism Act 2011.

The reduction of the burden of planning controls through the creation of simplified planning zones and enterprise zones, on the other hand, has generally not been a success, in that it has been hardly taken up in practice. It is noteworthy that the current guidance from central Government makes almost no reference at all to

²⁷ www.gov.uk/government/uploads/system/uploads/attachment_data/file/263943/1291-B_English_Heritage_Accessible__1_.pdf.

²⁸ *Protecting the Heritage* (May 1996).

²⁹ Budget 2014, paras 1.145, 1.146.

³⁰ Local Government, Planning and Land Act 1980, Pt XVI; Localism Act 2011, Pt 8, Ch 2.

either. Simplified planning zones could therefore be simply abandoned, along with references to enterprise zone authorities as planning authorities.

Arguably this might be the place to include the provisions relating to the improvement of waste land, in Chapter II of Part VIII of the TCPA 1990 – a rarely used but potentially effective form of intervention to achieve the improvement of land in the public interest.

v. Regulation of Development

This is probably the most significant in practice of the various topic areas. There are in fact a variety of consent mechanisms within the overall ambit of the ‘planning system’. The principal one is planning permission, under Parts III to VII of the TCPA 1990. This has been the subject of numerous amendments over the years – notably by the Planning and Compensation Act 1991 and the Localism Act 2011 (in relation to enforcement), and the Planning and Compulsory Purchase Act 2004 – and badly needs to be clarified.

In particular, the Government now seems to envisage several types of consent mechanism:

- outline permission in response to an application, followed by approval of reserved matters;
- detailed permission, followed approval of matters reserved by condition;
- permission granted by development order, subject to approval of details in response to application;
- permission granted by development order, with no need for any further approval.³¹

As noted, the Government has at last consolidated the permitted development order, but the primary legislation also needs to be clarified.

It is also noticeable that there are a variety of duties – under a wide variety of statutes and regulations – laid on those determining applications for planning permission, including the following:

- to make the decision in accordance with the development plan, so far as material;³²
- to have special regard to the desirability of preserving any listed buildings affected, and pay special attention to desirability of preserving or enhancing the character of any conservation area;³³
- to have due regard to the need to eliminate unlawful discrimination against disabled people;³⁴

³¹ Budget 2014, para 1.147.

³² TCPA 1990, s 70; TCPA 2004, s 38(6).

³³ P(LBCA)A 1990, ss 66, 72.

- to take into account representations made by owners of land or in response to publicity for application;³⁵
- to have regard to desirability of conserving the natural beauty and amenity of the countryside;³⁶ and
- to have regard to any other material considerations.³⁷

This list is the result of past political battles, but should be rationalised – or at the very least made explicit in one place. Should other matters be included?

In addition, alongside planning permission, there are a variety of other codes, controlling:

- certain types of mining (under Part I of the Opencast Coal Act 1958 and section 96 of the Environment Act 1995);
- caravan sites (under the Caravan Sites and Control of Development Act 1960, the Caravan Sites Act 1968, the Mobile Homes Act 1975, Part XVII of the Local Government, Planning and Land Act 1980);
- works to scheduled monuments and listed buildings (under the Ancient Monuments and Archaeological Areas Act 1979 and Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990);
- the storage of hazardous substances (under the Planning (Hazardous Substances) Act 1990); and
- the display of outdoor advertising (under the TCP (Control of Advertisements) Regulations 2007).

These have to some extent been the subject of consideration by the Penfold Review on non-planning consents – and that has resulted in changes being made including, for example, the merging of conservation area consent into planning permission (by the Enterprise and Regulatory Reform Act 2011). But there is no reason why the same approach could not easily be adopted in relation to scheduled monument consent and listed building consent – the latter, in particular, is now very closely aligned to planning permission, after changes made by the 2011 Act, and there is little purpose served by the existence of the two systems operating in parallel.

It might be possible to integrate some of these other controls into the mainstream planning permission system; or it may be appropriate to separate them out into regulations. Advertising, for example, is classified as ‘development’ in the Republic of Ireland, and accordingly largely dealt with under normal planning

³⁴ Equality Act 2010, s 149.

³⁵ TCP (Development Management Procedure) (England) Order 2015 (SI 2015/595), art 33; TCP (Development Managements Procedure) (Wales) Order 2012 (SI 2012/801), art 21.

³⁶ Countryside Act 1968, s 11.

³⁷ TCPA 1990, s 70(2).

legislation;³⁸ but in the UK it has always been dealt with by means of a freestanding code in secondary legislation.

Another system of control operating alongside the normal planning system is the new procedure to obtain ‘development consent’ under the Planning Act 2008 (as amended by the Localism Act 2011) for major infrastructure projects. This was initially dealt with by the Infrastructure Planning Commission, but has recently been brought under the auspices of the Inspectorate. Now that system is starting to bed down, it will soon be possible to see whether it is helpful for it to remain separate, or whether it should be incorporated into mainstream planning control – and how it should relate to the system of authorisation by orders under the Transport and Works Act 1992.

Planning inquiry commissions, on the other hand, have never been used since the idea was first introduced, and could now be abandoned.

‘Development consent’ is also the term used in European legislation to refer to the authorisation of proposals requiring an environmental impact assessment. Generally that will be planning permission, and the assessment will be carried out under a procedure provided for in a freestanding set of regulations, which transpose the requirements of the relevant EU directives, which have now been codified as Directive 2011/92/EU.³⁹ The applicability of that procedure, and its application in practice, have been the subject of a large number of court challenges. However, in principle, the purpose of the Directive is the same as that of the UK planning system – to assess the impact of proposed development, and to see whether that impact (if harmful) is outweighed by the resulting benefit – and it is arguably unsatisfactory to have the two systems operating in parallel. It would therefore seem to be desirable to explore whether they can be brought together into a single regime that complies with the Directive but also fits seamlessly into the mainstream planning system. Here, too, thought will need to be given as to how much should be in primary legislation and how much in secondary regulations.

Indeed, the term ‘development consent’ is in many ways preferable to ‘planning permission’ – it is after all the proposed development that is to be authorised, not the plan. But that may be a step too far, as the term ‘planning permission’, however illogical, is well entrenched.

vi. Infrastructure Funding

There have been various attempts to introduce a financial or fiscal element into the control of development, from betterment levy through to development land tax. The most recent attempt, the community infrastructure levy (CIL), is largely the subject of regulations, but the relevant primary legislation – in Part 11 of the Planning Act 2008, as amended by the Localism Act 2011 – could usefully be the subject of a separate statute.

³⁸ Planning and Development Act 2000, ss 2(1), 3(2)(a); Planning and Development Regulations 2001 (SI 2001/600), Sch 2, Pt 2.

³⁹ TCP (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824).

Alternatively it might be preferable for a new Infrastructure Act to incorporate both the CIL provisions and the development consent procedure under the 2008 Act.

vii. Access and Rights of Way

One strand of the legislation in this area has always been to achieve a degree of public access to some land – initially by means of access orders to open country under Part V of the National Parks and Access to the Countryside Act 1949, and more recently by the introduction of the ‘right to roam’ (access land) provisions in Part I of the Countryside and Rights of Way Act 2000.

More recently, the law relating to town and village greens (now in the Commons Act 2006, recently amended by the Growth and Infrastructure Act 2013) has in effect provided another form of access land – albeit as a probably unintended by-product of commons legislation and customary rights law. It would be sensible to recognise this by introducing village greens as a further category of access land under the 2000 Act.

Related to this is the creation of rights of way over land. The law on this is spread across several statutes – Part IV of the 1949 Act, Part III of the Wildlife and Countryside Act 1981, Part II of the 2000 Act, and Part 6 of the Natural Environment and Rural Communities Act 2006 – and is the subject of further changes proposed in the Deregulation Bill currently before Parliament.⁴⁰ These have together created a procedure that would benefit from being consolidated and updated.

It would be helpful to draw together all this legislation, and also to link it to the main planning system. Compared to other provisions considered in this chapter, these are not urgently in need of reform, and may well need little if any updating; but since they are linked to others that are in need of simplifying, it would be sensible not to leave them unconsolidated.

viii. Land Acquisition and Compensation

The legislation governing the powers of public authorities to acquire land under compulsory purchase powers or by agreement is notoriously complex.

Acquisition procedure is governed principally by the Compulsory Purchase Act 1965, the Acquisition of Land Act 1981, the Compulsory Purchase (Vesting Declarations) Act 1981, and Part IX of the TCPA 1990, with a few additional provisions to be found (still) in the TCPA 1959. The assessment of compensation is the subject of the Land Compensation Acts of 1961 and 1973, with additional provisions in Part II of the Opencast Coal Act 1958 and Part III of the Planning and Compensation Act 1991. Additional provisions have been inserted into many of the above Acts, under both headings, by Part 8 of the PCPA 2004 and Part 9 of the

⁴⁰ Deregulation Bill, councils 21-27 and Sch 7.

Localism Act 2011; and further changes made by the Growth and Infrastructure Act 2013.

This has been the subject of two major Law Commission reports, relating to acquisition procedure and a compensation code.⁴¹ These have not been progressed by the Government, which is unfortunate. It would be possible simply to consolidate the statutes referred to above as part of the general simplification exercise envisaged by this chapter, but clearly such an exercise would be a golden opportunity to enact the recommendations of the Commission, along with other changes being considered by the Government in consultation with key players such as the Compulsory Purchase Association.⁴²

It might well be that the consolidation of the legislation relating to the acquisition of land should be a separate exercise, following on immediately after the other simplification proposals described in this chapter. This is an area of law fraught with technicalities, and it would be essential, more than with any of the other topics considered here, to ensure that any draft Bill was the subject of extensive consultation with all major stakeholders.

C. Miscellaneous Provisions

It would be helpful for users of the legislation if all of the supplementary provisions relating to the above topics were to be gathered together in one place. This would include their application to the Crown, local authorities, statutory undertakers, and in other special cases (which can be referred to regularly by those to whom they are relevant, but ignored by others). Certain other matters could also be usefully dealt with on a generic basis, to ensure consistency – such as entry onto land, injunctions, and some financial provisions.

One of those more general issues is the specific statutory provisions allowing for court challenges to decisions. It would be worth considering whether, following the changes recently made to these provisions,⁴³ which bring them largely into line with those relating to general judicial review challenges under Part 54 of the Civil Procedure Rules (CPR), they are in fact still needed at all.

And all of the relevant definitions should be in one place (or at least referred to in one place), so that they can then be used on a consistent basis in all of the other Acts. Indeed there may be scope for issuing an online version of the new legislation with automatic hyperlinks to definitions (and relevant secondary legislation).

Finally, as well as the 40 or so statutes referred to above in relation to specific topics, there is a further, relatively small, group of statutes (or parts of statutes) that have been largely repealed, or whose remaining provisions are now

⁴¹ lawcommission.justice.gov.uk/areas/towards-a-compulsory-purchase-code-1-compensation-a%20consultative-report.htm.

⁴² See Hansard, Written Answers, 25 April 2013, col 1120W.

⁴³ Criminal Justice and Courts Act 2015, s 91 and Sch 16, para 3.

more or less redundant. These need to be finally dispatched; although there may need to be a very small amount of consequential tinkering with other Acts to ensure that there is no resulting loss of effective control. That could be left to a future Statute Law Reform exercise to be carried out by the Law Commission, but it would seem to be more logical to do it as part of the present simplification exercise.

Acts that could be repealed in their entirety thus include the Green Belt (London and Home Counties) Act 1938, the Mineral Workings Act 1951, the Agricultural Land (Removal of Surface Soil) Act 1953, the Town and Country Planning Acts of 1954, 1962 and 1963, the Civic Amenities Act 1967, the Mobile Homes Act 1975, the Development of Rural Wales Act 1976, the Derelict Land Act 1982, the Mineral Workings Act 1985, the Housing and Planning Act 1986, and the Regional Development Agencies Act 1998. Part III of the Agriculture Act 1967 (hill land) and sections 18–23 of the Forestry Act 1967 (felling directions) are also redundant, and could be repealed at the same time.

It has also been noted above that the provisions relating to simplified planning zones and areas of archaeological importance could be abolished without any loss. Those relating to scheduled monument consent, listed building consent and village greens are not required in their present form, and could more satisfactorily be included in other statutory codes.

Part II of the TCPA 1990 (development plans) has already been repealed, as has Part V (compensation for restrictions on new development in limited cases). And of course, once the whole exercise has been completed, the Planning (Consequential Provisions) Act 1990 would be redundant, and would be repealed.

D. Wales

A further consideration is that, at present, nearly all of the 60 Acts listed in Table 1 apply to England and Wales. However, the details, particularly as to the administration of the various control regimes, are starting to diverge on either side of the border. The role of the Secretary of State is taken by the Welsh Ministers; local authorities in Wales are all unitary; the development plan regime is different; and some of the ‘national’ bodies – such as Historic England, Natural England, and Natural Resources Wales – operate either in England or in Wales, but not both.

And almost all secondary legislation, including many commencement orders bringing into effect new primary legislation – now applies only in one or other jurisdiction.

This is likely to continue, as the Assembly exercises its recently acquired powers to legislate in this area. The Planning (Wales) Bill is thus “post Stage 4” in its passage through the Assembly, and on course to obtain Royal Assent before the summer; although this contains only relatively modest technical amendments.⁴⁴ But it is noticeable that it is in the form of amendments to the TCPA 1990 and the PCPA 2004; and the very fact that it includes a number of new provisions to be inserted

⁴⁴ <http://www.senedd.assembly.wales/mglIssueHistoryHome.aspx?lId=11271>

into the TCPA 1990 with numbers such as 'section 71ZB' indicates that something needs to be done. And the Historic Environment (Wales) Bill is at Stage 1, and likely to obtain Royal Assent in early 2016; but this too is likely to be largely technical.

A major simplification exercise of the kind envisaged in this chapter would be an ideal time to produce for England and for Wales separate versions of each of the nine or so new replacement statutes for the topics listed above. Initially the two versions would be similar, although by no means identical – somewhat in the same way as, for example, the Town and Country Planning Act 1947 was, at least initially, very similar to the Town and Country Planning (Scotland) Act 1947 – although in due course they would no doubt start to diverge. But it would be much easier to do the exercise of creating a statutory code for Wales at the same time as doing it for England, rather than creating a Welsh code on a piecemeal basis.

This would fit in well with the current project by the Law Commission to consider the law relating to planning and development control in Wales;⁴⁵ although it would go further than just planning. And clearly it will have implications for the Government of Wales Acts of 1998 and 2006.

IV. Related legislation outside the scope of the simplification project

Of course any area of law is only one part of the overall body of legal rules and principles in force at any one time. And clearly there has to be a limit to the extent of any simplification exercise, however ambitious in scope. There will therefore be some legislation that will be relevant to and affected by such an exercise, but which will be outside its immediate focus.

A. Legislation Governing Specific Activities, with Land Use Implications

There are a variety of statutes relating to specific activities and industries that have major land use implications. These include amongst many others the Forestry Act 1967, the Housing Act 1988, the Water Act 1989, the Electricity Act 1989, the New Roads and Street Works Act 1991, the Water Industry Act 1991, and the Housing and Regeneration Act 2008. These would generally fall outside the scope of the presently envisaged simplification exercise, but it would be appropriate at least to consider including some provisions in them. They would in any event need to be amended to reflect the outcome of the simplification project.

Part I of the Transport and Works Act 1992 is somewhat similar, in that it relates to the authorisation of various categories of public works, particularly in relation to railways and harbours. This too might prove to be outside the scope of the simplification exercise, but it would be worth exploring whether it should be

⁴⁵ lawcommission.justice.gov.uk/areas/planning-in-Wales.htm.

incorporated into the new provisions for the approval of major infrastructure projects, currently in the Planning Act 2008, as there is some degree of overlap.

One other category of special legislation is the group of Measures of the Church England (which have a status equivalent to that of Acts) governing works to churches and cathedrals – notably the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (recently amended) and the Care of Places of Worship Measure 1999. It is to be hoped that the General Synod will soon be consolidating these and other related provisions into a new Care of Churches Measure; but that will obviously be outside the scope of the present exercise – as is the Care of Cathedrals Measure 2011, itself the result of a consolidation.

B. Other Parts of the United Kingdom

The corresponding law in Scotland would in general be outside this exercise – notwithstanding the result of the recent referendum. However, the statutes relating to ancient monuments apply to the whole of Great Britain, even though the Historic Environment (Amendment) (Scotland) Act 2011 has resulted in them applying somewhat differently north of the border. It would therefore be necessary to make appropriate provision for the continuing application of the relevant law to Scotland, so that there were no loose ends. And the same approach may need to be applied in relation to other GB-wide legislation, such as the Forestry Act 1967 and the Transport and Works Act 1992.

Northern Ireland too would be outside this exercise. However, it is noticeable that the legislation there, covering broadly the same topics, is significantly more concise; and it would be good to explore how this is achieved, and whether there are lessons to be learned.

V. The Way Forward

A. The Timing

There is never an ideal time for legislative reform. However, there has been a considerable amount of legislation dealing with planning and related subjects in the last decade, culminating in the Acts of 2004, 2008, 2011 and 2013 noted above. Not only has this led to the statute law in this field being unduly complicated, but it also means that the Government may have limited enthusiasm for further substantive change over the next five years. And the Conservative Manifesto in the run-up to the 2015 general election and the Queen's speech immediately after it both indicate a wish to pause before making further changes.

This is therefore a good time to consolidate the mass of existing legislation, before the iterative process of change starts all over again.

B. The Process

One apparent objection to such a programme, however desirable it might seem to be in principle, is that there would not be enough (or any) Parliamentary time. However, this problem can be lessened if the process is carefully managed.

There has been hitherto a practice, spearheaded by the Law Commission, whereby the major statutes were periodically consolidated; and the Commission has been responsible for some 200 consolidation Bills in the 50 years since its creation. The availability of electronic databases means that it is no longer necessary to consolidate legislation solely to produce a reliable up-to-date version of an Act, as amended, but there is still a need for a consolidation process to draw together different enactments on a topic, or series of related topics, into a single Act or set of Acts. The Commission notes that 'The need is particularly acute following repeated legislative activity on a subject over several years that has not resulted in a single statutory text'.⁴⁶ That clearly applies in the case of the statutory code considered in this chapter.

However, the Commission's consolidation programme has been significantly curtailed in recent years. That is no doubt particularly due to shortage of resources. A major consolidation exercise is very time-consuming, and in practice the Commission normally expects a financial contribution to be made by the relevant Government department towards its costs. Just as importantly, there also needs to be a commitment by the department to provide sufficient practical support to see the project through to completion and enactment. And that is likely to include new secondary legislation and guidance, along with training for all the principal stakeholders in the field.

Amendments to legislation, found to be necessary in the course of the consolidation exercise (or already known to be desirable), cannot be directly incorporated in consolidation Acts. However, they could be the subject of a legislative reform order (LRO), made under the Legislative and Regulatory Reform Act 2006. That enables an LRO, which can amend primary legislation, to be made where a Minister is satisfied that the order would remove or reduce any burden resulting from the legislation in question. A 'burden' is defined as 'a financial cost, an administrative inconvenience, an obstacle to efficiency, productivity or profitability; or a sanction, criminal or otherwise, which affects the carrying on of any lawful activity'; and may be 'financial cost or administrative inconvenience resulting from the form of any legislation (for example, where the legislation is hard to understand)'.⁴⁷

An LRO must be the subject of extensive consultation, including with all relevant organisations likely to be affected by the proposals in it.⁴⁸ It is then considered by the Regulatory Reform Committee of Parliament, again in accordance with an expedited procedure.⁴⁹

⁴⁶ lawcommission.justice.gov.uk/areas/consolidation.htm.

⁴⁷ Legislative and Regulatory Reform Act 2006, s 1(3), (5).

⁴⁸ Legislative and Regulatory Reform Act 2006, s 13.

⁴⁹ Standing Orders of the House of Commons, SOs 18, 141.

That might seem to be an attractive method of dealing with any necessary changes; but experience suggests that there can be considerable uncertainty as to what may properly be included within an LRO. The alternative approach would be to have a more conventional amending Bill, incorporating all the necessary technical changes, major and minor, drafted by reference to the relevant statutes as they stand. Such a Bill would hopefully be relatively uncontroversial. It would of course take up some Parliamentary time, but the reward would be that the amending provisions (along with any others made by Parliament during the passage of the Bill) could be incorporated into the emerging consolidated package, timed to come into force on the same date. The result would thus be to bring all the new law into force at once, including the changes – with the possible exception of those relating to acquisition of land.

C. The Next Steps

It would seem that the best way forward is for a dedicated group to be set up to handle the project on a full-time basis, under the direct supervision of the Under Secretary of State for Planning. The devil is in the detail; so the group should be led by an experienced practitioner, with drafting support from the Office of the Parliamentary Counsel (OPC), and professional and secretarial support from the Department for Communities and Local Government (DCLG). It would probably be most appropriate for the group to work within the DCLG. And it would be expedient for the work of the group to be overseen by a review panel or representatives of the organisations and professions likely to be affected by the outcome of the exercise.

The first step would presumably be the production of a full report setting out the broad pattern of the legislation likely to result from the exercise, with an indication of which provisions seem to be redundant. That could be along the lines of this chapter, but much expanded to include full details as to how all of the existing law could best be dealt with, and what changes would be necessary or desirable. As part of this, it would also be essential to consider carefully what other legislation should be included or excluded in such a review. Such a report would need to be produced in conjunction with the Law Commission (as far as it wishes to be involved) and all the key stakeholders in the area – and of course liaising with the relevant authorities in Wales and Scotland. That would be necessary to ensure that all practitioners and others in the field were aware of the forthcoming changes – although it would also assist in complying with the requirements of the LRO procedure if that were eventually to seem the appropriate route to deal with amendments. And the ongoing exercise would no doubt be the subject of appropriate presentations to professional and academic conferences and to Government bodies.

Once the relevant Government departments are committed to going along with the exercise in principle, it would then be possible to prepare a series of new Bills in draft, incorporating all of the existing law, corrections and minor improvements (as defined above). In parallel, either an LRO or, more likely, an amending Bill would need to be prepared, presumably by the OPC, incorporating any more substantial changes. Not the least problematic part of the exercise would be

to check all of the references to and from other legislation, to ensure that the consequential effects of the simplification exercise were properly thought through.

It would also be helpful to produce in parallel as much as possible of the accompanying secondary legislation, as that would probably take on an increased role by way of providing more of the detailed provisions, some of which are currently in primary legislation. Happily, that process would be greatly assisted by following on from the current Red Tape Challenge, which is hugely reducing the amount of secondary legislation.

And finally the LRO or the amending Bill, and the consolidating Bills thereafter, would need to be steered through the relevant Parliamentary process. Bearing in mind that the amending Bill would probably be a relatively uncontroversial measure largely containing technical amendments – such as transferring items from primary to secondary legislation, abolishing redundant provisions, and incorporating principles from established case law – its passage should not be unduly difficult. It would probably not be necessary to introduce a new standing order, as was necessary for the Tax Law Rewrite (TLR) Programme in the period 2000–10.⁵⁰

Consolidation Bills – that is, Bills that consolidate existing Acts with no substantive changes other than corrections and minor improvements – can go through Parliament by means of an expedited procedure, involving consideration by a special joint committee, without taking up scarce parliamentary time.⁵¹ Such legislation is generally prepared by the Law Commission; but there is no requirement that it must be.

D. Timescale

It is difficult to be precise about the length of time that would be required to complete the exercise. However, bearing in mind the experience of those involved with the TLR programme – the nearest comparable exercise carried out recently – an initial estimate might be that it would occupy a full-time group of three or four people for around three or four years.

If therefore, for example, the exercise were to start in early 2016, that would enable the recently elected Government to incorporate into the process (via the amending Bill) any changes it might wish to introduce. With or without any such changes, the resulting package of Bills might be complete in 2018–19.

There would then need to be a run-in period during which guidance could be updated, and websites and printed publications amended. Hopefully, although the form of the new legislation would be much more straightforward than that of the existing legislation, in substance it should be not too dissimilar, so the exercise of

⁵⁰ Standing Orders of the House of Commons, SO 60.

⁵¹ Consolidation of Enactments (Procedure) Act 1949, s 2; Standing Orders of the House of Commons, SOs 58, 140.

rewriting guidance would be not too onerous. That process would also be greatly assisted if the draft Bills were made available at an early stage.

It would of course be possible to introduce the new Bills in several stages, as was done with the TLR programme. That has the disadvantage of necessitating much more complex transitional provisions, although the advantage of resulting in a more extended period in which to update guidance. As noted above, that might be appropriate in relation to the statutory code relating to the acquisition of land, leading to the programme being conducted in two phases. Otherwise, however, it would seem to be preferable to do it in one operation as far as possible.

VI. The Outcome

As an indication of one possible pattern that might emerge from such an exercise, it would seem that 43 statutes could be repealed in whole, and a further 14 in part – as listed in Table 1 – and in their place could be enacted nine new statutes, as set out in Table 2.

Table 2: Planning and development law as it could be

1. *The Town and Country Planning Act 2019*

National and local planning authorities; national policy statements; development plans; neighbourhood plans.

2. *Natural Environment Act 2019*

Natural England; national parks; areas of outstanding natural beauty; nature reserves; trees; hedgerows.

3. *Heritage Protection Act 2019*

Historic England; world heritage sites; ancient monuments; listed buildings; conservation areas.

4. *Promotion of Development Act 2019*

New towns; development corporations; enterprise zones.

5. *Regulation of Development Act 2019*

Definition of development; seeking development consent (planning permission / listed building consent); remedies (appeals, purchase notices); major infrastructure projects; enforcement; special controls (minerals, advertisements, caravans).

6. *Infrastructure Funding Act 2019*

Community infrastructure levy.

7. *Rights of Way and Access to Land Act 2019*

Rights of way; access to open land; village greens.

8. *Acquisition of Land Act 2019*

Acquisition of land by agreement; compulsory purchase; blight; minerals; compensation.

9. *Planning and Development (Miscellaneous Provisions) Act 2019*

Definitions; application to the Crown, statutory undertakers, local authorities; court challenges; repeals; transitional provisions.

The result of an exercise along these lines would be a huge simplification and clarification of an important area of statute law, which would yield significant savings in time and money on the part of professionals, public authorities and members of the general public.

Document is Restricted

HE 20

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: David Thorne
Response from: David Thorne

Annwyl gyfaill

Dyma achub ar gyfle i gyflwyno sylwadau a fydd, gobeithio, o gymorth wrth ystyried Bil yr Amgylchedd Hanesyddol (Cymru).

Cyflwynir yr ymateb ar ran Cymdeithas Enwau Lleoedd Cymru/ *The Welsh Place-Name Society (CELIC)*.

Nod CELIC yw hybu ymwybyddiaeth, astudiaeth a dealltwriaeth o enwau lleoedd Cymru a'u perthynas ag ieithoedd, amgylchedd, hanes a diwylliant Cymru.

Siom inni yw na fu ymgynghori o fath yn y byd gyda Chymdeithas Enwau Lleoedd Cymru yn ystod cyfnod yr ymgynghoriad ar *Ddyfodol ein Gorffennol* yn 2013. Ni fu gennym lais, ychwaith, ar y Grŵp Cyfeirio allanol a gynullwyd yn fuan wedyn.

Mae'n ymddangos inni nad oes gan y cyrff a ystyriwyd yn rhanddeiliaid yn ystod y camau ymgynghori, ddealltwriaeth o bwysigrwydd enwau i'r amgylchedd hanesyddol nac ychwaith ddealltwriaeth o'r angen i ddiogelu enwau. Yn sgil hynny ni chynhwyswyd darpariaeth benodol yn y Bil mewn perthynas ag enwau lleoedd. Byddem wedi gwerthfawrogi gwahoddiad i gynnig tystiolaeth gerbron unrhyw un o'r gwahanol gyrff a gweithgorau. Wedi'r cyfan, nid oes yr un corff arall â'r arbenigedd a'r enw da yn genedlaethol ac yn rhyngwladol i allu cynnig cyngor arbenigol ym maes enwau lleoedd Cymru. Yn anffodus ni dderbyniwyd galwad.

A ninnau'n garedigion brwd o'r amgylchedd hanesyddol, rydym yn unfrydol y dylid gwarchod enwau lleoedd yn union fel y bwriedir deddfwriaeth a chanllawiau i warchod henebion, yr amgylchedd ac adeiladau hynafol. Rhyfedd i aelodau'r gweithgorau fethu ag ystyried, fe ymddengys inni,

bwysigrwydd defnyddio enwau i ddatgloi ac i ddehongli'r amgylchedd hanesyddol.

Barn CELIC yw y dylid cynnwys ENWAU ymysg yr asedau hanesyddol o arwyddocâd cenedlaethol y dylid eu nodi a'u diogelu.

Barn CELIC yw y dylid cynnwys ENWAU ymysg adnoddau bregus yr amgylchedd hanesyddol.

Barn CELIC yw y dylid cynrychioli ENWAU yn fframwaith trefnu gwasanaethau'r amgylchedd hanesyddol yng Nghymru.

Mae Cymdeithas Enwau Lleoedd Cymru yn grediniol fod bwriadau'r Bil Treftadaeth yn gam pwysig tuag at ddiogelu a rheoli gweddillion ffisegol yr amgylchedd hanesyddol yng Nghymru. Mae'r amodau a roddwyd gerbron yn cwmpasu adeiladau rhestredig, henebion rhestredig a pharciau a gerddi hanesyddol. Ac mae enwau, wrth gwrs, ynghlwm wrth bob un o'r gweddillion ffisegol hyn; ac mae'r enwau hyn yn corffori negeseuon a drosglwyddwyd inni o'r gorffennol. Heb ystyried tystiolaeth yr enwau, dehonglu'r enwau a gwarant sy'n sicrhau gwarchod yr enwau, mae'r ddeddfwriaeth arfaethedig yn ei wedd bresennol, yn ein barn ni, yn anghyflawn. Mae hynny'n drueni. Mae'n golli cyfle.

Gobeithio y bydd modd ailystyried a diwygio; a rhoi lle dyladwy i enwau wrth drefnu fframwaith gwasanaethau'r amgylchedd hanesyddol yng Nghymru.

Byddai'r Gymdeithas, yn naturiol, yn croesawu'r cyfle i gyfrannu ymhellach i'r drafodaeth. Hyderwn y bydd modd ystyried hynny.

Byddwn yn gwerthfawrogi petaech yn cydnabod derbyn yr ohebiaeth hon.

HE 21

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Cyngor Sir Ynys Môn (Planning and Public Protection)
Response from: Isle of Anglesey County Council (Planning and Public
Protection)

Thank you for the invitation and opportunity to submit our views to you on this very first legislation drafted specifically for the Welsh Historic Environment.

We warmly welcome the very broad aims and objectives of the Bill but we have a number of points and concerns that we feel are worthy of further consideration.

Our comments and observations on the Bill are as follows:

ADDED PROTECTION

Headline Points:

- **New powers and duty could place added pressures on LPA's at a time of budget cuts.**
- **Since 2006 local authority conservation posts have seen a loss of 35% as well as a reduction in legal service posts.**

The Bill creates new measures that: enable authorities to act quickly if a listed building is under threat from unauthorised works and gives them greater flexibility in dealing with historic buildings that require urgent works to protect them from further decay.

We welcome the measures that extend the scope of the protection to listed buildings as well as the ability to be able to recover costs. We are concerned

however that these measures could place added pressures on LPA's to use their statutory powers at a time of relentless cuts to LA budgets and resources.

We are also concerned that the measure which places a duty for an LA to act quickly will be constrained by not only the budget cuts but also the increased distance staff would have to travel as a result of the new map of LA's in Wales.

URGENT WORKS

Headline Points:

- The draft Bill brings existing historic environment legislation in line with Housing and Building Acts to recover costs
- Creates new impetus for Local planning authorities to act with more confidence in the use of urgent works powers to address buildings at risk, whether occupied or not
- However, needs to be supported by Welsh Government with sufficient funding to allow powers to be effectively utilised

The draft Bill proposes to allow LPA's to extend the scope of the urgent works notice to any part of building where it does not interfere unnecessarily with that use (Part 30 (4a) and an ability to under (6) recover costs under the Act through a legal charge and where necessary an enforced sale.

The extension of the Bill in scope tackles the less scrupulous owners who claimed the building was occupied and therefore the power became moot, despite the occupation being at best interim or an ad-hoc basis to a limited element of the building. This proposed power allows for urgent works to be undertaken where it would interfere with a residential use and no doubt undertaking the works could benefit the occupier.

The new power will give local planning authorities more confidence in the use of the power as the risk of taking action and not recovering their

investment is reduced significantly and brings the law in relation to historic buildings in line with similar powers held under the Housing and Building Acts, which is welcome.

However, the powers will only be useful if there is financial and strategic direction provided by Welsh Government in supporting their use and ensuring a national strategy for buildings at risk. Cadw has undertaken much sterling work in recent years in providing a comprehensive national snapshot of the condition of Wales' designated Listed Buildings and has offered some financial support towards talking particular buildings. However, without a national strategy to support tackling buildings at risk, the powers real ability to contribute to saving the nation's designated heritage assets will be diminished.

CERTIFICATE OF IMMUNITY

Headline Points:

- **By relaxing the conditions for applications will Cadw be able to cope with the reactive increased workload?**
- **We are uncertain what implications this will have on LPA's who are familiar with our buildings.**

We welcome the measure that makes it easier for owners or developers to create sustainable new uses for unlisted buildings by relaxing the conditions for applications for certificates of immunity from listing.

We do have a concern that Cadw may not be able to cope with the potentially reactive workload that the measure seeks and we are also concerned that in turn it may place an additional burden on ourselves.

Local building knowledge could place reliance by Cadw onto LA's to respond to a greater volume of enquiries than currently exists at a time of reducing conservation posts.

WALES HISTORIC PARKS AND GARDENS

Headline Points:

- **Disappointment that the measure does not provide protection**
- **Uncertain what implications the measure will have for decisions on developments directly and indirectly affecting them**

We welcome the measure that creates a Statutory Register of Wales Historic Parks and Gardens to bring it in line with its English Sister over the border. We are slightly disappointed that the Bill does not provide for any statutory protection in the form of legislation and we will have to give very careful consideration how we will respond to planning application that directly affect our Historic Parks and Gardens and their settings.

Planning Appeals and Court Case Judgements will have to be monitored in order for LPA's to understand what level of protection to give when determining planning applications.

PARTNERSHIP AGREEMENTS

Headline Points:

- **Clearly a need due to the current number of LB's in Wales and the declining resource allocated to deal with them**
- **The measure comes at an unwelcome time of budget cuts**

We acknowledge the growing need for Heritage Management Partnerships in certain circumstance but we have concerns that there may not be the capability or the expertise to respond to the reactive nature of this in the first instance let alone provide a stable monitoring and reporting process.

An added concern is the need to have dedicated specialists not only in conservation disciplines but also in specialist legal services at a time of growing uncertainty with the shape and form of LA's in Wales.

HERS

Headline Points:

- New duty imposes additional future costs on Local Planning Authorities at a time of budget cuts
- Proposal overplays the relevance of HERS to day to day planning decision making, with less than 12% of planning application having a HER input, suggesting the proposal for LPA's to take responsibility is flawed
- Through new requirements on staff to maintain the record, gives greater emphasis to record keeping than managing heritage assets or change to them through planning
- Alternative arrangements need to be considered, including the duty being transferred to Ministers (and delivered through the Royal Commission and Trusts).

The draft Bill makes reference to a new statutory duty : 'Each local planning authority in Wales must create and keep up to date a historic environment record.' Part 4, 33 (1), which lead to a number of potentially serious impacts on the Local Planning Authority (LPA). A number of questions remain unanswered by the Bill's explanatory document and draft accompanying guidance, namely:

Relevance to LPA's – it is unclear what the relevance of the HERS is to day to day decision making, beyond the statutory records the LPA already holds to inform decision making (Listed Building descriptions, Conservation Area appraisals etc) and the proportion of HERS inputs into other non-designated heritage assets. For example, in the last year to 17th June 2015 Isle of Anglesey received 1,210 planning applications of all types, to which we received 139 responses on the HERS from the Trust on planning applications, or only 11.5% of the all the applications it processes. This indicates the lack of relevance for HERS within the LPA.

Ownership – This remains unresolved, where the Welsh Archaeological Trusts see themselves as the legal owners, yet the Council are duty bound to maintain, in effect through the draft Bill someone else's asset where the

LPA's appear ultimately responsible for all the costs for but proportionally see little benefit.

Understanding of Costs & Impacts – The costs and options in the Explanatory memorandum are not crystal clear on the impacts to LPA's, especially in the circumstances where the current Royal Commission funding support to the Trusts to maintain the HERS in the future diminishes or is withdrawn and the impact on already stretched LPA budgets and the likely future pressures to deliver a mainstream Planning service created by the Planning Bill.

Equality of competencies – The Bill introduces detailed requirements placed on LPA's to ensure skilled archaeologically focussed officers are employed to maintain and manage the HERS. No such requirements are placed on LPA's in relation to LB/CA as designated heritage assets for Conservation Officers, surely this is suggesting government is placing greater weight on records than the actual asset and was not their intention. It could also rather perversely mean that the only statutory post within a LPA is that of a HERS officer, not a planner.

Standards – Should the HERS be transferred to LPA's, how will they respond to planning service needs and in maintaining collection standards for archives and record keeping, how will these be dealt with, especially in relation to IT system integration and updating costs, which differ from existing Planning IT systems. The Royal Commission could also impose new standards, with the burden falling on LPA's to fund any shortfall at a time of budgetary constraint.

Accountability – The split of the statutory responsibility and costs to the LPA and standards to the Royal Commission, while the record is held by a third party (a Trust) appears to indicate a confusing split for proper management and oversight. Sufficient safeguards should be established to ensure LPA's are not left exposed to the costs being incurred and changes in collection standards.

Legacy Issues – Categorical reassurance have to be given to LPA's over unresolved historic and potential future pension and tax liabilities of the Welsh Archaeological Trusts, given previous problems suffered by at least one of the four bodies. LPA's should not be held liable for additional costs due to poor financial management of an external body.

Conclusion

While it could be argued as to the value or not of a statutory of HER, the real issue is placing it with an LPA just seems wholly the wrong fit, especially as most relevant records are already held by LPA's. The current proposal misunderstands and overplays the limited role of HERS in day to day planning decision making and the impact on Development Control work. The better location would be with Local Archives or remaining with the Trusts but overseen and the duty resting with the Welsh Ministers through the Royal Commission.

The issues of the potential impact of costs was briefly touched upon in a previous report by the National Assembly's on Historic Environment policy from March 2013 and the matter of HERS was only briefly discussed but became a recommendation – number 2 (pg 24 / para 48). As the IFA mentions "we cannot be confident of maintaining that provision in the future in the light of the funding challenges facing all public bodies".

In effect the funding challenge has been recognised with the current arrangements and somehow the Bill suggests placing the costs with LPA's is the preferred solution, potentially placing other elements of planning at risk, as budgets inevitably diminish over the coming years potentially placing more mainstream planning activities at risk from this most recent proposal set out in the draft HE Bill.

FORMAL CONSULTATIONS

Headline Points:

- The proposed measure could result in the significant alteration or the loss of historic assets contrary to what the current measure provides

We understand the need to introduce the measure that make existing structures for the designation of nationally important historic assets more open and transparent by introducing formal consultation with owners as well as establishing a mechanism to review those decisions.

The measure will remove the uncertainty we have at present during the formal planning process however; unsympathetic and aggrieved owners may alter or even demolish historic buildings after being formally consulted on proposed scheduling or listings which the present measure does not allow this to happen.

ADVISORY PANEL FOR THE WELSH HISTORIC ENVIRONMENT

Headline points:

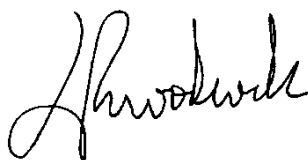
- Welcome creation of the Panel to advise Ministers but needs to avoid duplication with the existing Historic Environment Group (HEG)
- Needs to be transparent in appointment, working and reporting to ensure credibility.

The creation of an Advisory Panel is welcome, in providing expert advice to the Minister. This proposal deals with the abolition of the former Ancient Monument Board and Historic Buildings Council for Wales in 2006. The proposed range of exclusions ensures wider set of contributors, given the dominance of certain interest and lack of transparent appointment on the existing Historic Environment Group (HEG). The Panel is vital to ensure voices beyond Welsh Government have a route to the Minister but needs to avoid duplication with HEG's role.

However, the Panel needs to be vehicle whereby expert opinion could genuinely challenge Welsh Ministers and Cadw on their policies and strategies, and drive a positive agenda. It could be questioned how independent the panel would be, given that its members would be appointed by the Welsh Government and that its work programme must be approved by

the Welsh Ministers. Since the Advisory Panel is intended to introduce greater transparency and accountability it is generally felt that the Bill and Explanatory Memorandum should explain how transparency and accountability are to be achieved – the Historic Environment Group (HEG) for example has done useful work but this goes unreported and unpublished. For instance, in comparison to HEG the Advisory Panel’s work must be wholly transparent with its work programme published, while at present there is apparently no requirement to publish its output and this should be considered a statutory obligation.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Shrookwell', written in a cursive style.

Head of Planning and Public Protection
Isle of Anglesey County Council

HE 22

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cytun – Eglwysi Ynghyd yng Nghymru

Response from: Cytun – Churches Together in Wales

1. Cytûn is the umbrella body for twelve major Christian denominations in Wales. It has consulted with the Property Officers of our member churches and Category B members (other Christian bodies working in the field) in compiling this response.
2. CADW estimates that there are at least 30,000 listed buildings in Wales, and a ministerial answer to Mike Hedges AM indicated that approximately 4,500 of these are religious buildings or structures. The vast majority of these are in the care of Christian churches in membership of Cytûn, although some are in the hands of other Christian bodies, some have been purchased by other religious communities and some are now put to non-religious uses. We therefore have a considerable interest in the matters covered by this Bill.
3. In what follows, we refer on occasions to the procedures for Ecclesiastical Exemption, as the absence of explanation regarding the effect of the proposed legislation and guidance on these processes in the documentation so far issued (see paras 5-6 below) is of concern to the denominations affected. However, the remainder of our response relates to all historic church buildings in Wales.
4. We welcome the publication of draft guidance and a draft TAN 24 alongside the Bill, although we regret that the **Strategic Action Plan for Historic Religious Buildings** is not yet available. Almost all church buildings in Wales are in some sense 'historic', and the provisions of this Action Plan will be of key importance to our member churches' management of these assets in the coming years. The Heritage officers from the Local Authorities in South Wales have formed an informal partnership – the churches are represented by Sanctaidd on this partnership. Sanctaidd is a Category B member of Cytûn and is party to this response.
5. We are concerned that the only mention of **Ecclesiastical Exemption** in any of the draft guidance which has been published is in paragraph 5.17 of the draft TAN 24. We understand that the draft regulations regarding the application of the provisions of the Bill to those buildings which enjoy Ecclesiastical Exemption from secular Listed Building Consent procedures will be published alongside the Strategic Action Plan. Only when we see those draft regulations will we know exactly how some of the legislative changes currently proposed affect those Christian churches covered by Ecclesiastical Exemption. It is important to note that the Ecclesiastical Exemption procedures were devised in order to preserve an appropriate balance between protecting the historic features of the building and permitting the continued use of places of worship for the purpose for which they were intended as styles of worship evolve and change.
6. We believe that it would be helpful if a statement similar to that of para 5.17 of draft TAN 24, in less technical language, could be included in all of the relevant documents. Religious buildings subject to Exemption are often managed by local volunteers who are not fully conversant with the intricacies of Exemption, and even professional advisers who do not work regularly in the field of religious buildings may be unaware that they should follow a different process from usual in seeking Listed Building Consent. We are also concerned that

the wording in para 5.17 could be taken, erroneously, to imply that no consent is required for altering or demolishing such buildings. We suggest a wording along the following lines should be inserted at an early point in each relevant document:

Listed building and conservation area consent operates differently in the case of ecclesiastical buildings belonging to the Church of England, the Church in Wales, the Roman Catholic Church, the Methodist Church, the Baptist Union of Great Britain and the Baptist Union of Wales. When consideration is being given to changing, extending or demolishing a listed building in the care of one of these Christian denominations, the denomination concerned should be contacted for guidance.

(This wording assumes that the United Reformed Church in Wales will be excluded from Ecclesiastical Exemption by regulation, as it has requested).

7. We are also puzzled that fn 64 to para 5.17 of TAN 24 states that the current guidance on Ecclesiastical Exemption *is under review to put in line with that published in England in 2010*. We presume that the guidance for Wales would need to be different from the 2010 English guidance in order that the provisions of this Bill, once passed, may be taken into account.
8. We would remind the Committee that the procedures operated by the denominations covered by Ecclesiastical Exemption (a more accurate term would be *Ecclesiastical Consent*) are if anything more rigorous than those operated in the secular system – for example, notification is required of like for like repairs, which is not required in the secular system. The church denominations concerned, together with the Presbyterian Church of Wales (which does not have Ecclesiastical Exemption) also ensure that a quinquennial inspection is made of each listed building in their care. The Church in Wales will be submitting to the Committee more detailed evidence regarding its procedures.
9. **Heritage Impact Assessments** (TAN 24, para 5.6, B.10). We welcome this proposal to bring together into one document several existing documents which are currently required (such as the Statement of Significance and Statement of Need). This should avoid duplication of effort and make reading the material simpler. Are we correct in assuming that this new requirement will apply to Ecclesiastically Exempt buildings?
10. **Heritage Partnership Agreements** (TAN 24, para 5.13). We welcome this proposal, although we are unclear how (if at all) it would relate to Ecclesiastically Exempt buildings. We would note that on a practical level bringing together all the parties concerned in a Partnership may not be easy, and that the effective operation of a time-limited agreement will depend on there being funding in place. It is lack of funding which often requires work on a group of buildings to be phased over a period of years. Some Christian denominations are opposed to applying for lottery based grants for repairs or projects due to ethical opposition to the way in which the funds are raised. This places an even greater challenge to create a financially secure position from which to develop a medium to long term strategy.
11. **Pre-application discussions** (TAN 24 Appendix B, para B.9). We welcome the sensible suggestion that pre-application discussions should take place, and we would note that this is standard practice within Ecclesiastical Exemption procedures. We are concerned, however, at the possible financial implications when a local authority conservation officer is involved in such discussions, as a fee is usually charged. This is a particular problem for religious bodies and other not for profit organisations when they are trying to make conserving a listed building financially viable. The charging of a fee could discourage any form of pre-application discussion. We suggest that the Government consider regulating the fees that

are charged in such circumstances. No fees are payable on applications for listed building consent, either via Ecclesiastical Exemption or in the secular system.

12. **Application process** (TAN 24 Appendix B, para B.10). We note that the secular system uses a digital application process. This has not yet proved possible (for cost reasons) for Ecclesiastically Exempt denominations. If smaller denominations had to install IT and train staff to operate online systems the financial impact would be crippling and disproportionate. We wonder, therefore, whether it might be possible for Exempt churches to use the secular online portals. This would also improve the transparency of the ecclesiastical consent processes, and help with ensuring the completeness of records of listed buildings in an area (see para 13 below).
13. **Managing Historic Environment Records in Wales.** We welcome this guidance note and the intentions behind it, and fully support the maintenance and enhancement of the existing record base. Clearly, these records need to be as comprehensive as possible. We would note that we are not aware how, if at all, the agents who manage these records currently source information regarding historic places of worship for inclusion, and we would hope that a way can be found for this to be done more systematically, in partnership with the churches concerned.
14. **Unauthorised works.** We welcome the clearer powers proposed for Local Planning Authorities (and, in extremis, Welsh Ministers) to intervene in the case of unauthorised works to listed buildings. We would urge that these powers be used in a proportionate manner, recognising that some unauthorised works involve inadvertent and superficial damage to properties, and that this can apply especially to buildings such as religious buildings which are perforce managed by unqualified volunteers with very limited resources, both in terms of finance and in terms of their knowledge base.
15. **Appeals procedure.** We note with concern that it is not proposed to introduce a formal process to appeal against the listing of a building or to ask for review of the designation of a building. We would commend to the attention of the Committee the provisions in England which are outlined at <https://www.gov.uk/how-to-challenge-our-decision-to-list-or-not-list-a-building> and especially the straightforward Listing Review Request Form and the user friendly Guidance Notes which accompany it, and would commend the introduction of such a procedure in Wales.

There are in Wales, sadly, a large number of redundant listed places of worship. In some cases, the burdens imposed by listing have contributed to the redundancy. In others, the absence of a clear review process prevents the development of the building or site for uses of benefit to the community, such as affordable housing. We believe that a streamlined process of appeal and review would offer benefits both to keeping some places of worship in use as such, and also in allowing redevelopment which would benefit the community as a whole, and that this is the ideal opportunity to introduce such procedures.
16. **Certificate of immunity from listing.** We note with interest the proposal to introduce such a certificate, and we can see that it might have some value in certain circumstances. However, we would suspect that the making of an application for such a certificate would draw attention to the possibility that a building should be listed, and also that it would often result in the building being included on a local list of historic assets, with possible deleterious consequences for the owner of the building and the work s/he might have hoped to carry out on the building (see paras 18-19 below).

17. **Wales Advisory Panel.** We welcome the establishment of this Panel to ensure that appropriate advice is available to Welsh Ministers. We would be grateful for clarification as to the Panel's role with regard to historic places of worship in general, and Ecclesiastically Exempt buildings in particular. We would hope that at least one panel member would have the relevant knowledge and expertise to represent our unique situation.
18. **Managing Lists of Historic Assets of Special Local Interest in Wales.** We have read this Guidance Note with considerable concern. We understand the value of maintaining lists of historic assets which are not Scheduled Monuments or Listed Buildings. However, we do not understand what the status of this Guidance and, especially, of inclusion on the local list would be. We are also concerned about the lack of any clear process for inclusion of a building on these lists. It appears that the process lacks independent decision making based on agreed criteria – and that these decisions might possibly be made by an arbitrary group drawn from specific local interest groups and without any consultation with the building owners. Cadw apply recognised criteria when considering any request for a building to be protected which are carefully judged by an Inspector with appropriate expertise and knowledge.
19. We note with particular concern the statement in section 3 (page 4) that these local lists would have some status in the Local Development Plan. However, there is no consent process similar to that for Listed Buildings other than the ordinary planning application process. It appears therefore that there could be a paradoxical outcome in that buildings included on a local list might be more vigorously protected than those on the Lists maintained by Welsh Ministers, as a local planning authority could refuse consent for making changes to such a building even though were it Listed by Welsh Ministers consent might be given. We suspect that religious buildings are amongst those most likely to be listed as of local significance. Small local congregations are unlikely to be in a position to appeal such a refusal of consent. Even those in denominations which benefit from Ecclesiastical Exemption would not have the protection of Ecclesiastical Exemption procedures in the case of a building not Listed by Welsh Ministers. We would therefore urge that this Guidance be clarified, and that the paradoxical consequences suggested above be avoided.

We are grateful to the Committee for the opportunity to submit this response, and would be happy to provide any further information that might be helpful to the Committee in its deliberations.

Parch./Revd Gethin Rhys

Swyddog Polisi'r Cynulliad Cenedlaethol / National Assembly Policy Officer

Cytun - Eglwysi Ynghyd yng Nghymru/Churches Together in Wales

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Tel: 029 2046 4378 Mudol/mobile: 07889 858062

Hapus i gyfathrebu yn Gymraeg ac yn Saesneg. Happy to communicate in Welsh and English

Mae Cytûn yn gwmni cofrestredig yng Nghymru a Lloegr | Rhif: 05853982 | Enw cofrestredig: "Cytûn: Eglwysi Ynghyd yng Nghymru/Churches Together in Wales Limited" | Mae Cytûn yn elusen gofrestrredig | Rhif: 1117071 | Cytûn is a registered company in England and Wales | Number: 05853982 | Registered name: "Cytûn: Eglwysi Ynghyd yng Nghymru/Churches Together in Wales Limited" | Cytûn is a registered charity | Number: 1117071

HE 23

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: The Georgian Group
Response from: The Georgian Group

Introduction

The Georgian Group welcomes the opportunity make this submission to the committee. The Georgian Group is a statutory amenity society in England and Wales. We must by law be consulted on any planning applications affecting listed Georgian buildings, monuments, parks and gardens, of which there are about 6000 every year in (England and Wales).

There are a number of listed Georgian buildings in Wales, many of which are unwanted and unfortunately unsalable. We have identified around 50 Georgian houses in the Welsh countryside that are currently at risk. Local Authorities have a record of not using their powers, including never issuing CPO notices, and rarely using repair notices to save such buildings. In the recent past, even Grade I listed buildings (i.e. Gwrych Castle) have been lost due to Local Authorities not implementing their powers fully.

The County Councils are in 'pole position' regarding the administration of heritage legislation through the planning system. It is important that they implement new regulation uniformly across Wales. They exist in a difficult financial climate, which makes it impossible for them to perform at the best of their abilities. Austerity measures within County Councils have led to many skilled personnel to leave the public sector. Over the last few years, there has been a noticeable drop (over 35%) in the number of qualified Conservation Officers within the Local Authorities in Wales. Some Local Authorities have seen their conservation departments shrink by two thirds. We are concerned that the administrative responsibility by this legislation would fall upon the County Councils, who may not have the capacity to employ suitably qualified staff. The result could be simply to degrade the whole issue of heritage regulation. The Bill does not deal with the fundamental issue of resources. There is a strong probability that the new legislation is not properly administered, or that they are used by unqualified individuals who will have significant added powers at their disposal. Our concern is that listed buildings will become tainted, unattractive and unsalable if the new regulations are not implemented uniformly across Wales.

The recommendations of the Williams Commission will also have an effect on the implementation of any legislation arising from this Bill. The County Councils will be in a state of transition, the Bill does not address this important issue. In any case, placing significant additional levels of work on County Councils without having audited their past performances, and thus their abilities to take on new work could well result in the new regulations simply not being effective, and at worse causing endless hardship to members of the community when regulations are miss-applied.

Given the lack of available resources, the emphasis must not be on compulsion, but on the enthusiastic use of guidance notes. Detailed guidance notes across a range of issues should be issued in order to help preserve our historic environment.

There is no national policy for Buildings at risk in Wales, despite around 3500 currently being at risk. No action is being taken, especially in regards to the owners that are deliberately neglecting their buildings, and refusing to put them on the open market. Appropriate regulations need to be in place to address this important issue. One potential solution would be to bring such building back into rating. The Local Councils could enforce these charges in order to encourage the owners to take appropriate action; i.e. to sell or to repair.

Specific comments arising from the Bill:

p5- 1AD Compensation for loss or damage caused by interim protection

(1) This section applies where interim protection in respect of a monument ceases to have effect as a result of the issue of a notice by the Welsh Ministers under section 1AB(4)(b) or (5)(b).

(2) Any person who, at the time when the interim protection took effect, had an interest in the monument is, on making a claim to the Welsh Ministers within the prescribed time and in the prescribed manner, entitled to be paid compensation by the Welsh Ministers in respect of any loss or damage directly attributable to the effect of the protection.

(3) The loss or damage in respect of which compensation is payable under subsection (2) includes a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the monument on account of the interim protection having effect.

Sites of archaeological remains should be clearly marked on site. All sites should be marked similarly to that of public footpaths, in order to clearly identify the location of archaeological sites. Maps should be circulated with County Councils, Land Registry, NFU, Libraries, as well as with the amenity societies.

p6 – 1AE Review of decisions on certain amendments relating to the Schedule

(4) Except as provided in section 55, the validity of any decision taken by the Welsh Ministers on the review is not to be questioned in any legal proceedings.

This subsection appears to put the Welsh Ministers above the law. The validity of any decisions should be open to legal proceedings.

p15 - 9ZF Scheduled monument enforcement notice: power of entry

(1) A person duly authorised in writing by the Welsh Ministers may at any reasonable time enter any land for any of the following purposes—

- (a) ascertaining whether a scheduled monument enforcement notice should be served;
- (b) securing that a scheduled monument enforcement notice is affixed for the purposes of service in accordance with section 56(2)(b); *Historic Environment (Wales) Bill*
- (c) ascertaining whether a scheduled monument enforcement notice has been complied with.

Entry to any land must follow written notice.

p16- 9ZF Scheduled monument enforcement notice: power of entry

(2) If steps specified in a scheduled monument enforcement notice for the purposes of section 9ZC(3)(d) have not been taken within the period so specified, a person duly authorised by the Welsh Ministers may—

- (a) at any reasonable time enter the land in, on or under which the monument is situated and take the steps concerned; and
- (b) recover from the person who is then the owner or lessee of the monument or land expenses incurred by them in doing so.

Under section (b), the general public pay taxes for officials to undertake such actions. It would be over zealous for the owner to pay any recovery costs in this instance.

p18 - 9ZJ Temporary stop notice: power of entry

A person duly authorised in writing by the Welsh Ministers may at any reasonable time enter any land for any of the following purposes—

- (a) ascertaining whether a temporary stop notice should be served;
- (b) securing the display or removal of a temporary stop notice or securing that it is affixed for the purposes of service in accordance with section 56(2)(b)
- (c) ascertaining whether a temporary stop notice has been complied with;
- (d) considering a claim for compensation under section 9ZL.

Entry to any land must follow written notice.

p19 - 9ZK Temporary stop notice: offence

(5) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

Under this subsection, indication of level of fine is needed. Will the courts decide? There should be a stated maximum.

p23 – 41A Register of historic parks and gardens

(2) The Welsh Ministers must decide whether, or to what extent, it would be appropriate to include as part of the registration of grounds of a description referred to in subsection (1)—

- (a) any building or water on, or adjacent or contiguous to, those grounds, or
- (b) any land adjacent or contiguous to those grounds.

The above section is not specific enough. More information is needed in order to avoid doubt.

p39 - 44C Temporary stop notices: offence

(5) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

Under this subsection, indication of level of fine is needed. Will the courts decide? There should be a stated maximum.

p40 - 44D Temporary stop notices: compensation

(4) In section 88 of that Act (rights of entry), after subsection (3) insert—

“(3A) Any person duly authorised in writing by a local planning authority in Wales may at any reasonable time enter any land for any of the following purposes—

- (a) securing the display or removal of a temporary stop notice (see section 44B);
- (b) ascertaining whether a temporary stop notice is being complied with;
- (c) considering any claim for compensation under section 44D.”

Entry to any land must follow written notice.

p41 - 30 Urgent works: extension of scope and recovery of costs

(6) In section 55 of that Act (recovery of expenses), after subsection (5) insert—

“(5A) Where the Welsh Ministers make a determination under subsection (4), the owner of the building or (if it is given notice under subsection (5)) the local authority may, within 28 days of the service of the notice under subsection (5), appeal to the county court against the decision.

There is a concern that the 28 days window in which to appeal any determinations will be inadequate. A time period of 60 days would be sufficient. The owner may be away on holiday or working abroad and would be unable to challenge any costs recoverable for urgent works.

(5B) In the case of a building in Wales, as from the time when the notice under subsection (2) becomes operative, the expenses which an authority may recover under this section carry interest at such rate as the authority may fix until recovery of all sums due under this section; and the expenses and any interest are recoverable by the authority as a debt.

The authorities will have the power to levy interest. This should not be over burdensome; it should be based on the base rate at the time.

p45 - 37 Establishment of Panel and work programme

(1) The Welsh Ministers must establish a panel of persons, to be known as the Advisory Panel for the Welsh Historic Environment (“the Panel”).

(2) The purpose of the Panel is to provide the Welsh Ministers with advice on matters relating to the formulation, development and implementation of policy and strategy in relation to the historic environment in Wales; and for this purpose “Wales” has the same meaning as in the Government of Wales Act 2006 (c.32) (see section 158(1) of that Act).

Having set up the Advisory Panel for the Welsh Historic Environment, the Welsh Ministers should have a duty to take up the panel’s recommendations, other than for compelling reasons in exceptional cases. Private owners and amenity societies must be represented.

Under Section 28- The Georgian Group welcomes the proposed Heritage Partnership Agreements. In reality, the Local Authorities may not willingly join into any partnership, particularly if the building/buildings are in divided ownership. The wording states ‘may’ enter into such an agreement rather than ‘will’. We are concerned that the Local Authorities, due to the potential extra workload, will decline to enter such agreements.

Creation of a statutory register for historic parks and gardens - The non-statutory register currently includes 386 parks and gardens of special historic interest. The new statutory status of the register will not be accompanied by additional legal restrictions on historic parks and gardens or the introduction of a new consent regime. However, the intention is to amend regulations to direct LPAs to consult with Cadw on all planning applications affecting grade I and II* sites and with a nominated amenity society on all planning applications affecting registered parks and gardens. We are concerned that the new register will simply be too burdensome to the Local Authorities and to private individuals. What is the definition of works? Will there be consequences if an individual plants the incorrect species of plant? Additional legal restrictions should be limited to significant earth moving, any minor changes should not be subjected to over regulation.

HE 24

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cyngor Sir Ddinbych

Response from: Denbighshire County Council

Thank you very much for inviting Denbighshire County Council to comment on the general principles of the Historic Environment (Wales) Bill. The Council is supportive in principle of the following measures as laid out in the Historic Environment (Wales) Bill and associated draft guidance:

Section 3 – ‘Amendments relating to the Schedule’: The proposed consultation and review process for Ancient Monuments and Archaeological Areas.

Sections 13 – ‘Temporary stop notice’: The introduction of stop notices for Ancient Monuments.

Section 16 – ‘Damaging certain ancient monuments’: The tightening of the terms, under which the perpetrators of damage to Ancient Monuments and Archaeological Areas can plead ignorance.

Section 33 – ‘Historic environments records’: This provides this statutory basis for HER’s that are important repositories of information and the backbone of archaeological decision making within the planning process. They are also an increasingly useful source of information relating to historic buildings and historic landscapes, although the origin of the HERs in archaeological, site-based information is still apparent.

However, there is concern regarding details or lack of information on the following sections of the Heritage Environment (Wales) Bill and associated draft guidance documents:

Section 16 – ‘Damaging certain ancient monuments’: It is felt that the measures provided regarding the defence of ignorance in the draft Bill are too weak. Whilst it is appreciated that there are arguments relating to inadvertent damage, it would have been preferable to see the defence of ignorance removed because the wording of the draft Bill would allow perpetrators of damage to Ancient Monuments too much latitude to escape prosecution or penalty; ultimately it will be one person’s word against another. For example, the defence of ignorance is not lawful within the framework of the Habitats Directive.

Section 33 – ‘Historic environments records’: For Local Planning Authorities (LPAs) who do not already understand the value and role of the HERs, the vague wording of the definition of a HER, specifically with respect to undesignated assets (the core of the HER) is potentially problematic. There is a danger that some LPAs might decide to discharge the new statutory responsibility by maintaining their own HER (i.e. prepare a HER including the bare minimum outlined in 33[2][a]-[j] with minimal further additions – as the wording of the draft Bill appears to imply is their prerogative to do so) to the detriment of the cohesion of the current pan-Wales approach. The supporting guidance document (see draft ‘Managing Historic Environment Records in Wales: Statutory Guidance’) lays out the detailed requirements of an HER and the proposed arrangements for evaluating and benchmarking whether these requirements are met. However we feel that these guidelines need strengthening and clarification and that more of the detail of the requirements should be included in the wording of the Bill itself.

The wording of the draft Bill places a duty on the LPAs to consider which assets should be included on their HER. Does this imply that every entry in the existing HER, and future inclusions, within the LPA area has to be validated by the authority for inclusion on their HER or scrutinised in some way? As the

existing HER has been compiled over 40 years and has tens of thousands of entries this would have a major resource implication. Linked to this, would LPAs be liable for any inaccuracies in the HERs? Is there a process for challenging inclusions and would LPAs find themselves in the position of having to justify entries? The wording could be read as implying that only LPAs can add entries onto their HER. Presumably this isn't the intention; it would not be practicable for Welsh Archaeological Trusts (WATs) to have to get LPA authorisation for proposed additions. Could the wording be clarified in this respect and/or any approval arrangements outlined?

We support in principle the continuation and formalisation of arrangements with the WATs concerning access to the regional HERs which they have developed and which they manage. The authority has access to the Clwyd-Powys Archaeological Trust HER and excellent Wales HER online GIS and database system through an informal arrangement which will need to be formalised in due course to meet the requirements of the Bill. It is not anticipated that the proposed measures would have any additional cost implications. The HER is well managed and its staff are competent and helpful.

However, given that this is a statutory responsibility that we will, effectively, be outsourcing to an external organisation, additional details should be provided in the Bill and guidance concerning the WATs in relation to: governance (e.g. appointment and term of office of trustees; consideration of representation of LPAs amongst trustees), scrutiny, separation and independence of commercial/contract and curatorial functions (the WATs are both educational charities and commercial businesses – the details given on this matter – a link to a page on the Glamorgan Gwent Archaeological Trust website - in the HER guidance paper supporting the Bill are inadequate). What would be the implications of failure of a WAT as a business for the discharge of a LPA's statutory responsibility towards HERs? We understand that an HER charitable trust has been established to hold the data of the HERs separate from the WATs themselves but would like further information on this and details of the mechanism for transfer and maintenance of the data. We understand that Cadw are committed to funding the continuation of the HERs in the event of failure of a WAT. How would this work and would it cover all staff costs etc. such that LPAs will not be exposed to potential costs in having to meet the statutory requirement in the event of the failure of a WAT?

Section 25 – 'Amendments relating to the temporary listing of buildings': The new proposal includes interim protection "as if the building were a listed building". There is no appeal mechanism against listing at the moment so the Bill provides owners the opportunity to ask for a review. However, a risk for Welsh Ministers is that there will be an opportunity for an owner to make a claim for loss or damage as a result of a building being granted interim protection but not ultimately listed.

Section 28 – 'Heritage partnership agreements': This is a significant alteration to the legislation, which allows Welsh Ministers or local planning authority to enter into a heritage partnership agreement (HPA) with owners or others who have an interest in a listed building. These agreements need careful thought and Cadw have indicated that additional guidance and possibly a template may be useful in drafting the agreements.

Section 29 – 'Temporary stop notices': Local planning authorities will receive significant new power to serve a temporary stop notice where unauthorized works are being carried out on a listed building. Though, it also carries a risk to LPAs in that compensation may be payable in certain circumstances to an owner or others who have an interest in the building.

Section 30 – 'Urgent works': extension of scope and recovery of costs: At the moment the cost of carrying out urgent works in default can be recovered from the owner if necessary through the courts but this can prove to be difficult such as when the owner is an off shore company or where recovery would cause hardship to the owner. This section gives local planning authorities the power to place a charge on the property. This is important because it refers to the Law of Property Act 1925 and the power to enforce the sale of the property. If the property has value this might allow the recovery of some or all the urgent works costs but at the moment it is unclear whether the LPA charge will be a priority charge

above other charges such as that from a mortgage company. Regardless of whether the recovery of costs is possible, this is useful power to bring about a change of ownership where the owner of a listed building is seen as principal cause a buildings poor condition. It is disappointing however that the Bill does not go further to reduce the risk to local authorities in using their enforcement powers and some measures that would help reduce the number of buildings at risk.

Draft guidance document *'Managing Lists of Historic Assets of Special Local Interest in Wales'*

The guidance on local lists is confusing and there is concern about the prospect of having to consult on the inclusion of any item (heritage asset) on the list. How would this work in practice? The resource implications would appear to be prohibitive not least in terms of staff time. The guidance doesn't appear to discriminate clearly enough between buildings and other types of historic asset despite the fact that the local lists have their origins in historic buildings (and the former grade III Listed Buildings).

Further, local lists will need to be included within the HER. There is further concern that this will lead to a double standard in the mechanisms for inclusion of new sites in the HERs. Could this lead to requirements to consult on the inclusion of all heritage assets in the HER in the long term? This would be highly problematic. Also, might the creation of a hierarchy of 'local' assets, consulted compared with non-consulted, risk undermining the value of the HER as a material consideration within the planning process?

Associated draft policy and guidance documents (for consideration but not formally part of the Bill consultation)

Cadw state that before formal issue, all of the documents will be subject to full public consultation and that this will probably occur early in 2016. However, how meaningful will this consultation be as there may be limited scope at that point to make significant changes to the documents (because the wording of the Bill will have been formalised already). Although it is a hefty quantity of information to wade through, it probably is worth looking at the documents now, not least because, alongside the Explanatory Memorandum, it helps to make sense of some of the less immediately clear elements of the draft Bill. This is particularly the case for the draft statutory HER guidance.

HE 25

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr
Response from: Bridgend County Borough Council

Having considered the content of the proposals of the above document, I have the following comments to make;

1. Giving more effective protection to listed buildings and scheduled monuments;

1.1 With regard to proposed interim protection measures afforded whilst Welsh Ministers are determining whether a building should be listed, clarification is sought on the likely timescale in which a decision will be made as this may affect the registration and determination of planning applications/listed building consent applications rather than as specified "as soon as possible".

1.2 All notifications should be sent to the Planning Department and copied to the relevant Conservation Officer to mitigate potential appeals and any effect on determination statistics in relation to the above

1.3 Para 2(D) where a review of certain listing decisions is undertaken, the local authority should be identified as one of the immediate consultees

1.4 Building preservation notice – sustained reluctance by local authorities to serve a notice due to the risk of compensation which is dependent on a decision by Welsh Ministers

1.5 Temporary Stop notices and Urgent works notices have compensation opportunities and costs associated and despite the imposition of a land charge, will it provide confidence that the costs are recoverable as unless the building is sold then this is unlikely. Often the best way of getting a building repaired / maintained is for the ownership to change.

1.6 Local lists - engagement of 3rd sector organisations in preparation of local lists will impact on resource levels, inclusion on the HER record will not in itself afford adequate protection to buildings of local historic importance. Demolition of buildings can occur at short notice outside of conservation areas with often limited opportunity to intervene / serve a Building Preservation Notice

1.7 No reference to any proposals relating to listed building delegation and any future plans for local authorities taking on this responsibility for all Grade II Listed Buildings which may encourage local authorities to develop heritage partnership agreements.

2. Enhancing existing mechanisms for the sustainable management of the historic environment;

2.1 Heritage partnership agreements – are these likely to be an attractive option for owners or will they see them as committing to obligations and liabilities. Also there are resource implications for drawing up the agreements / legal costs / ongoing monitoring arrangements. Associated risks of interpretation of what is contained in the agreement whereas under the present system regular contact is maintained with owners.

2.2 Historic Environment Record – introduction of statutory duty at a time of diminishing resources will commit Local Authorities decreasing revenue budgets to Archaeological Trusts where relevant without allowing each Authority the option to receive the funding directly to explore what is appropriate for its area. Whilst consistency is important, Local Authorities it appears will have little influence or control over how and when their HER is updated.

3. Introducing greater transparency and accountability into decisions taken on the historic environment.

3.1 Interim protection and consultation with owners could mislead owners in them being able to influence a decision relating to listing and in the meantime create a period of uncertainty for developers and administrative problems for local authorities

4. Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them.

4.1 Austerity measures and loss of conservation staff

5. Whether there are any unintended consequences arising from the Bill

5.1 Not applicable

6. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum),

6.1 Not applicable

7. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

7.1 Not applicable

The above written evidence is submitted as an individual based on my 21 years experience working in Planning, Conservation and Regeneration but the representations made are on an individual basis and **not on behalf of Bridgend County Borough Council with which I am currently employed.**

HE 26

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales)
Bill

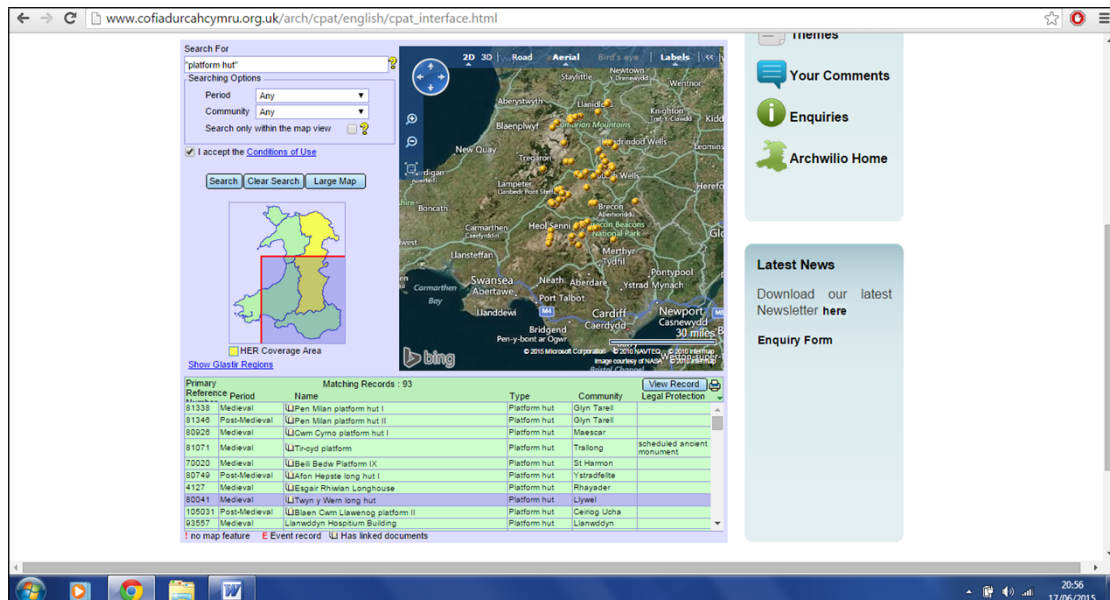
Ymateb gan: Martin Locock

Response from: Martin Locock

Comment on
enhancing existing mechanisms for the sustainable management of
the historic environment

- 1 Currently Historic Environment Records held by the Welsh Archaeological Trusts have been adopted by planning authorities for planning purposes. The HERs have no statutory basis.
- 2 One of the major changes introduced by the *Historic Environment (Wales) Bill* is the statutory requirement that planning authorities create and maintain historic environment records. It is likely that planning authorities will choose to adopt the Historic Environment Record maintained by the relevant Welsh Archaeological Trust rather than develop a new record themselves. The HER will need to meet the benchmarks of the Draft *Managing Historic Environment Records in Wales – Statutory Guidance*, including conformance with the *MIDAS Heritage v1.1* data standard [<http://cadw.gov.wales/docs/cadw/publications/historicenvironment/150429managingherinwales-en.pdf>].
- 3 The HERs currently conform to data standards agreed with RCAHMW including *MIDAS*, an earlier version of *MIDAS Heritage v1.1*.
- 4 I am concerned that HERs will require significant upgrading if they are to be fit for purpose as statutory records.
- 5 As a user of HERs via the Archwilio website familiar with the heritage of Wales I am aware that the quality and completeness of the records they contain is variable. In order to assess how much upgrading will be required, I undertook a review of the current conformance of the data held against the current data standard by a short sampling exercise. As an exemplar I examining arbitrarily-selected HER records included on Archwilio against one data element, Site Type, for which conformance can be readily assessed.

- 6 The Historic Environment Records developed by the Welsh Archaeological Trusts are intended to act as an index to known heritage assets within each area. RCAHMW leads on agreed data standards and has provided grant aid for the Welsh Archaeological Trusts to work on their HERs. The Trusts have undertaken other HER enhancement work through volunteers and other funding.
- 7 HERs currently conform to MIDAS (1988) as applied in Wales. MIDAS includes conforming to an agreed data structure. For Wales, Site Type entries must conform to the RCAHMW 2007 *Thesaurus of Monument Types*¹. The adoption of a standard terminology promotes the easy searching, analysis and comparison of data across data sets and provides users with clarity. RCAHMW also requires conformance with *Informing the Future of the Past: Guidelines for Historic Environment Records* (IFP2) (Second Edition, 2007).
- 8 The sampling exercise found that the HERs currently contain data that does not conform to the present standard, by using Site Type entries not included in the *Thesaurus of Monument Types* (see screenshots below).



Platform hut – not a permitted term (should be Hut platform or Long hut)

¹ <http://orapweb.rcahms.gov.uk/apex/f?p=200:1:108649889670713::::>

The screenshot shows the Dyfed Archaeological Trust website. The search results for 'Limekiln' are displayed in a table with 100 matching records. The table columns are: Primary Reference, Period, Name, Type, Community, and Legal Protection. The records list various locations such as 'WEST LIMEKILN AT CROFT QUARRIES, BUAENILOED', 'LIMEKILN ADJACENT TO BROOKSIDE, Y GRIBIN, SOLFACH ISAFLOWER SOLVA', and 'LIMEKILN AT FFYNNON BRYNOCYN, BRYNOCYN'. The website footer includes navigation links like 'Copyright', 'Disclaimer', 'Cookie Policy', 'Accessibility', 'Site Map', and 'Contact Us'. A 'Latest News' sidebar is also visible.

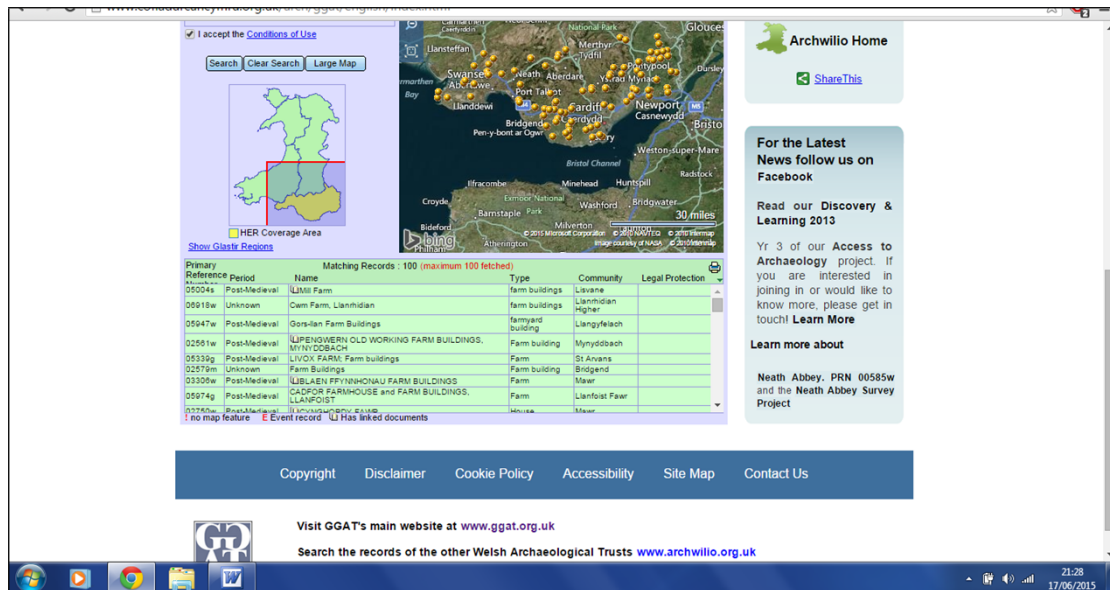
Primary Reference	Period	Name	Type	Community	Legal Protection
59023	Post-Medieval	WEST LIMEKILN AT CROFT QUARRIES, BUAENILOED	Limekiln	Lampeter Velfrey	listed building
58701	Post-Medieval	LIMEKILN ADJACENT TO BROOKSIDE, Y GRIBIN, SOLFACH ISAFLOWER SOLVA	Limekiln	Solva	listed building
59021	Post-Medieval	LIMEKILN AT FFYNNON BRYNOCYN, BRYNOCYN	Limekiln	Nevern	listed building
58702	Post-Medieval	LIMEKILN ON S. SIDE OF ESTUARY, Y GRIBIN, SOLFACH ISAFLOWER SOLVA	Limekiln	Solva	listed building
59474	Post-Medieval	LIMEKILN	Limekiln	Cosheston	listed building
58703	Post-Medieval	LIMEKILN ON S. SIDE OF ESTUARY, Y GRIBIN, SOLFACH ISAFLOWER SOLVA	Limekiln	Solva	listed building
59021	Post-Medieval	CENTRAL LIMEKILN AT KILN PARK, BUAENILOED	Limekiln	Lampeter Velfrey	listed building
58704	Post-Medieval	LIMEKILN ON S. SIDE OF ESTUARY, Y GRIBIN, SOLFACH ISAFLOWER SOLVA	Limekiln	Solva	listed building

Limekiln – not a permitted term (should be Lime kiln)

The screenshot shows the GAT website search results for 'Student Union Building'. The search results table shows one matching record: '20099 Modern Student Union Buildings, Bangor'. The website includes a search box, a map of the region, and a sidebar with 'Help', 'Themes', 'Your Comments', 'Enquiries', and 'Archwilio Home'. A 'Latest News' sidebar is also present.

Primary Reference	Period	Name	Type	Community	Legal Protection
20099	Modern	Student Union Buildings, Bangor	STUDENT UNION BUILDING	Bangor	

Student Union Building – not a permitted term



Farm buildings and Farmyard building - not permitted terms

- 9 Upon enquiry, the HERs advised that these records had been incorporated into the HER from separate data sets compiled by others (within the Trusts and external).
- 10 *Informing the Future of the Past: Guidelines for Historic Environment Records* (IFP2) (Second Edition, 2007) is at: <http://archaeologydataservice.ac.uk/ifp/Wiki.jsp?page=SectionD.4>

“Importing data sets

The new data should conform to any vocabulary control or data standards that have been agreed for the main database.”

- 11 The imported records had not been validated against the current data standard for Site Type (RCAHMW *Thesaurus of Monument Types*) upon import, and as a result the HERs as a whole do not conform to the *Informing the Future of the Past: Guidelines for Historic Environment Records*.
- 12 It may well be that other data elements in the HERs are also non-conforming at present.
- 12 If the Trust HERs are to be adopted by planning authorities to meet the requirement of the Bill and the Statutory Guidance, they will need to conform to *MIDAS Heritage v1.1*. In order to do so, significant additional resources will need to be invested in enhancing the HERs to address the more stringent requirements of *MIDAS Heritage v1.1* and to resolve existing issues with conformance.

- 13 The scope of the required work and the resource implications would need to be assessed following a detailed review of the current status of the HERs. Although some additional funding has been allocated to assist the HERs, in the absence of such a review there can be no confidence that this is sufficient.
- 14 I am Martin Locock BA MCIfA FHEA. I have worked in Welsh archaeology since 1991, and has published research throughout Wales. I served as Trustee for Glamorgan-Gwent Archaeological Trust 2006-2014 and am a member of GGAT. The views expressed are my own.

18/6/15

HE 27

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cyfoeth Naturiol Cymru

Response from: Natural Resources Wales

1. The purpose of Natural Resources Wales (NRW) is to ensure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used. In this context sustainably means with a view to benefiting, and in a manner designed to benefit, the people, environment and economy of Wales now and in the future.
2. NRW has a historic environment interest and role to play in strategic policy and planning and the delivery of area-based Natural Resource Management Plans integrating the historic environment. We work in partnership in relation to the Register of Historic Landscapes and lead on the LANDMAP Historic Landscape assessment and monitoring programme. We have a role in heritage management associated with woodland operations, felling licences and other forestry regulatory matters as well as ensuring the protection, conservation and management of historic assets on the NRW estate. We identify the potential impact of National Habitat Creation, habitat restoration and SSSI consents and assents on historic assets. The historic environment is taken into account in our flood risk management operational work, projects and strategies, management of Marine Conservation Zones and in relation to Shoreline Management Plans and consultations connected with the Countryside and Rights of Way Act 2000. Our wide ranging historic environment role will be closely linked and delivered through the ecosystem services approach, as part of the cultural services aspect, which is core to NRW's principles and methods for working.
3. We welcome the opportunity to present to the Committee our general support for the Bill, whilst also raising some areas for further consideration and clarification. We have responded under the Committees' Terms of Reference headings.
4. Whilst the Bill as a whole is of interest, there are specific measures, policy and guidance documents that are particularly relevant to the roles and responsibilities of NRW, our response focuses on these particular elements. In addition to responding on the legislation we have also given some early feedback on the policy documents and selected draft guidance.

General principles of the Bill

5. NRW has been involved in the External Reference Group to the Bill and are encouraged by the overall purpose and intended effect of the legislation. We are very supportive of the general principles and intent of the Historic Environment (Wales) Bill, welcoming legislation that further strengthens the protection and sustainable management of the Welsh historic environment. Guidance will be key to the delivery of the Measures and intentions set out in the Bill and needs to clearly articulate what is required to be compliant. We therefore welcome the planning policy, statutory guidance and best practice guidance published to accompany the Bill.

6. The Bills Explanatory Memorandum, Planning Advice, Guidance and Best Practice should help explain how the sustainable management of the historic environment will support the delivery of the seven Goals of the Well-being of Future Generations (Wales) Act 2015, in particular the 'Wales of vibrant culture and thriving Welsh Language' Goal, which relates to heritage. We do not feel that this is sufficiently evident at this stage, this could be strengthened to make the connections clearer.
7. The Explanatory Memorandum's purpose and intended effects section (S3, page 8) recognises the historic environment's role in defining the historic landscape, national culture, identity and distinctiveness. Whilst the Bill provides for the protection of key elements that define this, it is important that this is fully captured and translated into Best Practice Guidance to facilitate and encourage sustainable management. We believe the guidance could better reflect the contribution of the historic environment to a sustainable Wales and to the interrelationship with other Bills, notably the Natural Resource Management approach as set out in the Environment (Wales) Bill. The Natural Resource Management approach will be effective in working towards the sustainable management of the historic environment. NRW would be pleased to work with Welsh Government and Cadw to help ensure that the requirements of all the Bills complement each other to deliver the shared outcomes.
8. The Explanatory Memorandum (section 10, page 8) identifies key pressures in 21st century Wales, yet does not recognise climate change as being one of the key pressures on the historic environment. We recommend that the profile of climate change and its potential effects on the historic environment is raised and reference made to the emerging Historic Environment Sectoral Adaptation Plans. In doing so this will help clarify the role of the Historic Environment (Wales) Bill in contributing to the climate change provisions of the Well Being of Future Generations (Wales) Act and the Environment (Wales) Act.
9. We believe that NRW is already well aligned to respond to the changes proposed in the Bill and we welcome guidance which will support our work. The principles are pragmatic and offer some real opportunities to assist NRW in the management of the historic environment when undertaking our functions.
10. We believe we have experience and expertise that would usefully inform the development of certain elements of the proposed policy and supporting guidance (for example historic landscapes) and would welcome an ongoing opportunity to contribute.

Measure: Immediate halt to unauthorised works to scheduled monuments, easier action against those who have damaged/destroyed monuments

11. NRW supports the measure to facilitate cessation of damaging works. Whilst co-operation with public bodies should be expected, the ability to stop third parties both on public and private land, will help to stop work continuing once it has been identified as a risk to scheduled monuments.
12. There are significant numbers of scheduled monuments on the NRW estate, for example there are 179 Scheduled Ancient Monuments on the Welsh Government Woodland Estate that we manage. All have management plans agreed with Cadw and they are included in our constraint mapping for the operational planning process. We welcome the Measure to bring an immediate halt to unauthorised works to scheduled monuments.

Measure: A statutory register of Wales' historic parks and gardens

13. NRW supports the proposed changes to the Register of Landscapes, Parks and Gardens (S18, page 22), making Part I of the Register of Parks and Gardens statutory. This will give due recognition and status to their special historic interest.
14. We believe that the arrangements for consultation on planning applications affecting Registered Parks and Gardens, and their settings, will be firmer and clearer. Having a statutory register that will ensure that all planning authorities, rather than some, consult Cadw and an amenity society on planning applications affecting Grade I and II*, is welcomed.
15. The facility to potentially include key buildings, water or land that is adjacent or contiguous is also welcomed. This will help raise awareness and protection of important settings, features and the local landscape of entries on the register, for maintenance, development management, informing the planning of new woodland and approving new planting schemes.
16. The facility to maintain the register is essential, we support the proposed modifications in 18 (1) (3) to add, remove or amend an entry and the criteria and transparency in the decision making process as set out in the purpose of the provisions in the Explanatory Memorandum page 25, paragraph 114.
17. A very positive improvement will be the publishing of the up-to-date register as set out in 18 (1) (6) to extend access beyond Welsh Government to owners, occupiers and other interested parties, as detailed in the Explanatory Memorandum page 25, paragraph 116. This will reduce the potential for overlooking areas on the register.
18. We agree with the effect of the intended provisions. It is unclear however, whether the new statutory status will then result in the Register entries appearing within the Land Registry, as raised in paragraph 110 on page 24.

Measure: Partnership agreements with consenting authorities

19. We support the proposal for wider use of Heritage Partnership Agreements. This would be useful to NRW when planning and designing capital projects and other areas of NRW work. It would be a positive development for ensuring historic environment management in the wider environment. This proposal should lead to efficiency savings, by reducing the number of consents for works where land managers have long term plans for their sites. The consents for the period of the plan could be agreed at the outset, rather than for each operation. For example, Sustainable Forest Management Plans with 5 year action plans, could identify works which can be agreed and consented for over the 5 years, removing the need for each operation to be consented. It would be useful to look at the potential connections and synergies that could be made between Heritage Partnership Agreements and the proposed land management agreements in the Environment Bill.
20. We support the proposal for wider use of Heritage Partnership Agreements. This would be useful to NRW when planning and designing capital projects and other areas of NRW work. It would be a positive development for ensuring historic environment management in the wider environment.

21. This proposal should lead to efficiency savings, by reducing the number of consents for works where land managers have long term plans for their sites. The consents for the period of the plan could be agreed at the outset, rather than for each operation. For example, Sustainable Forest Management Plans with 5 year action plans, could identify works which can be agreed and consented for over the 5 years, removing the need for each operation to be consented. It would be useful to look at the potential connections and synergies that could be made between Heritage Partnership Agreements and the proposed land management agreements in the Environment Bill.
22. We support the proposal that Partnership Agreements include the management of land associated with scheduled monuments. This provides an opportunity to deliver Natural Resource Management principles that serve both the historic and natural environments. For example linking in our forest resource plans and landscape scale management where agreements relate to more than one historic asset.
23. Whilst the Bill is intended to 'enhance existing mechanisms for the sustainable management of the historic environment', we are disappointed to see that this measure seems to relate only to Heritage Partnership Agreements for scheduled monuments and adjoining land. Historic Landscapes, Parks & Gardens, Battlefields and Historic Environment Record entries are not addressed, which we believe is a missed opportunity. We believe that amendments to the Partnerships Agreements would maximise delivery of this intent if they related to the whole historic environment.

Measure: Requirement to create and maintain Historic Environment Records (HER)

24. NRW recognises the importance of these records and makes frequent use of the HER. We support the proposals to make sure this is readily and consistently available and safeguarded for the future. The proposal for planning authorities to take 'ownership' of the HERS seems sensible as long as funding is in place for a fully qualified person, or process, to do this. A single source for the HER may be beneficial in determining historic assets for a particular location for development management and land management purposes. The wording of 33 (2) (f) on page 43 could be clearer.
25. The creation of a non-statutory category of 'historic assets of special local interest', could result in disagreement between the planning authority and land manager or developer. The local authority has to consider entries whilst the developer may argue that an entry is non-statutory, thus increasing expense for both parties in determining plans. We would support the creation of such a category but it must be supported by guidance to ensure criteria are applied consistently and clarity is given on relative material weight in the planning process, including any processes for consultation and consensus.

Measure: Formal consultation with owners for the designation of nationally important historic assets

26. NRW welcomes the opportunity afforded to land managers and interested parties to comment on potential designations. It is important for those affected to understand the implications of designations on their land and to discuss area boundaries. The measures to protect a site until designation is confirmed, are sensible.

Measure: Independent panel to advise on historic environment policy and strategy

27. We support the establishment of an independent Advisory Panel for the Welsh Historic Environment unconstrained by organisational remits, impartiality or political constraints. As stated in the Explanatory Memorandum page 12 paragraph 28 ‘new and stimulating perspectives... are needed’, we would recommend that the Panel members are not confined to the historic environment sector but also draw upon other disciplines and represent a range of professional, academic and technical expertise both from within Wales and potentially Europe.
28. From NRW’s perspective we would encourage expertise relating to the environment and natural resources of Wales to be represented on the panel. The cultural services aspect of the ecosystem approach provides an integrating factor between the Natural Resource Management approach set out in the Environment (Wales) Bill and the protection and sustainable management of the Welsh Historic Environment as set out in the provisions of the Historic Environment (Wales) Bill. Clarification is sought on how the Panel may engage with the Ministers Historic Environment Group.

Potential barriers to the implementation of the Bill’s provisions

29. Generally, the extension of the definition of an Ancient Monument is a useful proposal. However, the inclusion of industrial waste heaps causes significant concern as when remediating contaminated sites, it is often waste heaps that contain the most contamination. Abandoned mines are the number one cause of failure to meet the requirements of the European Water Framework Directive in Wales, largely as a result of diffuse pollution from waste heaps. Remediation of these sites is already restricted by existing designations such as Special Areas of Conservation or Sites of Special Scientific Interest. Therefore, further designation of these waste heaps could add another barrier to dealing with mine pollution in Wales. NRW is used to working with listed buildings in the remediation process, but we would question having the contaminated land itself protected which would add significantly to an already complicated process with potential financial implications too.

Any unintended consequences

30. As stated in 338, page 73 of the Explanatory Memorandum, the Register of Historic Parks and Gardens has become firmly embedded in national and local planning policies. Similarly, the Register of Landscapes of Special Historic Interest in Wales. Collectively they form the Register of Historic Landscapes, Parks and Gardens. Whilst the Register of Parks and Gardens has become statutory, the Register of Historic Landscapes has not and is therefore not mentioned within the Bill or explanatory notes. Potentially an unintended consequence of this is to detract further from the status and recognition of the Registered Historic Landscapes. We note that reference is made to Registered Historic Landscapes in the draft Planning Policy Wales Chapter 6 and TAN 24, and we wish to see that recognition and material weight is maintained by their inclusion, with adequate explanation, in these documents.

Financial implications of the Bill

31. We agree with the Regulatory Impact Assessment in relation to establishing the Register of Historic Parks and Gardens on a statutory basis (option 3). Should NRW have any Registered sites on its estate, this would not add any significant financial

burden. There does not appear to have been any account taken of potential increased costs of protecting/managing sites in relations to Climate Change.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation

32. No comments on this matter.

Draft Planning Policy Wales (PPW) Chapter 6

33. Given that Local Planning Authorities (LPAs) will also be developing area based policies affecting the historic environment, we suggest that the paragraph 6.4.1 could be amended to read: "Local development plans (LDPs) should have regard to national policies on the historic environment". Reference to the potential introduction of 'area statements' within Wales for the purpose of implementing the national natural resources policy through the Environment Bill could also be included to facilitate linkages to area based policies.
34. NRW welcomes the clarification that LPAs should take into account the Register of Historic Landscapes in Wales in preparing their LDPs and develop policies that will contribute to their protection and conservation (6.4.9). Section 6.4.10 of the current PPW, indicates that the Proposals Map should show the boundaries of areas of protection. This provides clarity for developers and other Plan users of the policies that apply within these areas. We therefore recommend that a similar statement should also be included in any amended Chapter 6 of PPW.
35. NRW welcomes the clarification that information on the Register of Historic Landscapes in Wales should be taken into account by local planning authorities, when considering the implications of developments which meet the criteria for Environmental Impact Assessment, or 'of more than local impact'. However, it is unclear how 'of more than local impact' will operate in practice. It is not clear from the current text at what stage in the planning application process Welsh Ministers will advise the applicant of a (non-EIA) proposal that they consider will have a 'more than local impact' (6.5.25). Additionally, it is recommended that the process should also include 'or a local impact that is highly significant'. 6.5.25 should state that the need to consider information contained in the Register will apply to the specified types of development, whether they are located within or outside the Registered Historic Landscape (where there is a likely effect).
36. Consideration should be given to highlight the need for LPAs to consider cumulative impact from development, including those in other consenting systems, for example Nationally Significant Infrastructure Projects.
37. We welcome the clarification provided in 6.5.26, but it requires amending to allow for an updated revision to the Guide to Good Practice taking on board recent practice, experience and proportionality.
38. An amendment is also required to allow for the historic landscape element of a historic environment assessment to be undertaken instead of an ASIDOHL2 where the ASIDOHL2 approach is not suitable. This would send a clear message of current best practice and approaches for assessing the effects of a proposed development on a historic landscape.

39. In light of the above, 6.5.25 and 6.5.26 could be amended to the following (or this detail may fit better within the TAN 8.4 and 8.5). “6.5.25 - Information on the Register of Historic Landscapes in Wales should be taken into account by local planning authorities in considering the implications of developments which meet the criteria for Environmental Impact Assessment and will affect an area on the Register of Historic Landscapes, or would have a more than local impact on an area in the Register or a local impact that is highly significant. The Guide to Good Practice on Using the Register of Landscapes of Historic Interest in Wales in the Planning and Development Process (Revised Edition, Cadw, Welsh Assembly Government and CCW, 2007, and any future revisions) provides guidance on the types of development which may have a ‘more than local impact’, or a ‘local impact that is highly significant’, on an area in the Register. Development proposals should be considered on a case by case basis, and proposals within and outside a Registered Historic Landscape can have an adverse effect. Local planning authorities and developers should seek the advice of Natural Resources Wales (note this is to be confirmed when formally consulted) and the relevant Archaeological Trust at the earliest opportunity when considering whether a proposed development would have a more than local impact, or a local impact that is highly significant, on an area in the Register. 6.5.26 - The Guide also includes a method for assessing the effects of proposed development on an area of historic landscape (ASIDHOL2). This method, or the historic landscape element of a historic environment assessment where appropriate, should be followed by applicants when preparing the relevant part of the Cultural Heritage chapter of their Environmental Statement. Where sought, Natural Resources Wales, Cadw and the relevant Archaeological Trust can advise whether an ASIDHOL2 or a historic landscape assessment should be undertaken in support of a planning application.”
40. PPW and the TAN should make appropriate reference to the need to take account of heritage coasts, historic seascape characterisation, marine historic assets and other interests in the coast and marine environment within development planning and consenting. It would also be helpful to reference in more detail the existing legislation and management arrangements that apply to other heritage assets in the marine environment, such as protected wrecks and war graves.

Draft Technical Advice Note (TAN) 24

41. The TAN should provide clarity, promote consistency, best practice and proportionality and is well on its way to do this. We would be happy to provide further comment during formal consultation.
42. NRW considers the historic environment to be very much embedded within the ecosystems services and benefits framework promoted through the Environment Bill. The value to society can be described through the cultural ecosystems services construct, contributing to inspiration, sense of place, tourism, and recreation. It would be advantageous to make the links between the historic environment and Natural Resource Management (NRM) explicit, to aid sustainable decision making (1.7). The NRM framework as set out in the Environment(Wales) Bill and accompanying Explanatory Memorandum as written, adequately reflects these considerations and should be reflected in the TAN. Welsh Ministers are also charged with publishing and implementing an integrated national natural resources policy which sets out how they plan to achieve sustainable management of natural resources. This will include considerations and benefits of those natural resources. The cultural services of

landscapes are, we understand, to be included and these are underpinned by the wider historic environment. It is therefore important that integrated natural resources policy at a national level is highlighted in this TAN. It would be helpful to add that NRW will be implementing the national natural resources policy by producing area statements. It would be appropriate for historic environment information to be considered in area based natural resource statements.

43. The TAN needs to be clear on the definition of ‘national importance’. It is presented differently in 1.5 and 1.20 and needs clarification because the term has a bearing on weight given to an historic feature in the Environmental Impact Assessment process and thresholds at which significant effects are likely to occur and an objection triggered. The TAN needs to reference LANDMAP (section 1.13, page 3) and be clear on the relevance of the LANDMAP Historic Landscape evaluations to decisions when assessing the effects on Registered Historic Landscapes. Section 1.26 needs to specify who the local planning authority consults in regard to effects upon Registered Historic Landscapes.
44. NRW welcomes the recognition of the strategic, planning and well-being role of the Register of Historic Landscapes. The current text in 8.3, which relates to PPW text in 6.5.25 commented on above, requires further explanation.
45. Explanations in section 8.4 and Annex D5, which states that the boundaries will be those depicted on the Cadw website are supported, these areas have caused uncertainty in the past in development management.
46. 8.5 suggests that only those developments within or outside a Registered Historic Landscape that require an EIA are considered. However we consider that regulatory advice is provided to planning authorities on developments that may affect the historic environment with the potential for ‘more than local impact’ where they are within a Registered Historic Landscape or outside of a Registered historic landscape, where no EIA is required but the development is close enough to have ‘more than local impact’ on the Registered Landscape. We suggest that section 8.5 is amended to reflect this.
47. Additionally, the facility to maintain the register is important, we support the proposed modifications in 18 (1) (3) to add, remove or amend an entry to the Historic Parks and Gardens Register, a similar but non-statutory mechanism for the Register of Historic Landscapes will be important.
48. NRW is pleased to see the recognition of the role of the Register of Historic Landscapes in meeting the European Landscape Convention (ELC) measures in Annex D6 ensuring that this message comes across and providing the opportunity for future reference back to this.
49. Any references to the Conservation of Habitats and Species Regulations 2010 should read “Conservation of Habitats and Species Regulations 2010 (as amended)”, this section should address all nature conservation legislation not just the Habitats Regulations.
50. We would suggest an additional paragraph within the Nature Conservation and the Historic Environment section on pages 6-7 as follows, ` within the wider environment

of Wales it is important to recognise the contribution of ancient, veteran and historic trees to people and places, both in terms of cultural and biodiversity value. The profile of these 'green monuments' has been raised through Coed Cadw and the Ancient Tree Forum but, a fuller inventory of where these trees are is needed, as well as exploring ways to better protect and care for this vulnerable resource, for example through partnership management agreements between Welsh Government, natural and heritage interests and landowners.

51. NRW recommends that reference is made to the management synergies between the historic and natural environments through geological cultural heritage which is evident in many listed buildings, scheduled monuments such as caves that are also Sites of Special Scientific Interest and peat records in designated bogs.
52. We would be pleased to offer our experience and expertise in contributing to the wording of any new text.

Managing Change in World Heritage Sites Guidance

53. NRW welcomes the draft guidance on Managing Change in World Heritage Sites (WHS). All three WHS in Wales lie within or adjacent to Statutory Designated Landscapes of Snowdonia National Park, Brecon Beacons National Park and Clwydian Range and Dee Valley AONB. Both landscape and heritage designations share very similar conservation principles but to different ends. There needs to be a promoted clear link made between statutory landscape and heritage designations to ensure their respective visions, management plans and management work on the ground as well as planning decisions regarding the management of change, are compatible and avoid unintended consequences. Forest Resource Planning can take account of heritage assets to achieve a positive outcome in the forest design for landscape and heritage, taking into account core features and key views within the setting and the buffer zone of the WHS. These aspects needs to be addressed in all of the draft papers; PPW, TAN24 and the World Heritage Site guidance. In due course the management of heritage designations will need to be integrated with the Natural Resource Management approach set out in Area Statements as proposed in the Environment (Wales) Bill.

Proposed hierarchy of legislation, planning guidance and best practice

54. We suggest the addition of the Environment Bill under Primary legislation and the 'Good Practice on Using the Register of Landscapes of Historic Interest in Wales in the Planning and Development Process' under Best Practice Guidance (it was previously included).

Future recommended additions

55. Best Practice Guidance on 'Managing Change in Registered Parks, Gardens and Landscapes in Wales' to add to the suite of guidance for the sustainable and integrated management of the historic environment.

Natural Resources Wales
18 June 2015

HE 28

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Zoe Henderson
Response from: Zoe Henderson

Here are my few comments regarding the heritage reform in Wales

As a grade 2* listed house and grade 2 farm building owner and someone who is passionate about historical buildings I do feel there is need for a more enlightened and consistent approach to preserving our heritage in an affordable and forward looking way.

We have been lucky in Denbighshire as Phil Ebbrel the Conservation Architect has a very positive and supportive approach if he can see that you are keen to preserve where possible and to develop sympathetically . Unfortunately he is very much over worked and looking to retire but is someone who should be training the local authority people for the future.

Our experience has been that Cadw have tended to add little of value to our situation except additional cost . A good example being to demand that a barn wall be rebuilt in a fully traditional style as was but with no regard to the fact that Building regulations do not accept such a wall as being “waterproof” . Again they seem overloaded and that there is duplication between local and National oversight of our historic environment.

CADW do an excellent job managing the large public historic sites such as castles but I believe CADW should be removed from any role in privately owned heritage sites and that the resource should be given to local authorities to develop a program of working with heritage owners to preserve and develop heritage in a positive sustainable way. Obviously there would be a need to ensure a consistent and coordinated approach through out Welsh Local Authorities. Much heritage has been lost due to fear of “listing” and what the authorities can “force” you to do . A more open and supportive attitude (such as our Denbighshire experience) would help save heritage rather than the current system which has the unintended consequence of destroying it in many cases.

HE 29

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Y Sefydliad Cadwraeth Adeiladu Hanesyddol

Response from: Institute of Historic Building Conservation

Dear Sir

The Institute of Historic Building Conservation (IHBC) is the professional body for building conservation practitioners and historic environment experts working in England, Northern Ireland, Scotland and Wales, with connections to the Republic of Ireland. The Institute exists to establish, develop and maintain the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

Thank you for inviting us to participate in this consultation. We welcome the broad objectives of the Bill but have a number of points that we feel are worthy of consideration. Our comments on the Bill are as follows:

1. We note that the Bill is in the form of amendments to the Planning (listed Buildings and Conservation Areas) Act 1990. We appreciate that there is a technical need to separate the new measures from those applying to England. However, the Planning Acts are already far too complex and this approach makes them more inaccessible to the public than ever. We would prefer to see the Bill presented as a completely new document. Failing that, a consolidation Act should follow immediately. As the legislation in England is similarly afflicted a concerted effort to achieve this would be welcome there too.
2. We welcome the creation of the Advisory Panel for the Welsh Historic Environment to advise ministers. However, we do think that splitting responsibility for HE functions across three or more bodies needs careful management and the Advisory Panel needs to avoid duplicating the role of the existing Historic Environment Group, which we also support because of its function as a cross-sector forum.
3. Our support for the proposals for the Advisory Panel is dependent on its being structured to further the interests of the historic

environment. To do this it must be completely transparent in the way appointments to it are made, to ensure all relevant competencies and interests are covered; and in its programme and reporting so that the public can fully understand the advice that is given to ministers.

4. We support the proposal for consultations on proposed listing and scheduling subject to the provisions for interim protection during the process.
5. We support the other provisions proposed for extending the protection of Scheduled Monuments and aligning them with those for LBC. However we note that the proposals do not do this completely as they omit a duty to preserve and enhance the setting of the monument when applications for SMC are made. We think the proposals should be amended to do this to bring the SMC application process fully into line with that for LBC.
6. We also support the proposals to allow for an application for a Certificate of Immunity to be made at any time.
7. We would also like to see an amendment to the provisions for the setting of conservation areas (s72(1)). There has been much debate over the years about the exact implications of the wording "...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area..." - the problem lying in the word "or". We think that the opportunity should be taken to clear up the ambiguity by amending "or" to "and".
8. We support the creation of a statutory register of historic parks and gardens (s18). However we do not see these as being the most important aspect of Welsh built heritage needing special protection. Non-conformist chapels and isolated farm buildings are more indicative of Welsh heritage and need a more coherent conservation approach than being rescued from dereliction by routine conversions to new uses.
9. We welcome the proposals for the widening of powers in relation to urgent works to listed buildings and for temporary stop notices which we think will address some of the procedural difficulties in undertaking urgent works. But procedure is only part of the problem and we consider that the Bill should include a methodology for actually tackling the huge backlog of Welsh listed buildings at risk and for funding a remedial programme. Without a funded programme the proposed provisions are unlikely to be of significant effect.
10. We agree with the consultation paper about the importance of the Historic Environment Records (HERS). However, we do have concerns about the structural detachment that the existing arrangements have from the day-to-day decision-making on planning

and heritage issues by LPAs and that this results in HERs being less influential than they should be. Nevertheless we are not convinced that shifting legal and financial responsibility for them to LPAs is a sound move. Making each LPA responsible for its own HER might seem a way of promoting more engagement in its use on the part of the LPA. But we think there are inherent difficulties:

- ◆ in fragmentation of approach, where LPAs set up their own HERs, possibly compounded by future LA mergers.
- ◆ in the funding of shared resources and the output expectations that each partner has, where joint arrangements are maintained.
- ◆ in creating a statutory requirement for record-keeping which would compete for resources with the actual care of heritage assets through the work of LPA conservation sections.

Consequently we think that the existing centrally funded model remains the optimum arrangement for Wales.

11. The mode of record-keeping for HERs in Wales is considered to be more consistent than in England and, especially as it is online, potentially more accessible in theory. But greater consistency of approach should be possible by retaining the present model, particularly as there are only four repositories needing to agree standards.
12. But we also agree that, in practice, HERs are not used enough in relation to listed building and conservation area applications by either applicants or LPAs. This should be promoted as routine and the Government is urged to build into the processes better practice so that the hidden histories of Wales's built fabric that lie behind façades and their formal listing descriptions can be better understood and conserved. To do this better practice is also required in the uploading of new data into the HERs when it is discovered in surveys and works. This should be as near routine as possible. It can be achieved in part by requirements such as recording conditions attaching to consents but it also requires a new emphasis on the value, availability and accessibility of HERs which we think should be promoted at National level in line with the objectives of 'community engagement, learning and access' set out in previous consultations on Heritage.
13. We acknowledge the need for Heritage Management Partnerships in some circumstances. However we feel that, as this is a relatively new concept, there should be some process for reviewing their effectiveness against the Welsh Government's objectives for the historic environment. Again, we suggest that the Government sets a timescale for doing this.

14. We have considered the financial implications of the proposals. But whether the costs and impacts to LPA's, not just for now, but in the medium term have been properly considered we are unsure. The proposals are ambitious. The financial resources to deliver them need to be realistic.

1. The Church in Wales operates 1346 churches and chapels across Wales of which 945 are listed buildings (of which 138 are Grade I). In addition, the Church in Wales owns around 150 listed church halls, parsonages and other houses. We have over 170 Scheduled Ancient Monuments within our care. As such the Church in Wales is a key partner in caring for a substantial proportion of Wales' built heritage. A key fact, however, is that virtually all this nationally important heritage, whilst owned centrally, is managed and maintained by local volunteer congregations through their Parochial Church Council.
2. The draft Bill contains little that directly relates to ecclesiastical buildings although clearly the proposals relating to arrangements for listing and for the protection of Scheduled Ancient Monuments is all relevant. The apparent exclusion of ecclesiastical property can, to an extent, be explained by the fact that much of it is covered by The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994. This Order exempts certain denominations from certain sections of the Planning (Listed Buildings and Conservation Areas) Act 1990 (sections 3, 4,7-9,47,54 and 59). The effect of this is that the Church in Wales, along with a number of other denominations, is exempt from the need to seek Listed Building Consent and Conservation Area Consent (and related enforcement processes) in respect of its places of worship because it has adequate consent procedures in place (called the Faculty System). A summary of the key aspects of the Faculty System of the Church in Wales is attached at Appendix I for information.
3. The only mention of Ecclesiastical property within the Bill, and its related documentation, is within the draft TAN 24. Whilst this reference is useful, we do believe it should be replicated within, and linked to, the other guidance alongside the Bill. This is for two reasons; firstly, local volunteers caring for churches are quite likely to refer to WG/Cadw guidance and unless the information clearly flags the different procedures for certain denominations, there is likely to be confusion. Secondly, much of the thinking behind the guidance, in particular Conservation Principles and philosophy, are useful to all those caring for heritage property and, thus, should not be ignored simply because there are differing consent procedures.
4. At the footnote 64 to Paragraph 5.17 of TAN 24, there is mention of guidance on Ecclesiastical Exemption being 'under review to put it in line with that published in England in 2010'. We do believe it would have been helpful to have received this guidance alongside the Bill in order that the operation of the Exemption could be considered alongside the provisions of the Bill.

The English guidance followed changes to the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 that applied only to England. The response to the initial Heritage Bill Consultation (Proposal 33) indicated that Welsh Government would 'implement the proposed changes to secondary legislation' to set out works that are

subject to the Exemption. It was assumed this would bring Wales into line with the English provisions. It is not clear from the draft Bill or TAN 24 how this will be enacted but we fully support the original proposal and hope that the footnote referred to indicates that this remains Welsh Government's intention.

Alongside this, we would like to discuss with Welsh Government adjustments to our system to more easily deal with minor 'like for like' works whilst protecting the Exemption.

5. Paragraph 5.6 of TAN 24 refers to Heritage Impact Assessments. It is assumed that the Statements of Significance and Justification within our faculty system would be considered equivalent to Heritage Impact Assessments and hope that the forthcoming guidance will clarify.
6. Heritage Partnership Agreements (TAN 24:5.13 and Bill Sections 11 and 28) appear to be a useful initiative though we suspect only relevant to a few of our sites (possibly Cathedral Closes). We believe our own faculty system rules would need to be amended to allow for such agreements to be enacted especially where sites contain different types of heritage assets in different ownerships. The Bill should not preclude exempt denominations from entering these agreements by virtue of the Exemption provisions.
7. Historic Environment Records (Bill Sections 33-36): We welcome the statutory footing for these important records. As we understand it, these are currently outsourced to the four Welsh Archaeological Trusts. We are unclear as to the way in which information gathered from work involving places of worship subject to ecclesiastical exemption links into HERs. We are concerned that HERs are rather lacking in information relating to ecclesiastical buildings probably as a consequence of Ecclesiastical Exemption. We would welcome an exploration of how information can be better shared especially in the light of our plans to create an on line Church Heritage Record.
8. Historic Environment Advisory Panel (Bill Sections 37-38): The establishment of this independent panel would be welcomed. It is important that it can give professional and expert guidance to the strategy of Cadw, free of political bias. We have been concerned that the priorities of Cadw may sometimes be based on the political priorities of the day rather than the key priorities for the historic environment. Wales' heritage transcends political cycles and priorities and we hope this panel could help to redress that imbalance.

We are unclear as to the role the panel would play in reviewing or assessing the working of Ecclesiastical Exemption but we would welcome any input from the panel in future to making sure the exemption is exercised appropriately.

9. Historic Assets of Special Local Interest: We note the draft guidance and whilst appreciating the need to identify assets of local importance, we are concerned that without very strict criteria and a robust decision making process, these assets may be subject to a rather ad hoc consent regime subject to local political pressure. Unlisted churches are highly likely to feature in such lists. Fundamentally, without very clear regulation, the process of managing change in these buildings could be very challenging and opaque. It is also important that this proposal dovetails with merging policy thinking around Protecting Community Assets.

10. Historic Parks and Gardens: We support the proposal to create a statutory register. We are conscious of the connections between the church and such areas especially relating to former bishop's palaces and their grounds. In most cases we have some continuing area of land associated with such areas.
11. Appeals Procedure (Bill Section 24): We support the amendments to notification and consultation of proposed changes to listed building status. We are less clear about the process and provisions for an owner to request a review of a listing perhaps some years after the original listing. This may be more one of clarity of process (noting the useful arrangements in England) but it must be possible for an owner to seek a review of a listing (de-listing) at any time and not simply object at the time of a proposed listing.
12. Recovery of Costs (Bill Section 30): The making of a local land charge against the property owner does seem an appropriate mechanism to recover costs incurred in putting right unauthorized damage. The difficulty is that damage may be caused by a tenant or occupier not under the direct control of the owner. Whilst tenancy agreements may allow for recovery of such costs, it may not be as easy for a landowner to pursue such costs as it is for the Local Authority to impose the Land Charge. We assume that these provisions remain, though, within the Exemption provisions (s.60 of the 1990 Act).

Appendix I: Key aspects of the Church in Wales Faculty System

- The faculty system is organized within each of the six Welsh Dioceses
- Faculties are granted by the Diocesan Chancellor after receipt of advice and consultation on proposed works to church buildings
- The principal source of advice is the Diocesan Advisory Committee which consists of professionals and heritage specialists (some nominated by umbrella bodies) including a Local Authority nominated representative plus key clergy
- All works to churches require a faculty to be granted (not limited to works that affect the character) although some minor matters are excluded (relating mainly to moveable contents)
- All churches (listed and unlisted) are subject to the same faculty procedure
- Applications in respect of listed buildings are sent for consultation to Cadw, Local Authorities and specified amenity societies for comment
- All applications are publicly advertised with a site notice
- Applications for changes to Listed Buildings are publicly advertised
- Significant proposals are required to be supported by a Statement of Significance and Justification
- Applications subject to significant comment or concern are subject to a consistory court hearing process
- Enforcement procedures are in place through the Church in Wales Court system
- A faculty permission lasts for five years and may be subject to conditions

- Faculty covers work within the curtilage of the building except for separately listed structures and trees. Dual control exists in respect of these between the denomination and the Local Authority.

A. Introduction

1. The Historic Houses Association (HHA) welcomes the opportunity make this submission to the committee. The majority of the Historic Environment in Wales, most especially listed buildings, are not in public ownership. Therefore the effects of the Bill will largely be experienced by the private sector in its various forms.
2. HHA represents historic houses, castles and gardens in private ownership. There are more than 1,600 HHA properties throughout the UK of which about 60% are open to the public, either as day visitors or by appointment. The HHA estimates that approximately two-thirds of the built heritage is privately owned and maintained.
3. The costs of maintaining private houses, castles and gardens are significant and expenditure by private owners in looking after the historic environment is substantial. HHA owners spend more than £100 million per year (HHA Survey, 2013), but the backlog of urgent repairs at HHA member houses totals over £750 million. Ensuring the economic sustainability of historic houses is, therefore, of great importance. This principle underpins HHA policy in this area.
4. The value of historic houses, castles and gardens to the people of Wales is well recognized by the Welsh Government as an important resource, benefiting the entire nation. 80% of international visitors say that their principal reason for visiting Britain is connected to heritage and culture. 87% of British people think that the historic environment plays an important part in the cultural life of the country. Historic houses provide character, distinctiveness and a sense of place and help create pride in where people live. VisitWales constantly seeks to promote the Heritage Environment as a key driver for its policies and CADW itself, as owner of many outstanding listed buildings, fully understand the contribution they make to life and prosperity in Wales.
5. The current system of heritage protection is based upon expert scrutiny of any proposed change to the historic environment by conservation experienced officers in local authorities or Cadw, or both. However, the funds to resource this system have reduced and there is every reason to believe that they will reduce further as public sector funding continues to be under pressure.
6. As a consequence, few listed building consent decisions are taken within the prescribed timetable and the perception of a failing system strongly discourages the sympathetic changes needed if heritage conservation is to work effectively.
7. With some 7000 listed buildings in Wales 'at risk' or vulnerable it is critical to streamline the sustainable adaption that successive Ministers have noted as being the key to bringing these buildings back to a position where they can once again benefit the people, of Wales. The great majority of these adaptations are neutral or beneficial in heritage terms. Simplifying them will free up local authority and Cadw staff resources to focus on the cases which might be harmful, and on appropriate enforcement.

B. Summary of key issues

- **HHA in general welcomes the provisions of the Bill although it has concerns (set out below) over one area**

- **However, all sections require good guidance which does not currently exist. The draft guidance is at present insufficient or absent especially where the Heritage Environment provisions overlap with other Bills**
- **Without them the provisions for enforcement, for example, may be misinterpreted**
- **The Bill does not deal with the fundamental issue of resources, indeed it would appear to add to local authority activity at a time when their focus is likely to be elsewhere owing to budget restrictions and the possible implementation of the Williams report.**

C. Provisions within the Bill

I. PART 2 – Ancient Monuments etc

In general the HHA welcomes the provisions of this Part of the Act.

Section 16 The new provision at 16(3) whereby it will become an offence if a person ‘...ought reasonably to have known...’ will be greatly strengthened if up to date maps clearly showing (at high resolution) the position and extent of all scheduled monuments. Ideally these should be held on a central database map available both on CADW’s and all LAs websites. The ease with which such a map can be accessed and interpreted is likely to influence any court asked to rule on whether a person ought to have known.

Section 17 The same point as above will apply in regard to metal detection.

It would further enhance the operation of both sections if any monument to which a temporary stop notice was in force under Section 13 could be highlighted on the map so as to counter problems where notices posted in accordance with that section are damaged or removed by animals, weather, or deliberate action.

Section 18 Whilst the HHA welcomes the establishment of the Register it is concerned that it appears to put Welsh Ministers above the law. Inevitably, and correctly, inclusion on the Register will mean restriction on the activity and usage of the grounds so designated, especially when planning matters are under consideration.

As drafted Welsh Ministers can designate ‘places of recreation’ [41A (1)(d)] and ‘other designed grounds’ [(1)(e)] and there is no form of appeal. Places of recreation can be open to wide interpretation and there could be argument as to whether a particular area – or more likely the extent of it - was indeed designed. An owner of ground that had no reason to believe that it might be so designated could easily find themselves in the middle of a sale or planning application, when with no notice and no appeal, their land is added to the Register. This could most likely occur if their site was not itself designed but was included under 41A(2).

Therefore HHA would recommend that at very least a provision should be added to the Act allowing any owner of land to ask for confirmation that the said land does not appear to Welsh Ministers as being of special historic interest. The act on enquiry on the part of an owner would give Ministers opportunity, should they see fit, to add the said land to the Register. Such a provision would mirror that being introduced in the Bill (section 27.3) whereby Welsh Ministers will certify that they do not intend to list a building.

There then should also be some form of appeal mechanism when additions to the register take place without the owner’s prior knowledge . Again this would mirror the provisions with regard to listing buildings.

Finally detailed guidance as to the criteria that Ministers will use in deciding which grounds to include and most particularly the criteria for inclusion under 41A(2) is imperative.

Section 22 Here there is a specific need for enhanced guidance. Redefining 'Monument' as '... comprising anything, or group of things, that evidences previous human activity;' [22 (2)(b)], opens the way to almost every square meter of Wales to be declared a monument.

As in comment on Section 18 it is imperative that criteria are published.

PART 3 – Listed buildings

Section 24 The HHA welcomes the provisions of this section. The volume of listing or scheduling is not high, and Cadw generally does consult informally, but some members have not been consulted in the past and the existing lack of any statutory rights of consultation and appeal conflicts with natural justice.

Section 25 The interim protection while the decision is being made, to forestall pre-emptive demolition (but with provisions for compensation if designation does not go ahead and there is proven loss) seems proportionate.

Section 27 Finding an economically viable use for any historic building is the best way of helping ensure its conservation. Although Certificates of Immunity have rarely been used in practice the HHA welcomes all provisions designed to 'make it easier for owners or developers to create sustainable new uses for unlisted historic buildings by relaxing the conditions for applications for certificates of immunity from listing'.

Section 28 As with Section 27 the HHA welcomes the new provisions. However it does have concerns about the capacity of local authorities to deal with such matters. Heritage Partnership Agreements are perhaps most useful when there is either a major building or, more likely, a collection of listed buildings in one location or under one ownership. This makes the not inconsiderable costs more justifiable. However to produce a meaningful HPA will require considerable input from a local authority and the Act says that they 'may' enter into such an agreement rather than 'shall'. The HHA therefore fears that many will simply decline to make such agreements.

The HHA is not certain to what extent, if at all, Welsh Ministers intend to make use of 28.1 26L (3) other than for publicly owned buildings. If they were prepared in limited cases - perhaps for grade I and II* buildings – to themselves make such agreements with the relevant local authority as party, then the expertise at CADW could be brought to bear, thus relieving the local authority of part of the burden.

Once again guidance will be important. Most particularly it will be vital for owners to be able to enquire in advance with outline proposals as to whether a local authority will be minded to enter into an HPA. It would severely discredit the system if a major owner or institution spent a lot of time and energy preparing a proposal only for the local authority to decline to join in owing to lack of resource.

Section 29 The HHA believes that Temporary Stop Notices are a much needed tool to enable local authorities to act quickly if a listed building is under threat from unauthorised works. However it again calls into question the issue of resources. The most likely cause of a TSN will be a local authority being notified of works of which it was wholly unaware. The TSN can only last 28 days and cannot be renewed. Hence to avoid any such works recommencing after 28 days the local authority will have to concurrently start proceedings to acquire a court injunction as under the existing legislation.

Since the whole rationale of the TSN is based on the fact that such injunctions can take 28 days to acquire, it means extremely rapid co-ordinated action on the part of the local authority. The HHA

fears that many will not have the resources to achieve this, or – more likely – will be forced to divert resources away from other current work thus leading to further delays in Listed Building Consent applications which is precisely the opposite of what the Bill intends.

Section 30 This is the one section about which the HHA has severe reservations. These are not about the principles but about the potential consequences which HHA does not believe have been properly thought through.

Paragraphs 118 – 139 of the Explanatory Guidance published when the Bill was introduced make the target(s) of this section quite clear. It is aimed at stopping the collapse of listed buildings, whether deliberately or neglectfully occasioned, particularly when owners use the detail of the existing legislation to frustrate this intent. That is both necessary and supported by the HHA.

The problem lies in the detailed wording and the lack of definitions. If it were solely Welsh Ministers who were going to operate these clauses then guidance might be sufficient but as Explanatory Guidance para 135 notes Welsh Ministers will use these powers ‘.. rarely, if ever...’. Instead it is local authorities who will implement.

One of the most constant complaints from HHA members over decades has been inconsistency in approach by different local authorities. Following the passage of the Bill, local authorities are going to be expected by Ministers and by the public to take action armed with these new powers. There are, on average, about 150 listed buildings at risk in each local authority area in Wales (and about another 200 vulnerable). The chances of consistency when considering over 3000 potential cases with acknowledged lack of resources and such imprecise wording, has to be very low indeed.

The key difference from the existing legislation is that Section 30 makes the Act applicable to occupied and residential property. Thus an elderly couple could be faced with 7 days notice that works are to commence. There is no date upon which the local authority may issue a notice requiring the owner to pay the expenses of the works, so that could be concurrent. In the absence of any appeal the owner could find themselves one month later with a Receiver appointed and the property being sold to cover the debt.

Much is made of the fact that this position is similar to that of a mortgage holder recovering their debt. However the crucial difference is that the holder of a mortgage has entered into a contract with the mortgage company and their occupation of the property is conditional upon that contract. There is no contract between the owner of a listed building and their local authority.

The position of occupants would be likewise invidious. Whether commercial or residential, they could find their occupancy terminated by a receiver with little hope of compensation from the owner who may have no funds. Once again any such occupancy of a mortgaged property has to be by prior agreement with the mortgage holding company. No such agreement will have been considered by a local authority.

Much is also made of the fact that any works must not unreasonably interfere with the residential use. It is assumed that this restriction applies to the physical interference not any financial consideration. In any event there is no definition and no mechanism whereby the reasonableness or otherwise can be challenged. The only permitted representation to Welsh Ministers concerns the levels of expenses recoverable and further appeal to the courts is likewise.

The matter of 7 days notice is perfectly reasonable when a building is unoccupied but not necessarily so when occupied. Take the examples of a historic building used for holiday lets or for weddings. At 7 days notice the owners could find themselves facing scaffolding, builders vehicles, contractors toilets, and all the associated noise, dust etc. They would be sued by their clients for something about which

they had no warning and no appeal. [NB the urgent works could be to a closely adjacent part of the building in use as above, thereby, in the local authority's opinion, not interfering with the use – if the use is commercial the local authority do not even have to consider it.]

Compounding all the above is that there is no definition of what constitutes Urgent Works. Again not so much of an issue when the building is unoccupied but a very serious one when it is lived in or used commercially as the scope and scale of the works are likely to determine whether the expenses are affordable or the building must be sold.

Paragraph 122 of the Explanatory Guidance notes “The Owner may choose to carry out the works specified in the notice, but, if not, the LPA may act.” The HHA can find no provision neither in the 1990 Act, nor the present Bill, to allow for such action. Until now it was most likely in the local authority's interest if an owner would carry out the works. Armed with a local land charge and the ability to appoint a receiver it would almost certainly be in the local authority's interest to press ahead with the works themselves and recover all the costs.

The next problem is the phrase [30.6 (6) (5C)] ‘...land on which the building stands...’. Once again there is no definition. Holding a charge over the precise footprint of a building is likely to be useless to a local authority if there is no access and all services have to cross land in other ownership. It is to mean the building and its immediate surrounds, how far do they extend, the garden, the paddock?? Clearly a building with say a garden and/or some land is a much more saleable proposition than the same building bare.

The next point concerns equitable treatment in accordance with the building's need rather than the owner's ability to pay (or by extension the sale value of the seized building). There has always been a major issue for local authorities concerning cost recovery – the very cause of these new proposals. With the new powers and tight budgets there will be great pressure for local authorities to select building for urgent works notices where they feel they have the best chance of recovering their expenses rather than where the building itself is in the greatest danger.

Finally there is some doubt as to whether these provisions will work at all. The 1990 Act at 55.(4)(d) provides for an owner to make representation to the Secretary of State that the recovery of the expenses demanded by the local authority ‘... would cause him hardship,...’. Under that Act the Secretary of State makes a determination and that is it. Under the Bill the new clause to be inserted into the 1990 Act (as sub-clause 5A) allows for an appeal to the county court against Welsh Ministers' equivalent ruling. For those occupiers whose building is at risk because of their lack of resources, it would be almost certain that they could successfully argue that any significant expense payment would cause them hardship.

Taken together the above points lead the HHA to argue that this section requires significant rethinking.

As an initial step, it believes that a better position would be for local authorities to be instructed to give owners the opportunity to carry out the works themselves. If local authorities were to issue a 'minded to carry out urgent works' notices, the threat of using the new local land charge provisions would act as a powerful incentive to persuade owners that they could no longer ignore the problems.

To avoid the land charge being made owners would have to enter into an agreement to carry out the works within a specified time frame. That in turn would create a contract, breach of which would render any appointment of a receiver etc much more justifiable. It would also give time for owners to rearrange tenancy arrangements and or commercial contracts, thus reducing the scope for arguments about hardship.

PART 4 – Miscellaneous

Section 33 Provided resources can be found these provisions should achieve the desired aim of a more stable future for Wales' historic environment record.

The HHA is not clear where the boundary lines will lie in future with regard to records to be held by local authorities, those held by CADW, those by the Royal Commission, the National Library etc etc.

HHA members have much experience in dealing with the public (13 million visitors a year). The expectations are today a) for digital, and b) for one stop shop, mostly via an app. Therefore HHA would most strongly recommend that all local authorities and other record holders contribute to a central database (overseen by CADW?) which can then be accessed as an educational, tourist, and environment resource by Welsh communities and visitors alike.

Section 37 The establishment of a Panel is welcomed. All the HHA asks is that firstly the private sector is sufficiently represented to reflect the large portion of the heritage environment under its control and secondly that a method is established for those not directly represented on the panel to feed in their contributions. This latter particularly in respect of the hundreds of voluntary and third sector organisations with an interest in the heritage environment identified in an earlier study.

Note

HHA has not commented here on some detailed aspects of guidance largely because of lack of time or prior involvement in their processes.

As an example the draft revision to Technical Advice Note 23 (the heritage section of guidance under Planning Policy Wales) was, as far as HHA knows carried out without reference to the private ownership at all despite the private sector being almost 100% of those affected. The present draft does not seem to embrace the forward looking concepts of sustainable adaptation as support by Ministers and the HHA.

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19 June 2015

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HE 32

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: NFU Cymru

Response from: NFU Cymru

NFU Cymru submission to the National Assembly for Wales' Communities, Equality and Local Government Committee

NFU Cymru welcomes the opportunity to respond to the National Assembly for Wales' Communities, Equality and Local Government Committee's call for evidence in relation to the Historic Environment (Wales) Bill.

Although NFU Cymru considers the Welsh Government's desire to improve the protection of Wales' scheduled monuments and listed buildings to be a laudable one, from our initial analysis of the bill there do appear to be areas in which the draft bill could potentially impact upon the activities of our members and give rise to concerns. I am therefore pleased to be able to offer the following observations on behalf of NFU Cymru.

1. We welcome the fact that sections 15 and 16 of the Bill will not give rise to strict liability offences in relation to works affecting a scheduled ancient monument, and will provide an individual with a defence if he or she has taken all reasonable steps to find out if there was a scheduled ancient monument in the area affected by the works, and after doing so did not know or had no reason to believe that the monument was within the area affected by the works. Despite this we are mindful of the fact that the availability of this defence is contingent upon there being an easily checkable and verifiable database mapping the precise location of these monuments.
2. The experience that the agricultural industry has had with regards the mapping of historic features as part of Pillar 2 schemes has not been a positive one with features often incorrectly recorded in terms of features not being present at all on the land in question, or marked on the map a significant distance away from where they are actually located.
3. It is vital that the ability of farmers to carry out routine farm operations is not compromised, and that in undertaking such routine work, farmers do not end up falling foul of the law. It is therefore vital that robust and accurate database of monuments is readily available, and that it is up to date and easy for anyone to access. In order to minimise the chances of a new landowner inadvertently disturbing a monument, the information that a monument exists on the land also needs to be highlighted via the land charges register.
4. Powers to enter land without the landowners consent, conferred by section 19 of the Bill should be used sparingly and with restraint, and we would ask that Welsh Ministers presume against using this power in all but the most exceptional circumstances, and only when there is a risk of imminent damage or destruction to a monument or listed building.

5. NFU Cymru does have some concerns over the fact that Section 22 of the Bill as introduced, could be utilised to confer protection on any site that evidences previous human activity, even if there is no evidence of a building or structure on the site. If such a provision does become part of any Act of the National Assembly, then we would stress the need for Welsh Ministers to once again use this power sparingly and to exercise considerable restraint in its utilisation, otherwise we could be facing a situation in which significant tracts of Wales could be subject to designation.

6. The Union welcomes proposals in Section 27 of the bill for immunity from listing to be extended to beyond those situations in which planning consent is being sought or has already been obtained. Granting such certificates outside of the planning process would give individuals some of the certainty they need in order to invest in and develop property, and we would consider this move to be a positive legislative development.

7. More generally the Bill as introduced will confer some additional obligations on Local Authorities, through for example maintaining Historic Environment Records, at a time when they are under considerable financial strain. With Wales home to 22 local authorities it is very possible that different Local Authorities could take quite different approaches to the maintaining of these registers.

8. NFU Cymru is well aware that the policy objectives of economic development can sometimes be at odds with a desire to protect our landscape. A fine balance must be struck between these competing objectives, with sufficient weighting and due consideration given to economic development objectives.

HE 33

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cyngor Gwynedd

Response from: Gwynedd Council

Gwynedd Council's response to the consultation on the terms of reference of the Historic Environment (Wales) Bill referred to below, follow in points 1 to 15.

Terms of reference

The terms of reference for the Committee's inquiry are:

To consider—

- the general principles of the Historic Environment (Wales) Bill and the need for legislation with the aim of:
- giving more effective protection to listed buildings and scheduled monuments;
- enhancing existing mechanisms for the sustainable management of the historic environment;
- introducing greater transparency and accountability into decisions taken on the historic environment.
- any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them,
- whether there are any unintended consequences arising from the Bill,
- the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum),
- the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

Introduction

1. In principle the contents of the Bill is to be welcomed from a more up to date legislative perspective and stronger guidance in order for the Conservation area to be more clear and precise. The current legislation and Circulars are still relevant but are in need of up dating. Some elements of the new Bill will safeguard protection for the Historic Environment that is currently weak and lacking.

The general principles of the Historic Environment (Wales) Bill and the need for Legislation with the aim of-

- giving more effective protection to listed buildings and scheduled monuments;

2. It is considered at present the current legislation is quite effective, but is not strong enough without enough protection for listed building or scheduled monuments. The existing circulars, particularly 61/96 which is relevant to the Local Planning Authority and the Conservation Unit is extremely useful but is 20 years old now and in need of updating. It is felt that most the Circular's contents are still useful but requires more backbone.
3. It is not considered that much change will occur from the new consultation system of the Welsh Ministers with listing buildings as they already carry out this system as good practice since 2005. However, it is considered that the addition of an interim protection period on buildings whilst their listing is being considered is a good addition that would give them protection as if they were listed. This addition is to be welcomed.
4. The proposal to create a statutory register of parks and historical gardens is a good addition in principle so that all parks and gardens are registered as opposed to the existing register where owners can refuse to be included. We as a Local Planning Authority already consult on all planning applications effecting parks and gardens with the Welsh Ministers and the relevant amenity bodies, therefore it is not considered much change would occur with this provision.
5. The proposal to extend the scope of urgent works to occupied and unoccupied buildings and the recovery of costs as a local land charge is an addition that is welcomed which would mean more opportunities to serve a notice on occupied buildings in stead of just unoccupied buildings. This notice is at present frustrating due to the nature of the building where we cannot serve a notice, but this new provision would change this which would mean more protection to buildings under risk.
6. As the Local Planning Authority we deal with a lot of instances where unauthorised works are carried out on listed buildings and usually a conversation between an officer and owner ceases this work, but there is no formal notice to support this. The proposal therefore to introduce temporary stop notices is a strong provision which would mean the ability to protect buildings but also as a deterrent for offenders, primarily as it is effective immediately.

The general principles of the Historic Environment (Wales) Bill and the need for

Legislation with the aim of:

- enhancing existing mechanisms for the sustainable management of the historic environment;
7. At present the historic environment records are run from the Welsh Archaeological Trusts. It is considered that this procedure is very effective as the nature of these records is within the archaeological field and the service the Trusts deliver is informative, detailed and open to everyone. The proposal to re-locate this register within the Local Planning Authority is rather confusing, as it is not considered the Planning Authority is the correct location. The historic environment record is not relevant to the day to day work of the planning Service and it is considered it would be re-located elsewhere.
 8. Another matter to consider is the cost of re-locating this provision. Welsh Councils are facing significant cuts in the intervening years and should the historic environment records be re-located within the Planning Authorities, it is not considered that the record would be prioritised from a planning perspective and the resources are not readily available to provide an effective Service.
 9. The proposal to introduce heritage partnership agreements are to be welcomed in principle, where it will facilitate the consent system with large estates. But as they are voluntary agreements, there are no obligations for owners to enter into such agreements.
 10. The Local Planning Authority does not receive applications for certificates of immunity from listing very often. Within the last 3 years none have been submitted and therefore it is not considered that much change would occur from the relaxation of this condition.

The general principles of the Historic Environment (Wales) Bill and the need for legislation with the aim of:

- introducing greater transparency and accountability into decisions taken on the historic environment.

11. The proposal to establish an advisory panel for the Welsh historic environment is acceptable in principle, but to what purpose would the panel serve? If it were a panel that would offer advice to all heritage area's and open to everyone, it could be very useful. It is considered that the procedures for dealing with applications for listed building consent is already transparent in terms of the role of the Local Planning Authority, but that that same transparency is not the case in terms of the applications that have the input of Cadw.

The general principles of the Historic Environment (Wales) Bill and the need for legislation with the aim of:

- any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them:
12. It is considered that the main barriers with this Bill primarily is resources. A lot of the principles in terms of being fully verified will be in need of resources within the Local Planning Authority. In this current economic climate, it is considered that this lack of resources and the need to prioritise resourcing will be a significant barrier.

The general principles of the Historic Environment (Wales) Bill and the need for Legislation with the aim of:

- whether there are any unintended consequences arising from the Bill,
13. Apart from the resources elements on the Bill, it is not considered that there are any other consequences arising from the Bill.

The general principles of the Historic Environment (Wales) Bill and the need for legislation with the aim of:

- the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)

14. The explanatory memorandum explores many different options in terms of the costing of the Bill. Many of the provisions that are proposed could have resources implications to the Council. It is considered that the main cost would be the re-location of the historic environment records as it would mean training an officer within the nature of the work and to record all the information.

The general principles of the Historic Environment (Wales) Bill and the need for Legislation with the aim of:

- the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

15. It is not considered that the powers of the Bill to create subordinate legislation is a concern and there are no specific comments at present.

HE 34

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Y Sefydliad Cynllunio Trefol Brenhinol

Response from: The Royal Town Planning Institute

19 June 2015

e-mail response sent to: SeneddCELG@Assembly.Wales

Dear Sir/Madam,

Response to: Communities, Equality and Local Government Committee inquiry into the general principles of the Historic Environment (Wales) Bill.

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 23,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

Thank you for the opportunity to comment on the above consultation. The response has been formed drawing on the expertise of the RTPI Cymru Policy and Research Forum which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

We have the following observations in response to the consultation.

RTPI Cymru welcomes the introduction of the Historic Environment (Wales) Bill and its aims which includes introducing greater transparency and accountability in decision making and more effective protection and management of the historic environment.

Establishment of an advisory panel for the Welsh historic environment

RTPI Cymru supports in principle the establishment of an advisory panel as proposed in the Bill, although prior to committing to the advisory panel a clear role which aims to enhance the service and fits in with existing historic environment and other relevant groups needs to be widely consulted upon to establish its value.

Paragraph 31 of the Explanatory Memorandum states “The panel is also likely to have a role in reporting to the Welsh Ministers on the delivery of the strategic plans for the Welsh historic environment.” Further information is required on the purpose of the Strategic Plans for the Welsh Historic Environment. How do they fit with other

policy documents, both existing – such as Planning Policy Wales (PPW), and those proposed under the various new Bills/Acts (Planning (Wales) and Environment (Wales) Bills and Well-being of Future Generations Act) – such as the National Development Framework (NDF). What role will the Strategic Plans for the Welsh Historic Environment play within the hierarchy of plans, statements and documents?

Introduction of enforcement and Temporary Stop Notices (TSN) for scheduled monuments

In relation to the proposed changes to the scheduled monument enforcement process, we are pleased to see that several different powers are being considered here, including planning enforcement notices, TSNs and injunctions. We also note proposed changes to limit the availability of the defence of ignorance in respect to prosecutions. These proposals are long needed and will bring scheduled monuments in line with powers already being used in respect of listed buildings.

Creation of a statutory register for historic parks and gardens

Para 111 of the EM states “Registered sites are given weight by *Planning Policy Wales*, which states that LPAs should take the register into account in preparing development plans and that the effect of a proposed development on a site included in the register, or on its setting, 'may be a material consideration in the determination of a planning application.'” Given this the creation of a statutory register is welcomed by RTPI Cymru.

Extension of the scope of urgent works to listed buildings and the recovery of costs through the introduction of local land charges

RTPI Cymru supports the proposal to extend the scope of urgent works to listed buildings and the recovery of costs allowing LPAs to take action even if deteriorating buildings are being used for storage or other non-residential purposes and make it easier for them to develop plans for buildings in partial occupation.

Introduction of TSN for listed buildings

RTPI Cymru welcomes the proposed introduction of a Temporary Stop Notice (TSN) process in relation to Listed Buildings, which provides a useful additional enforcement tool to LPAs.

We are unsure how widely the TSN will be used, as often the very fact an offence has been committed deters the owner/occupier from continuing with any further works, or the unauthorised works have already been completed. However it is useful to have a process like the TSN for situations whereby the unauthorised works are not extensive, are ongoing, and need to be stopped.

We also note there is the same compensation element as with general TSNs under the Town & Country Planning Act 1990. The possible payment of compensation may deter LPAs from using such a tool.

Requirement for local planning authorities to create and maintain Historic Environment Records (HER)

Paragraph 159 of the Explanatory Memorandum states, “the provisions require every LPA in Wales to create and keep up to date a HER and to make arrangements for information on the historic environment to be recorded, stored and made publicly available”.

Whilst we support the principle of historic environment records, we raise serious concerns over the ability of local authorities and others to adequately resource this activity, particularly in the context of significant cuts and difficulties in resourcing services, including conservation officers. At this time of budgetary pressures we have concerns that additional costs to LPAs may potentially place other elements of the planning service at risk.

Paragraph 162 of the Explanatory Memorandum explains that “the provisions also allow for the Welsh Ministers to issue guidance, following consultation, on the creation and maintenance of discharge of HERs, arrangements for the those functions, the publication of HERs and the setting of fees.” For the reasons given above we are pleased these matters will be consulted on and look forward to receiving further explanation and options on HERs.

Introduction of Heritage Partnership Agreements (HPA)

RTPI Cymru supports the proposal for HPAs, however we feel good practice notes would be useful for all parties involved in implementing these voluntary agreements.

If you require further assistance, have any queries or require clarification of any points made, please contact RTPI Cymru on 029 2047 3923 or e-mail Roisin Willmott at walespolicy@rtpi.org.uk

Yours sincerely,



Dr Roisin Willmott MRTPI

**Director
RTPI Cymru**

HE 35

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Y Gronfa Treftadaeth Bensaernïol

Response from: The Architectural Heritage Fund

- 1.0 The AHF is a registered charity, founded in 1976 to promote the conservation and sustainable re-use of historic buildings for the benefit of communities across the UK. We do this by providing advice, information and financial assistance in the form of early project grants and loans for projects undertaken by charities and not-for-profit organisations. Set up with £500K from the UK Government, the AHF's lending resources are now worth nearly £13M as a result of successive government grants, donations and accumulated surplus of income over expenditure. AHF grant programmes are financed by interest on loans and bank deposits, and Government grant-aid.
- 2.0 The AHF shares the vision of the Welsh Government that a well-managed historic environment makes a vital contribution to the creation of sustainable and distinctive places. Historic buildings and places play an essential role in our everyday lives, our cultural identity and our economy. Our historic environment can inspire creativity and enterprise, it brings communities together, and it makes people happier about where they live. For nearly 40 years, we have been supporting people achieve viable community-led solutions for the re-use of historic buildings at risk.
- 3.0 The AHF is unique in that we are able to offer support to local communities at every point in the life-cycle of their project – grants for early development work and project planning, through to loans for acquisition and as working capital for project delivery. Our experienced staff also offer help and advice, giving people the skills and confidence they need to realise their ambitions.
- 4.0 Since 1976, the AHF has awarded loans with a total value of £68M to over 500 projects across the UK and has disbursed more than 700 individual early project grants totalling over £8M.
- 5.0 Specifically in Wales, the AHF has recycled its £405K designated lending fund in Wales by a factor of 7, and we have now awarded loans totalling £2.75M to facilitate the repair and sustainable re-use of 20 historic buildings at risk in Wales. For example:
 - a. An AHF loan of £120,000 to Llandudno Seaside Buildings Trust to repair and refurbish the Grade II listed St. George's National School in Llandudno as an integrated learning centre, providing new training and employment opportunities

for the local community. The project won a design award from the Consortium of Local Authorities and is widely regarded as an exemplar as a forerunner of local authority asset transfer.

- b. A loan of £225,000 to Cadwgan Building Preservation Trust to facilitate the acquisition of Ty Castell, adjacent to Cardigan Castle. The loan proved to be the catalyst for the restoration scheme for the Castle itself. The recently completed £12M project has brought widespread community, tourism and economic benefits to the area. The AHF was the first funder to commit to the project, and we continued to provide advice and further financial support through to its completion.

6.0 The AHF has also disbursed more than £542K in grants to 94 projects in Wales, assisting with early project feasibility and development work to help find solutions for historic buildings at risk, such as:

- a. Early project grants of £20,500 to Penarth Arts and Crafts Ltd to fund a feasibility study for Penarth Pier Pavilion and to assist with project development and the preparation of the successful application to the Heritage Lottery Fund. Financial support early on was crucial for Penarth Arts and Crafts, a social enterprise, to realise their ambitions and to develop the pier pavilion as a multi-purpose entertainment venue for the benefit of the people of Penarth, particularly those from a disadvantaged background. The pavilion reopened in 2014.
- b. An early project grant of £3,000 to Carmarthenshire Heritage Regeneration Trust to fund an assessment of the financial viability of restoring the derelict Grade II former YMCA building in Merthyr Tydfil into a social and economic hub, housing new office and work space (which is estimated will create 70 new jobs). This assessment was a prerequisite for an HLF application to its 'Heritage Enterprise' grant scheme, and a first-round pass was awarded in February 2015 with £2.6M available subject to further applications. Stabilisation and emergency works were completed in January 2015.

The Historic Environment (Wales) Bill

7.0 The AHF welcomes the opportunity to respond to the call for written evidence on the Bill. Whilst the AHF is not directly involved in the operation of the planning system, we do have a strong interest in the conservation and sustainability of Wales's heritage, having allocated over £3.29M to historic building projects in Wales. We wish to see our investment protected through effective legislation.

8.0 We recognise that the principal tool for the conservation of Wales's historic environment is the legislative and regulatory planning system. Ultimately that system is about recognising a public interest in private property, and part of that public interest lies in the diverse values people attach to their heritage.

9.0 In order to be effective, it is essential to have in place a regulatory system that is clear, transparent, democratic, consistent and pragmatic. With this in mind, we welcome all of the legislative amendments in the Bill and the supporting complementary documentation. We believe the amendments comprise a straightforward series of sensible steps that effectively harmonise the legislative processes of the Ancient Monuments and Archaeological Areas Act 1979 and the Planning (Listed Buildings and Conservation Areas) Act 1990 whilst also recognising the different objectives and mechanisms required for the conservation and sustainable management of ancient monuments and historic buildings.

Improved heritage protection controls

10.0 The AHF considers that the proposed amendments will achieve a more robust system of heritage protection, by introducing interim protection measures, by replacing the ‘defence of ignorance’ with a ‘due diligence’ defence and by the introduction of enforcement and stop notices. We recognise these measures are in effect additional bureaucratic controls, but ones that will only impact upon those whose actions are considered to be damaging to the conservation of Wales’s irreplaceable historic environment. We consider that the proposed amendments are likely to introduce additional financial costs, but again only for those who contravene the legislation or who wilfully neglect statutorily protected historic buildings.

Measures for consultation on designation applications

11.0 The AHF supports the measures introduced to ensure owners of historic assets and other appropriate persons are given an opportunity to comment on applications for designation. It is an important principle that all of those with an interest in an historic asset are able to express their views on its value and how it should be looked after.

12.0 It is not clear whether the definition and scope of ‘appropriate persons’ as drafted extends to representatives of the local community in which the heritage asset proposed for designation sits. Indeed, it is difficult to ascertain the degree to which the Bill and supporting complementary documentation empowers local communities to have a meaningful role in the identification of heritage assets that are worthy of protection. In his introductory statement, the Deputy Minister for Culture, Sport and Tourism referred to new secondary measures designed to allow communities to recognise historic assets that are important to them. However, the draft guidance on historic assets of special local interest does not *require* Local Authorities to maintain such lists, the lists do not confer any statutory protection to recorded assets, and there are no specific provisions for communities to nominate heritage assets for inclusions on such lists.

13.0 As a consequence, the AHF recommends that (subject to the current review of local government) the Committee might wish to consider whether it is either desirable or practicable to include Community Councils and/or Area Boards within the definition of “appropriate persons” that are invited to comment on applications for

designation. We also suggest the draft guidance on heritage assets of special local interest could be improved by including specific provisions for communities to nominate heritage assets for inclusion. Such a measure would help ensure historic environment policy keeps in step with proposed improvements for local devolution, democracy and delivery as set out in the White Paper, *Reforming Local Government: Power to Local People*.

Historic Environment Records

14.0 The AHF considers Historic Environment Records (HERs) as one of the most important ways of recording, maintaining and disseminating knowledge about the historic environment. Therefore, we strongly endorse the introduction of a statutory obligation for local authorities to create and keep up to date HERs and provide access to them, and we welcome the encouragement of outreach programmes to promote their wider use (as advocated in the complementary guidance document). This is a very progressive step by the Welsh Government that will help ensure HERs can both serve as an effective heritage protection and planning service tool and provide a unique resource for people to understand and find out more about their local historic environment.

Complementary guidance

15.0 The AHF welcomes the publication of the draft complementary guidance documents. On the whole, these are very clear and straightforward and they provide a useful understanding of the policy, advice and guidance that will complement the legislation after its enactment. We look forward to commenting on them further when they are released for formal consultation.

16.0 However, the AHF believes there is a potential gap in the suite of complementary documents, as there is currently no specific guidance provided for local communities and not-for-profit organisations that may wish to transfer heritage assets from public ownership. The AHF has been pleased to contribute to the preparation of such a document in England, *Pillars of the Community: The Transfer of Local Authority Heritage Assets*¹, and we recommend the Welsh Government consider introducing a similar document in Wales.

Conclusion

16.0 In summary, the AHF is very supportive of the new legislative measures introduced by the Bill and the guidance set out in the complementary documents subject to the comments above.

¹ <https://content.historicengland.org.uk/images-books/publications/pillars-of-the-community/heag032-pillars-of-community.pdf/>

HE 36

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

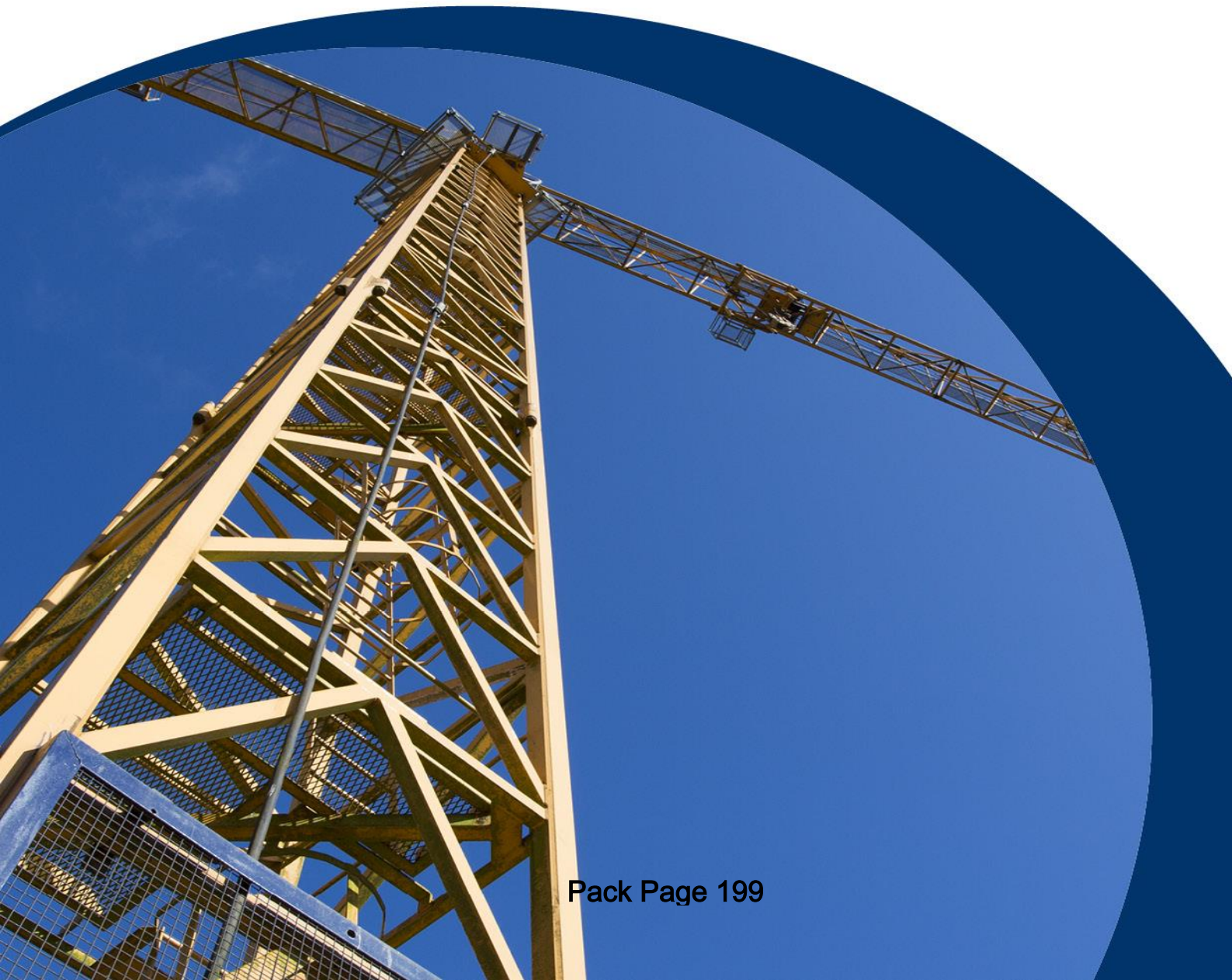
Ymateb gan: Bwrdd Hyfforddi'r Diwydiant Adeiladu

Response from: Construction Industry Training Board

A 'Material' Issue: Understanding and Responding to the Traditional Building Skills Challenge in Wales

Final report

February 2015





Study prepared by Pye Tait Consulting from a commission by CITB.

The views expressed by research participants are their own and do not necessarily represent those of their employers.

The study should not be regarded as a policy statement by CITB.

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Executive Summary

Research context, aims and methodology

In March 2012, Cadw hosted a Traditional Building Craft Skills Summit at Caerphilly Castle. The summit set out the importance of promoting building maintenance and the use of sustainable materials by 'mainstreaming' these within Further Education and Higher Education courses in Wales. There was also a call to develop training and 'up-skilling' programmes and to improve Continuing Professional Development (CPD) for those working on traditional buildings¹. These goals were echoed in a 2013 report by the Sustainable Traditional Building Alliance (SBTA), which called for education and training in traditional building issues to be made an essential part of mainstream educational programmes, including both theoretical and practical issues.

In May 2013, CITB submitted a project proposal to the Welsh Government to obtain funding for the Sustainable Construction Learning Sites Project (SCLSP). The main aim was to bring the skills associated with the repair, maintenance and conservation of traditional buildings into the mainstream of construction education and training across Wales and to establish a core set of sustainability skills for the sector. The SCLSP ran from May to December 2014 and was managed by CITB on behalf of the Welsh Government.

Two tangible outcomes from the project included:

1. The development of a new Level 3 CPD unit for trainers: *Sustainability and energy efficiency in pre and post 1919 buildings*; and
2. The development of a new Level 1 unit for learners that learners can complete as part of the Community Learner Industry Focus (CLIF) content of existing qualifications.

This research contributes to the successful completion of the SCLSP. It provides an up-to-date picture of skills demand, skills supply and training provision relating to the conservation, repair, maintenance, and energy efficiency retrofit of traditional buildings in Wales. The report also gives consideration to the future skills and learning agenda emerging from developments in the heritage and construction sectors in response to the wider economic and policy drivers such as Green Deal and the low carbon agenda.

Pye Tait Consulting carried out this research between June and December 2014, using a mixed methodology and following an iterative four-stage process:

1. **Desk review** of policy developments, skills and knowledge issues;

¹ Traditional buildings are defined as those built before 1919, as well as post-1919 buildings which are hard to treat, require similar skills and materials to those required for work on older buildings, or possess exceptional heritage and architectural merit.



2. **In-depth telephone interviews** with 55 stakeholders;
3. **Telephone survey** generating responses from 406 built environment sector employers (craft-based and professional roles); and
4. **Two focus groups** to explore the emerging issues in greater detail.

For the purpose of this research, traditional buildings are defined as: “All buildings built before 1919, as well as newer (post-1919) buildings that may have solid walls or are otherwise are hard to treat, require similar skills for work on older buildings, and/or possess exceptional heritage and architectural merit.”

Demand for work on traditional buildings

- The vast majority (94%) of surveyed employers in Wales are ‘mainstream’ construction businesses that work in relation to both modern and traditional buildings;
- Just under half of employers’ time (43%) is spent working on traditional buildings – signalling importance of the construction sector being competent and knowledgeable in relation to these types of structures;
- Routine repair and maintenance activities account for exactly half (50%) of all work undertaken on traditional buildings, followed by conservation and restoration (37%) and latterly energy efficiency retrofit (13%); and
- Looking ahead over the next two years, just under half (44%) of employers are optimistic that demand for work on traditional buildings will increase.

There are a range of demand drivers that are helping to create conditions for an upturn in work on traditional buildings following the recession of the late 2000s. Industry growth forecasts to 2019 are favourable²; energy efficiency policy and incentives such as Arbed and the Green Deal are starting to stimulate retrofit activity; and since 2012 the Welsh Government has remained committed to transforming derelict and uninhabitable properties as part of the *Houses into Homes* scheme, with the announcement of a further £20 million of funding from January 2015.

Despite these drivers, stakeholders participating in the research expressed concern that awareness is general lacking about the damage that can be caused to traditional buildings from inappropriate work, techniques and materials. A wide range of audiences need to understand these issues, including public and private sector construction clients (e.g.

² Construction Skills Network (2015): *Blueprint for Construction 2015-2019 Report*



property/estate owners); planners and building control representatives; building design professionals (including architects and building surveyors); as well as mainstream construction businesses that freely undertake work on traditional buildings.

Supply of skills and knowledge

Surveyed employers were asked to rate (on a scale from 1 to 10) the skill levels of their own workforce across a range of specific crafts/trades carried out by their organisation. Average ratings were generally high (greater than 7.0 out of 10) which led to some stakeholders expressing concerns in the subsequent focus groups that some employers may be over-confident, for example due to “not knowing what they don’t know”.

Highest rated skills (employers):

- Roofer – tiles and slates (8.8);
- General craft/trades person (8.7); and
- Plasterer – other (8.7).

Lowest rated skills (employers):

- Stone conservator (5.8 out of 10)
- Steeplejack (6.0 out of 10); and
- Glass painter (6.4 out of 10),

Skills considered to be in short supply for work on traditional buildings (albeit mentioned by a minority of employers):

- Plastering (34 respondents);
- Lime work – Including lime plastering (32 respondents);
- General shortage of tradespeople in all traditional building skills (30 respondents);
- Stone work (25 respondents);
- Carpentry and joinery (24 respondents);
- Lack of suitable apprentices (23 respondents)
- Bricklaying (17 respondents);
- Roofing (17 respondents); and
- Experience (13 respondents).

Core skills and knowledge needed for working on traditional buildings (most frequently stated by stakeholders):

- Lime work;
- Stonework;



- Carpentry and joinery;
- Roofing; and
- An understanding of why work on traditional buildings needs to be undertaken in a particular way.

Other findings related to skills and knowledge supply:

- A minority of employers (13%) reported having turned work down on traditional buildings due to a lack of skills and knowledge;
- A similar minority (11%) confirmed that they have knowingly undertaken work on traditional buildings while having insufficient skills and knowledge;
- More than half of craft employers (60%) are confident in the ability of their workforce to install low carbon and energy efficiency measures, albeit 28% stated that they couldn't say (i.e. "didn't know") whether or not they were confident;
- Among professional employers, the vast majority (87%) are confident that their workforce can design, assess or advise on these measures;
- The most common barrier facing employers when sourcing individuals to work on traditional buildings is that candidates are not skilled/knowledgeable to the levels needed (23% of responses); and
- A third of employers (33%) reported having recruited at least one apprentice or trainee to work in relation to traditional buildings over the past five years; and just over a fifth (21%) stated that they are likely to recruit an apprentice or trainee over the next 12 months;

Reasons given by employers for their level of apprentice demand primarily centre on the amount of work available and that they are willing to take on. The economic recovery and employment growth forecasts for the industry to 2015 could increase demand for apprentices.

Working with traditional building materials

- Employers are generally favourable about the knowledge of their workforce relating to traditional materials (scoring 7.6 out of 10) and their ability to work with traditional materials (8.2 out of 10); and
- The vast majority of surveyed craft employers (80%) reported using a mixture of modern and traditional materials when working on traditional buildings (this compares



with 71% for England and Scotland when comparable research was undertaken in 2012).

- Only 10% of craft employers in Wales reported that clients or professional advisors stipulate that traditional materials must always be used (lower than the 22% for England and Scotland in 2012); and
- Over a fifth of craft employers (23%) stated that traditional materials are never stipulated in Wales (higher than the 13% for England and Scotland in 2012).

In some circumstances, use of a mixture of materials might be appropriate, however the above finding highlights the risk of inappropriate materials being used that could have a damaging effect on traditional building fabric. This was raised as an issue by stakeholders who emphasised the importance of using the right materials to avoid causing undue and lasting harm.

Surveyed employers were asked what barriers, if any, can prevent the use of traditional materials on traditional buildings. The three most common responses are:

- Cost (37% of responses);
- Traditional materials are not always available (15% of responses); and
- Traditional materials do not meet building regulations/modern standards (10% of responses).

Qualifications and training

- The vast majority of surveyed craft employers (95%) reported that their workforce does not hold any qualifications directly relating to heritage, traditional buildings or conservation;
- Only a quarter of employers (25%) have participated in training specifically relating to work on traditional buildings over the past five years;
- Only a minority of employers (15%) have previously developed traditional building skills and knowledge as a result of mainstream (i.e. general construction) provision offered by FE Colleges in Wales;
- Just under half of employers (49%) don't know whether FE College training provision available in Wales is equipped to deliver the skills and knowledge required for working on traditional buildings;



- Over half of employers (58%) don't know whether FE College provision in Wales is equipped to will give craftspeople the skills they need to work on low carbon and energy efficiency measures in traditional buildings; and
- Over two thirds of employers (69%) believe that more defined and specific coverage of traditional building skills and knowledge would be valuable within mainstream FE College provision in Wales.

Types of training needed by employers which they cannot access (where mentioned by more than one respondent):

- Everything/general craft skills for working on traditional buildings (13 responses);
- Knowledge of/working with traditional materials (5 responses)
- Lime work (4 responses)
- More practical training (3 responses);
- Plastering (3 responses);
- Flooring (3 responses);
- Stone work (3 responses);
- Carpentry (2 responses); and
- Sash windows (2 responses).

On the whole employers were favourable towards mainstreaming traditional building skills provision on the basis that it would improve the general skills and knowledge of the existing workforce and help to ensure better quality of workmanship. In particular, they commented that apprentices and trainees would gain better basic skills and knowledge for tackling work on traditional buildings. A combination of theory and practical application is considered important, with the latter of particular value to ensure trainees can practise working with traditional materials and tools, and generally to “learn the art”.

Stakeholders participating in the research are also generally supportive that formal qualifications are essential as a recognisable ‘badge’ of quality and also to ensure contractors have the skills and knowledge necessary for working on traditional buildings.

According to CITB, the industry in Wales has consistently made it clear that they ideally require the construction workforce to be trained to a standard comparable to Level 3 qualifications. This has been reconfirmed to CITB on many occasions, most recently at a number of the regional forums and CITB Wales’ Construction Skills Group in November 2014.

A key concern has been raised to CITB regarding current Level 3 qualifications in that there is perceived to be too much emphasis on supervisory aspects and insufficient focus on the broader range of requirements of each trade. This has been a common theme in a number of meetings and has been raised by SMEs and major employers alike.



A suggestion to CITB that has garnered a measure of support is to re-look at the current constituent parts of Level 3 qualifications and seek to readdress the balance of supervisory elements with the wider skill base. In Wales there has been a desire to see some of the more complex work tasks, as well as heritage and sustainability skills, included in all qualifications. The perceived benefits are twofold: firstly to give apprentices who are progressing to Level 3 a wider knowledge and skill set; secondly to ensure over time that the workforce becomes more aware of the important part their work plays in the cultural surroundings in Wales.

Conclusions

The state of workmanship on traditional buildings: There is evidence to suggest that work is being carried out on traditional buildings across Wales by professionals and contractors who do not possess the requisite skills and knowledge. This risks damaging the fabric and airflow of these buildings, with potential consequences for the health of occupants.

Demand for traditional building skills: There are optimistic signs that demand for work on traditional buildings may increase over the next two years. This is evidenced by the views of employers (34% expect an increase whilst only 14% expect a decline); optimistic economic forecasts to 2019; and Welsh Government initiatives such as Arbed and the *Houses into Homes* scheme.

Skills and knowledge relevant to traditional buildings may need to be drawn upon relatively frequently, given that employers reported almost half of time (43%) is spent working on traditional buildings.

Only a small proportion of work on traditional buildings relates to energy efficiency retrofit (13%) – corroborating anecdotal evidence from stakeholders that this is still an emerging area where uncertainty remains about the suitability of existing skills and knowledge for installing such measures.

Measures of industry-supplied skills for traditional buildings: The collective insight of stakeholders has enabled the research to identify a number of ‘core skills’ for working on traditional buildings – namely:

- Lime work;
- Stonework;
- Carpentry and joinery; and
- Roofing.

It is extremely important that contractors understand the physics of traditional buildings, including qualities of breathability; the potential harm that can be caused to these structures



when work is undertaken incorrectly; and why it is so important to use the right methods and materials.

Scarcity of training provision for traditional buildings in Wales: Mainstream training provision that is directly relevant to traditional building skills appears to be scarce in Wales. This view is echoed by all research participants, including training providers themselves who stated that construction qualifications and Apprenticeships arguably focus too heavily on new build at the expense of traditional skills.

In an effort to improve traditional building skills and knowledge in Wales, attention should be turned to what employers say they need and will value – noting that two thirds of surveyed employers (69%) would like to see more defined coverage of traditional building skills and knowledge within mainstream FE College provision.

Recommendations

1. Raise awareness about the important structural qualities of traditional buildings and the implications of undertaking inappropriate work. In turn, work towards a situation where employers view traditional building skills and knowledge as vitally important to winning and undertaking work on these types of buildings;
2. Work with funders and commissioners to consider making certain grants for work on traditional buildings conditional upon contractors meeting pre-requisite requirements in terms of skills, knowledge and materials;
3. Work with FE Colleges, Awarding Organisations and other stakeholders in Wales to embed traditional building skills and knowledge within mainstream construction qualifications and Apprenticeships at Level 3; and
4. Promote wider uptake across Wales of the new Level 3 CPD unit for trainers that has been developed following the Sustainable Construction Learning Sites Project.



1. Introduction

1.1 Historic Wales

Traces of the past permeate the hills, towns and villages of Wales. Ancient strongholds, abbeys, country houses, palaces and museums provide a rich tapestry of history and offer a treasure trove of attractions for visitors throughout the year. From Caerphilly Castle and Tintern Abbey in the south to world-famous Caernarfon and Harlech castles in the north – Wales offers many portraits and symbols of its ancestry. The National History Museum at St. Fagans, just outside Cardiff, is the most popular heritage attraction in Wales with over 600,000 visitors annually.

There are some 30,000 listed buildings, 4,000 scheduled ancient monuments and three World Heritage Sites in Wales. On an on-going basis, the weather and the passage of time require historic sites and buildings to be conserved, maintained and repaired to ensure they can continue to provide a rich source of enjoyment and a vital source of tourist income for generations to come.

But, between the ancient and the modern there is another important group of structures – traditional buildings – which form the focus of this report. These are often defined in terms of their age, typically those buildings built pre-1919. They make up approximately one third (34%) of the current housing stock in Wales – well above the averages for England (28%), Scotland (19%) and Northern Ireland (12%)³

'Traditional' buildings are also differentiated from 'modern' buildings by virtue of their construction. Modern buildings are essentially designed to be waterproof, using impermeable defences such as brick, cavity walls and cement renders. In contrast, most traditional buildings are built with stone, soft timber and earth, using lime-based mortars and renders. These materials are porous and allow moisture to be absorbed and then evaporate away through roof coverings, windows and other openings. In that sense traditional buildings are said to 'breathe' and the process acts as a 'control' against dampness. The outer materials of these buildings are then dried out by the wind and sun.

While a great deal of care has been taken in the design of traditional buildings to keep water out (such as deep eaves, wide gutters and plinth at ground level), if any of these features are rendered inoperative or if the building is subject to excessive wetting, then it is effectively at risk. And if the building is at risk then, in addition to any unsightly visible symptoms, it may become dangerous and hazardous to the health of its occupants.

Anyone with responsibility for the conservation, maintenance, repair or energy efficiency retrofit of traditional buildings has a duty of care over their upkeep and protection. This encompasses public and private sector construction clients (e.g. property/estate owners);

³ CITB (2013) *Skills Needs Analysis of the Built Heritage Sector in Wales*



planners and building control representatives; building design professionals (including architects and building surveyors); as well as businesses operating right across the construction (repair and maintenance) sector that may come into contact with these buildings as part of their day-to-day work.

1.2 Research aims and objectives

1.2.1 Aims

This report presents findings from research carried out under the auspices of the Sustainable Construction Learning Sites Project (SCLSP). The SCLSP ran from May to December 2014 and was managed by CITB on behalf of the Welsh Government. It was delivered through the Welsh Government's Sector Priorities Fund programme and drew down additional support through the European Social Fund (ESF). Further details of the SCLSP are provided in section 2.6.

The report provides an update to the 2007 Skills Needs Analysis for the Built Heritage Sector in Wales⁴. It offers evidence of skills demand, skills supply and training provision relating to the conservation, repair, maintenance, and energy efficiency retrofit of traditional buildings in Wales.

The report also considers the future skills and learning agenda emerging from developments in the heritage and construction sectors in response to the wider economic and policy drivers such as Green Deal and the wider low carbon agenda.

1.2.2 Objectives

To:

1. Provide insight into the state of modern-day workmanship on older properties;
2. Develop a comprehensive picture of traditional building skills for the built heritage sector by providing tangible measures of the demand for and supply of skills and training provision;
3. Identify gaps in skills, knowledge and training provision (including associated reasons for these);
4. Identify areas of specific training need resulting from prevailing and emerging policy notably in respect of the low carbon agenda and the impact of the strategic national policies and regional/local actions to address sector needs. (Arbed and Green Deal);

⁴ National Heritage Training Group (2007) *Skills Needs Analysis for the Built Heritage Sector in Wales*



5. Provide insight into future programme development and curriculum content across Further Education;
6. Identify areas of future growth of training provision in the built heritage sector; and
7. Examine to what extent the characteristics of the traditional building workforce differ from that involved in mainstream/new build construction.

1.3 Core methodology

1.3.1 Main components of the research

Pye Tait Consulting carried out this research between June and December 2014, using a mixed methodology and following an iterative four-stage process:

1. **Desk review** of policy developments, skills and knowledge issues affecting work on traditional buildings in Wales;
2. **In-depth telephone interviews** with 55 stakeholders, comprising: 25 built environment and heritage sector stakeholders; 13 industry professionals (architects and surveyors); 8 contractors; and 9 training providers⁵.
3. **Telephone survey** generating responses from 406 built environment sector employers (craft-based and professional roles); and
4. **Two focus groups** to explore the issues emerging from the stakeholder interviews and survey in greater depth (further details about these events and the organisations represented is provided in Appendix 4).

1.3.2 Definition of traditional buildings used in the context of this research

As agreed with CITB at the outset of the research:

Traditional buildings: All buildings built before 1919, as well as newer (post-1919) buildings that may have solid walls or are otherwise are hard to treat, require similar skills for work on older buildings, and/or possess exceptional heritage and architectural merit.

⁵ NB: The scope and remit of this research did not include interviews with building owners and construction clients.



1.3.3 A note on the presentation of employer survey findings

Employer survey findings within this report are presented so that they compare:

- Regional similarities and differences – based on which region (or regions) in Wales employers reported that they undertake work; and
- Sub-sector similarities and differences – based on each employer’s main activity being either ‘craft’ or ‘professional’;

Table 1 Base number of survey respondents

North Wales only	81	20%	See Appendix 5 for a visual map of these regional derivations.
South East Wales only	77	19%	
South West Wales only	145	36%	
Multi-regional	103	25%	
Total	406	100%	

Craft sub-sector	328	81%	See Appendix 2 (Figure 27) for a breakdown of these sub-sectors by main business activity.
Professional sub-sector	78	19%	
Total	406	100%	

Further details about sampling, margins of error and other respondent information is provided in Appendix 2.

In addition to the above cross-tabulations, certain comparisons are included with comparable research that Pye Tait undertook for CITB in England and Scotland in 2012. These comparisons should be treated with caution as the base for that survey was only craft-based businesses, whereas this research for Wales includes both craft and professional sub-sectors.

Throughout this report, certain percentages in Figures and Tables may not add up to precisely 100% due to the effect of rounding.



2. Drivers of Change for Work on Traditional Buildings

Since the National Heritage Training Group (NHTG) completed the last Skills Needs Analysis for the Built Heritage Sector in Wales in 2007, there have been a number of developments (economic, policy-based, environmental and skills-related) that have had a direct or indirect effect on traditional building work. Some of the main changes are summarised below where relevant to this research.

2.1 The key role of heritage assets

In May 2009, the Welsh Assembly Government launched *One Wales: One Planet*, which articulated how it wished to develop Wales in ways which contribute sustainably to people's economic, social and environmental well-being. In this document Wales's rich culture and heritage was recognised as a vehicle for regeneration and for fostering local character and distinctiveness. These themes can also be cross-referenced to *People, Places, Futures: The Wales Spatial Plan* and the *Environment Strategy for Wales*. The Minister for Heritage issued his *Welsh Historic Environment Strategic Statement* in October 2009, which emphasised the key role that heritage can make to sustainable economic and social development.

2.2 Recession and recovery

At the time of the last NHTG study in 2007⁶, few people could have predicted the economic recession that was about to ensue. The latest five-year outlook for construction in Wales is now more optimistic to 2019⁷. Over that period, Wales is projected to see annual average output growth of 5.8% - double the UK rate of 2.9%. Expansion is expected to be primarily centred in the new work sector, with an average annual increase in output of 7.8% compared with 2% for repair and maintenance. This output growth rate is expected to drive strong employment growth averaging 2.4% a year, again well above the UK average of 1.5%. Wales' annual average recruitment requirement is projected at 5,320, which represents 4.8% of base 2015 employment⁸.

In April 2012, the Welsh Government launched the *Houses into Homes* scheme, which aimed to tackle social issues at the same time as meeting housing demand. A total of £20 million of funding was provided through the scheme to turn derelict and uninhabitable properties back into use. In January 2015 a further £20 million of funding was announced

⁶ National Heritage Training Group (2007) *Traditional Building Craft Skills: Reassessing the need – addressing the issues*.

⁷ Output from housing repair and maintenance is set to grow by 3% and employment is forecast to rise at an annual average rate of 1.8% (Construction Skills Network Wales Forecast 2014-2018),

⁸ Construction Skills Network (2015): *Blueprint for Construction 2015-2019 Report*



over two years to offer interest-free loans of up to £25,000 per property. These properties will be recycled by local authorities and provided to homeowners across Wales to maximise the funding and improve the standard of Welsh housing. Since the *Houses into Homes* scheme was launched, some 4,471 empty and run-down properties have been turned into homes against the Government's overall scheme target of 5,000. Latest figures suggest there are around 23,000 empty properties in Wales⁹.

2.3 Low carbon and energy efficiency agenda

Another major impact on the sector has been the growing threat of climate change. The EU 2020 energy efficiency targets are driving what is effectively a reallocation of Government resources towards subsidising and fostering one of the most radical shifts in energy, manufacturing and construction since the industrial revolution.

The EU targets are to achieve, by 2020:

1. A 20% reduction in EU greenhouse gas emissions from 1990 levels;
2. An increase in the contribution of renewable sources to energy consumed in the EU to 20%; and
3. A 20% improvement in the EU's energy efficiency.

The energy efficiency targets have led to a number of Government-sponsored initiatives and incentives aimed at improving the efficiency of existing building stock. This includes the Green Deal (operating in Wales, England and Scotland), as well as Wales-specific schemes such as the Arbed and Nest programmes¹⁰

Double glazing, cavity wall insulation, loft insulation, and the installation of modern energy equipment such as condensing boilers are well established techniques, but recent years have also seen a rapid growth in micro-renewable technologies such as solar power, ground and air-source heating, bio-mass heating, combined heat and power (CHP) and other low-carbon alternatives.

Traditional buildings present unique challenges for the design and installation of such measures, as they often have such issues as single, solid exterior walls, single, un-insulated party walls, limited damp-proof arrangements, little or no roof insulation, poorly fitting sash windows, and no floor insulation - quite apart from the additional likelihood of older and much less efficient heating systems.

⁹ Welsh Government (27th January 2015) '£20 million investment in Welsh housing' [Online] Available at: <http://wales.gov.uk/newsroom/housing-and-regeneration/2015/150129-20-million-investment-in-welsh-housing/?lang=en> & Welsh Government (27th January 2015) 'Houses into Homes scheme' [Online] Available at: <http://wales.gov.uk/topics/housing-and-regeneration/housing-supply/empty-homes/houses-into-homes/?lang=en>

¹⁰ See Table 1 for further information about the Arbed and Nest programmes.



In 2010 the Welsh Government published guidance for the installation of micro-renewable systems in traditional buildings. This guidance covers topics such as types of micro-renewables, visual impact of installations, and organising the completion of work to a high standard¹¹. A summary of the main schemes and initiatives in place to encourage energy efficiency retrofit work in Wales are shown in Table 2.

Table 2 Summary of energy efficiency programmes available in Wales

Arbed	<p>Established in 2009 to bring environmental, social and economic benefits to Wales and coordinate investment into the energy performance of Welsh homes. The second (current) phase of the programme began in May 2012 and is partly funded by the European Regional Development Fund (ERDF). The overall investment objectives of this phase are to:</p> <ul style="list-style-type: none"> • Improve the energy efficiency of a minimum of 4800 existing homes in Wales by the end of 2015; and • Reduce a minimum of 2.54 KTC (Kilo tons of carbon) of greenhouse gas emissions by the end of 2015. <p>The programme will continue to boost local economies by using local businesses to manufacture, supply and install as many of the measures as possible and provide training and employment opportunities for local workers.</p>
NEST	<p>Nest is a Welsh Government scheme that can provide eligible householders with a 'whole house' package of energy efficiency improvements free of charge. Nest measures are designed for individual properties so there is no standard package. Measures exclude windows and doors but can otherwise include:</p> <ul style="list-style-type: none"> • A new gas boiler; • Central heating system; • Loft, cavity and external wall insulation; and • Newer technologies like air source heat pumps, biomass.
Green Deal	<p>A Coalition Government scheme that aims to help home-owners make cost-effective energy saving improvements. Instead of paying for the full cost of the improvements up front, home-owners pay over time through a charge added to the electricity bill. The Green Deal is available in Wales, England and Scotland.</p>
Energy Company Obligation (ECO)	<p>Funding from the big six energy suppliers to support energy improvements for low income households, as well as for hard-to-treat buildings where the expense of implementing energy saving measures could not be recouped through savings in energy bills.</p>

¹¹ Welsh Assembly Government (2010) *Renewable energy and your historic buildings: Installing micro-generation systems: a guide to best practice.*



Feed-in Tariffs scheme (FITs)	Designed by the Government as an incentive for uptake of electricity generating renewable technologies such as solar panels and wind turbines. Property owners (commercial and domestic) with an eligible installation could be paid for the electricity they generate as well as for the surplus electricity they export to the grid.
Renewable Heat Incentive (RHI)	A financial support scheme that offers long-term incentive payments for householders and businesses that have renewable technologies that generate heat. The Non-Domestic RHI was launched in November 2011 and the Domestic RHI was launch on 9th April 2014.

Following the Welsh Government’s recognition of the construction sector’s contribution to the Welsh economy in the Ministerial statement issued 28th March 2011, CITB is committed to working with key industry stakeholders to provide the sector’s SME businesses with skills development, business support, public procurement assistance and support for the transition to a low carbon future.

CITB runs a range of advisory groups. One such group is the *Wales Traditional and Sustainability Building Skills Advisory Group (TBSAG)*, which was established as a forum to advise CITB on skills issues, especially to and through the Wales Built Environment Forum, as well as improving the delivery of both traditional building skills and sustainability.

2.4 Towards a Heritage Bill for Wales

Building Regulations set standards for design and construction of most new buildings and many alterations to existing buildings. Before December 31st 2011 they applied identically throughout England and Wales, but since that date the Welsh Government has been able to amend them specifically for Wales. The regulations present broadly consistent rules across Wales and England, which helps the many contractors who work in more than one nation. Enforcement powers held by local authorities provide an incentive to contractors to comply which, in turn, helps to improve practices within the construction industry.

The Welsh Government’s 2013 Historic Environment Strategy for Wales set out the risks to built heritage stemming from issues such as inflexible or inconsistent application of planning policy; difficulties local authorities experience when taking enforcement action against unauthorised works; the effects of climate change; and the lack of finance to repair and maintain buildings due to the recession. These factors prompted the Welsh Government to develop the Heritage Bill for Wales¹².

The Heritage Bill (currently in post-consultation development) aims to improve protection, increase transparency and accountability, and promote better sustainable management of

¹² Welsh Government (2013) *Historic Environment Strategy for Wales*



the historic environment. The Bill is scheduled for introduction to the National Assembly for Wales in spring 2015. If passed, it will become the first heritage legislation ever enacted specifically for Wales.

2.5 The role of Cadw

As the branch of the Welsh Government which oversees historic buildings, Cadw provides support for the built heritage repair and maintenance sector, for example, through historic building grants for repairs to the fabric of (mostly listed) traditional buildings. The policy-related activities of Cadw are clearly beneficial to the built heritage of Wales, although they may be limited in their impact upon non-listed traditional buildings.

In 2011 Cadw set out six principles for the conservation of the historic environment – they are that:

1. Historic assets will be managed to sustain their values;
2. Understanding the significance of historic assets is vital;
3. The historic environment is a shared resource;
4. Everyone will be able to participate in sustaining the historic environment;
5. Decisions about change must be reasonable, transparent and consistent; and
6. Documenting and learning from decisions is essential¹³.

Cadw has been active in leading the call for mainstreaming traditional building skills within mainstream Further Education (FE) construction provision. Further details about these activities are provided in the next section.

2.6 Development of the Sustainable Construction Learning Sites Project

Over the past three years, Welsh Government-funded developments have paved the way for better sustainability skills provision in Wales. In March 2012, Cadw hosted a Traditional Building Craft Skills Summit at Caerphilly Castle. The summit set out the importance of promoting building maintenance and the use of sustainable materials by ‘mainstreaming’ these within Further Education and Higher Education courses in Wales.

There was also a call to develop training and ‘up-skilling’ programmes and to improve Continuing Professional Development (CPD) for those working on traditional buildings¹⁴. These goals were echoed in a 2013 report by the Sustainable Traditional Building Alliance

¹³ Cadw (2011) *Conservation Principles for the sustainable management of the historic environment in Wales*

¹⁴ Traditional buildings are defined as those built before 1919, as well as post-1919 buildings which are hard to treat, require similar skills and materials to those required for work on older buildings, or possess exceptional heritage and architectural merit.



(SBTA), which called for education and training in traditional building issues to be made an essential part of mainstream educational programmes, including both theoretical and practical issues¹⁵.

Also in 2013, *Historic Environment Strategy for Wales* highlighted the skills and employment opportunities open to the heritage sector through apprenticeships, work experience, training placements, and opportunities to develop transferrable skills¹⁶. Indeed the comparatively older traditional craft workforce can potentially help to support and pass on skills to construction trainees.

In May 2013, CITB submitted a project proposal to the Welsh Government to obtain funding for the Sustainable Construction Learning Sites Project (formerly termed Heritage Learning Sites). The main aim of the project was to bring the skills associated with the repair, maintenance and conservation of traditional buildings into the mainstream of construction education and training across Wales and to establish a core set of sustainability skills for the sector.

This was to be achieved by working with key stakeholders in the development of a network of three learning sites across Wales that would operate collectively to develop capacity for training provision in support of traditional building craft skills. The learning sites would link with investment activity across the heritage portfolio and other schemes, where work was taking place on older properties.

The main objectives of the project are summarised in Table 3.

Table 3 Objectives of the Sustainable Construction Learning Sites Project

Category	Description
Train the Trainer provision	Work jointly with the Further Education sector to develop a capacity for traditional building craft skills and, through 'Train the Trainer' support, provide a mechanism for transferring these skills to mainstream construction training programmes.
Creation of learning sites	Provide a specialist training network of three Learning Sites capable of delivering a range of on-site craft and professional training aimed at raising overall knowledge, skills and competence in working with older properties.
Apprentice training	Provide a specialist training network of three learning sites capable of delivering a range of on-site craft and professional training aimed at raising overall knowledge, skills and competence in working with older properties.

¹⁵ Sustainable Traditional Buildings Alliance (2013) *Responsible Retrofit of Traditional Buildings*

¹⁶ CADW (2013) *Historic Environment Strategy for Wales*



Improved understanding for clients and professionals	<p>Through the Learning Sites, provide key client groups and professionals, such as local authorities, with access to a 'live' site where they would be able to understand the dynamics of traditional building craft skills and how they could be better procured in the future.</p>
Research (i.e. this report)	<p>Conduct discrete research activities to ensure the Welsh Government and its partners would have access to the most up-to-date intelligence on traditional building crafts skills and allow Cadw and others to understand where such intelligence could be used to influence the demand for traditional building craft skills, including via industry competency schemes</p>
Wider impact	<p>Where relevant, allow for new training programmes to be accredited specifically in response to the demands of those industries in need of traditional building craft skills.</p> <p>Act as a catalyst for 'spill-over' projects which either focus on delivery past the lifetime of the project, or work alongside it, in order to further strengthen the focus of expanding and promoting the use of traditional building craft skills.</p> <p>Provide the setting to pilot new and innovative practices for the development of traditional building craft skills with a view to informing the long term vision for how to provide a mainstream skills and training offer to both employers and individuals. To include making the connection to industry-led initiatives including the proposal for a Construction Training Network.</p>

In June 2014, CITB appointed Neath Port Talbot College Group (NPTCG) to lead on the development and coordination of three train-the-trainer courses and three craft skills courses.

It was the intended that:

- Courses would be delivered across sites in North Wales, South East Wales and South West Wales;
- Approximately 150 individuals would receive training (as mentioned in the original procurement notice);
- Where possible, sites would be adjoined with existing investments being made by Cadw under its property portfolio or via similar housing regeneration projects.
- Craft courses would offer a platform for traditional construction methods to be learnt and applied to modern day issues, such as the sensitive retrofitting of Wales' older housing stock;



- Training activity would focus on the delivery of short on-site courses aimed at raising the broader construction workforce to a minimum level of competence in the repair, maintenance and conservation of a range of traditional buildings.

The three train-the-trainer courses went ahead as planned, with participation from 25 FE College practitioners at sessions in North, South East and South West Wales.

Pye Tait Consulting's evaluation of that project involved interviews with a sample of course participants, who found the courses beneficial for providing much needed clarity and insights into how traditional buildings need to be treated differently to modern buildings. Some of these tutors acknowledged having limited prior awareness of the specialist considerations needed for these buildings and have already started to cascade some of the key messages to other colleagues and learners.

Only one of the three planned craft courses for apprentices went ahead. This was held at the outdoor St. Fagans National History Museum, with participation from 12 apprentices. These apprentices were selected to participate by South West Wales Regional Shared Apprenticeship Ltd (acting as their direct employer).

The remaining craft courses were ultimately cancelled due to insufficient numbers.

Two tangible outcomes from the project included:

3. The development of a new Level 3 CPD unit for trainers: *Sustainability and energy efficiency in pre and post 1919 buildings*; and
4. The development of a new Level 1 unit for learners that learners can complete as part of the Community Learner Industry Focus (CLIF) content of existing qualifications.



3. Demand for Work on Traditional Buildings

This section explores the overarching need to raise awareness about the qualities of traditional buildings. It also sets out findings from the survey concerning the nature of work undertaken by construction sector craftspeople and professionals; the factors that influence demand for work on traditional buildings; and how demand levels for work on traditional has changed and may change again.

3.1 Awareness about the qualities of traditional buildings

Stakeholders involved in the research strongly argued that public awareness is lacking about the damage that can be caused to traditional buildings from inappropriate work, techniques and materials. It was argued that a wide range of audiences need to understand these issues, including potential public and private sector construction clients (e.g. property/estate owners); planners and building control representatives; building design professionals (including architects and building surveyors); as well as mainstream construction businesses.

In particular, building design professionals responding to the research reported variable levels of knowledge about traditional buildings among construction clients, with larger commercial clients tending to have better knowledge than homeowners.

Arguably there are a number of factors that can prevent clients seeking information about how traditional buildings should be treated. These include a desire for lower work; as well as a competitive commercial market-place saturated with searchable online directories of so-called “trusted” or “expert” builders that in reality can offer little or nothing by way of direct quality assurance, vetting and monitoring of contractors.

“Some construction firms hide behind a logo and pay to be a member of some organisation but purely for profit purposes – this offers no guarantee of quality as there are no inspections associated with many of these schemes.”

Stakeholder organisation

Resourcing pressures on publicly funded heritage bodies and local authorities are another cause for concern. Focus group participants discussed how a reduction in the number of knowledgeable advisers means less support and high quality advice for people embarking on building work. One stakeholder mentioned that some local authorities have started charging for advice where this was previously available for free.



“There has been a reduction in the number of local authority conservation officers and in some areas there aren’t any at all.”

Stakeholder

While popular television programmes such as *Homes Under The Hammer* and *Escape to the Country* have helped to showcase the aesthetic qualities of older properties, it was argued by stakeholders and contractors alike that better marketing and more visible public information would help property owners to make informed decisions when looking to undertake work.

Suggested awareness-raising (or ‘educational’) topics for property owners included:

- What is meant by a traditional building;
- How traditional buildings function differently to modern buildings;
- How to ensure energy efficiency measures are not detrimental to traditional buildings;
- The long term implications of undertaking poor work on traditional buildings;
- Examples of long term cost-benefit cycles, showing the use of traditional materials as opposed to cheaper modern alternatives;
- That traditional materials can potentially help to sustain or increase a property’s value;
- The types of questions property owners should be asking when discussing their planned work with advisers, designers and installers; and
- How property owners can source and identify suitable professionals and tradespersons.

There was a general consensus at the focus groups that if the public knew how traditional building techniques could prevent damp, draughts and decay, and that these techniques would save them money in the long run, then they would be far more likely to commission craftspeople with the requisite skills. It was argued that this would lead to better outputs for all, i.e. a healthier building, longer term savings on the part of the property owner, and a more skilled and knowledgeable workforce.

“I have a lot of faith in the market helping to bring about a shift in perceptions. We managed to teach everyone to migrate from analogue to digital televisions and that’s because the Government spent a certain amount of money on awareness-raising. So there does need to be something from the top”

Stakeholder



3.2 Nature of work undertaken in relation to traditional buildings

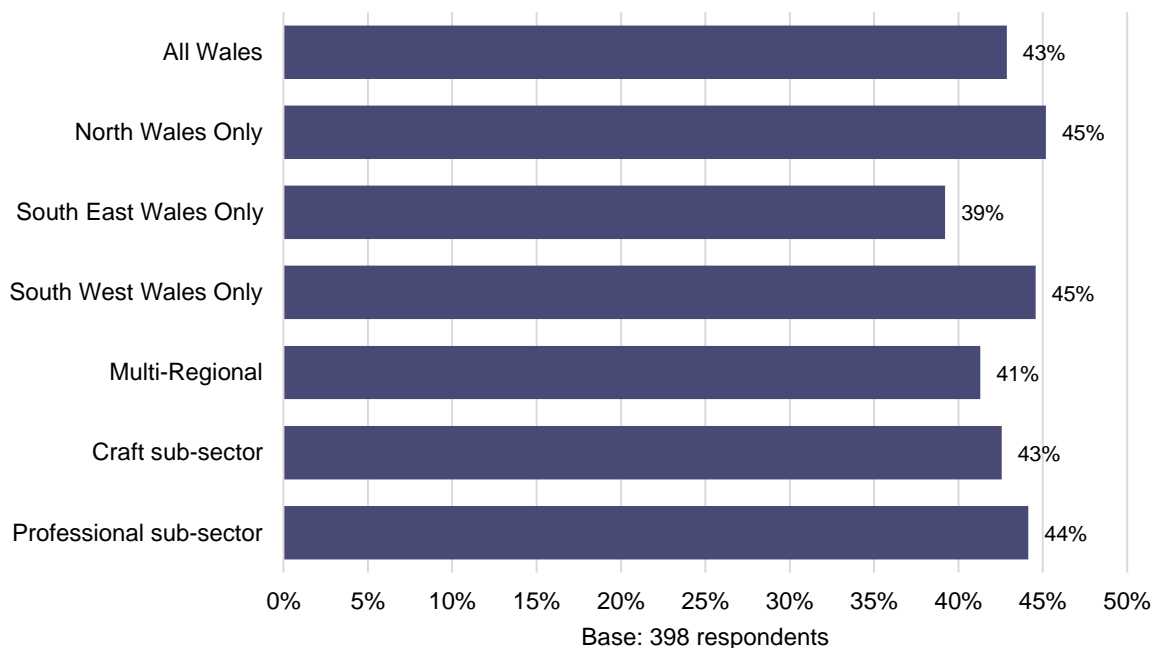
Employers surveyed for the research reported that just under half of their time (43%) has been spent working on traditional buildings over the past two years.

This percentage is slightly higher than the 40% reported for England and 38% for Scotland when comparable research was undertaken in 2012¹⁷, and may reflect the higher proportion of housing stock in Wales that was built pre-1919 (see section 1.1).

The percentage of 43% for Wales clearly signals the importance of the construction sector being competent and knowledgeable in relation to these types of structures.

The proportion of time spent working on traditional buildings is similar for employers working in each of the main regions of Wales; employers working across multiple regions; as well as between the craft and professional sub-sectors (Figure 1).

Figure 1 Proportion of time spent working on traditional buildings



The vast majority (94%) of employers in Wales work in relation to both modern and traditional buildings i.e. they may be considered ‘mainstream’ construction businesses that

¹⁷ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*

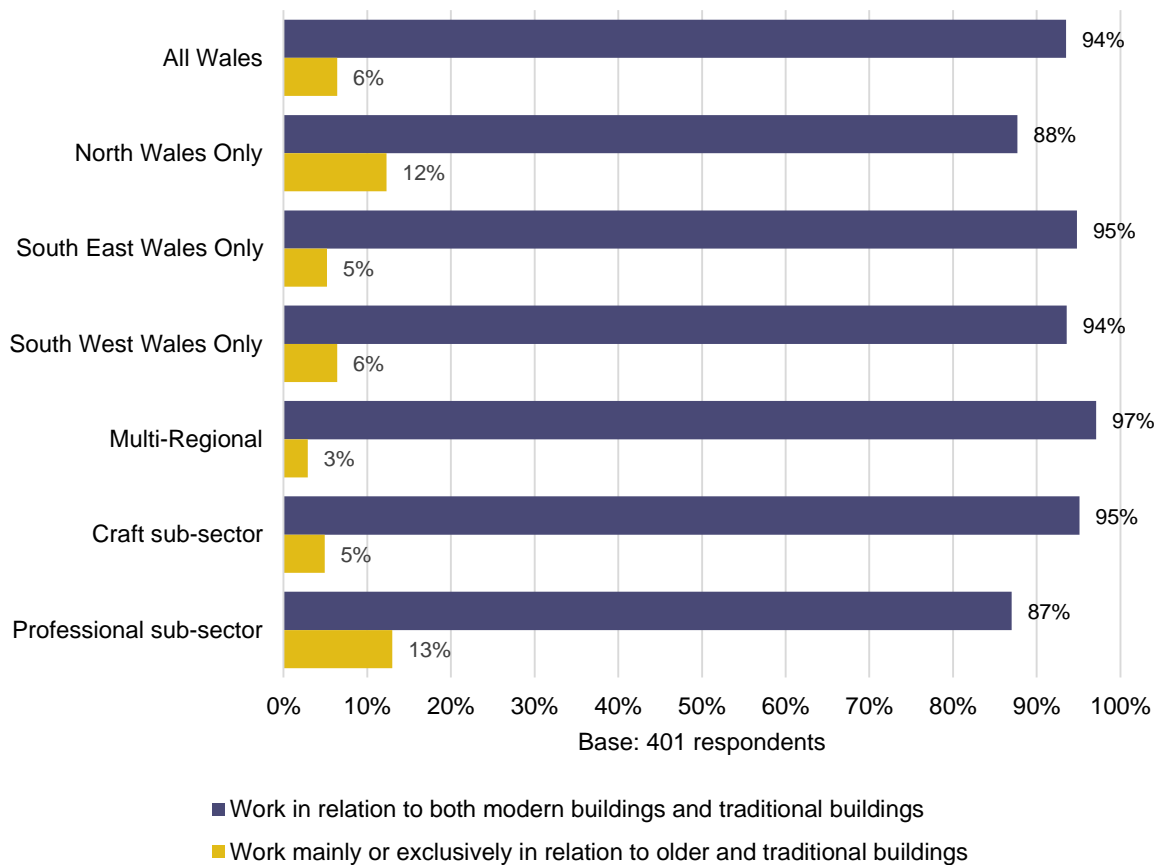


undertake work on traditional buildings from time to time. This compares with 92% for England and Scotland in 2012¹⁸.

In North Wales, the percentage of employers working mainly or exclusively in relation to traditional buildings is marginally higher than the national figure; while among multi-regional employers this percentage is below the national average.

A slightly higher proportion of professional employers work mainly or exclusively in relation to traditional buildings (13%) compared with the craft sub-sector employers (5%) – Figure 2.

Figure 2 Work in relation to different types of buildings



Routine repair and maintenance activities account for exactly half (50%) of all work undertaken on traditional buildings. This is followed by conservation and restoration (37%) and latterly energy efficiency retrofit (13%).

¹⁸ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



A comparison with the England/Scotland survey results from 2012 reveals that energy efficiency retrofit activities account for a higher proportion of work on traditional buildings by craft businesses in Wales (11%) than was the case in England and Scotland in 2012 (just 3%).

Energy efficiency retrofit work appears to be a more common undertaking among employers working across multiple regions (21% of work) as well as among the professional sub-sector (20% of work) – Table 4.

Table 4 Types of work undertaken on traditional buildings

% of work carried out	Base	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Conservation and restoration?	386	36.6	34.6	37.4	38.8	34.3	32.3	53.9
Routine Repair and maintenance	386	49.9	54.1	49.6	51.2	44.5	56.2	24.5
Energy efficiency retrofit?	386	12.6	11.2	10.2	9.1	21.2	10.7	20.2

3.3 Factors affecting demand for work on traditional buildings

There are mixed views and experiences among stakeholders, contractors and construction professionals as to whether demand for work on traditional buildings has increased, decreased or stayed largely the same over the past five years.

Stakeholders interviewed prior to the main survey pointed to a number of demand barriers from recent times:

- Most significantly the impact of the recession – which is reported to have led property owners to shelve plans for conservation work and any non-essential repair and maintenance, resulting in the “bare minimum” being undertake;
- Legislation – which can reportedly make conservation work, such as fitting new windows “unnecessarily complicated”;
- New VAT rules implemented from 1st October 2012 – standard VAT now applies to the alteration of protected or listed buildings where this was previously zero-rated); and



- Previous bad experiences on the part of the property owner, or lack of trust in the building industry – which can affect the sense of importance they place on undertaking future remedial work.

The majority of stakeholders believe that, as the construction industry recovers from the effects of the recession, demand for work on traditional buildings will slowly start to increase. This view was echoed by the majority of contractors interviewed prior to the main survey.

One stakeholder mentioned that demand for traditional building skills will be helped by any increase in consumer confidence, leading to a stable recovery in house prices, resulting in more people looking to 'buy property cheap' and renovate with a view to selling on.

The Heritage Lottery Fund was reported by stakeholders and construction professionals as a crucial source of funding for work on traditional buildings in Wales that meet the programme's funding aims¹⁹; and that this needs greater leverage in a climate where funding from other types of conservation organisations has reportedly 'dried up' in recent years.

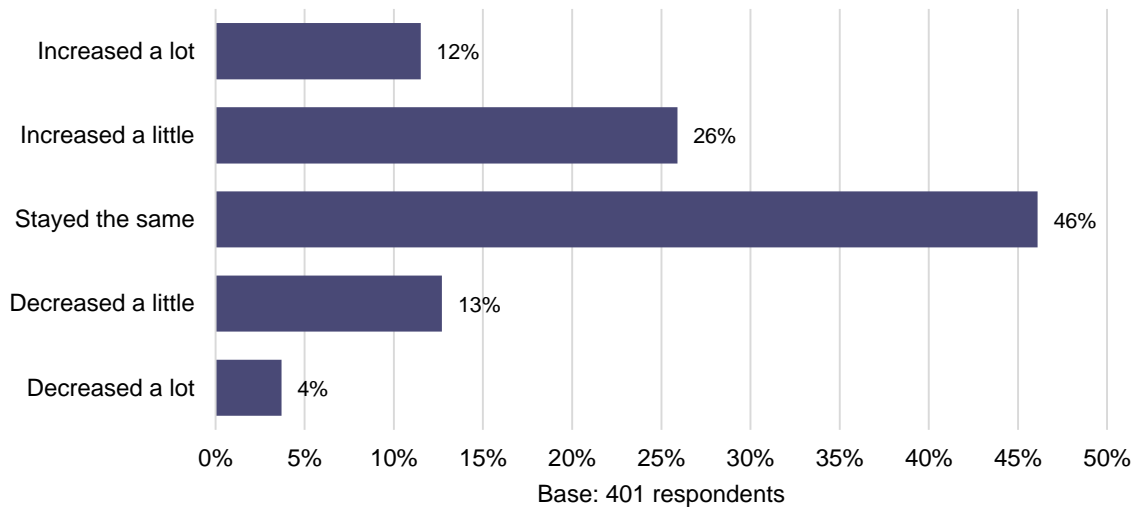
3.4 Demand over the past five years

There appear to be mixed experiences among employers surveyed for this research concerning levels of client demand for work on traditional buildings over the past five years. Over a third have experienced an increase (38%); just under half believe demand has stayed the same (46%); while 17% have seen a decline (Figure 3).

¹⁹ The HLF offers a range of different funding programmes with grants from £3,000 to over £5million. In assessing applications, the HLF takes account of the outcomes for heritage, people and communities that projects will achieve.



Figure 3 Client demand for work on traditional buildings over the past five years



Further analysis reveals similar patterns by region, although professional employers appear to have experienced a small additional increase in client demand for work on traditional buildings (43%) compared with craft employers (36%) – Table 5.

Table 5 Client demand for work on traditional buildings over the past five years – by region and sub-sector

% respondents	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Increased a lot	10%	8%	10%	17%	11%	15%
Increased a little	26%	23%	29%	24%	25%	28%
Stayed the same	49%	49%	48%	39%	49%	36%
Decreased a little	13%	12%	11%	16%	13%	13%
Decreased a lot	3%	8%	2%	4%	3%	8%

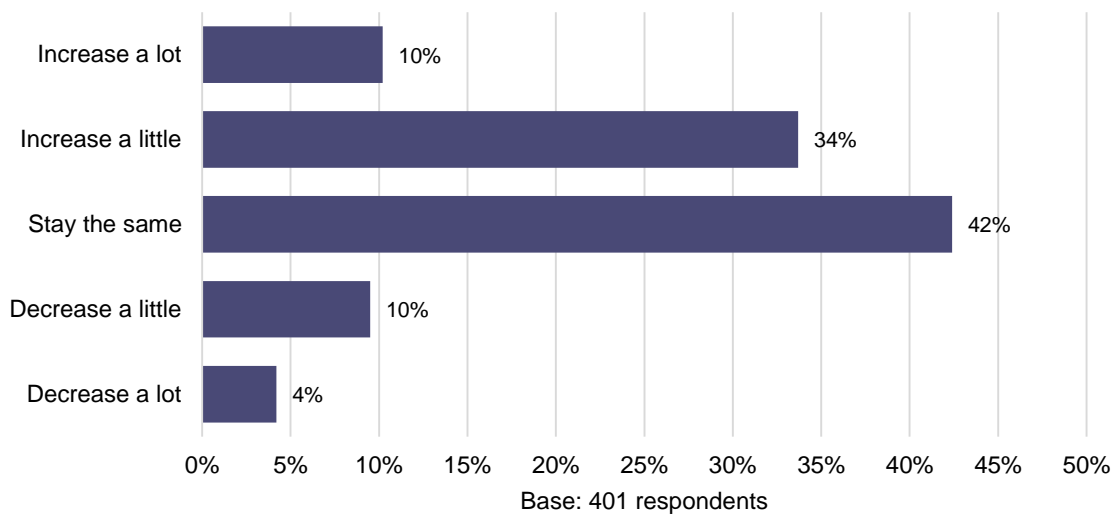
3.5 Demand over the next two years

Looking ahead over the next two years, 44% of employers are optimistic that demand for work on traditional buildings will increase (Figure 4).



This compares with 35% when the same question was asked as part of the equivalent England/Scotland research in 2012²⁰ – suggesting that there may be something of a resurgence in demand as we move further away from the recession of the late 2000s.

Figure 4 Client demand for work on traditional buildings over the next two years



Similar demand expectations are evident by region and sub-sector (Table 6).

Table 6 Client demand for work on traditional buildings over the next two years – by region and sub-sector

% respondents	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Increased a lot	9%	9%	8%	16%	10%	12%
Increased a little	40%	31%	32%	34%	33%	37%
Stayed the same	38%	48%	47%	35%	43%	39%
Decreased a little	6%	8%	11%	11%	9%	12%
Decreased a lot	7%	4%	3%	4%	5%	1%

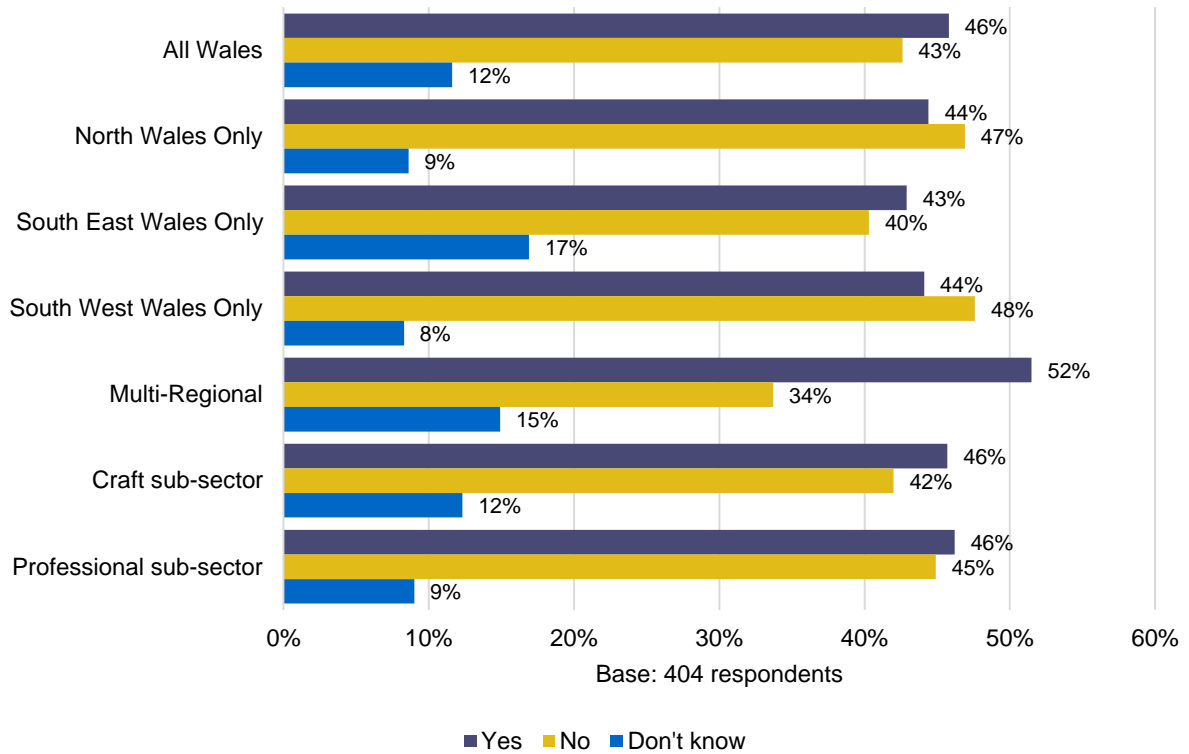
Views among surveyed employers are divided as to whether or not they are trying to increase the amount of work they do on traditional buildings. Just under half report that they

²⁰ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



are trying to do so (46%); with greater appetite among employers working across multiple regions of Wales (52%) – Figure 5.

Figure 5 Whether or not trying to increase the amount of work on traditional buildings





4. Supply of Skills and Knowledge for Work on Traditional Buildings

This section presents both existing and new evidence on the skills and knowledge issues associated with work on traditional buildings, with particular attention given to the challenge of tackling low carbon and energy efficiency measures.

Other themes tackled include recruitment issues; hard-to-find occupations; and employers' views and experiences of apprentices and trainees in relation to traditional buildings.

4.1 The existing evidence base

4.1.1 General skills and knowledge issues for working on traditional buildings

Wales faces a problem common to all other UK nations in that many traditional building skills appear misleadingly similar to those required by the mainstream sector. In order to successfully maintain or repair traditional buildings, a combination of traditional construction materials are required, along with specialist craft skills and knowledge to ensure the structural fabric and unique qualities of these buildings are preserved and not damaged²¹.

Over the past five years, several reports have emphasised that one of the most basic requirements for working on traditional buildings is an understanding of their physiology and how different parts and materials work together. Where this basic understanding is lacking, or existing problems are misdiagnosed, further problems can result such as unwanted and potentially harmful moisture.

Cadw has also stressed the importance of using the right types of tools and materials, highlighting for example that good quality mortar repointing could last for 60 to 120 years whereas bad repointing might last less than 15 years²².

These issues were also reflected in Pye Tait Consulting's 2013 report for CITB: *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*. This report also made the point that contractors can often be mistaken in considering their own skills and knowledge to be fit for purpose, meaning that the wrong types of building materials and techniques may be used which can have adverse effects²³.

²¹ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*

²² Cadw (2013) *Retrofit and Sustainability of Buildings in Wales – presentation*

²³ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



Knowledge of traditional buildings is needed by professionals who commission and specify renovation work, as well as by the contractors undertaking it. Moreover, contractors must be able to correctly interpret and follow the specifier's instructions. Failure to do so could undermine the energy efficiency cost savings that a new installation should achieve.

4.1.2 Energy efficiency skills and knowledge issues for working on traditional buildings

The emerging market of energy-efficiency retrofitting brings on board not only new technologies and processes, but the need for an holistic understanding as to how these new technologies and requirements relate to other systems in the home.

There is a well-documented need for established and qualified construction operatives to undertake new training in such techniques and technologies to ensure the desired energy efficiency and carbon reduction targets are achieved, while also protecting the health of the building. The challenge here is that it opens up a market for potentially expensive additions to domestic buildings that can be met by almost anyone who can design and distribute a leaflet.

Wales-specific research carried out by BRE in 2011 revealed several issues connected to retrofit work on existing buildings – applicable equally to both modern and traditional structures. The main opportunity for improvement is through better organisation of work that is undertaken by multiple trades. On a single retrofit project there might be several types of tradesmen needed, meaning that communication as well as management skills are vitally important. The research indicated that these skills need further development²⁴.

Pye Tait Consulting has been one of the forerunners in energy efficiency skills research since about 2010, having consulted with industry in Wales as well as other parts of the UK on the drivers, implications and changes needed as a result of this agenda.

In 2012, our report for Build Up Skills UK - *Analysis of the National Status Quo*, identified a number of priority knowledge requirements relating to energy efficiency and some of these have been expanded by more recent research for CITB.

The main knowledge requirements are set out below, which are applicable equally to both modern and traditional buildings:

²⁴ BRE (2011) *Delivering Low Carbon Skills in Wales – Retrofit Learning Project*



Underpinning knowledge required for Green Deal and Energy Efficiency Job Roles^{25 26}:

- The principles of heat loss;
- Air quality, air tightness and ventilation requirements within buildings;
- Range of energy efficiency measures, and their suitability for different building fabrics and ages, including pre-1919 stock and hard to treat buildings;
- Hierarchy of energy efficiency measures, i.e. the sequence in which issues in buildings must be addressed in order to ensure maximum energy efficiency;
- Building regulations and how they will evolve over time;
- Energy consumption;
- Energy efficiency targets and what they mean for the building sector;
- Legislation relating to energy efficiency (as it continues to emerge) and its impact;
- Quality assurance specifically in relation to energy efficiency materials, measures and procedures;
- Integration of tasks by different trades;
- Causes and remedies of design performance gaps;
- Roles of the industry and building users in creating building energy demand;
- Health and comfort of buildings;
- Sustainable building materials;
- Efficient building systems;
- Waste minimisation;
- Water efficiency;
- Whole build process;
- Consumer benefits;
- Climate change adaptation; and
- Working to more precise tolerances and a greater degree of technical accuracy.

²⁵ Build Up Skills UK (2012), *Analysis of the National Status Quo*

²⁶ Build Up Skills (2013) *2020 Skills Roadmap and Action Plan*



4.2 Overview of the current issues in Wales

Stakeholders involved in the research consider it vitally important that funders, contractors and professionals alike, possess a degree of core knowledge and understanding about the qualities of traditional buildings and that they need to be treated differently to modern buildings. It was pointed out in particular that public sector organisations responsible for commissioning heritage-related work can risk placing too much emphasis on price over skills and quality of work as part of competitive tender arrangements.

For contractors and professionals an understanding of the fabric and physics of traditional buildings is considered important so they are aware of the potential damage that incorrect techniques or materials can cause. Furthermore, it was argued that contractors must be able to assess for themselves the types of approaches and materials each property requires and judge whether or not they have the skills to take on a project.

Most stakeholders agree that the availability and quality of traditional building skills and knowledge is extremely variable across Wales, with expertise in certain materials likely to be limited to a particular geographical area where those materials are used.

While it is understandable that some mainstream contractors will have sought new avenues of work since the onset of the economic downturn, there is concern among stakeholders that some may have moved into heritage work without the requisite knowledge and skills. It was pointed out that heritage work could prove attractive for contractors seeking to secure higher fees for their work; while construction clients themselves may prefer to use mainstream contractors if they are still somewhat cheaper than heritage specialists.

4.3 General skills and knowledge levels

Based on the views of stakeholders, **core skills and knowledge** needed for working on traditional buildings relate primarily to the following:

- Lime work;
- Stonework;
- Carpentry and joinery;
- Roofing; and
- An understanding of why work on traditional buildings needs to be undertaken in a particular way.

Employers were asked to rate the skill levels of their own workforce on a scale from 1 'not at all skilled' to 10 'completely skilled'. Respondents were encouraged to answer openly and honestly and reassured that their views would be treated confidentially.



This type of analysis enables a comparison of how employers perceive their own skills alongside how those same skills are viewed by stakeholders.

A complete set of ratings by occupation, region and sub-sector are shown in Table 7.

Highest rated skills (occupations):

- Roofer – tiles and slates (8.8);
- General craft/trades person (8.7); and
- Plasterer – other (8.7).

Lowest rated skills (occupations):

- Stone conservator (5.8 out of 10)
- Steeplejack (6.0 out of 10); and
- Glass painter (6.4 out of 10),

“There are only a small number of firms who specialise in conservation work in Wales so it is very difficult to gain experience unless you work for one of these companies.

Employer



Table 7 Occupational skills ratings (score from 1 to 10)

Average rating (score from 1 to 10)	Base	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional
Rofer (tiles and slates)	85	8.8	9.1	8.9	8.8	8.4
General craft/trades person ¹⁰³	112	8.7	8.4	9.0	9.0	8.2
Plasterer (other)	65	8.7	8.8	8.8	9.1	8.2
Joiner	91	8.7	8.5	9.0	8.9	8.3
Carpenter	102	8.6	8.3	8.6	9.2	8.2
Painter or decorator	75	8.6	8.4	8.8	8.5	8.6
Plasterer (fibrous)	58	8.5	8.6	8.4	8.6	8.2
Building or structural engineer	64	8.5	8.0	8.7	8.6	8.4
Rofer (lead)	51	8.4	8.9	8.6	8.7	7.6
Glazier	65	8.4	8.3	8.2	8.5	8.5
Plasterer (lime etc.)	50	8.4	8.4	7.8	8.7	8.0
Bricklayer	59	8.4	8.3	8.8	8.7	7.7
Stone mason (fixer mason)	32	8.3	8.8	8.5	7.8	8.4
Tiler (floors/walls)	50	8.2	8.4	9.0	8.3	7.4
Lead worker (excluding lead roofing)	21	8.1	8.3	8.7	8.0	7.6
Architect	42	8.0	7.7	7.5	8.1	8.2
Rofer (metal)	24	8.0	9.7	9.3	7.6	7.3
Dry-stone waller	19	7.9	8.0	8.0	9.3	6.8
Building surveyor	50	7.9	7.7	7.4	7.9	8.1
Quantity surveyor	56	7.8	7.1	7.4	8.1	7.8
Blacksmith	14	7.7	9.2	-	6.0	7.3
Cabinet maker	21	7.7	8.8	6.7	7.0	7.8
Timber preserver	24	7.6	8.0	9.3	7.7	6.3
Wood machinist	19	7.6	9.3	7.0	7.6	7.0
Planner/planning consultant	51	7.5	7.5	7.1	7.8	7.6
Metalworker - architectural, e.g. cast work	22	7.4	7.6	9.3	6.0	7.0
Stone carver	13	7.3	8.0	8.0	5.0	7.5
Conservation officer/adviser	54	7.2	6.6	6.8	6.8	8.5
Energy adviser/assessor	55	7.2	5.5	6.6	8.0	7.4
Rofer (thatch)	9	7.0	6.0	-	6.3	7.6
Wood carver	7	7.0	10.0	10.0	1.0	7.0
Gilder	7	6.7	8.0	10.0	5.0	6.3
Glass painter	8	6.4	6.0	8.0	1.0	7.5
Steeplejack	6	6.0	9.0	-	1.0	5.7
Stone conservator	6	5.8	7.0	-	5.5	5.7



Employers mentioned a wide range of specific occupations and skills as being in short supply for working on traditional buildings. The most common of these – mentioned by at least 10 respondents – are presented below.

Skills considered in short supply:

- Plastering (34 respondents);
- Lime work – Including lime plastering (32 respondents);
- General shortage of tradespeople in all traditional building skills (30 respondents);
- Stone work (25 respondents);
- Carpentry and joinery (24 respondents);
- Lack of suitable apprentices (23 respondents)
- Bricklaying (17 respondents);
- Roofing (17 respondents);
- Experience (13 respondents).

The presence of lime, stone work, carpentry and roofing in this list are of some concern given that these were also highlighted by stakeholders as being the ‘core’ traditional building skills needed in Wales.

“The shortage of skills and knowledge [for traditional buildings] will lead to a widening gap between those buildings which have been sympathetically restored and well maintained, and those which are damaged beyond redemption and have been adapted and worked upon with incorrect tools and materials to too great an extent.”

Employer

There is evidence that insufficient skills and knowledge have affected the ability of the sector to respond to demand for work on traditional buildings, with a minority of employers (13%) having turned work down on traditional buildings for this very reason.

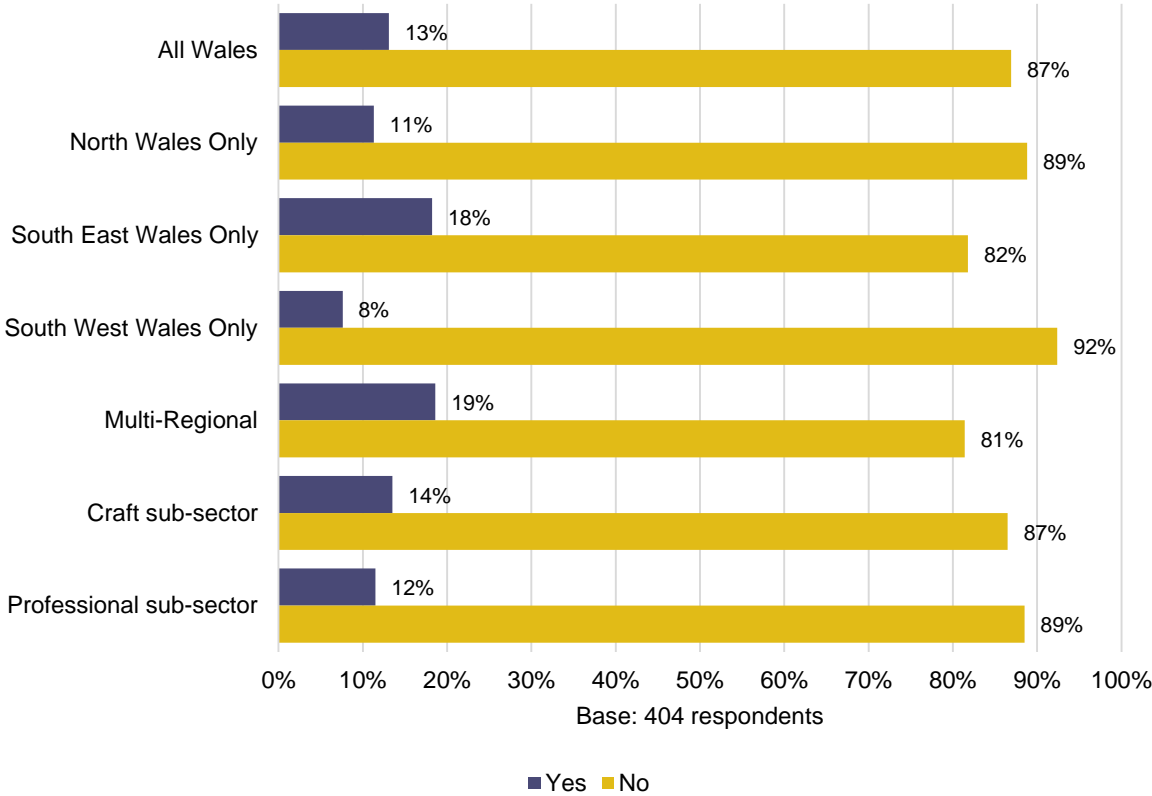
In the craft sub-sector, 14% reported having turned down work, which compares with 7% for England and Scotland in 2012. This indicates that gaps in skills and knowledge may be presenting a greater barrier to working on traditional buildings in Wales²⁷.

This percentage is slightly higher in South East Wales (18%) and among multi-regional employers (19%) – Figure 6.

²⁷ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



Figure 6 Whether or not turned down work on traditional buildings due to lack of skills and knowledge

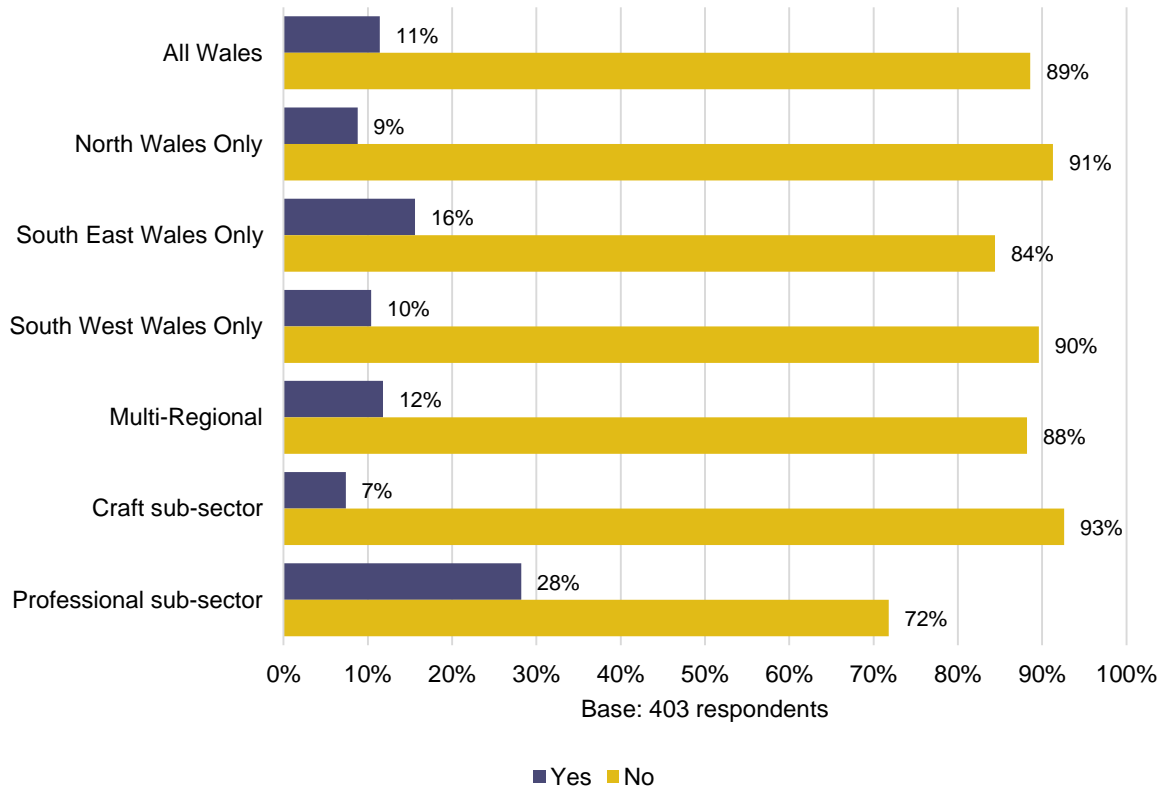


A similar minority (11%) confirmed that they have knowingly undertaken work on traditional buildings while having insufficient skills and knowledge.

This figure is considerably higher among professional organisations (28%) – Figure 7.



Figure 7 Whether or not knowingly undertaken work on traditional buildings with insufficient skills and knowledge



“Contractors think that specialist training is not available to them and that modern techniques are the only option.”

Stakeholder

4.4 Low carbon skills and knowledge levels

Stakeholders and construction professionals involved in this research described how energy efficiency policies, initiatives and retrofit incentives have not been designed with traditional buildings in mind, with the example given of insulation work that risks undermining the important qualities of ‘breathability’ that are intrinsic to these buildings.

Views remain mixed among stakeholders about whether contractors are equipped to deal with energy efficiency retrofit, with the majority of interviewees somewhat uncertain.



“If you look at what has happened with local authorities and Registered Social Landlords, they were among the first adopters of the Arbed scheme and they are now having to undo the damage they have caused to these buildings and to people’s health”.

Stakeholder

More than half (60%) of craft employers are confident in the ability of their workforce to install low carbon and energy efficiency measures.

This mirrors the results for England in 2012 (61% confident) and is slightly greater than the result from the same year in Scotland (55% confident)²⁸.

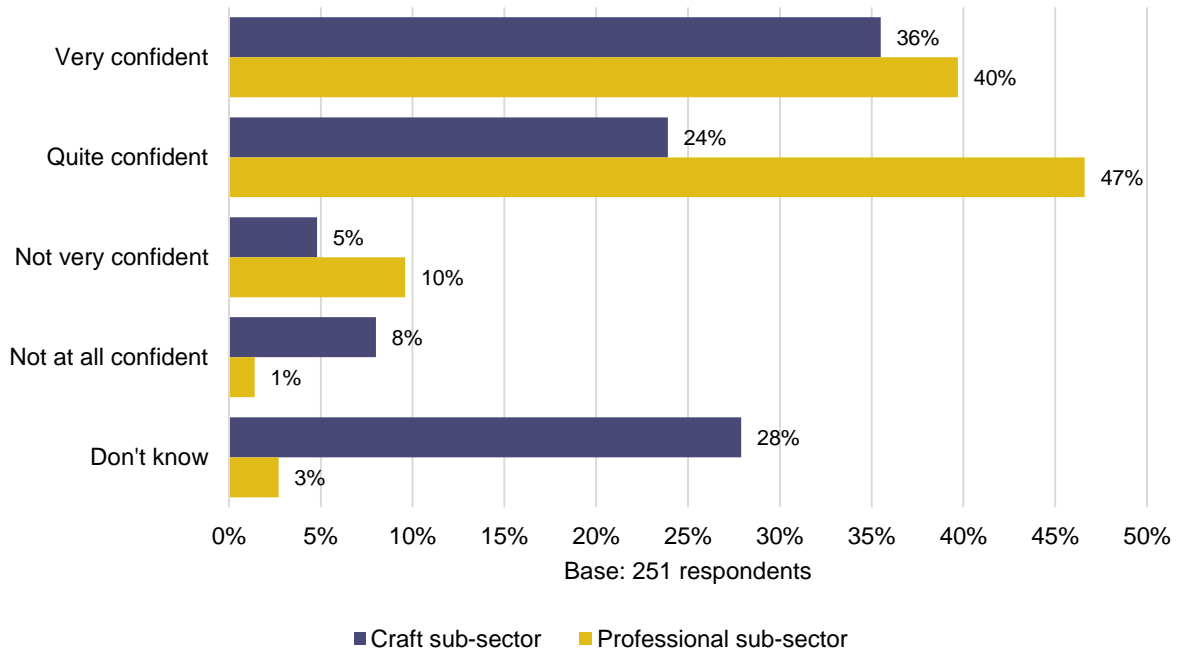
Just under two thirds of craft businesses in Wales (28%) stated that they didn’t know how confident they were, compared with just 3% of professionals.

Among professional employers, the vast majority (87%) are confident that their workforce can design, assess or advise on these measures (Figure 8).

²⁸ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



Figure 8 Confidence in workforce skills relating to low carbon and energy efficiency measures



Further analysis by region shows that surveyed craft employers in South East Wales are marginally more confident in their ability to install low carbon and energy efficiency measures compared to those working in other regions.

Professionals working across multiple regions are also particularly confident in relation to these measures. This may be due the fact this is an emerging market, with the rise of dedicated energy assessors willing to travel further in order to provide advice and assessments (Table 8).



Table 8 Confidence in workforce skills relating to low carbon and energy efficiency measures

% respondents	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional
CRAFT EMPLOYERS:					
Very confident	36%	29%	44%	33%	39%
Quite confident	24%	28%	23%	24%	21%
Not very confident	5%	8%	6%	5%	0%
Not at all confident	8%	4%	4%	11%	11%
Don't know	28%	31%	23%	27%	30%
PROFESSIONAL EMPLOYERS:					
Very confident	40%	25%	36%	36%	55%
Quite confident	47%	58%	50%	48%	36%
Not very confident	10%	8%	14%	8%	9%
Not at all confident	1%	0%	0%	4%	0%
Don't know	3%	8%	0%	4%	0%

4.5 Recruiting for work on traditional buildings

Surveyed employers were asked to rate the importance of a range of different factors when recruiting employees or hiring sub-contractors for working on traditional buildings, on a scale from 1 'not at all important' to 10 'very important'.

The most important factors are:

- Personal recommendation or word of mouth (8.5); followed by
- Length of experience carrying out similar work (8.1).

Craft employers rated accredited qualifications and other industry accreditations as being of lower importance (5.8 out of 10) than some other factors – Table 9.



Table 9 Importance of specific factors when recruiting (score from 1 to 10)

Average rating (score from 1 to 10)	Base	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Personal recommendation or word of mouth	372	8.5	8.4	8.3	8.6	8.5	8.5	8.4
Length of experience carrying out similar work	365	8.1	8.4	8.1	8.0	8.0	8.0	8.4
CSCS Card in Heritage Skills	332	6.2	5.4	5.9	6.1	7.0	6.2	6.2
Accredited qualification relevant to traditional buildings, e.g. NVQ	348	6.1	5.4	6.1	6.1	6.4	5.8	6.9
An industry-recognised accreditation (non-qualification)	340	6.0	5.4	5.8	6.1	6.3	5.8	6.6
Membership of a professional body	330	5.4	5.2	5.5	5.3	5.4	5.0	6.6
Professional qualification (degree level or higher)	336	4.9	4.5	4.7	4.8	5.6	4.4	6.8

“I haven’t been able to find a suitable worker in the past 6 months due to lack of skills and poor attitude.”

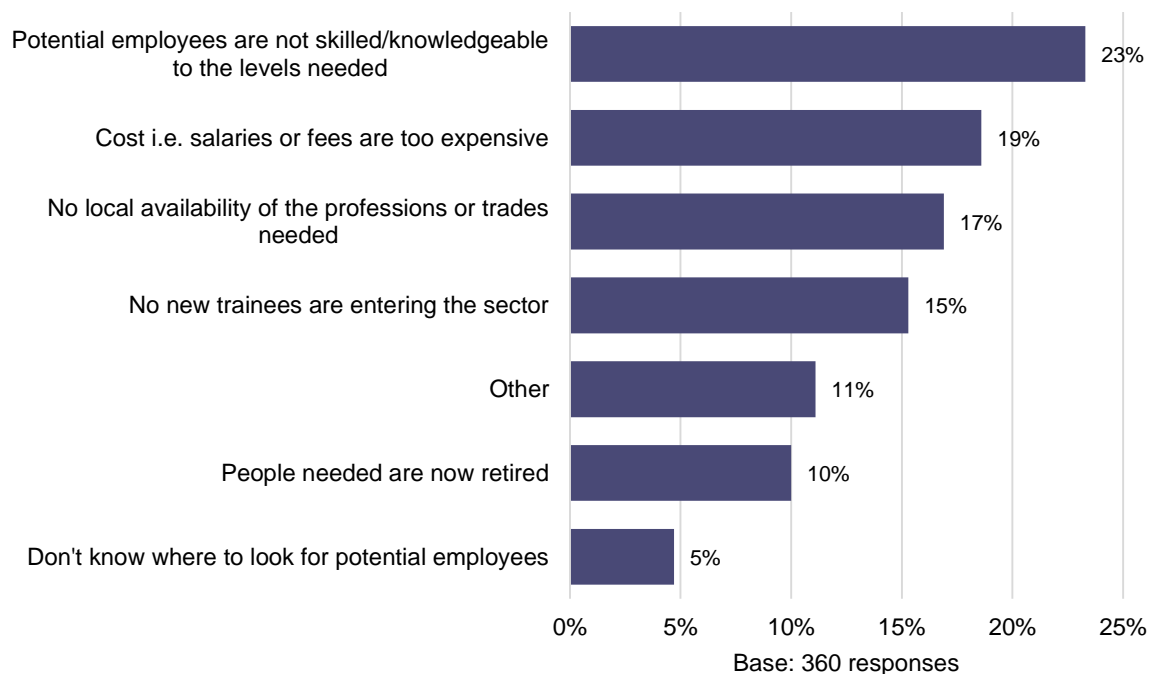
Employer

The most common barriers facing employers when sourcing individuals to work on traditional buildings include:



- Potential employees are not skilled/knowledgeable to the levels needed (23% of responses);
- Cost, i.e. salaries are too expensive (19% of responses); and
- No local availability of the trades and professions needed (17% of responses) – Figure 9.

Figure 9 Barriers to sourcing employees for working on traditional buildings



'Other' responses include:

- Difficulties finding candidates with the right attitude and work ethic;
- Health and safety burden;
- Lack of time;
- Resource burden for sourcing suitable candidates; and
- Too many other traders in the local areas.

Further analysis by region and sub-sector suggests that lack of availability of relevant trades/professions appears to be a particular concern for employers in South West Wales; while cost is a more predominant issue among the professional sub-sector (Table 10).



Table 10 Barriers to sourcing employees for working on traditional buildings – by region and sub-sector

% responses	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Potential employees are not skilled/ knowledgeable to the levels needed	26.3%	27.3%	12.6%	30.6%	20.4%	12.9%
Cost i.e. salaries or fees are too expensive	14.5%	18.2%	26.1%	12.9%	19.6%	35.3%
No local availability of the professions or trades needed	15.8%	12.5%	23.4%	14.1%	17.5%	15.3%
No new trainees are entering the sector	11.8%	15.9%	17.1%	15.3%	15.6%	14.1%
Other	18.4%	4.5%	9.0%	14.1%	11.6%	9.4%
People needed are now retired	7.9%	13.6%	10.8%	7.1%	9.5%	11.8%
Don't know where to look for potential employees	5.3%	8.0%	0.9%	5.9%	5.8%	1.2%

“The days of employers finding somebody down the local pub who has a son wanting to try out traditional building work have gone. It nearly all comes through the colleges now.”

Training provider

4.6 Hard-to-find occupations

A total of 40 employers (10% of survey respondents) reported occupations that are hard to find.

While this represents only a small minority of survey respondents (10%), the three most commonly cited hard-to-find occupations for each region are shown in Table 16, with a more detailed breakdown presented in Appendix 3.



Across each region, carpenters, joiners and roofers (tiles and slates) were among the most mentioned occupations.

Table 11 Hard-to-find occupations

Top 3 most cited	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional
1	Roofer – tiles and slates	Roofer – tiles and slates	Joiner	Joiner	Roofer – tiles and slates
2	Joiner	Roofer – lead	Carpenter	Carpenter	(Equal) General trades person Glazier Joiner Roofer (lead)
3	Carpenter	Plasterer (lime etc)	Roofer – tiles and slates	Glazier	

A total of 43 employers (11% of respondents) reported occupations that are hard to find among sub-contractors. The results span a wide range of occupations and once again a complete breakdown is presented in Appendix 3.

4.7 Apprentices and trainees

A third of employers (33%) have recruited at least one apprentice or trainee to work in relation to traditional buildings over the past five years – primarily those in the craft sub-sector (38%).

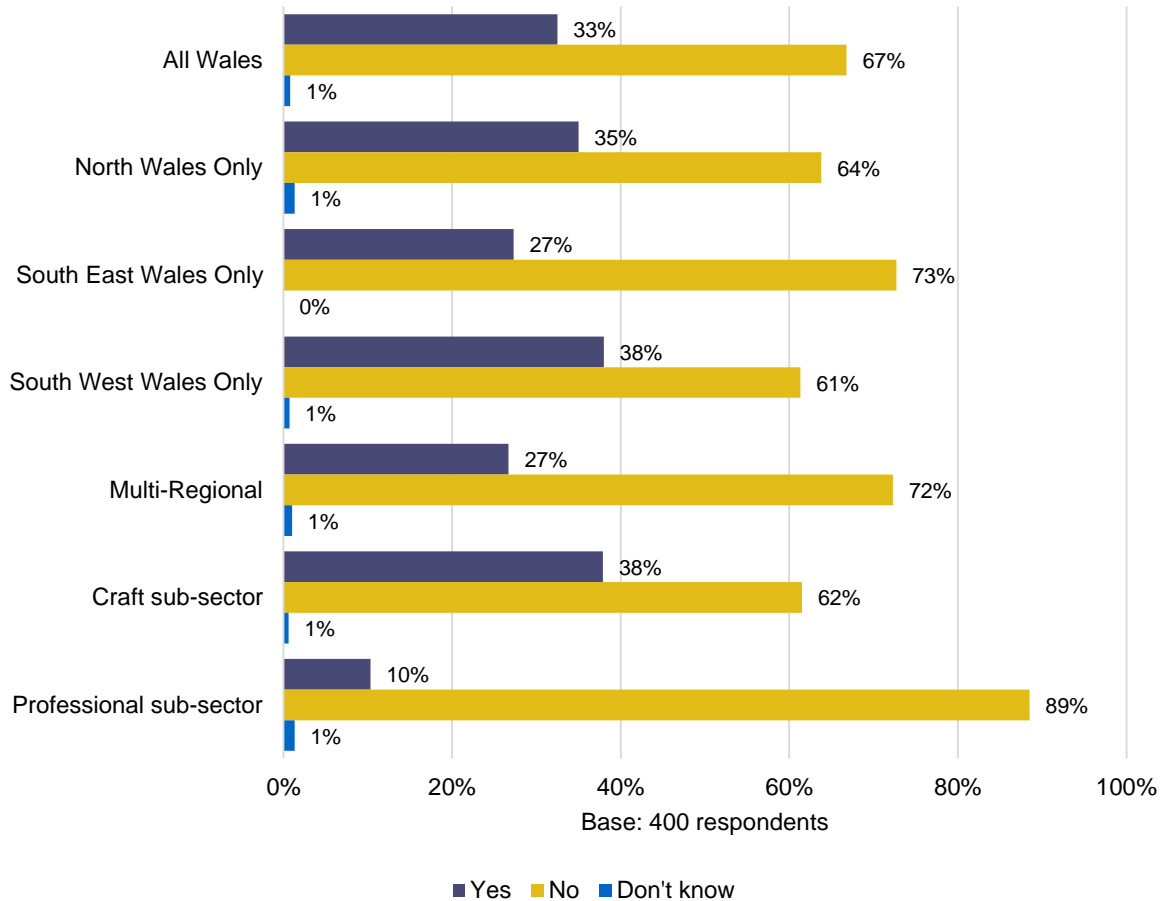
This compares to 40% of craft employers that reported having recruited apprentices in England and Scotland when comparable research was undertaken in 2012²⁹.

Over two thirds of employers (67%) have not recruited an apprentice/trainee over that period – 89% in the professional sub-sector (Figure 10).

²⁹ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



Figure 10 Whether or not recruited any apprentices/trainees over the past five years



Just over a fifth of employers (21%) are likely to recruit an apprentice or trainee over the next 12 months. The figure is slightly higher for craft employers (24%) and those employers working in South West Wales (25%).

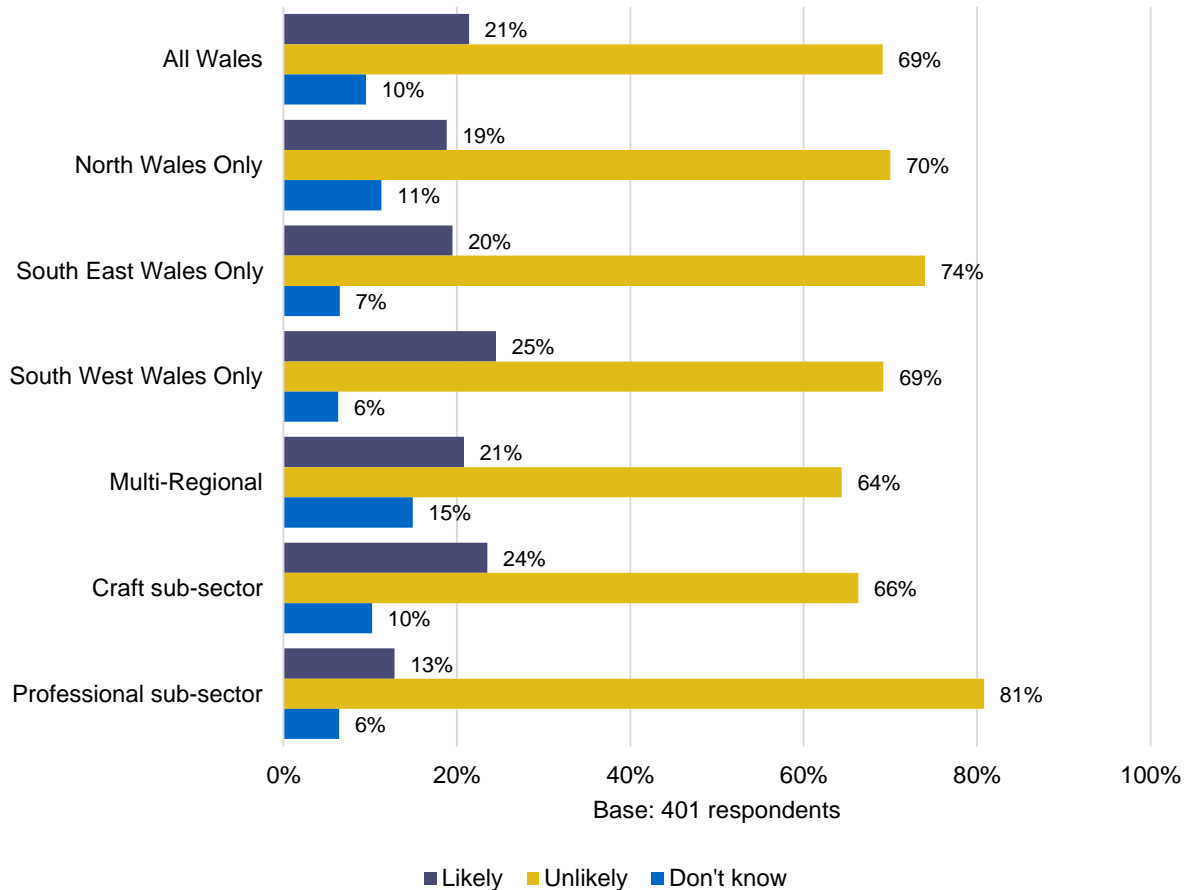
This compares to 28% for craft employers England and Scotland in 2012³⁰, suggesting that there may be a slightly lower level of interest in recruiting apprentices for work on traditional buildings in Wales.

That said, the majority of employers (69%) remain reluctant and report that they are unlikely to recruit an apprentice over the same period (Figure 11).

³⁰ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



Figure 11 Likelihood of recruiting an apprentice/trainee in the next 12 months



Reasons given for being likely to hire an apprentice or trainee in the future:

- An apprentice can be trained to work in the same way as the business owner;
- Important to bring new people into the business;
- The business is expanding; and
- Workload is increasing.

Reasons given for not wanting to hire an apprentice or trainee in the future:

- Approaching retirement and not looking to undertake succession planning;
- A sole trader and not looking to expand;
- Not enough work for an apprentice;
- Too expensive; and
- Too much responsibility.



5. Working with Traditional Building Materials

This section examines the extent of knowledge employers possess about traditional materials; ability work with traditional materials; the types of materials used by employers in Wales; the extent of their use and barriers to their use.

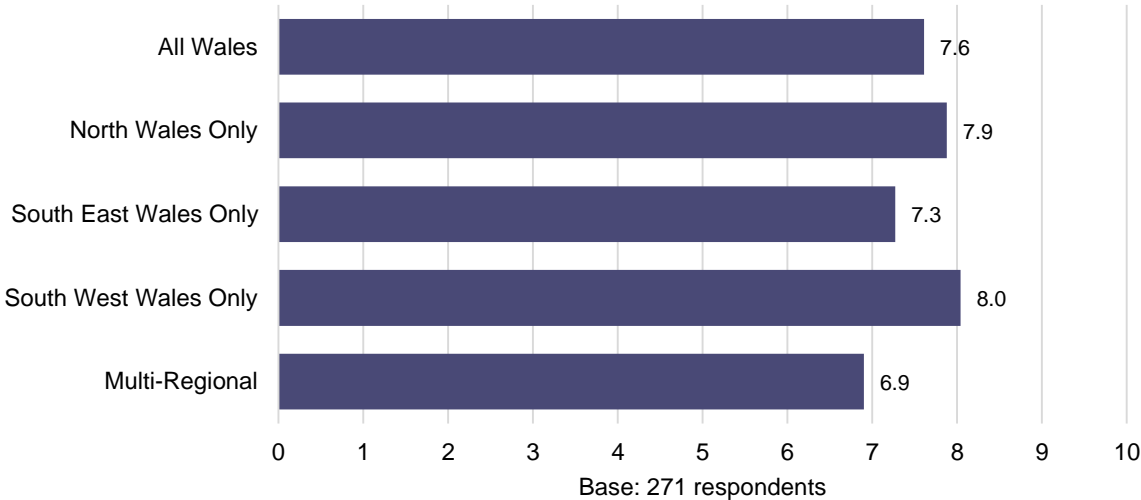
Most of the survey questions in relation to this topic were only asked of craft-based (as opposed to professional) employers.

5.1 Understanding of traditional materials

On a scale from 1 'poor' to 10 'very good', employers were asked to rate their employees' and sub-contractors' knowledge of different types of traditional building materials, for example knowing which materials are appropriate, where to source them and their specific properties.

The average rating is a moderately high 7.6 out of 10, with employers working in South West Wales returning a rating of 8 out of 10 (Figure 12).

Figure 12 Knowledge of traditional materials (score from 1 to 10)

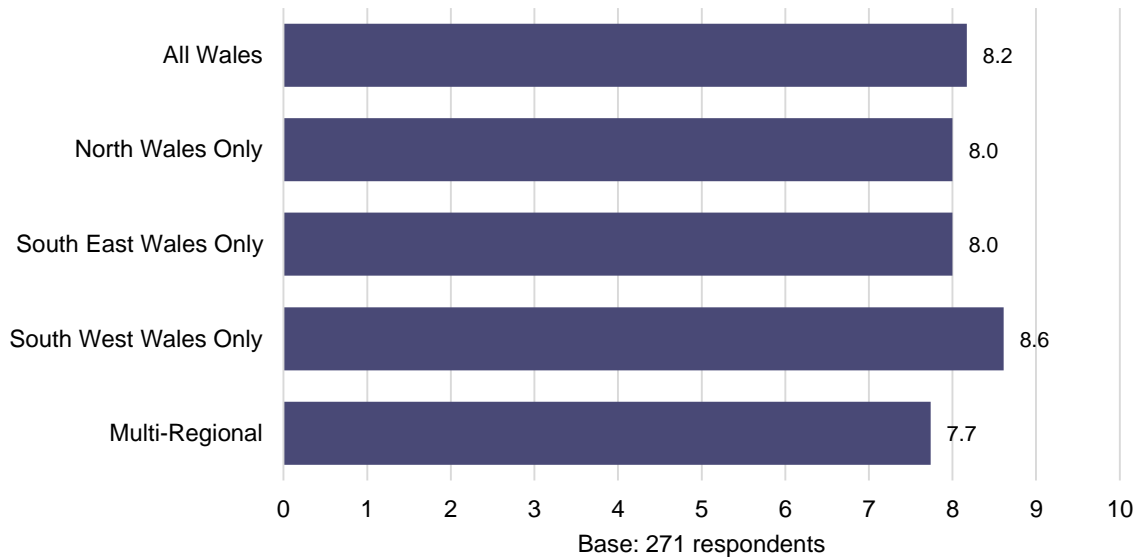


Using the same scale from 1 'poor' to 10 'very good', employers were also asked to rate their employees' and sub-contractors' ability to work with traditional building materials.

This returned a higher average rating of 8.2 out of 10 with employers working in South West Wales returning a rating of 8.6 out of 10 – Figure 13.



Figure 13 Ability to work with traditional materials (score from 1 to 10)



One contractor interviewed prior to the survey pointed out the importance of understanding regional and local variations, i.e. once in possession of knowledge about the local materials, one also needs to be aware of the local vernacular style.

5.2 Use of materials on traditional buildings

Stakeholders involved in the research strongly emphasised the importance of selecting, using and being able to work with the right materials on traditional buildings. This is on the basis that repair work using the wrong materials could do more harm than good to these buildings.

“If you look at what happens when cement or vapour-impermeable materials are used on a traditional building, you are damaging that building and causing accelerated decay, which is completely unsustainable.”

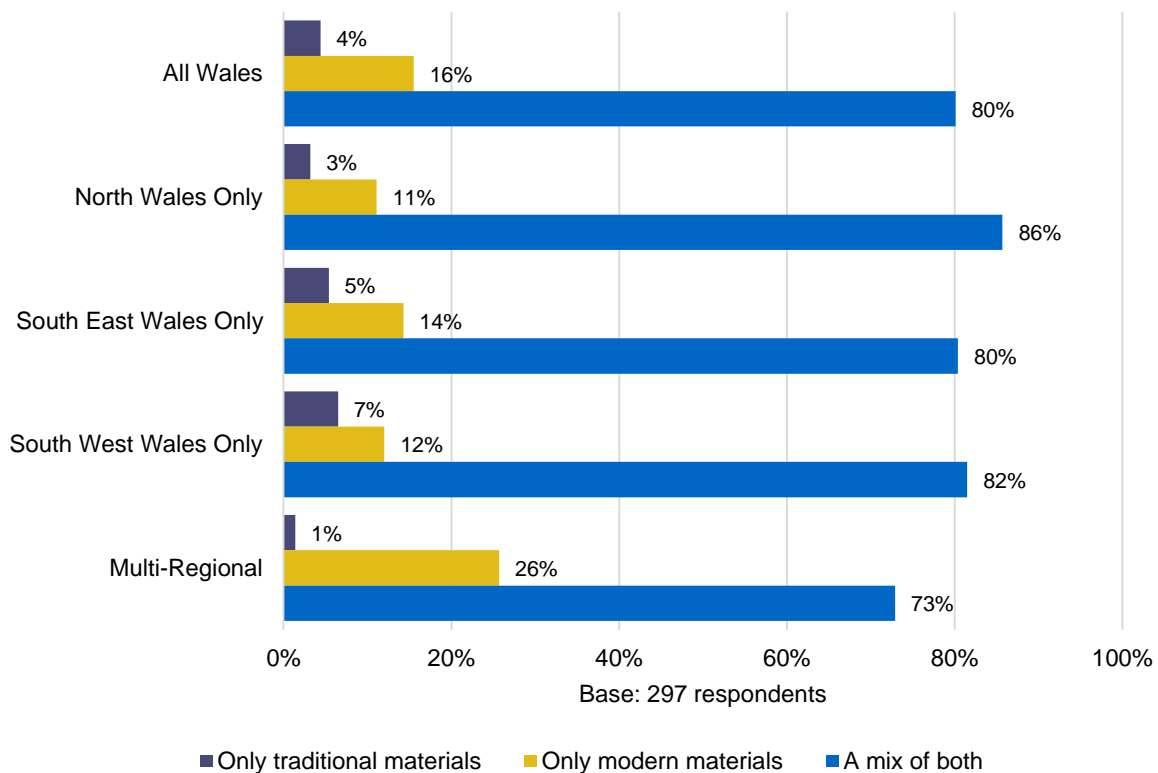
Stakeholder



The vast majority of surveyed craft employers (80%) use a mixture of modern and traditional materials when working on traditional buildings (Figure 14). This compares with 71% for England and Scotland when comparable research was undertaken in 2012³¹.

In some circumstance, use of a mixture of materials might be appropriate, however this finding highlights a possible risk of inappropriate materials being used that could have a damaging effect on traditional building fabric.

Figure 14 Types of materials used on traditional buildings



Among those surveyed craft businesses who reported using traditional materials, the most regularly used material is sawn timber, followed by slates and tiles (Table 12).

³¹ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



Table 12 Traditional materials used regularly

% responses	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional
Base responses:	543	137	98	219	89
Sawn timber	20.8%	24.1%	23.5%	16.9%	22.5%
Slate/tiles	15.3%	16.1%	14.3%	15.5%	14.6%
Other	11.6%	12.4%	12.2%	10.0%	13.5%
Stone	8.5%	5.8%	7.1%	12.3%	4.5%
Glass	8.3%	10.9%	10.2%	5.5%	9.0%
Lime plaster	8.1%	4.4%	5.1%	12.3%	6.7%
Brick	7.6%	8.0%	9.2%	6.4%	7.9%
Lime mortar	7.6%	4.4%	5.1%	11.0%	6.7%
Lead	7.0%	9.5%	8.2%	5.9%	4.5%
Metal roofing	2.2%	1.5%	2.0%	2.3%	3.4%
Wrought iron	1.1%	1.5%	2.0%	0.5%	1.1%
Cast iron	0.9%	0.7%	-	0.9%	2.2%
Stained glass	0.9%	0.7%	-	0.5%	3.4%
Thatch	0.2%	-	1.0%	-	-

'Other' responses include:

- Aluminium;
- Breathable membranes;
- Copper pipes;
- Lime wash;
- Magnesium;
- Oak;
- Oil-based sealers;
- Paints;
- Vinyl; and
- Wool.



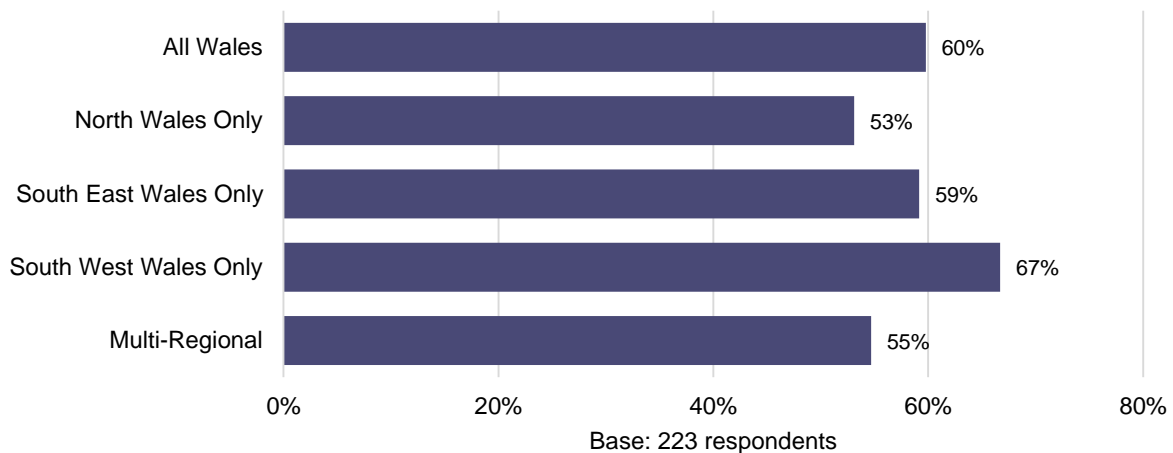
Only 27 employers (8% of all surveyed craft businesses) reported one or more traditional materials as being difficult to source.

A total of 38 responses were received and those reported as most difficult to source are:

- Slate/tiles (10 responses);
- Sawn timber (7 responses);
- Stone (4 responses) and
- Brick (4 responses).

Employers were asked to state approximately what percentage of the traditional materials they use originated from Wales. The average is 60% and slightly higher in South West Wales at 67% (Figure 15).

Figure 15 Percentage of traditional materials originating from Wales



Only 10% of craft employers in Wales reported that clients or professional advisors stipulate that traditional materials must always be used. This compares with 22% for England and Scotland in 2012³².

Over a fifth of craft employers (23%) stated that traditional materials are never stipulated in Wales, compared with just 13% for England and Scotland in 2012³³.

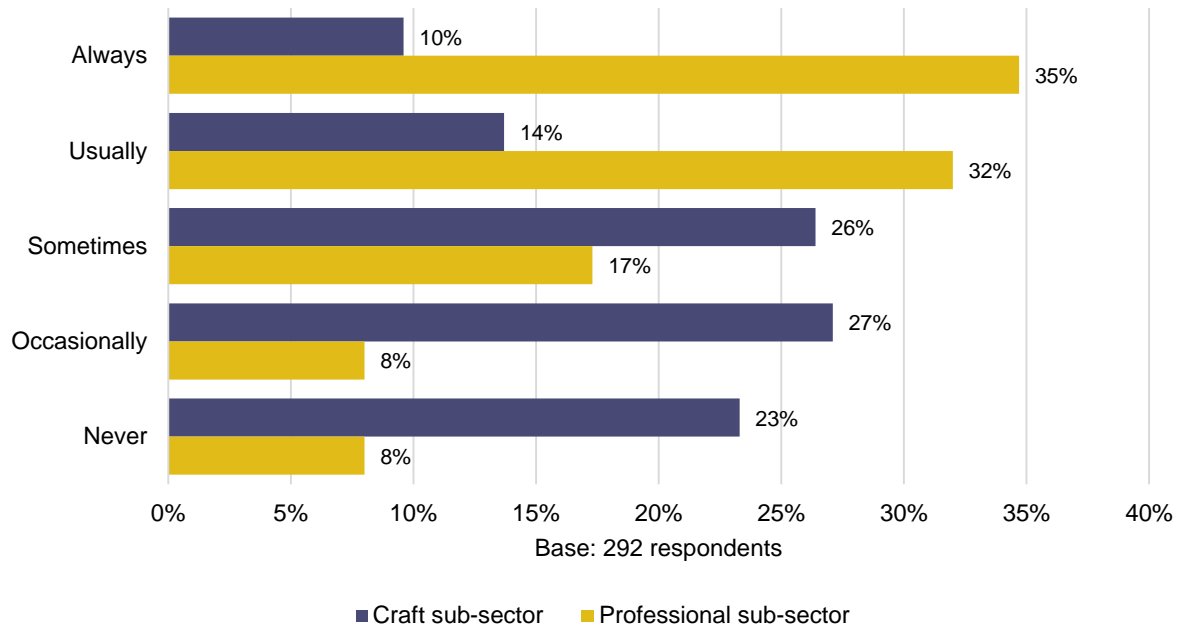
³² CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*

³³ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



This contrasts with the views of professionals in Wales, among which the majority (57%) report that they always or usually stipulate that traditional materials are used (Figure 16).

Figure 16 How often clients stipulate that traditional materials must be used



Craft employers working in North Wales reported a higher incidence of traditional materials always or usually being stipulated (31%) compared with South East Wales (18%) – Table 13.

Table 13 How often clients stipulate that traditional materials must be used

% respondents	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional
CRAFT EMPLOYERS:					
Always	10%	13%	11%	7%	9%
Usually	14%	18%	7%	15%	13%
Sometimes	26%	21%	26%	31%	25%
Occasionally	27%	29%	33%	29%	18%
Never	23%	19%	24%	19%	34%
PROFESSIONAL EMPLOYERS:					
Always	35%	42%	7%	39%	46%
Usually	32%	33%	53%	31%	18%
Sometimes	17%	17%	27%	15%	14%
Occasionally	8%	8%	13%	4%	9%
Never	8%	-	-	12%	14%



5.3 Barriers to using traditional materials

“There is too much emphasis on using traditional materials which aren't cost effective.”

Employer

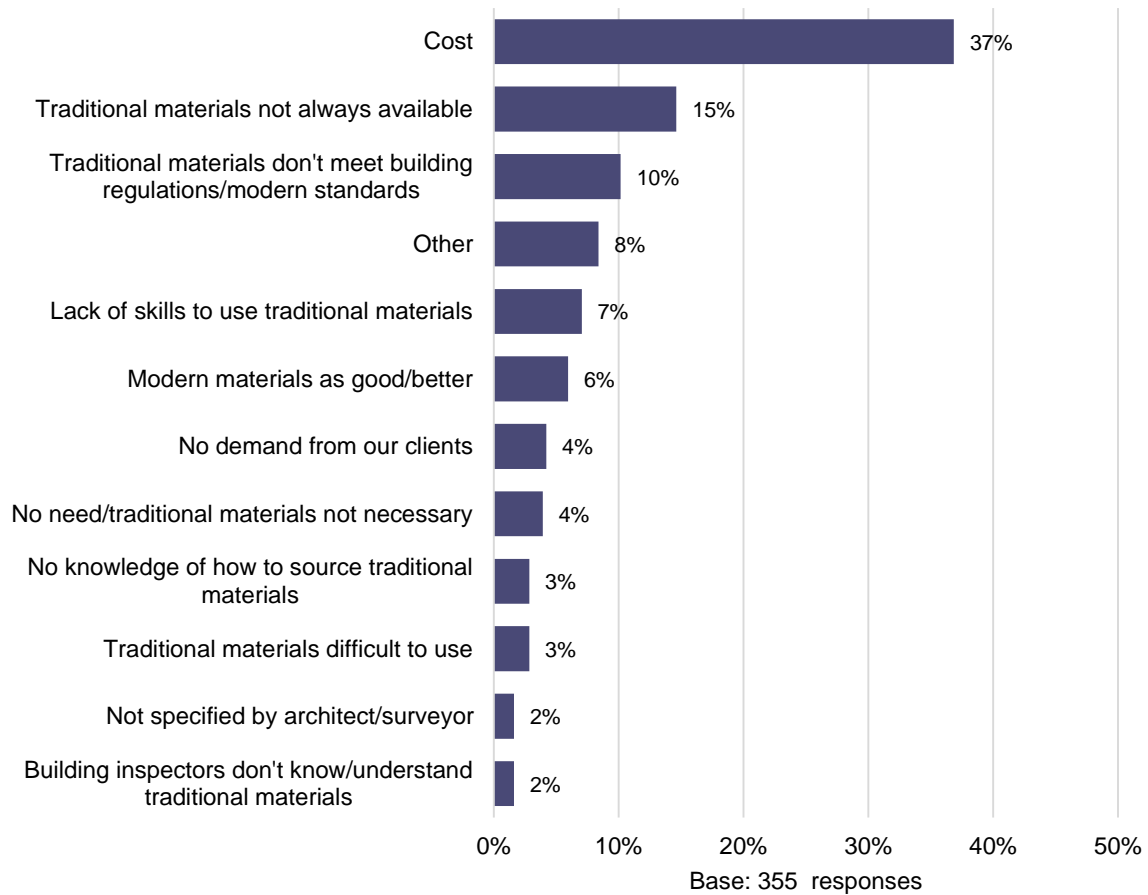
Several contractors interviewed prior to the main survey commented that the supply line for traditional materials is generally good, although this can prove difficult among contractors who haven't formed and established the right contacts.

Surveyed employers were asked what barriers, if any, can prevent the use of traditional materials on traditional buildings. The three most common responses are:

- Cost (37% of responses);
- Traditional materials are not always available (15% of responses); and
- Traditional materials do not meet building regulations/modern standards (10% of responses) – Figure 17.



Figure 17 Barriers to using traditional materials



'Other' responses include:

- Better back-up when using a manufacturer of modern materials;
- Customer ignorance;
- Other builders stuck in their ways;
- Speed of job completion, e.g. additional drying time needed for traditional materials; and
- The weather.

The percentage mix of barriers to using traditional materials is similar across each region of Wales. A notable exception is that a 'lack of skills to use traditional materials' is a more common complaint among professionals (20% of responses) as opposed to craft businesses (2% of responses) – Table 14.



Table 14 Barriers to using traditional materials – by region and sub-sector

% responses	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Cost	36.9%	32.0%	31.0%	44.1%	37.3%	41.5%	24.5%
Traditional materials not always available	14.6%	14.1%	15.4%	13.6%	15.6%	15.5%	12.3%
Traditional materials don't meet building regulations/modern standards	10.2%	14.1%	8.4%	7.2%	12.0%	10.4%	9.2%
Other	8.4%	6.5%	3.6%	13.6%	8.4%	6.6%	13.3%
Lack of skills to use traditional materials	7.0%	6.5%	9.5%	6.4%	6.0%	2.0%	20.4%
Modern materials as good/better	6.0%	5.1%	7.2%	3.5%	8.4%	6.2%	5.1%
No demand from our clients	4.2%	3.9%	8.4%	1.8%	3.6%	3.8%	5.1%
No need/traditional materials not necessary	3.9%	6.5%	3.6%	2.7%	3.6%	4.7%	2.0%
No knowledge of how to source traditional materials	2.8%	1.3%	5.9%	1.8%	2.4%	2.7%	3.1%
Traditional materials difficult to use	2.8%	2.6%	4.8%	2.7%	1.2%	2.3%	4.1%
Not specified by architect/surveyor	1.6%	3.9%	2.4%	0.8%	0.0%	2.0%	1.1%
Building inspectors don't know/understand traditional materials	1.6%	3.9%	0.0%	1.8%	1.2%	2.3%	0.0%

“A lot of regulatory red tape restricts the ability to restore traditional buildings and make use of traditional materials.”

Employer



6. Qualifications and Training

This section begins with a summary of learner numbers undertaking qualifications within CITB’s footprint over each of the past three years, with additional focus on heritage-related qualifications. It goes on to explore the extent to which surveyed employers have participated in various types of training (formal and informal) relating to traditional buildings, and how that training has been accessed.

Following this, the views of stakeholders and employers are explored in relation to the suitability of existing mainstream (FE College) provision at meeting the skills and knowledge needs of traditional buildings; and the potential appetite for ‘mainstreaming’ traditional building skills and knowledge training in the future, i.e. as part of formal qualifications and construction Apprenticeships.

6.1 Learners undertaking FE College construction and heritage-related qualifications

The past three years has seen a decline in the total number of learners in FE Colleges in Wales who are enrolled on recognised learning aims within CITB’s footprint. FE College starts have dropped by 16% and the total number reported ‘in learning’ has dropped by 19%. These data may be affected by factors such as changes in learning aims over the years and the number of places available at FE Colleges (Table 15).

Table 15 Total FE College construction learners over the past three years

Academic year	Total starts	In learning (aged under 25)	In learning (aged 25+)	Total in learning
2012-13	9,480	9,850	3,055	12,905
2011-12	10,605	11,210	3,700	14,910
2010-11	11,270	11,795	4,055	15,850

Source: Welsh Government

Despite the decline in overall learner numbers, there appears to have been a marginal increase in construction apprentice starts between 2010/11 and 2012/13 (although accurate trend analysis is not possible due to changes in the framework descriptions used within statistical datasets and the lack of available data for 2011/12) – Table 16.



Table 16 Total FE College construction apprentices over the past three years

Academic year/framework	Total starts	Level 2	Level 3	Level 4
2012-13				
Construction (Building - excluding Specialist)	1,015	740	275	0
Construction (Specialist)	225	200	30	0
Construction (all)	1,240	940	305	0
2011-12				
Construction (all)	Data not available	Data not available	Data not available	Data not available
2010-11				
Construction (all)	1,145	855	285	0

Source: Welsh Government

Based on Welsh Government statistics, the list of general heritage-based construction learning aims for the period 2012/13 is shown Table 17.

The number of learners undertaking these qualifications represents less than 1% of the total number of FE College construction learners for the same year. Uptake has been limited to two FE Colleges – Coleg Sir Gar (South West Wales) and Grwp Llandrillo Menai (North Wales).



Table 17 Heritage-related learning aims and total learners over the past three years

Learning aim title	Level	Total learners 2012-13	Total learners 2011-12	Total learners 2010-11
Award in Building Heritage (QCF)	2	65 (Coleg Sir Gar)	-	-
Award in Heritage Construction (QCF)	2	-	-	-
Award in Understanding Repair and Maintenance of Traditional Pre1919 Buildings (QCF)	3	-	15 (Coleg Llandrillo)	-
NVQ for Heritage Skills (Construction)	3	-	-	-
NVQ in Heritage Skills (Construction)	3	-	-	-
NVQ Diploma in Heritage Skills (Construction) (QCF)	3	<5 (Grwp Llandrillo Menai)	<5 (Coleg Menai)	-
NVQ in Building Site Management (Conservation)	4	-	-	-
NVQ Diploma in Senior Crafts (Construction) (QCF)	4	-	-	-
OCN North East Region Level 3 NVQ Diploma in Heritage Skills (Construction) (QCF)		-	-	-

Source: Welsh Government

6.2 Overview of training issues for traditional buildings

Stakeholders interviewed for the research argued in favour of more widespread education about traditional buildings among the entire built environment community – not just for contractors and trainers but also policy makers, including those responsible for energy efficiency policy, initiatives and incentives that are considered by stakeholders to conflict with the breathability requirements of traditional buildings.



The general view among stakeholders is that existing training provision offered by FE Colleges and Higher Education Institutions (HEIs) does not fully equip students with the necessary skills and knowledge to work on traditional buildings. This is on the basis that mainstream content is mainly focused on new build construction and not all trainers understand the value (let alone the technical requirements) of traditional building skills.

The majority of stakeholders feel that accredited qualifications are essential as a recognisable 'badge' of quality and also to ensure contractors have the skills and knowledge necessary for working on traditional buildings. Some disagreed and expressed concern that placing more emphasis on formal attainment risks isolating young people and experienced construction personnel who may not function well in a classroom environment.

On the issue of qualifications, several contractors interviewed for the research mentioned that experience is perceived as comparatively more valuable, with the "best craftsmen" learning "hands on" from an experienced mentor.

Two stakeholders expressed interest in the idea of developing a 'heritage specialist register' so property owners can easily source a specialist. It was suggested this might encourage a greater uptake of heritage-related qualifications among employers on the basis that it could prove a competitive advantage.

6.3 Participation in qualifications and training relevant to traditional buildings

"Clients are not asking for high-level skills, so employers don't see a need to train. A positive driver to increase employer uptake of training would be clients insisting upon it. That needs the influence of Government."

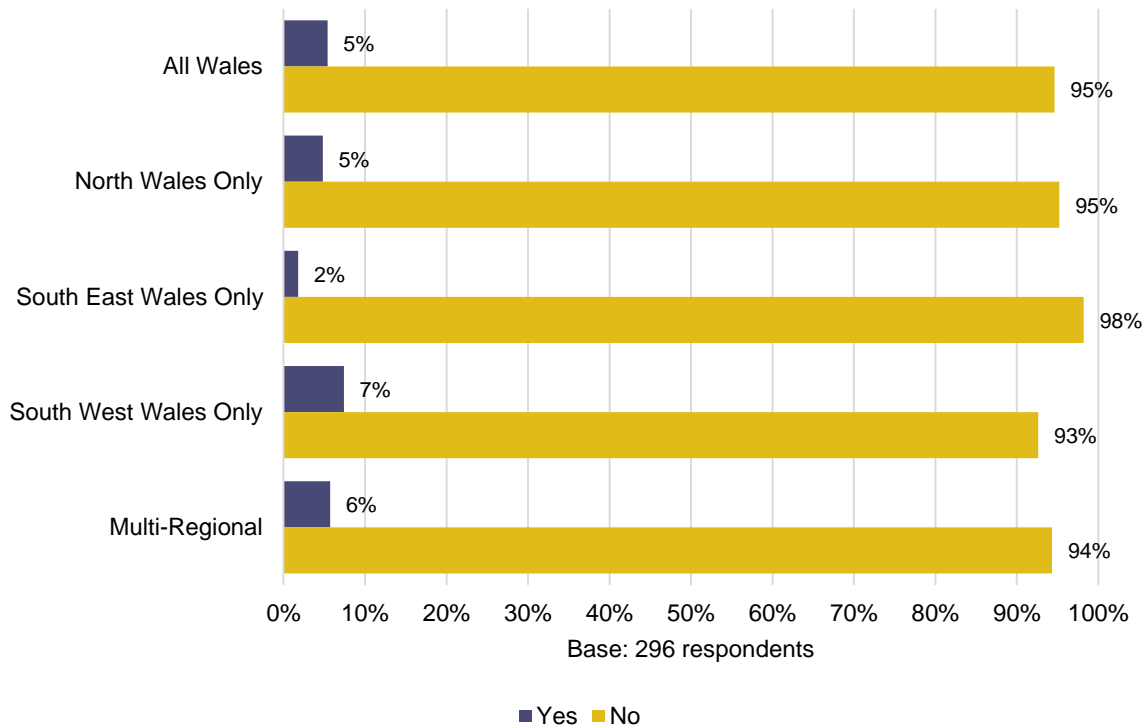
Training provider

The vast majority of craft-based employers (95%) reported that their workforce does not hold any qualifications directly relating to heritage, traditional buildings or conservation (Figure 18). This compares with 90% for England and Scotland when comparable research was undertaken in 2012³⁴.

³⁴ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



Figure 18 Whether or not heritage-related qualifications are held by the workforce



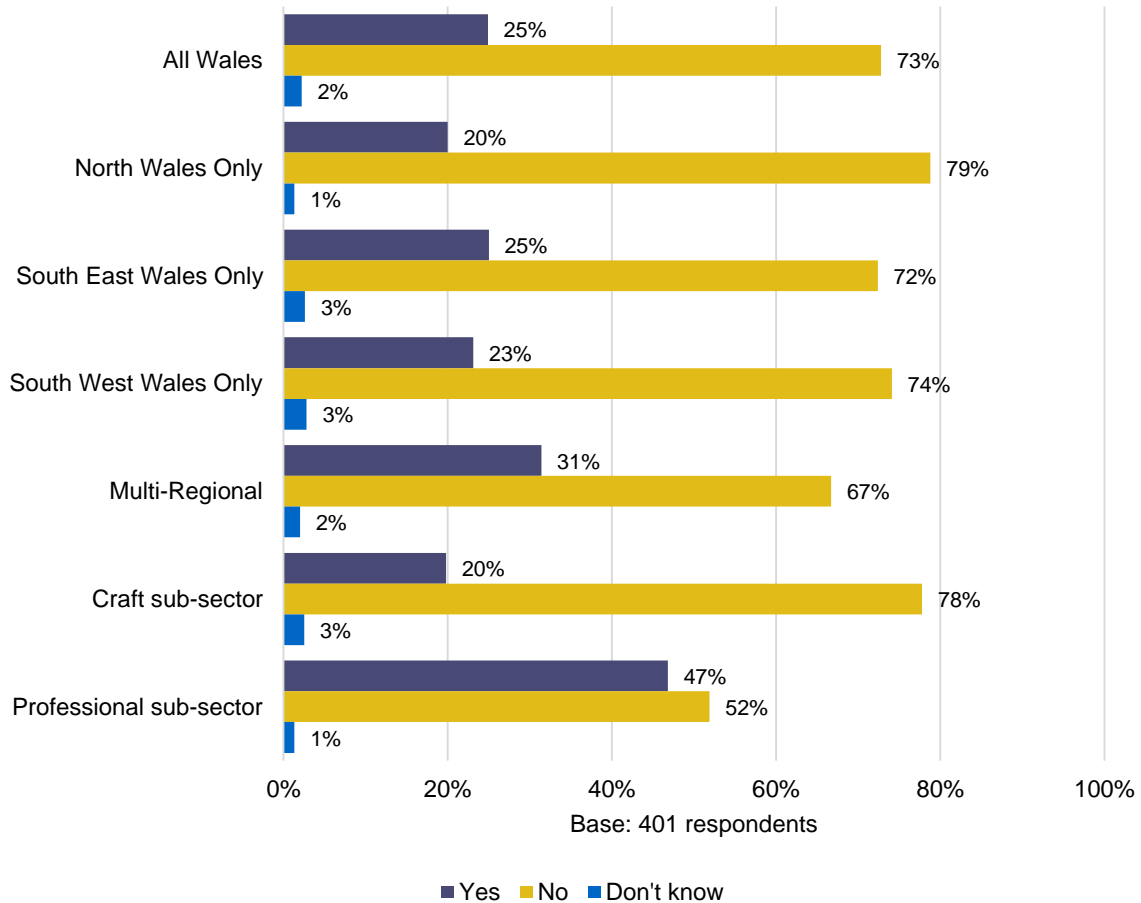
A quarter of employers (25%) reported that their workforce has participated in any training specifically relating to work on traditional buildings over the past five years. There is notable disparity here between craft businesses (20% participation) and professionals (47% participation) – Figure 19.

In England and Scotland in 2012, some 25% of craft employers reporting having participated in traditional building skills training over the past five years³⁵.

³⁵ CITB/English Heritage/Historic Scotland (2013) *Skills Needs Analysis for the Repair, Maintenance and Energy Efficiency Retrofit of Traditional Buildings in England and Scotland*



Figure 19 Whether or not the workforce has participated in traditional buildings training over the past 5 years



6.4 Access routes to traditional building skills training

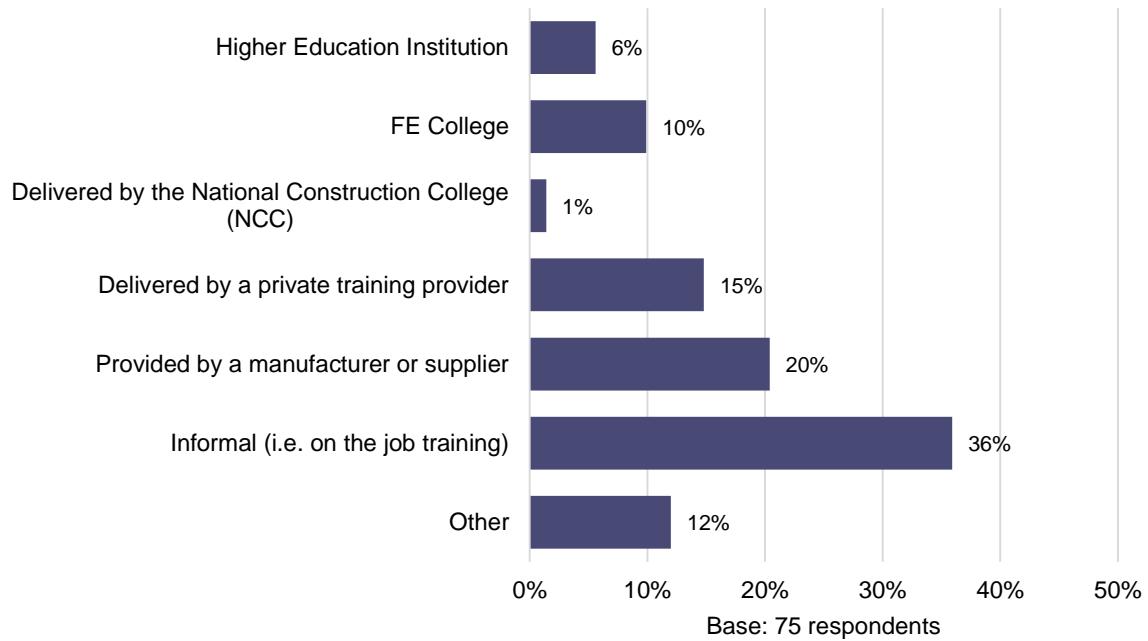
Among employers that reported having participated in training specifically related to work on traditional buildings, the most common access routes have been:

- Informal on-the-job training (36% of responses); followed by
- Training delivered by a manufacturer or supplier (20% of responses).

Only 10% of employers reported having participated in training through a Further Education College and 6% via a Higher Education Institution (Figure 20).



Figure 20 How training relating to traditional buildings has been accessed



'Other' responses include:

- Local authority heritage training course;
- Professional body training; and
- Other external short courses such as those provided by Tŷ Mawr Lime, the Tywi Centre and the Natural Building Centre.

Informal, on-the-job training appears to be most favoured by employers in North Wales and more so especially among the craft sector than professional sector (Table 18).



Table 18 How training relating to traditional buildings has been accessed (region and sub-sector)

% responses	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Higher Education Institution	-	-	4.7%	11.3%	1.2%	11.7%
FE College	8.7%	13.0%	9.3%	9.4%	12.2%	6.7%
Delivered by the National Construction College (NCC)	-	-	-	3.8%	-	3.3%
Delivered by a private training provider	13.0%	13.0%	18.6%	13.2%	12.2%	18.3%
Provided by a manufacturer or supplier	13.0%	26.1%	23.3%	18.9%	19.5%	21.7%
Informal (i.e. on the job training)	47.8%	39.1%	34.9%	30.2%	47.6%	20.0%
Other	17.4%	8.7%	9.3%	13.2%	7.3%	18.3%

6.5 Suitability of existing mainstream provision for traditional building skills

According to CITB, the industry in Wales has consistently made it clear that they ideally require the construction workforce to be trained to a standard comparable to Level 3 qualifications. This has been reconfirmed to CITB on many occasions, most recently at a number of the regional forums and CITB Wales' Construction Skills Group in November 2014.

A key concern has been raised to CITB regarding current Level 3 qualifications in that there is perceived to be too much emphasis on supervisory aspects and insufficient focus on the broader range of requirements of each trade. This has been a common theme in a number of meetings and has been raised by SMEs and major employers alike.

A suggestion to CITB that has garnered a measure of support is to re-look at the current constituent parts of Level 3 qualifications and seek to readdress the balance of supervisory elements with the wider skill base. In Wales there has been a desire to see some of the more complex work tasks, as well as heritage and sustainability skills, included in all qualifications. The perceived benefits are twofold: firstly to give apprentices who are progressing to Level 3



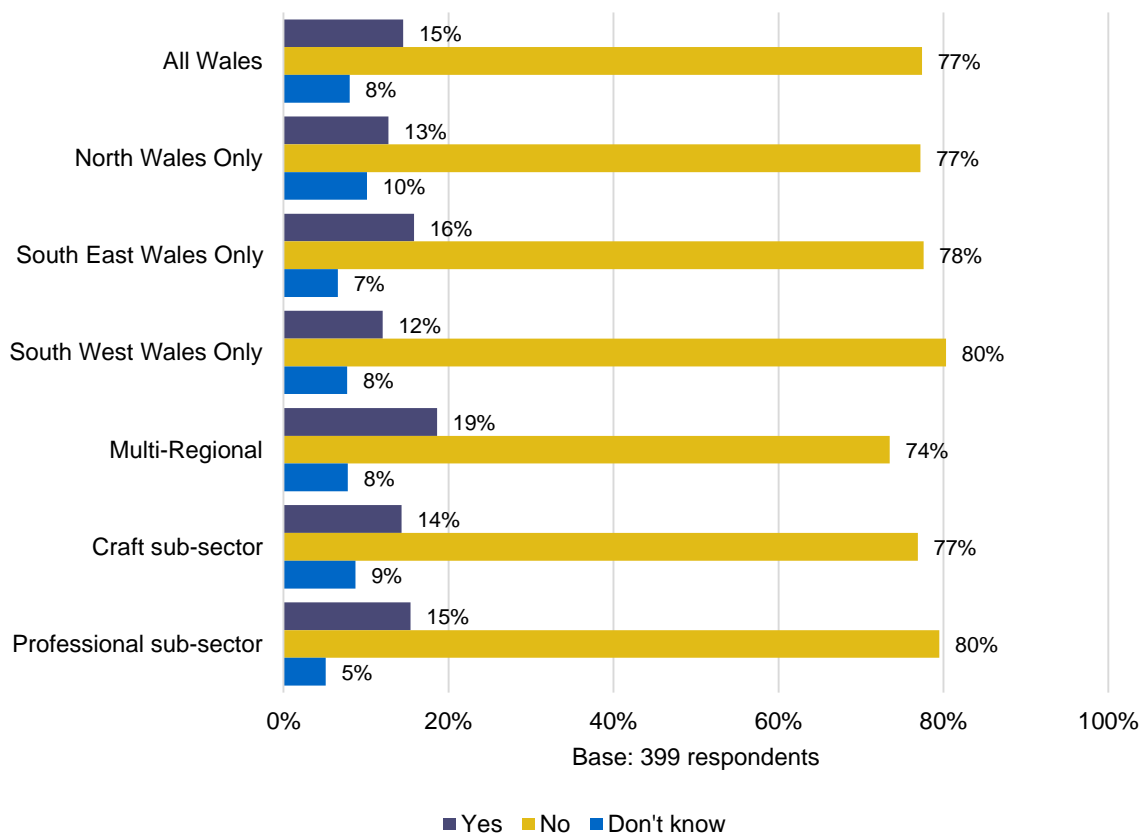
a wider knowledge and skill set; secondly to ensure over time that the workforce becomes more aware of the important part their work plays in the cultural surroundings in Wales.

“Recruits are often very enthusiastic but not knowledgeable – they don’t come into contact with traditional building skills during their mainstream education.”

Employer

Employers were asked if the workforce had previously developed any traditional building skills and knowledge as a result of mainstream (i.e. general construction) provision offered by FE Colleges in Wales. Just 15% of employers confirmed this to be the case, with similar responses across each of the regions and between craft and professional businesses (Figure 21).

Figure 21 Whether or not traditional building skills and knowledge has been developed through mainstream FE College provision

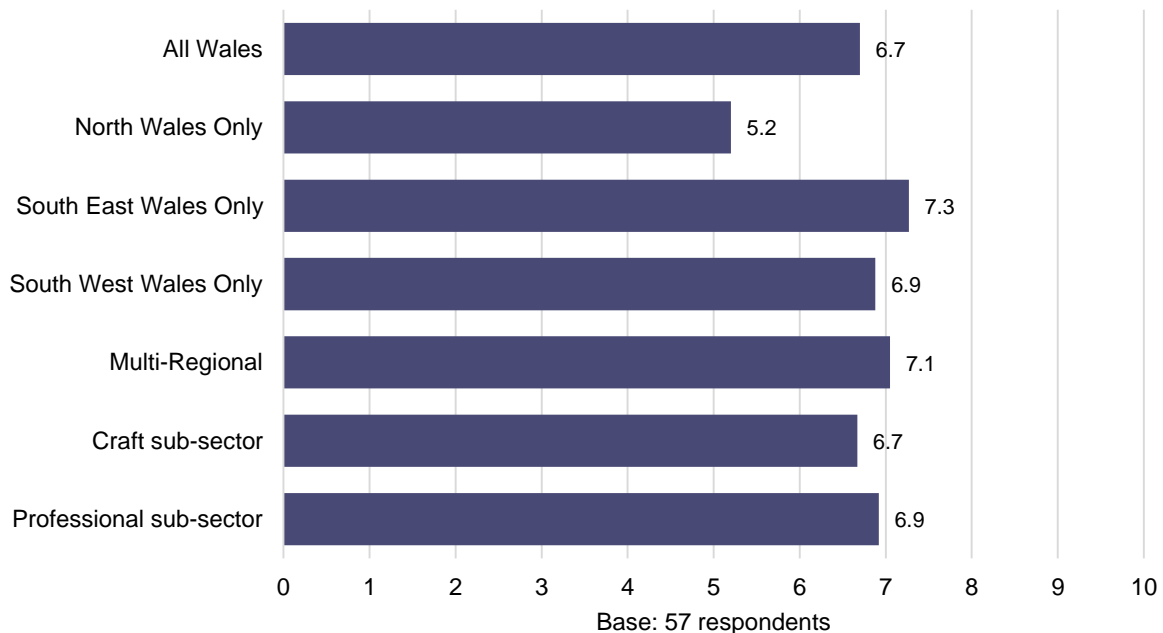




Employers reporting that they had developed traditional building skills and knowledge through mainstream provision were asked to rate on a scale from 1 'not at all' to 10 'very well', the extent to which that knowledge had enabled the workforce to specialise more in traditional buildings work.

The overall average score is 6.7 out of 10, with employers in South East Wales most favourable (7.3 out of 10) and employers in North Wales least favourable (5.5 out of 10) – Figure 22.

Figure 22 Extent to which knowledge from mainstream FE College provision has enabled the workforce to specialise in traditional buildings (score from 1 to 10)



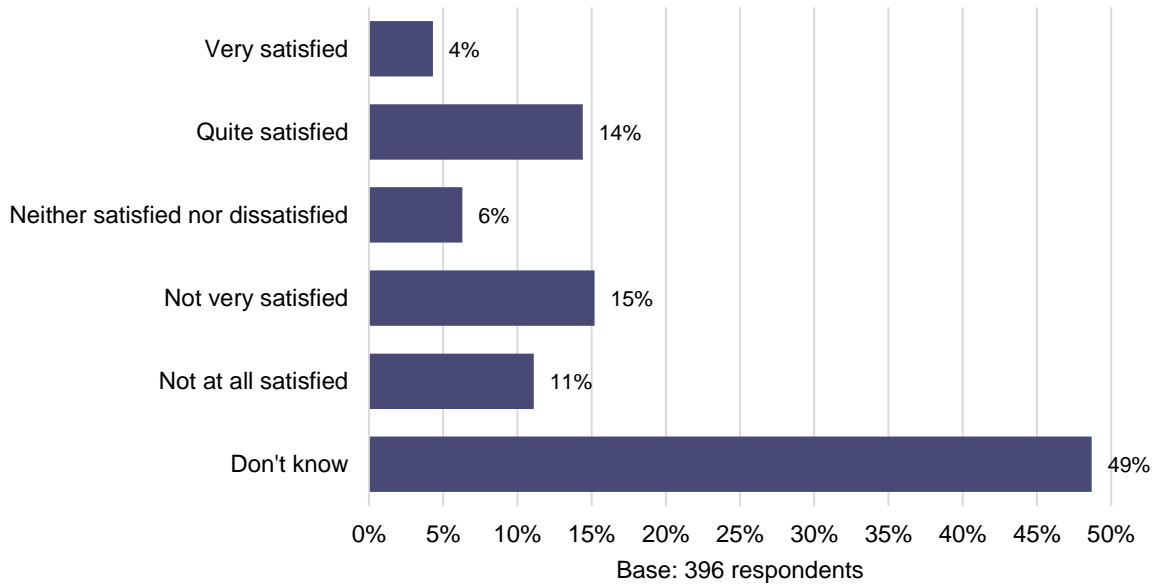
“Apprentices need to be taught practical skills rather than classroom knowledge.”

Employer

Just under half of employers (49%) do not know whether FE College training provision available in Wales is equipped to deliver the skills and knowledge required for working on traditional buildings. A larger proportion of employers are not satisfied (26%) than satisfied (18%) – Figure 23.



Figure 23 Satisfaction that FE College provision is equipped to deliver skills and knowledge for working on traditional buildings



Satisfaction levels are very similar across the different regions of Wales, although only 16% of craft businesses are satisfied compared with 20% of professionals (Table 19).

Table 19 Satisfaction that FE College provision is equipped to deliver skills and knowledge for working on traditional buildings – by region and sub-sector

% respondents	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Very satisfied	4%	3%	8%	5%	2%	5%
Quite satisfied	14%	14%	14%	16%	14%	15%
Neither satisfied nor dissatisfied	6%	4%	7%	4%	11%	5%
Not very satisfied	15%	15%	16%	16%	14%	15%
Not at all satisfied	11%	11%	10%	11%	12%	12%
Don't know	49%	54%	46%	49%	47%	49%



“A mainstream architecture degree does nothing to ready you for working with older buildings. That’s all learned on the job.”

Employer

“At degree level, traditional techniques are not popular with architecture students.”

Training provider

Employers were asked to comment on what types of training for traditional buildings they need but have not been able to access.

A total of 208 respondents (51%) stated “none” or “nothing”, with a small minority elaborating that they already have sufficient skills. Very few respondents mentioned specific requirements and tended to reiterate the main barriers to training.

Types of training needed by employers which they cannot access (where mentioned by more than one respondent):

- Everything/general craft skills for working on traditional buildings (13 responses);
- Knowledge of/working with traditional materials (5 responses)
- Lime work (4 responses)
- More practical training (3 responses);
- Plastering (3 responses);
- Flooring (3 responses);
- Stone work (3 responses);
- Carpentry (2 responses); and
- Sash windows (2 responses).

“The problem is that there are no traditional building courses at the local college and being a remote village location means accessibility is the main problem.”

Employer

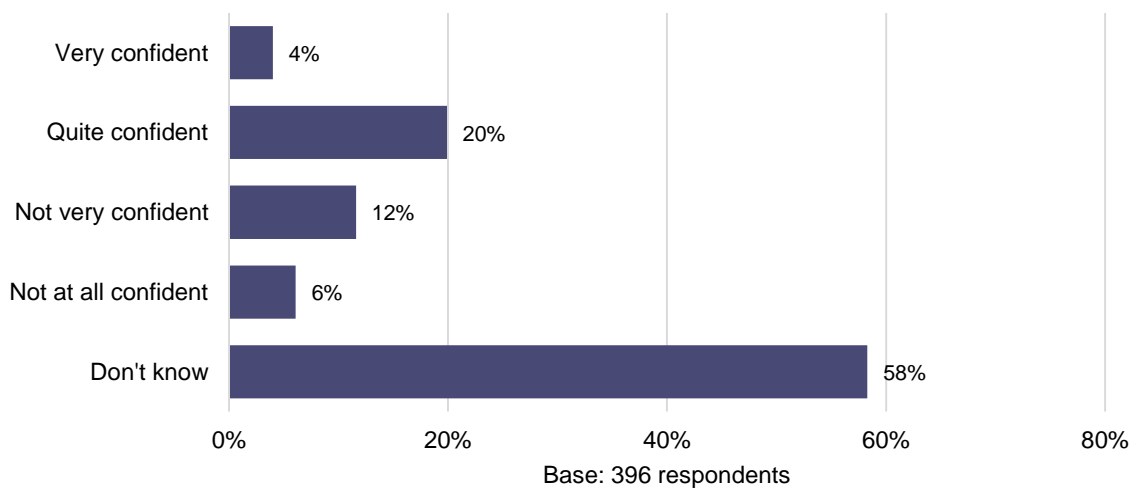


“If you look hard enough and you’re willing to travel then you can find what you need.”

Employer

Most surveyed employers (58%) stated that they don’t know whether existing FE College provision in Wales is equipped to will give craftspeople the skills they need to work on low carbon and energy efficiency measures in traditional buildings. A quarter of employers (24%) are confident and 18% are not confident in this regard (Figure 24).

Figure 24 Extent of confidence that FE College provision can provide craftspeople with the skills for installing low carbon and energy efficiency measures



This pattern is very similar across all regions, while craft employers are less confident than professionals (Table 20).



Table 20 Extent of confidence that FE College provision can provide craftspeople with the skills for installing low carbon and energy efficiency measures – by region and subsector

% respondents	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Very confident	4%	4%	4%	5%	3%	5%
Quite confident	20%	22%	16%	20%	22%	20%
Not very confident	12%	9%	9%	11%	17%	9%
Not at all confident	6%	5%	5%	7%	6%	5%
Don't know	58%	61%	66%	58%	51%	60%

“There is a lack of information around the energy efficiency products themselves, how to install them, specifications and the legislation behind them. I had to go to Ireland for this type of information recently – there’s nothing in Wales.”

Employer

“Qualifications take a long time to be approved and those relevant to energy efficiency are already behind the times. Courses need to be sustainable, unlike the Green Deal.”

Training provider

Surveyed employers were asked what new kind of training if any, is needed in relation to the installation of low carbon and energy efficiency measures in traditional buildings. A total of 147 respondents (36%) stated that they didn’t know or were unsure.

Among employers that gave details, there is a call for better awareness and knowledge about the general principles of energy efficiency measures; how they need to be adapted for use on traditional buildings; and how they need to be integrated with the existing components of traditional buildings.

Other specific training requests mentioned by more than one respondent:

- Installing insulation technologies (10 responses);



- Windows and glazing (7 responses);
- More understanding about how traditional buildings ‘breathe’ (6 responses);
- The implications of changes to the building regulations that put more emphasis on the conservation of fuel and power (6 responses); and
- Installing solar panels, particularly on a slate roof (3 responses).

Training providers interviewed for this research mentioned that some colleges have good quality resources such as access to experts and skilled staff with experience of working on heritage buildings, as well as a good stock of live sites so they can show learners. It was felt that others might struggle if they lack the necessary in-house expertise or do not have links with local contractors who can offer sites on which trainees can work.

6.6 Improving mainstream provision for traditional building skills

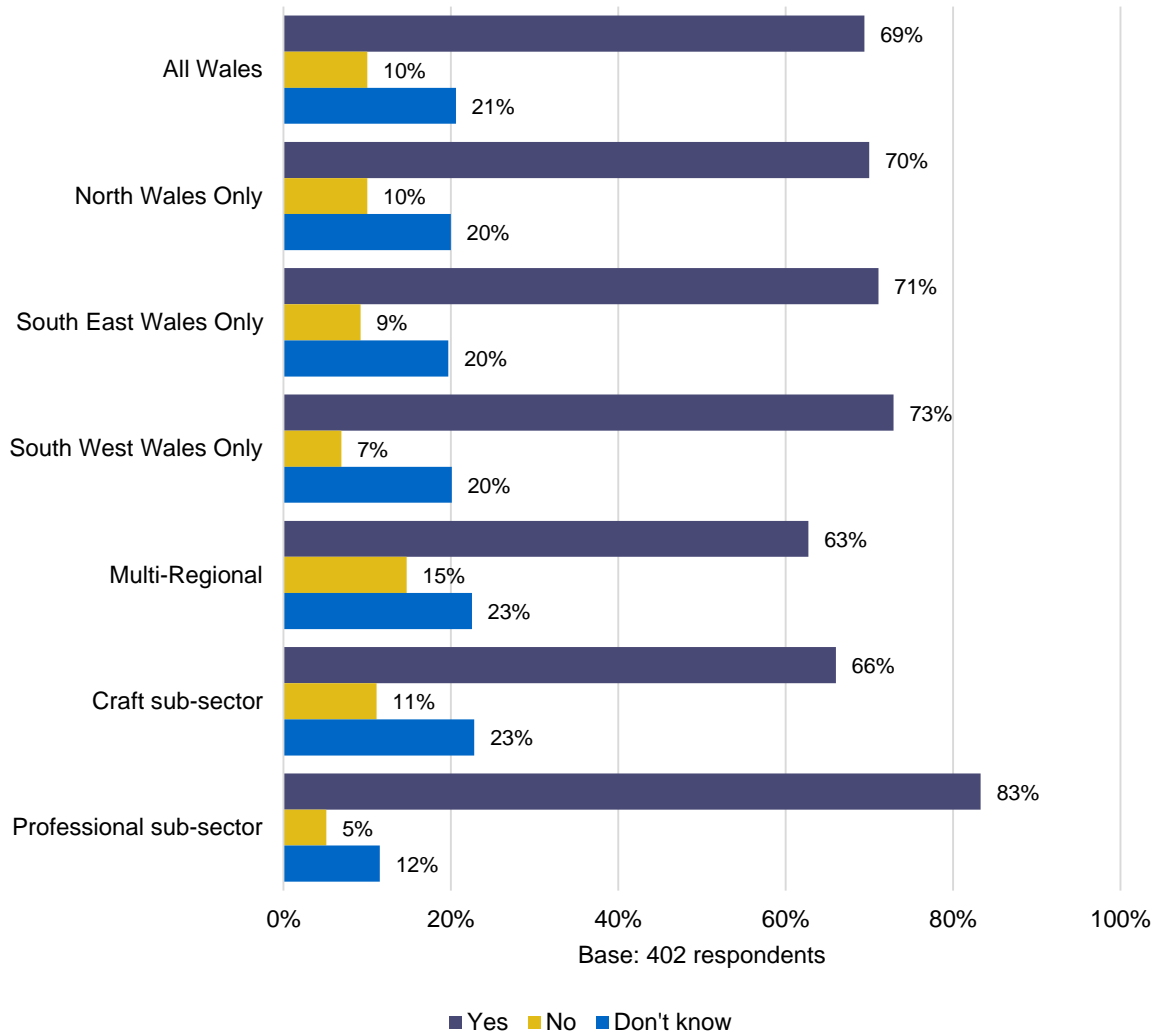
“I’m glad the Welsh Government is taking action on this issue because it’s bound to get worse at the current rate.”

Employer

Over two thirds of surveyed employers (69%) believe that more defined and specific coverage of traditional building skills and knowledge would be valuable within mainstream FE College provision in Wales. Employers working in South West Wales are particularly in favour of this (73%) as are professionals (83%) – Figure 25.



Figure 25 Whether or not more defined coverage of traditional building skills and knowledge would be valuable within mainstream FE College provision in Wales



“Mainstreaming traditional building skills and knowledge would help to ensure people leave college able to work on either new build or historic buildings or both.”

Employer



On the whole employers were favourable towards mainstreaming traditional building skills, on the basis that this would improve the general skills and knowledge of the existing workforce and help to ensure better quality of workmanship. In particular, apprentices and trainees would gain better basic skills and knowledge for tackling work on traditional buildings.

A combination of theory and practical application is considered important, with the latter of particular value to ensure trainees can practise working with traditional materials and tools, and generally to “learn the art”.

Employers believe that mainstreaming traditional skills would stimulate greater interest and confidence among young people to undertake work relating to traditional buildings, or indeed to specialise in this area. This in turn, could create a better employment market and enable more choice for employers.

Some employers argued that mainstream would help with skills replacement where time-served craftspeople are approaching retirement. Indeed this could be a particular issue among micro businesses where succession planning is not in place.

One employer commented that as traditional buildings get ever older, their restoration and repair needs will only become more important, making it all the more important to build up a more prepared workforce for the future.

Finally, training providers largely back the idea of mainstreaming traditional skills, pointing out that the most viable option would be to embed content within existing construction courses via mandatory or optional bolt-on units.

“The keyword here is ‘mainstream’. Anything that is considered an “add on” can be all too easily overlooked if it does not interest the apprentice or trainee.”

Employer

There is general agreement among stakeholders and training providers that a more defined syllabus for traditional building knowledge and skills would be valuable within mainstream construction training.

Justifications are as follows:

- The construction industry currently experiences real difficulties finding and retaining suitably skilled and knowledgeable people to undertake traditional work;



- The ageing profile of the traditional workforce means there is an urgent need to replace these skills so they do not become lost;
- Not enough young people are given a chance to try traditional building skills, so they never find out if it's something they would enjoy as a career;
- In the future, “the old could become the new” if cavity walls are phased out and solid walls brought back in as the preferred option, due to the poor energy performance of cavity walls; and
- The alternative to mainstreaming, i.e. focusing more on promoting standalone courses, is not sustainable as employers do not demonstrate enough demand, be it for reasons of cost or an assumption that they don't need the training.

One focus group participant mentioned that some local authorities have tried delivering heritage skills and information days for industry, although these have not been well attended. It was suggested that employers (particularly SMEs and micro businesses) simply cannot afford to release people where this could lose money for the business. This issue was also given as one possible explanation for such low levels of employer engagement with the craft courses delivered as part of the Sustainable Construction Learning Sites Project.

“Heritage courses need to be tailored to the locality of the industry and the nature of the local heritage”

Training provider

Providers made the point that location affects the nature of training that can be offered, i.e. if a particular college is surrounded by new build houses then traditional skills are less of a priority and would not be so highly sought after through training.

It is considered important that trainers themselves are suitably knowledgeable about traditional buildings, particularly those involved in delivering mainstream FE College construction courses. Discussion at one of the focus groups touched on the issue that by continuing to focus mainstream courses on new build, trainers are unlikely to feel the need to undertake Continuing Professional Development in relation to traditional buildings.

In relation to this issue, training providers interviewed for the research were keen to point out that colleges are responsive to change and would be very capable of establishing more traditional buildings training if there was sufficient demand. Indeed a willingness among training providers to respond to this agenda has arguably been proven by the success of the ‘train-the-trainer’ aspect of the Sustainable Construction Learning Sites Project, for which 25



college tutors attended courses in North, South East and South West Wales in the autumn of 2014, in order to improve their own knowledge on this agenda.

One provider emphasised how manufacturers and suppliers also have an important part to play in training, particularly on the installation of energy efficiency technologies. These types of short courses may be useful as top-up training and would inevitably only involve limited time away for the trainee



7. Conclusions and Recommendations

7.1 Conclusions

1. The dynamic of demand, skills and training

The current dynamic between client demand, the industry-supplied skills base, and training provision for working on traditional buildings, appears to be driven by factors such as cost, convenience and importance (in terms of undertaking work and participating in training).

In particular:

1. Construction clients (e.g. public and private sector building owners) are largely unaware of how and why they should protect a traditional building and might not think twice about opting for a cheaper solution where this is more readily available;
2. Mainstream construction employers may be working on traditional buildings without necessarily being fully aware of how these buildings should be treated; and without necessarily wanting to invest too heavily in expensive materials or their own training while clients are not demanding that they do so; and
3. Mainstream training providers by their own admission are primarily focusing on new build aspects of construction where there is greatest demand; while some college tutors by their own admission have admitted to lacking awareness of the needs of traditional buildings;

2. The state of workmanship on traditional buildings

There is evidence to suggest that work is being carried out on traditional buildings across Wales by professionals and contractors who do not possess the requisite skills and knowledge. This risks damaging the fabric and airflow of these buildings, with potential consequences for the health of occupants.

Poor workmanship on traditional buildings does not rest with contractors alone. Policy-makers (e.g. those responsible for energy efficiency initiatives), commissioners, specifiers, designers, planners and building control all have a part to play in ensuring that repair, maintenance and retrofit activities are responsible and sustainable.

As modern and traditional properties require very different approaches, it has led to a situation where some professionals, contractors and even training providers have insufficient knowledge of the different requirements between these two types of structures. In cases where designers lack knowledge of the special considerations that must be given to



traditional buildings, this can lead to flaws that are subsequently built in by contractors who follow these plans.

Furthermore the fact that 80% of surveyed employers reported using a mixture of modern and traditional materials on traditional buildings only serves to exacerbate concerns across the sector that the right materials may not always be used under the right circumstances.

3. Demand for traditional building skills

There are optimistic signs that demand for work on traditional buildings may increase over the next two years. This is evidenced by the views of employers (34% expect an increase whilst only 14% expect a decline); optimistic economic forecasts to 2019; and Welsh Government initiatives such as Arbed and the *Houses into Homes* scheme.

Skills and knowledge relevant to traditional buildings may need to be drawn upon relatively frequently, given that employers reported almost half of time (43%) is spent working on traditional buildings.

Only a small proportion of work on traditional buildings relates to energy efficiency retrofit (13%) – corroborating anecdotal evidence from stakeholders that this is still an emerging area where uncertainty remains about the suitability of existing skills and knowledge for installing such measures.

4. Industry-supplied skills for traditional buildings:

It is extremely important that contractors understand the physics of traditional buildings, including qualities of breathability; the potential harm that can be caused to these structures when work is undertaken incorrectly; and why it is so important to use the right methods and materials.

The collective insight of stakeholders and employers has enabled the research to identify a number of 'core skills' (craft-specific) for working on traditional buildings – namely:

- Lime work;
- Stonework;
- Carpentry and joinery; and
- Roofing.

Across all four these skill areas, employers highly rated the skill levels of their own workforces (scores of at least 8 out of 10) but these were also among the most commonly mentioned skills as being in short supply and hard to find.



5. Scarcity of training provision for traditional buildings in Wales

Mainstream training provision that is directly relevant to traditional building skills appears to be scarce in Wales. This view is echoed by all research participants, including training providers themselves who stated that construction qualifications and Apprenticeships arguably focus too heavily on new build at the expense of traditional skills. Indeed, according to Welsh Government statistics, only two FE Colleges in Wales are reported to have offered a general heritage-related construction qualification during the 2012/13 academic year.

Despite low participation in heritage-related qualifications in Wales, one should bear in mind that training is only viable where there is demand. The challenge of engaging employers with standalone courses for traditional buildings is no more evident than has been the case with the Sustainable Construction Learning Sites project. The pilot in 2014 only succeeded in recruiting 12 apprentices against an initial goal of 150; with several of these courses having to be cancelled due to insufficient take-up.

In an effort to improve traditional building skills and knowledge in Wales, attention should be turned to what employers say they need and will value – noting that thirds of surveyed employers (69%) would like to see more defined coverage of traditional building skills and knowledge within mainstream FE College provision.

7.2 Recommendations

- 1. Raise awareness about the important structural qualities of traditional buildings and the implications of undertaking inappropriate work. In turn, work towards a situation where employers view traditional building skills and knowledge as vitally important to winning and undertaking work on these types of buildings.**

Awareness-raising activities are relevant to a wide range of stakeholders, including public and private sector construction clients (e.g. domestic and non-domestic property owners and tenants); design professionals, contractors, planners and building control representatives.

The short term objective will be to reduce instances of contractors providing what are perceived to be the easiest or cheapest solutions where this might not be appropriate to the building. This should also enable them to recognise that possessing the right skills and knowledge relating to a traditional building can offer a competitive advantage in relation to clients who are either educated about the issues or know their rights if things go wrong. Longer term, better awareness and understanding among all concerned should encourage employers to view training and recruitment of suitably qualified employees as vital to being able to win and undertake work on traditional buildings.



CITB should consider working with expert stakeholders, partners and advisory groups to educate contractors in the important principles associated with working on traditional buildings. It should be made clear to contractors that poor work can have serious implications for the fabric of traditional buildings and the health of their occupiers, and that clients could take legal action as a result. CITB may wish to consider raising awareness among employers through face to face meetings, seminars, a dedicated web 'resource' or through the publication and distribution of written guidance and signposting to further information and training.

Where any kind of householder/consumer awareness-raising activities are concerned, the appropriate action to take will depend on whether the goal is to 'educate' property owners about traditional buildings, or 'inform' them of their rights, i.e. as consumers, if work is sub-standard. The first approach (to 'educate') would require strong marketing and promotion, with endorsement from the Welsh Government and bodies such as Cadw. It would need to simplify what is potentially a very complex area and could be costly in terms of merchandise, websites, pamphlets and support, such as consumer questions. The second approach (to 'inform') might simply need to take the form of an email or leaflet campaign to reiterate to property owners their rights when purchasing goods and services, for example fitness for purpose. This approach might mean working in partnership with consumer groups such as Citizens Advice and Trading Standards.

2. Work with funders and commissioners to consider making certain grants for work on traditional buildings conditional upon contractors meeting pre-requisite requirements in terms of skills, knowledge and materials.

Funding levers (such as the Arbed programme and the *Houses into Homes* scheme) could incorporate grant conditions to ensure contractors are able to demonstrate minimum levels of skills and knowledge and/or commit to using appropriate materials.

This type of approach could simultaneously work to:

1. Raise awareness about the important qualities of traditional buildings (as per recommendation 1) and;
2. Create the conditions for future training demand and supply (as per recommendation 3, below)

3. Work with FE Colleges, Awarding Organisations and other stakeholders in Wales to embed traditional building skills and knowledge within mainstream construction qualifications and Apprenticeships at Level 3.

This research has revealed general favourability among employers, training providers and other stakeholders towards embedding traditional buildings skills and knowledge



within mainstream FE provision. This approach would ensure wider benefits are felt across industry where previous approaches of running standalone heritage-related qualifications and short courses have suffered from limited take-up.

Apprentices attending the Sustainable Construction Learning Sites craft course at St. Fagans in December 2014 offered a great deal of praise when feeding back about the training as part of the project evaluation. This suggests that a traditional buildings pathway within an Apprenticeship could spark a good deal of curiosity and interest among young people.

In terms of a possible approach – CITB’s recent industry insights relating to the content of Level 3 qualifications (cf. section 6.5) reveals a need and potential opportunity to replace some of the existing supervisory content within Level 3 vocational qualifications with more focused trade-specific content, including traditional building skills and knowledge. This could be taken forward with the development of a specialist unit covering the principles and knowledge required for working on traditional buildings, including responsible energy efficiency retrofit.

Practical course components should be included given that employers consider hands-on experience to be very important in helping apprentices to practise and hone their skills. This would likely require identifying trainers and delivery partners (i.e. host sites) with suitable facilities within a reasonable travelling distance from the college.

4. Promote wider uptake across Wales of the new Level 3 CPD unit for trainers that has been developed following the Sustainable Construction Learning Sites Project

Feedback from College tutors that participated in the pilot was that the train-the-trainer course was valuable. Some tutors reported not being aware of some the important facts and considerations about treating traditional buildings and have already made efforts to pass this information on to others.



Appendix 1: Sector profile and characteristics

7.3A1.1 Construction (repair and maintenance) enterprises in Wales

There are estimated to be 4,390 construction enterprises operating in Wales under the Standard Industrial Classification (SIC) codes most relevant to repair and maintenance activities, i.e. excluding new build codes (Table 21)³⁶.

Table 21 Total construction enterprises in Wales (excluding new build)

SIC code	SIC description	Wales no. enterprises
43.29	Other construction installation	230
43.31	Plastering	160
43.32	Joinery installation	810
43.33	Floor and wall covering	235
43.34	Painting and glazing	495
43.39	Other building completion and finishing	670
43.91	Roofing activities	250
43.99	Other specialised construction	1,015
71.11	Architectural activities	355
74.90/2	Quantity surveyors	170
TOTAL:		4,390

Source: ONS UK Business Activity, Size and Location 2013, Table B3.4.

7.4A1.2 Estimated size of the traditional building workforce in Wales

Employers surveyed for the research have an average of 8.3 staff.

Of these, 6 work in relation to older and traditional buildings, of which almost all (5.8) are employed full-time.

Perhaps unsurprisingly, businesses working on traditional buildings across multiple regions of Wales are larger by comparison to those working within a single region, employing an average of 18.2 staff.

Employers in the professional sub-sector that work on traditional buildings are slightly larger in employment terms (9.5 staff) than those in the craft sub-sector (8.1 staff) – Table 22.

³⁶ The Standard Industrial Classification (SIC) system was defined by the Office for National Statistics and provides a long-established taxonomy of businesses in the UK. The system offers a common framework for the production and comparison of statistical data by industry sector. At the time of writing the last update to the SIC system was in 2007.



Table 22 Workforce numbers

% of workforce	Base	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
How many employees does your company have?	402	8.3	4.5	5.8	4.8	18.2	8.1	9.5
How many of those employees work on older and traditional buildings?	391	6.0	3.5	4.3	4.1	11.7	5.9	6.2
How many of those employees that work on traditional buildings are employed full-time?	388	5.8	3.3	4.3	3.8	11.8	5.8	6.0

Based on an estimated 4,390 enterprises operating in the repair and maintenance sub-sector (Table 21), it can be estimated that around 26,340 employees in Wales work on older and traditional buildings.

7.5A1.3 Demographics of the traditional building workforce in Wales

Surveyed employers were asked to provide demographic information about their staff who undertake work on traditional buildings. The data are provided in Table 23 with summary information as follows:

- The vast majority of the traditional building workforce is male (94%) versus female (6%). This is broadly in line with existing published statistics for the construction sector as a whole that estimate it to be 90% male and 10% female³⁷;
- Over a third of the traditional building workforce is aged over 50 (38%). The percentage of the workforce in this age bracket is slightly higher in the professional sub-sector (51%) than the craft sub-sector (34%);

³⁷ CITB(2010) *Sector Skills Assessment for the Construction Sector 2010 – Wales report*



- Young people aged 16 to 24 account for 11% of the traditional building workforce. This proportion is marginally higher among employers working across multiple regions (13.5%);
- Craft businesses employ a larger share of young people aged 16 to 24 than professionals (12.7% compared with 4.1%, respectively). This may reflect the proliferation of Apprenticeships in mainstream construction and the fact training and education for professional roles often requires degree level qualifications and above. Architecture, for example, requires seven years of study and work-based experience from the point of entering university (Table 23).

Table 23 Demographics (gender and age) of the traditional building workforce

% of workforce	Base	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-regional	Craft sub-sector	Professional sub-sector
Male	399	93.8	95.0	95.0	93.7	92.1	94.6	90.4
Female	399	5.4	4.6	5.0	5.6	5.9	4.4	9.6
Employees aged between 16 and 24	398	11.0	8.8	8.9	11.7	13.5	12.7	4.1
Employees aged between 25 and 49	398	50.5	50.6	48.5	47.6	55.9	51.7	45.2
Employees aged 50 or over	398	37.5	39.4	42.5	40.0	28.7	34.3	50.7



Appendix 2: Sampling and respondent information

The sample frame for the employer survey was drawn from a reputable national commercial database of businesses, fully searchable by geography and industry sector.

To be valid for selection, businesses needed to:

1. Have their main/head based in Wales; and
2. Be classified according to one of the Standard Industrial Classification (SIC 2007)³⁸ codes relevant to construction repair and maintenance activities within CITB's footprint, including professional activities.

A further pre-requisite for employers to participate in the survey was that they must have undertaken at least some work in relation to traditional buildings over the previous 24 months. This was established via an initial filtering question at the start of the survey.

The survey achieved a broad spread of responses ranging from mainstream general builders, to niche craft-related businesses operating exclusively in relation to older and traditional buildings, such as thatchers and stone masons.

The survey achieved a total of 406 responses against a target of 400. This provides a statistically reliable margin of error of +/- 4.6% at the 95% confidence interval. This calculation is based on a population of 4,390 construction enterprises in Wales operating in SIC codes relevant to repair and maintenance, i.e. excluding new build³⁹.

It is important to note that not all survey respondents answered all questions, therefore the margins of error will be variable per question. Margins of error can also be affected by the performance of cross-tabulations.

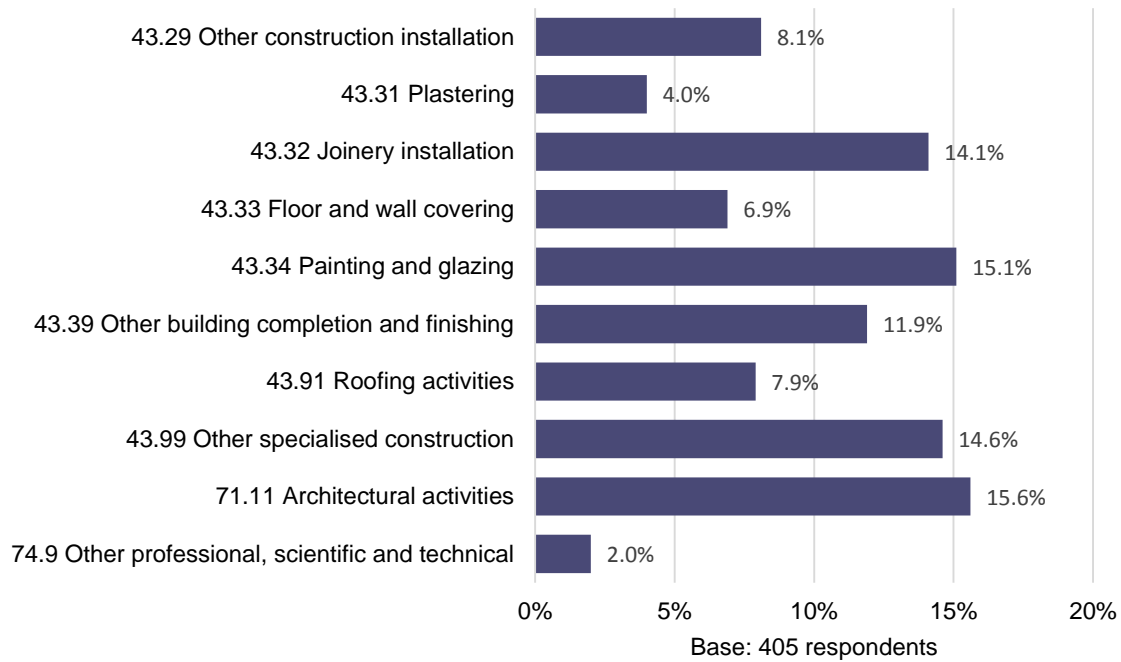
The achieved mix of responses by SIC code is shown in Figure 26.

³⁸ The Standard Industrial Classification (SIC) system was defined by the Office for National Statistics and provides a long-established taxonomy of businesses in the UK. The system offers a common framework for the production and comparison of statistical data by industry sector. At the time of writing the last update to the SIC system was in 2007.

³⁹ Office for National Statistics: *UK Business Activity, Size and Location 2013 (Table B3.4)*



Figure 26 Survey respondents by SIC code



The achieved mix of responses by base region is shown in Table 21, alongside the mix of total enterprises in Wales across the same SIC codes. A regional map of Wales, illustrating the boundary lines for these three regional clusters, is presented in Appendix 5.

Table 24 Base region of Wales – achieved survey sample vs. total enterprises

Nation	Achieved survey mix	Mix of construction enterprises in relevant SIC codes
North Wales	22.1%	26.3%
South East Wales	33.1%	41.0%
South West Wales	44.8%	32.3%

Source for population data: NOMIS

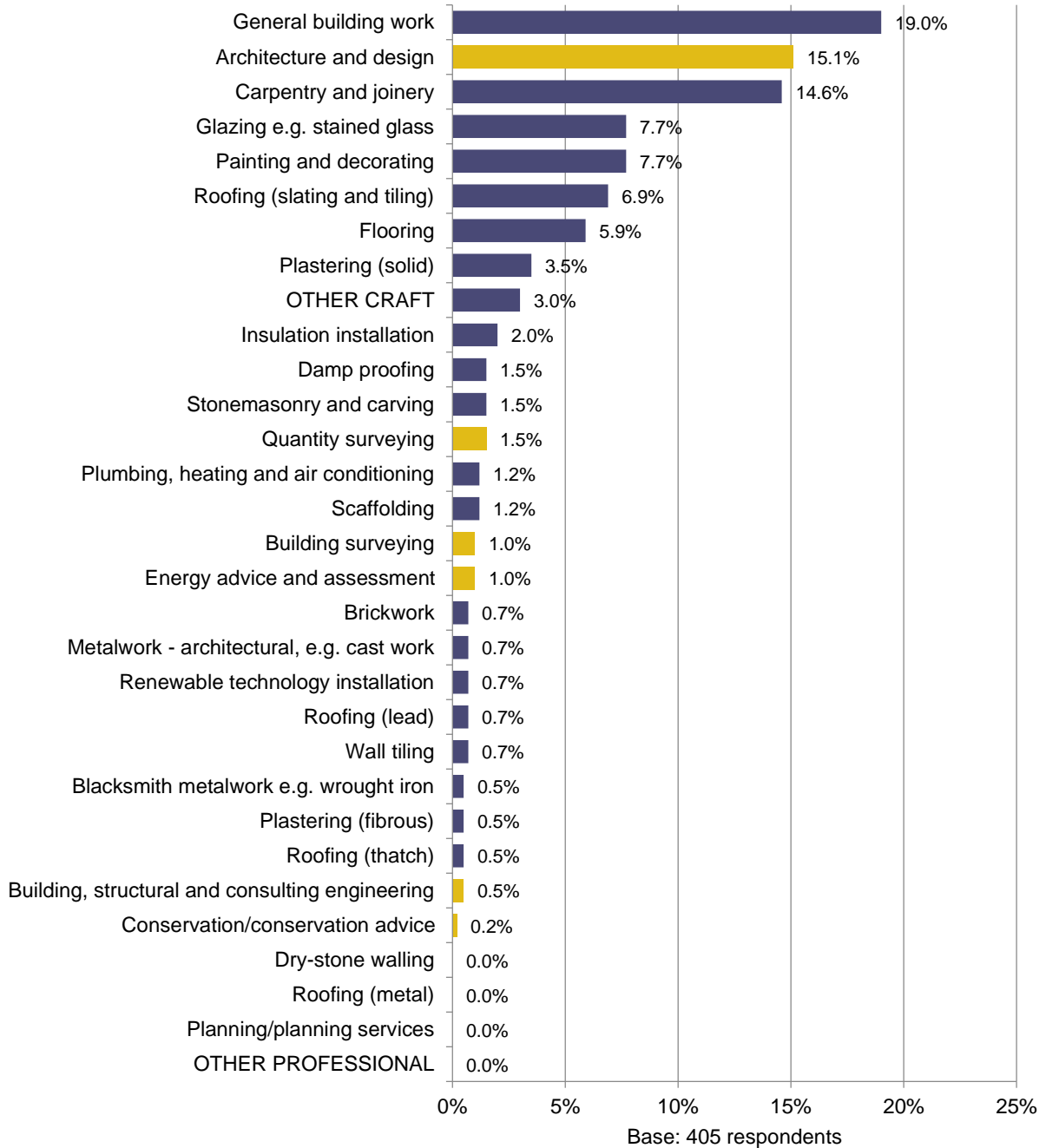
As part of the survey, employers were asked to confirm their main business activity, with the most common being 'general building work' (19% of respondents). The full mix of main business activities is shown in Figure 27, with colour-coding used to denote the two main sub-sectors:

- Craft activities (dark blue shading); and



- Professional activities (pale yellow shading).

Figure 27 Main business activity



'Other' craft occupation include:

- Damp proofing;
- Deep cleaning;
- Lift maintenance;
- Guttering; and



- Maintenance.

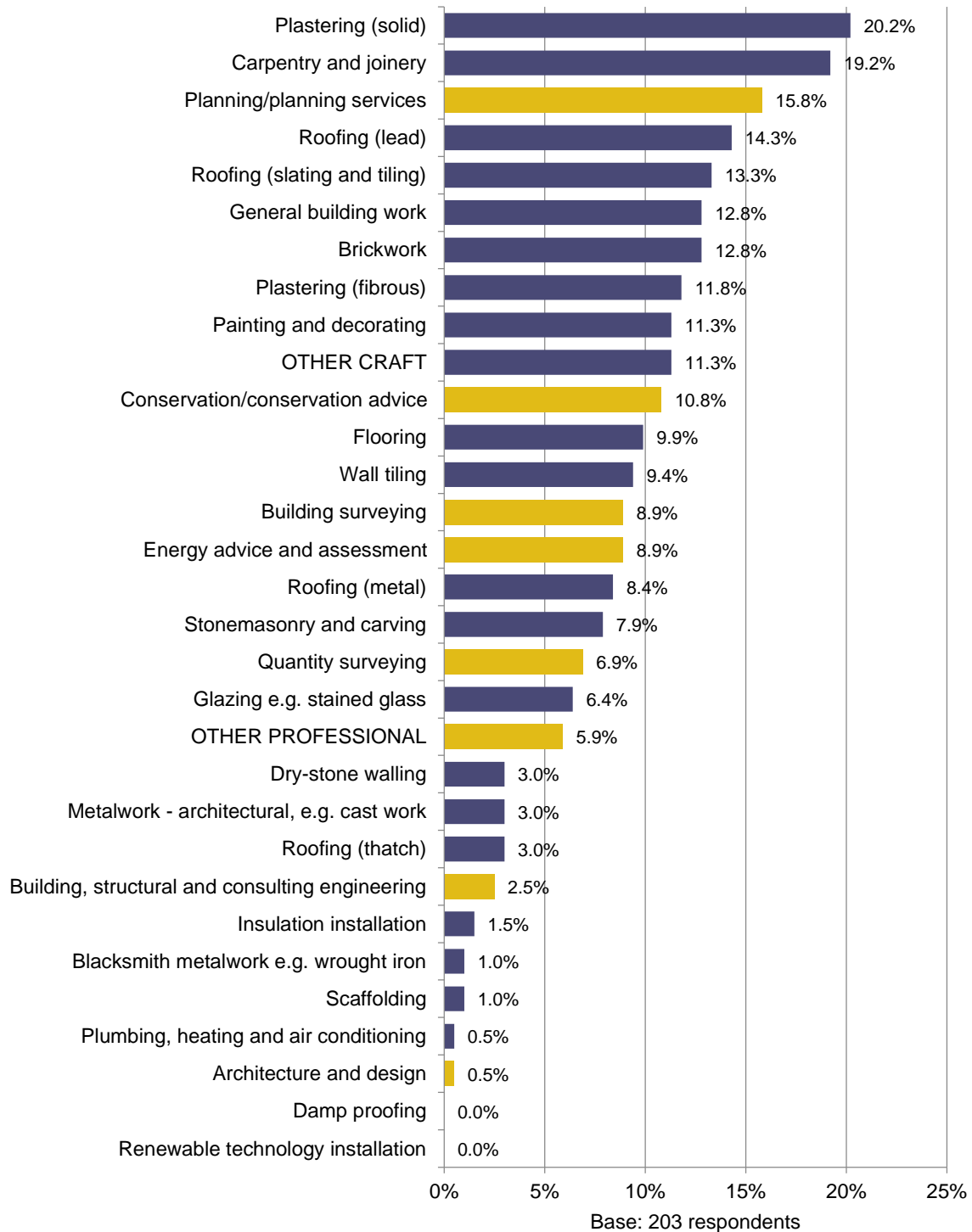
A total of 203 respondents (50%) reported that they undertake one or more secondary activities in addition to their main business activity.

The most commonly cited additional activities are:

- Plastering (solid) – mentioned by 20% of employers;
- Carpentry and joinery – mentioned by 19% of employers;
- Planning/planning services – mentioned by 15% of employers (Figure 28).



Figure 28 Additional/secondary business activities⁴⁰



⁴⁰ This chart is based on 'respondents' rather than 'responses', thereby showing the percentage of all respondents who mentioned each listed activity.



'Other' craft occupations include:

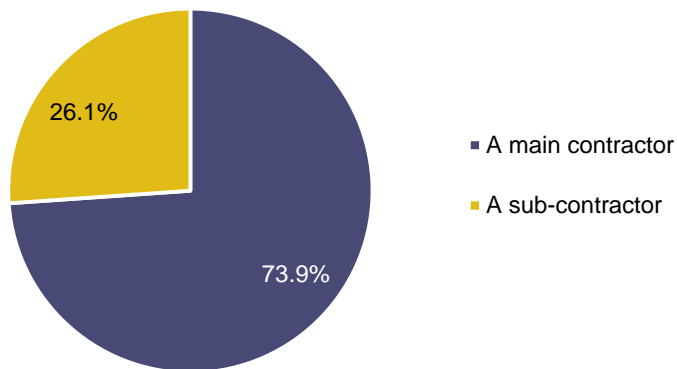
- Bathroom fitting;
- Conservatory installation;
- Flat roofing;
- Gutting; and
- Polishing.

'Other' professional' occupations include:

- Interior design;
- Landscape architecture;
- Project management; and
- Training.

Almost three quarters (74%) of survey respondents classified themselves as a main contractor, with the remainder classifying themselves as a sub-contractor (Figure 29).

Figure 29 Contractor/subcontractor

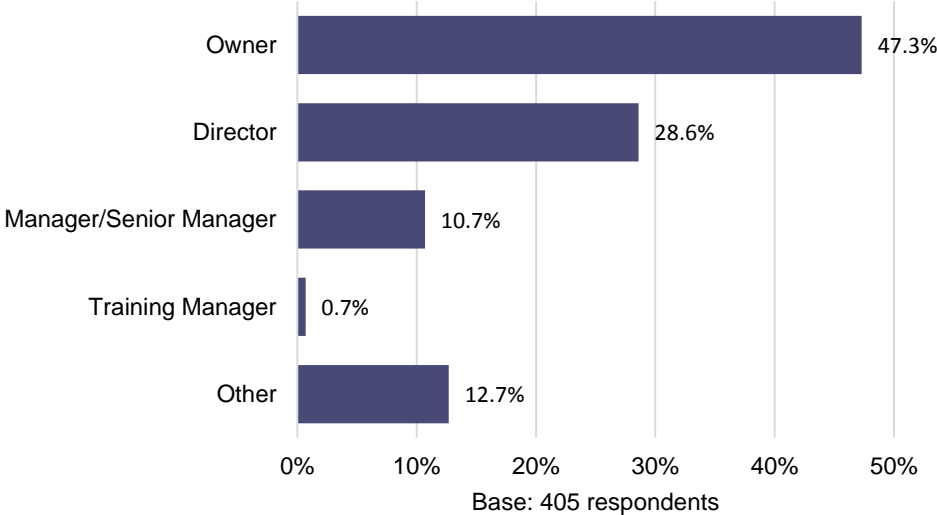


Base: 398 respondents

Three quarters of individuals responding to the survey (75%) were either owners or directors of their businesses (Figure 30).



Figure 30 Respondent job role



'Other' job roles primarily included Office Managers, Secretaries and specialists within a small practice, such as architects.



Appendix 3: Supplementary cross-tabulations

Table 25 Hard to recruit occupations – by region

	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-Regional
Base responses	71	19	15	16	21
CRAFT SUB-SECTOR					
General craft/trades person	7.0%	5.3%	6.7%	6.3%	9.5%
Blacksmith	1.4%	-	-	-	4.8%
Bricklayer	2.8%	5.3%	-	6.3%	-
Cabinet maker	-	-	-	-	-
Carpenter	8.5%	-	20.0%	12.5%	4.8%
Dry-stone waller	-	-	-	-	-
Gilder	-	-	-	-	-
Glass painter	-	-	-	-	-
Glazier	8.5%	5.3%	6.7%	12.5%	9.5%
Joiner	12.7%	5.3%	26.7%	12.5%	9.5%
Lead worker (excluding lead roofing)	-	-	-	-	-
Metalworker - architectural, e.g. cast work	1.4%	-	-	-	4.8%
Painter or decorator	1.4%	-	-	6.3%	-
Plasterer (fibrous)	4.2%	5.3%	6.7%	6.3%	-
Plasterer (lime etc.)	2.8%	10.5%	-	-	-
Plasterer (other)	4.2%	5.3%	6.7%	6.3%	-
Rofer (tiles and slates)	14.1%	21.1%	13.3%	6.3%	14.3%
Rofer (lead)	8.5%	15.8%	-	6.3%	9.5%
Rofer (metal)	1.4%	-	-	-	4.8%
Rofer (thatch)	-	-	-	-	-
Steeplejack	-	-	-	-	-
Stone carver	1.4%	5.3%	-	-	-
Stone conservator	1.4%	5.3%	-	-	-
Stone mason (fixer mason)	1.4%	5.3%	-	-	-
Tiler (floors/walls)	1.4%	-	6.7%	-	-
Timber preserver	-	-	-	-	-
Wood carver	1.4%	5.3%	-	-	-
Wood machinist	1.4%	-	-	-	4.8%
Other craft	11.3%	-	6.7%	12.5%	23.8%
PROFESSIONAL SUB-SECTOR					
Architect	-	-	-	-	-
Building or structural engineer	-	-	-	-	-
Building surveyor	-	-	-	-	-
Energy adviser/assessor	-	-	-	-	-
Conservation officer/adviser	-	-	-	-	-
Planner/planning consultant	-	-	-	-	-
Quantity surveyor	-	-	-	-	-
Other professional	1.4%	-	-	6.3%	-



Table 26 Hard to find as sub-contractor – by region

	All Wales	North Wales only	South East Wales only	South West Wales only	Multi-Regional
Base responses	141	36	43	44	18
CRAFT SUB-SECTOR					
General craft/trades person	2.1%	-	4.7%	2.3%	-
Blacksmith	2.8%	2.8%	2.3%	2.3%	5.6%
Bricklayer	2.1%	2.8%	2.3%	2.3%	-
Cabinet maker	2.1%	-	2.3%	2.3%	5.6%
Carpenter	5.0%	-	7.0%	6.8%	5.6%
Dry-stone waller	2.1%	2.8%	2.3%	2.3%	-
Gilder	1.4%	-	2.3%	2.3%	-
Glass painter	1.4%	-	2.3%	2.3%	-
Glazier	2.1%	2.8%	2.3%	2.3%	-
Joiner	4.3%	5.6%	2.3%	2.3%	11.1%
Lead worker (excluding lead roofing)	2.1%	2.8%	2.3%	2.3%	-
Metalworker - architectural, e.g. cast work	2.1%	2.8%	2.3%	2.3%	-
Painter or decorator	2.1%	2.8%	2.3%	2.3%	-
Plasterer (fibrous)	5.7%	8.3%	4.7%	6.8%	-
Plasterer (lime etc.)	7.1%	11.1%	4.7%	2.3%	16.7%
Plasterer (other)	3.5%	5.6%	4.7%	2.3%	-
Rofer (tiles and slates)	5.0%	2.8%	4.7%	6.8%	5.6%
Rofer (lead)	3.5%	-	2.3%	6.8%	5.6%
Rofer (metal)	2.1%	-	4.7%	2.3%	-
Rofer (thatch)	1.4%	-	2.3%	2.3%	-
Steeplejack	1.4%	-	2.3%	2.3%	-
Stone carver	2.1%	2.8%	2.3%	2.3%	-
Stone conservator	2.1%	2.8%	2.3%	2.3%	-
Stone mason (fixer mason)	3.5%	5.6%	2.3%	4.5%	-
Tiler (floors/walls)	3.5%	-	2.3%	6.8%	5.6%
Timber preserver	2.1%	-	2.3%	4.5%	-
Wood carver	2.1%	2.8%	2.3%	2.3%	-
Wood machinist	1.4%	-	2.3%	2.3%	-
Other craft	7.1%	8.3%	9.3%	2.3%	11.1%
PROFESSIONAL SUB-SECTOR					
Architect	1.4%	2.8%	-	-	5.6%
Building or structural engineer	2.1%	2.8%	-	2.3%	5.6%
Building surveyor	0.7%	2.8%	-	-	-
Energy adviser/assessor	0.7%	2.8%	-	-	-
Conservation officer/adviser	4.3%	5.6%	4.7%	2.3%	5.6%
Planner/planning consultant	0.7%	-	-	-	5.6%
Quantity surveyor	1.4%	2.8%	-	-	5.6%
Other professional	2.8%	5.6%	2.3%	2.3%	-



Appendix 4: Organisations represented at the focus groups

The research involved two round-table focus groups events held at:

- The Oriel Hotel, St. Asaph (North Wales) – 11th November 2014;
- Margam Discovery Centre, Port Talbot (South Wales) – 13th November 2014.

Organisations represented across the two focus groups are shown in Table 27.

Table 27 Organisations represented at the focus groups

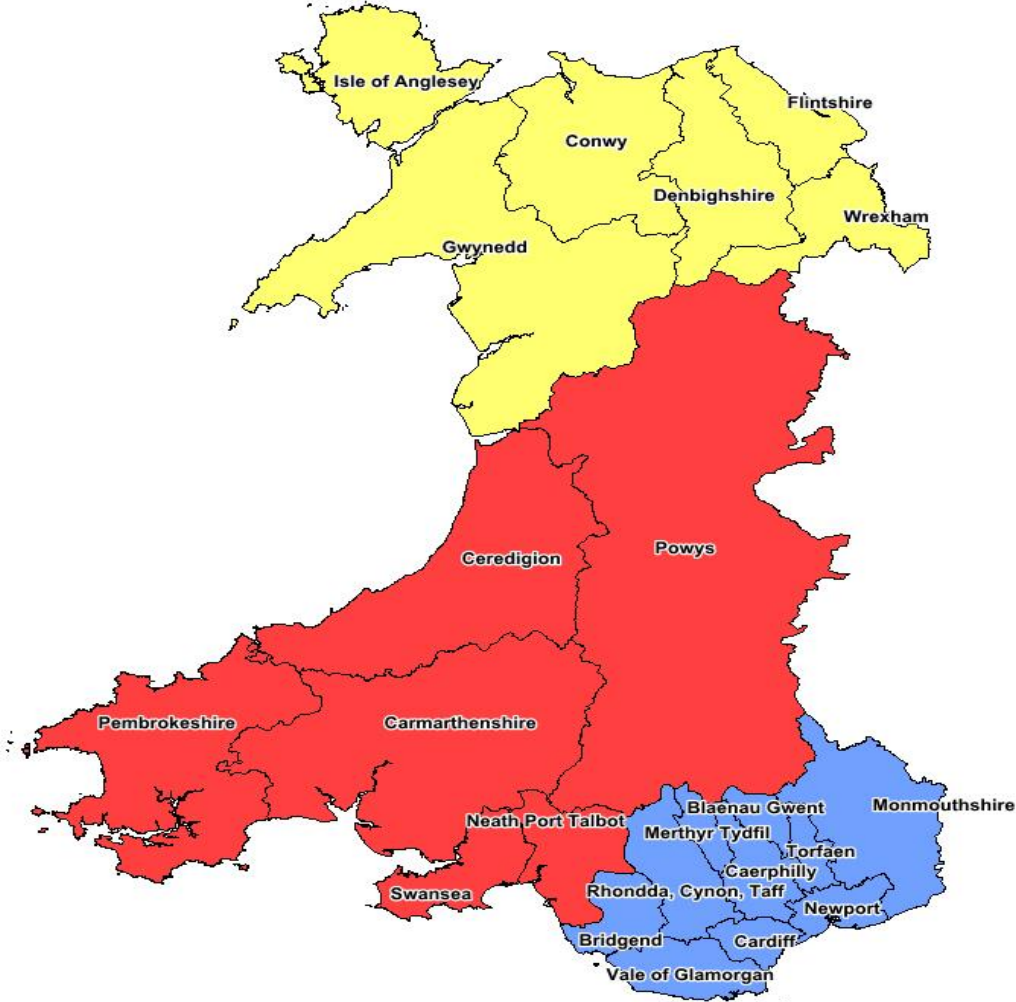
Built Environment Sustainability Training (BEST)
Cadw
Coleg Cambria
Coleg Llandrillo (Dolgellau campus)
Coleg Sir Gar
DEWIS CONSULTANTS LTD/RICS Chair North Wales
Federation of Master Builders Cymru
Heritage Initiatives Ltd. //IHBC representative
Historic Houses Association
Pembrokeshire Thatch & Carpentry Services
Snows Construction
Taliesin Conservation
The Building Futures Group
The Institute of Historic Building Conservation (IHBC)
The Lime Company of West Wales
The Royal Society of Architects in Wales (RSAW)
The Royal Society of Architects in Wales (RSAW)
The Tywi Centre
Ty Mawr Lime



Appendix 5: Regional map of Wales

The three main regional groupings set out in this map were used to cluster survey respondents for geographical analysis.

- North Wales
- South West Wales
- South East Wales



HE 37

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales)
Bill

Ymateb gan: Ymddiriedolaeth Ddinesig Cymru

Response from: Civic Trust Cymru

i Civic Trust Cymru

Civic Trust Cymru (formerly The Civic Trust for Wales) is a charity, core funded by Cadw. Civic Trust Cymru promotes civic pride as a means to improving the quality of life for all in the places where we live and work, and encourages community action, good design, sustainable development and respect for the built environment amongst people of all ages.

Civic Trust Cymru supports a network of civic and amenity societies across Wales. Societies are concerned with local character and sense of place. They engage with development and conservation issues. They recognise the need to think about the way places and communities are changing, and to ensure that what we build for the future respects the best of the past.

The Trust has developed a manual and toolkit 'Exploring your town' to guide communities as they explore the character of their streets and towns. It is closely allied to Cadw's urban characterisation initiative.

Civic Trust Cymru is a founding member, and the Secretariat, of the Wales Heritage Group. The Wales Heritage Group consists of 12 heritage organisations in Wales who meet quarterly to share information and discuss any issues of concern.

ii Civic Trust Cymru response to the Communities, Equality and Local Government Committee

Civic Trust Cymru thanks The Communities, Equality and Local Government Committee for the opportunity to provide evidence about the Historic Environment (Wales) Bill. Civic Trust Cymru welcomes the review of the heritage framework in Wales. The Bill, the accompanying documentation and draft TAN will have a significant impact upon future heritage protection and development.

The Deputy Minister, Ken Skates AM, has explained on various occasions the reason why the new Bill does not consolidate all heritage legislation. The result is a complex raft of legislation and policy. We have focussed our comments on the Heritage Environment Bill but have concerns about the potential for disconnection between the Bill and the draft advice in the accompanying documents such as the draft Technical Advice Note and the chapter for Planning Policy Wales. It would potentially be very easy for there to become a loss of coherence within the mass of documents during the various stages of drafting and consultation.

Resourcing and expertise are essential for Cadw, local authorities and the voluntary sector to be able to all work towards protecting and enhancing the historic environment. We are

concerned that continuing cut backs and the increasing loss of staff and funding across the breadth of organisations – governmental and voluntary - will have a significant negative impact upon the historic environment.

1 We support the general **principles** of the Historic Environment (Wales) Bill with the following caveats:

1.1 more effective protection to listed buildings and scheduled monuments;

1.1.1 creation of a statutory register of historic parks and gardens

- The register needs to be complemented by strong planning policy to ensure greater protection for Wales's historic parks and gardens, as they represent an important part of our heritage, as well as our tourism offer.

1.1.2 extension of the scope of urgent works to listed buildings and the recovery of costs through the introduction of local land charges

- The Trust welcomes these clauses provided they are first charges against a property. If it is only one of many potential charges this new power may be of little benefit (e.g. if a mortgage takes precedence).

1.1.3 introduction of temporary stop notices for listed buildings

- Civic Trust Cymru welcomes these as a method of heritage protection.

1.1.4 Heritage Partnership agreements

- Civic Trust Cymru is broadly happy with these proposals but requests a mechanism to inform the wider public and community of an impending agreement, and consults on them in a similar way to current listed building applications.

1.2 enhancing existing mechanisms for the sustainable management of the historic environment;

1.2.1 requirement for local planning authorities to create and maintain historic environment records

- Civic Trust Cymru welcomes in principle the enhanced provision for the HER and accessibility of all historic environment records in one place
- The Bill appears to advocate (as does the draft guidance) that characterisation studies should be included in the HER. Civic Trust Cymru is supporting a number of civic societies to undertake characterisation studies and therefore welcomes this, though guidance needs to allow some data standard flexibility if this useful material is to be included.
- We understand from the Deputy Minister's evidence to the Committee on June 4th 2015 that local planning authorities could decide to maintain their own HER record, though the funding for doing so will be paid directly to the four Archaeological Trusts. Civic Trust Cymru endorses the good work of the Archaeological Trusts but it would seem more straightforward to clearly allocate who will undertake the HER, for example if the situation arose whereby a local authority decides to take up a different offer from an independent consultant or archaeological trust outside Wales there would be a significant risk of losing the local knowledge and expertise held by the Archaeological Trusts as well as a potential variation in the standardisation and diminution of the universal accessibility of these essential records.

1.2.2 relaxation of the conditions for an application for a certification of immunity from listing

- Civic Trust Cymru’s concerns remain (as expressed in The Civic Trust for Wales’s consultation response in September 2013): “that exclusions might inadvertently remove protection from hidden features that are later exposed through investigation, alteration or demolition.”

1.3 introducing greater transparency and accountability into decisions taken on the historic environment.

1.3.1 establishment of an advisory panel for the Welsh historic environment

- Civic Trust Cymru has concerns about the extra costs associated with establishing this advisory panel at this time of limited public funding.
- We are also concerned about the potential for conflict between the view of such a Panel and the HEG, which should continue as a valuable feedback mechanism between policy and implementation.

1.3.2 consultation, interim protection and review for designations

- In the interests of greater transparency Civic Trust Cymru would welcome publication of any changes to the schedule or list (e.g. as a part of a local authorities planning application list).
- Civic Trust Cymru welcomes the introduction of ‘Interim Protection’

2 Any potential barriers to the implementation of the Bill’s provisions and whether the Bill takes account of them

2.1 The Bill appears to assume that most decisions (apart from those relating to scheduled monuments) will be taken by local authorities. Civic Trust Cymru considers that the Bill needs to make provision for consideration of the Heritage Environment in relation to decisions currently being taken by UK Ministers on Nationally Significant Infrastructure Projects under the Planning Act 2008.

2.2 In relation to the Independent Advisory Panel Civic Trust Cymru suggests that a potential barrier will be the ability to find truly ‘independent’ expertise.

2.3 Whilst protection of the historic environment is being granted a higher profile by the Welsh Government, simultaneously there is the real threat of diminished resources, both in terms of appropriate staff and finance, in local authorities and at Cadw.

3 Unintended consequences arising from the Bill

3.1 In relation to Lists of Historic Assets of Special Local Interest in Wales, Civic Trust Cymru welcomes the proposal to identify historic assets of concern to local communities, and the link to Civic Trust Cymru (formerly The Civic Trust for Wales) in the draft guidance on ‘Managing Lists of Historic Assets of Special Local Interest in Wales’. However, we reiterate our previous consultation response *“if lists are to be non-statutory there should nonetheless be a positive approach through planning guidance that promotes local listing as good practice with the aim of encouraging Wales-wide take up; (and)...there should be clarity about the weight to be attached to local listing in the context of planning decisions”*. This later point is important in order to avoid the wider public from having unrealistic expectations about a building placed on the local List of Historic Assets.

3.2 Civic Trust Cymru wishes to draw the Committee's attention to our regret that the opportunity to review the effectiveness of Part II of the 1990 Planning (Listed Buildings and Conservation Areas) Act and/or its guidance has been missed. Civic Trust Cymru as part of its own consultation process received one individual concern over the apparent policy of ceasing the engagement of area conservation groups in the process of evaluating planning applications in Conservation Areas. Since they were set up (originally for each designated conservation area) their input in support of the LPA's officers in determining applications for planning approval or listed building consent has been invaluable. Their value is increased where authorities do not have conservation officers in post. The rectification of defects in the Historic Environment (Wales) Bill in terms of carrying out public consultation exercises in respect of declaring or re-designating a Conservation Area or in ensuring that LPA's produce Design Guides or Conservation Enhancement Plans also benefit from it being mandatory that Conservation Groups are consulted - which begs the question as to whether it should be mandatory that advisory conservation groups should be established for each Conservation area?

4 The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)

Civic Trust Cymru has serious concerns, in the light of current and anticipated resources available to local authorities, of their ability to resource preparation of Lists of Historic Assets of Special Local Interest in Wales.

We reiterate our previous statement that resourcing and expertise are essential for Cadw, local authorities and the voluntary sector to be able to all work towards protecting and enhancing the historic environment. We are concerned that continuing cut backs and the increasing loss of staff and funding across the breadth of organisations – governmental and voluntary - will have a significant negative impact upon the historic environment.

5 The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

No comment

HE 38

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Comisiynydd y Gymraeg

Response from: Welsh Language Commissioner



Clerk to the Committee
Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

SeneddCCLLL@Cynulliad.cymru

19/6/2015

Dear Clerk,

Consultation on the Historic Environment (Wales) Bill

1. The Welsh Language Commissioner welcomes the opportunity to comment on the Historic Environment (Wales) Bill. The following comments relate specifically to the principles of the Bill in relation to the physical traces of past human activity in the historic environment in Wales. Specifically it is asked that:
 - o The names of the physical traces of human activity should be a reason to protect such features in the historic environment, and in doing so protect the names of the feature. In that respect the historic environment records should include the details of each area or site or other location in the authority with a name which is of historical and cultural interest.
 - o The guidance issued by the Welsh Government on the discharge of the duty to create a historic environment record should include specific guidance regarding the names of the features included in the records and the language of the records.
 - o Welsh Ministers should consult experts on orthography and place names before issuing the guidance.
 - o The Advisory Panel for the Welsh Historic Environment should include place-names expertise.
 - o The Committee should consider whether there is a means of protecting place-names either by amending the scope of the Bill or introducing other methods or further legislation.
2. The principal aim of the Commissioner is to promote and facilitate the use of the Welsh language. This entails raising awareness of the official status of the Welsh language in Wales and imposing standards on organizations. This, in turn, will lead to the establishment of rights for Welsh speakers.

Comisiynydd y Gymraeg
Siambrau'r Farchnad
5-7 Heol Eglwys Fair
Caerdydd CF10 1AT

Welsh Language Commissioner
Market Chambers
5-7 St Mary Street
Cardiff CF10 1AT

0845 6033 221
post@comisiynyddygybraeg.org
Croesewir gohebiaeth yn y Gymraeg a'r Saesneg

0845 6033 221
post@welshlanguagecommissioner.org
Correspondence welcomed in Welsh and English



Two principles underpin the work of the Commissioner:

- In Wales, the Welsh language should be treated no less favourably than the English language;
- Persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.

In due course, secondary legislation will introduce new powers allowing the setting and imposing of standards on organizations. Until then, the Commissioner will continue to inspect statutory language schemes through the powers inherited under the Welsh Language Act 1993.

The post of Commissioner was created by the Welsh Language (Wales) Measure 2011. The Commissioner may investigate failure to implement a language scheme; interference with the freedom to use Welsh in Wales and, in future, complaints regarding the failure of organizations to comply with standards.

One of the Commissioner's strategic objectives is to influence the consideration given to the Welsh language in policy and legislative developments. Thus, one of the Commissioner's principal roles is to provide comments in accordance with this remit, acting as an independent advocate on behalf of Welsh speakers in Wales who might be affected by these proposed changes. Such an approach is advocated to avoid any potential compromise of the Commissioner's regulatory functions and should the Commissioner wish to conduct a formal review of individual bodies' performance or the Welsh Government's performance in accordance with the provisions made in the Measure.

3. The Commissioner's activities in the field of place-names

A living language: a language for living, the Welsh Government's Language Strategy 2012-17 states that the Welsh Language Commissioner will 'coordinate the standardisation of Welsh place-names'. The Welsh Language Commissioner also has a responsibility to provide advice on the standard forms of Welsh place-names. This responsibility was transferred to the Commissioner when the Welsh Language Board came to an end in 2012. The Commissioner has no statutory powers in the field and its recommendations and advice have no legal force, but recommendations on the standard forms of place-names are provided to organizations of all kinds, including the Welsh Government and local authorities. The Commissioner has a panel of experts, the Place-names Standardization Panel that supports the work of the Commissioner in recommending the standard forms of place-names. The Commissioner's work in this area focuses on the names of settlements (towns, villages etc.) rather than on names in the landscape or the names of physical traces of human activity such as buildings etc.

4. Historic Environment (Wales) Bill – definition of monuments (section 22)

Section 528 of the explanatory memorandum for the Historic Environment Bill (Wales) sets out that 'the focus of the Historic Environment (Wales) Bill is on the protection and sustainable management of the physical traces of past human activity in the historic



environment — including archaeological sites, monuments and historic buildings'. It also states that the 'protection of place names falls outside the scope of the Bill'. While the focus of the Commissioner's work is on the names of settlements as explained above, the following comments deal with the relationship between names and the physical traces of past human activity on historical sites.

There is considerable concern in many communities in Wales that the names of historical houses and buildings, which are names that are as old as the buildings themselves, are being changed. The meaning and origin of the name of a feature in the historic environment can reveal much about it, including its origin and provenance; the historical use made of it; who lived or used it; how and with what it was constructed etc. This has implications for the historic environment because the names of the physical features of human activity are, as much as the features themselves, 'a precious and irreplaceable legacy for the nation [...] have left an imprint on our national culture and identity by [...] generating a sense of place and belonging' as set out in section 6 of the explanatory memorandum to the Bill. Indeed it could be argued that the danger and risk to the survival of some of these names is equal in some cases to the risk to the survival of the historic environment itself.

With this in mind, Section 22 of the Bill extends the definition of a scheduled monument in the Ancient Monuments and Archaeological Areas Act 1979 to include 'any site in Wales comprising any thing, or group of things, that evidences previous human activity.' The name of a feature in terms of its meaning and provenance is evidence of previous human activity. Although the Explanatory Memorandum sets out that the protection of place-names falls outside the scope of this Bill, it is a pity therefore that there is no intention of doing so in the Bill. This could be done, for example by defining monuments because of the value of their names as evidence of past human activity, or by maintaining a register of names which are of historic importance, in the same way that there is an intention to maintain a register of historic parks and gardens (Section 18). I ask the Committee to consider ways of protecting place-names, either by extending the scope of this Bill or by introducing other methods or further legislation.

5. Historic Environment Records (Section 44, 33 of the Bill)

Section 44 of the Bill states that 'each local planning authority in Wales must create and keep up to date a historic environment record'. Section 33(h) of the Bill states that the historic environment record must include 'details of every other area or site or other place in the authority's area which the authority considers to be of historic, archaeological or architectural interest'. A draft version of the guidelines for the creation of historic environmental records has been made available alongside this Bill. I note that the guidelines explain that an association with a place-name could mean that a feature is included in the historic environment record. I ask that you therefore consider including a specific definition in the Bill that states that the historic environment record should include the details of every other area or site in the authority's area which is of 'toponymical interest', or that its name is of 'historical and cultural importance'.



6. Guidance (Section 4, 36 of the Bill)

Section 36 of the Bill gives details of the guidance given by the Welsh Government on the discharge of the duty to create a historic environment record. The guidance should state specifically that the records should be bilingual and of the same standard in Welsh and English in accordance with the requirements that will be made of local authorities under the Welsh Language (Wales) Measure 2011.

I ask that the guidance also specifies the need to give due attention to the orthographic accuracy and source of the names of the features included in these records and that the Welsh or English names, or the names in both languages if they exist¹ are published. They are public records and should therefore be correct, not only from a historical point of view, but also from a linguistic point of view in order to avoid any ambiguity. I recommend that the guidance includes the need to consult with experts on language and place-names when creating the historic environment records.

The draft guidance published also deals with information technology in terms of public access and compliance with data standards. The guidance should refer specifically to the need to maintain and share bilingual data and provide bilingual on-line services in accordance with the Welsh Language (Wales) Measure 2011. A non statutory guidance on considering the Welsh language and bilingualism in technology, website and software is available on the Commissioner's website².

I also ask that the guidance states that the owners of the physical features that are recorded should not change their names because their names and their provenance are integral parts of the features themselves.

36 (3) (b) sets out that Welsh Ministers must consult with 'such other persons as the Welsh Ministers consider appropriate' before issuing guidance. I recommend that these persons should include experts on place-names and Welsh orthography.

7. Advisory Panel on the Welsh Historic Environment (Section 4, 37)

The Bill requires that Welsh Ministers establish an Advisory Panel on the Welsh Historic Environment with the purpose of providing Welsh Ministers with 'advice on matters relating to the formulation, development and implementation of policy and strategy in relation to the historic environment in Wales'. As noted above, the names of physical features give cultural and historical value to the features themselves and the origin and orthography of these names are key issues when formulating, developing or implementing policy and strategy for the historic environment. Therefore, the Panel should give due regard to the need to protect the names of the historic environment. To enable this, the Panel should consult with specialists in the field of place-names when compiling its work programme and should ideally include at least one member with expertise in this field.

¹ The names of physical traces of human activity will either be in Welsh only (the majority), in English only or in some rare cases bilingual. They do not need to be bilingual if they are only in one language.

² *Technoleg, Gwefannau a Meddalwedd: Ystyried y Gymraeg*, <http://www.comisiynyddygymraeg.org/English/Publication%20of%20Technoleg%20Gwefannau%20a%20Meddalwedd%20-%20Technology%20Websites%20and%20Software.pdf> (accessed 17 June 2015)



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

8. I understand that this Bill does not intend to protect place-names, topographical names or the names of physical traces of past human activity in Wales. However, I believe that it is necessary to protect these names as far as possible because of their cultural and historical significance, as well as their importance to communities. I believe that the amendments recommended above acknowledge the historical importance of the names of physical traces of past human activity and recognize that the names in themselves should be reason enough to protect features, thus protecting their names. If the Committee is not of the opinion that these recommendations should be accepted, I would ask it to consider whether it believes that Welsh place-names need to be protected and how it would propose to do so.

Thank you for the opportunity to submit written evidence to you regarding the Historic Environment (Wales) Bill.

Yours sincerely,

Meri Huws
Welsh Language Commissioner

HE 39

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Ffederasiwn Eiddo Prydain

Response from: British Property Federation

Introduction

1. The BPF represents companies owning, managing and investing in real estate. This includes a broad range of businesses comprising commercial property owners, the financial institutions and pension funds, corporate landlords and residential landlords, as well as all those professions that support the real estate industry.
2. We welcome the opportunity to respond to the Communities, Equality and Local Government's inquiry into the general principles of the Historic Environment (Wales) Bill. BPF members place significant value on the historic environment. Maintaining historic buildings in economic use, introducing new uses for heritage assets and integrating historic buildings within newer schemes all present opportunities for conservation and enhancement, together with new development, to work together and transform the built environment and public realm for communities.

Engagement with owners

3. We welcome the positive approach taken by the Welsh Government in the Bill, particularly in recognising the importance of heritage to the economy and its role in stimulating urban and rural regeneration.
4. To ensure heritage assets are able to fulfil their potential by stimulating development and economic growth, it is vital that owners and developers are involved in any changes to heritage legislation and policy at an early stage.
5. The proposed introduction of formal consultation with owners of heritage assets will prove useful. We urge that the proposed independent panel to advise on historic environment policy and strategy at a national level involves owners and representatives from the private sector to ensure their voice is heard.
6. The proposal to make it easier for owners or developers to create sustainable new uses for unlisted historic buildings by relaxing the conditions for applications for certificates of immunity from listing is welcome: this is in place in England and would make allow these certificates to be more widely-used.
7. We also welcome the Welsh Government's balanced approach to the proposed introduction of enhanced protection for buildings being considered for statutory listing.
8. The extension of Heritage Partnership Agreements is likely to have a positive impact. Allowing owners of historic assets to negotiate an agreement with

consenting authorities for a period of years will eliminate the need for repeated Listed Building Consent applications for similar works, thereby relieving the pressure on over-stretched local planning authorities and encouraging more consistent and coherent management of the buildings or monuments.

Resourcing

9. It is essential that the public sector is sufficiently well-resourced to implement the new powers proposed in the Bill. Local planning authorities, and the heritage teams within them, have faced severe spending cuts over the last five years and this trend is likely to continue.
10. We welcome the commitment to secure a more stable future for Historic Environment Records, as placing a statutory duty on local planning authorities to maintain Historic Environment Records to defined standards may allow them to be protected.
11. However, there remains a fundamental mismatch between the needs of the system and its resourcing which must be addressed by the Welsh Government.

Guidance

12. It is crucial that those making use of the new powers proposed in the Bill are able to benefit from strong guidance to ensure there are no unintended consequences. The accompanying guidance must emphasise the importance of proportionality when making changes to heritage assets; the impact of viability on schemes; and incorporate the Welsh Government's recognition of the impact of heritage assets on regeneration schemes by integrating the theme of constructive conservation.
13. We would be please to discuss or amplify any points raised in our response.

Rachel Campbell
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HE 40

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cyngor Sir Powys

Response from: Powys County Council

Historic Environment (Wales) Bill

Please find below a consultation response, submitted on behalf of the Local Planning Authority at Powys County Council.

1 Introducing greater transparency and accountability into decisions taken on the historic environment

1.1 Establishment of an advisory panel for the Welsh historic environment (sections 37–38)

While we understand and support the need for an advisory panel, it is unclear at this time how it will represent or assist the statutory duty of the LPA. The opportunity for all LPAs to feed into agenda items would be welcomed and would afford greater involvement and transparency.

1.2 Consultation, interim protection and review for designations (sections 24–26)

It will put in place a transparent system of designation and a straightforward process of review.

Consultation is supported as it is important to draw out all relevant evidence as early as possible in the designation process in order to arrive at an informed decision.

Interim protection is supported, although this will have resource and logistical implications for local authorities e.g. to ensure responses to local searches are accurately completed. There should also be provision for the body responsible for listing to visit a site quickly if requested if legitimate works are underway to prevent removal of features before full consideration of the building can be given.

The interim protection would address the issues where buildings are altered post survey and before the owners have been notified that they have been included on the statutory list, therefore we support this.

An opportunity to review existing listings would also be welcomed and would provide clarity in situations where curtilage buildings have been divorced from the principal building post listing i.e. Barn conversions.

2 Giving more effective protection to listed buildings and scheduled monuments

2.1 Extension of the definition of a scheduled monument (section 22)

2.2 Amendments to the offences and defences relating to scheduled monuments (sections 15–17)

2.3 Introduction of enforcement and temporary stop notices for scheduled monuments (sections 12–13)

2.4 Power of entry for the archaeological excavation of monuments in imminent danger of damage or destruction (section 19)

Despite the above four provisions being outside the scope of LPAs, with scheduled monuments being administered by Welsh Government, support is given. The proposals would help to increase the protection of archaeologically important sites while ensuring that archaeological information from a nationally important site is not lost. It also makes sense that there are similar or the same powers to protect SAMs as listed buildings, with more formal mechanisms in place.

2.5 Creation of a statutory register for historic parks and gardens (section 18)

We are fully supportive of a more comprehensive and sustainable resource for the appropriate management of historic parks and gardens. Inclusion of all historic parks and gardens will ensure equal treatment and consistency within the development control system.

We would raise the issue whether registered historic parks and gardens should be afforded the same protection as AONBs or Conservation Areas.

On-going sustainable management and maintenance of historic parks and gardens following designation is a potential issue not addressed adequately. Training, advice, and support - potentially financial support - are required to ensure the longevity of gardens and parks. It would be beneficial over time if Welsh Government could assist in preparing management plans alongside or following designation.

2.6 Extension of the scope of urgent works and enabling the recovery of costs through a land charge (section 30)

Would go a considerable way to addressing the problem of serious neglect by removing some of the obstacles in the way of LPAs taking action. The introduction of the mechanism to recover costs is greatly welcomed as this has been a huge deterrent to LPAs using urgent works.

We would seek clarification as to why the scope of urgent works has only been extended to residential use. Difficult to quantify in some cases when barns are un-occupied as opposed to partially occupied We would support the rationale in the Explanatory Memorandum and would support that the bill be worded along similar lines.

However Urgent Works Notices are a stop gap to secure long term repair and this does not seem to be addressed fully. When a person installs upvc windows into an otherwise untouched listed building, there is the option of prosecution. However when a person deliberately permits a building to fall into disrepair the threat to the fabric is significantly greater with loss of internal plaster and timberwork, yet only temporary resolutions are available.

Despite the proposed mechanisms to recover the costs – both the financial and officer time is potentially a higher outlay than most LPA's could realistically commit to and even when they can it only addresses one building at a time, which will never address the issue. A national pot that LPA's can tap into would be a possible solution.

2.7 Introduction of temporary stop notices for listed buildings (section 29)

Fully supported as this would help to prevent unnecessary damage occurring to listed buildings.

3 Enhancing existing mechanisms for the sustainable management of the historic environment

3.1 Requirement for local planning authorities to create and maintain historic environment records (sections 33–36)

We acknowledge the wealth of information within the HER and support its retention, however, we disagree that the LPA's are the most appropriate body for managing the HER. We would question the relevance of non-statutory designations within the HER to the majority of LPA duties. The LPA's already hold the statutory records of relevance to their day to day decision making.

In becoming a statutory duty we are taking on responsibility for a record of significance that we haven't really had any previous involvement in and this could lead to either LPA's delivering the service in-house to a lesser quality than it is currently, or managing the service inappropriately due to a lack of understanding or knowledge.

To potentially devolve the responsibility of the HERs to the LPA's could fragment the HER that is currently on a regional basis. It is considered that this would be a retrograde step and records of such significance should be on a national or regional level. At present the four trusts manage it consistently and devolution to the LPA's could inevitably lead to an

inconsistency of record keeping, which would be a dilution of the current record.

3.2 Introduction of heritage partnership agreements (sections 11 and 28)

We welcome the use of HPA's as it would be helpful when dealing with lots of repeat applications of a simple nature, particularly repairs or rectifying past inappropriate works or reinstatement of lost features e.g. highway bridges, canal works etc or for single estates.

There is also the issue of whilst there may be perceived time saving benefits, in reality the increase in the workload to the case officer within the LPA is usually far more significant than the usual procedure of submitting an application. Given the increased workloads of Local Authorities it may not be possible to offer this time consuming service.

3.3 Reform of the scheduled monument consent process (sections 5-10)

Although outside of the scope of the LPA, we can fully see the benefits of modernising and streamlining the SMC procedures and harmonising them with those for LBC and planning controls.

3.4 Relaxation of the conditions for an application for a certificate of immunity from listing (section 27)

While we understand and agree that this would sever the link between applying for a COI and the need for a prior application for planning permission, offer savings to owners/developers and LPAs and therefore enhance the opportunities of creating new uses for unlisted buildings. Precaution needs to be taken as there is the potential for undiscovered historic elements to be revealed in the course of any works to the building that cannot possibly be seen prior to their exposure. Consideration of these buildings for a certificate of immunity should therefore be extremely robust, possibly with higher levels of assessment than for listing - i.e. dendrochronology - or thermal imaging, and to potentially exclude buildings of a multi-period where there is a higher potential for some elements to be hidden.

HE 41

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Grwp Treftadaeth Cymru
Response from: Wales Heritage Group

Wales Heritage Group's response to the Communities, Equality and Local Government Committee on the Historic Environment (Wales) Bill: June 2015

I Wales Heritage Group

The group is an alliance of statutory consultees and voluntary national organisations active in the conservation of the built environment in Wales. The members of the Wales Heritage Group are:

Society for the Protection of Ancient Buildings

The oldest conservation society in the English-speaking world, founded in 1877 by William Morris and others. Concerned with pre-1714 buildings, techniques and philosophy of repair, and education., it is a consultee under secular and ecclesiastical planning legislation.

Civic Trust Cymru (Secretariat)

Civic Trust Cymru promotes civic pride as a means to improving the quality of life for all in the places where we live and work, and encourages community action, good design, sustainable development and respect for the built environment amongst people of all ages. Civic Trust Cymru is the umbrella organisation for the network of civic societies across Wales.

The Victorian Society

The Victorian Society is the champion for Victorian and Edwardian buildings (1837-1914) in England and Wales.

The Georgian Group

The Georgian Group is the national charity dedicated to preserving Georgian buildings and gardens. They are consulted annually on over 6,000 planning applications involving demolition or alterations.

The Twentieth Century Society

The Twentieth Century Society was founded as the Thirties Society in 1979, and exists to safeguard the heritage of architecture and design in Britain from 1914 onwards. The Society's prime objectives are conservation and education.

Ancient Monuments Society and Friends of Friendless Churches

The Ancient Monuments Society (AMS) is concerned with the study and conservation of historic

buildings of all ages and types. It works in partnership with the Friends of Friendless Churches which owns 47 disused but historically important places of worship in England and Wales.

The National Churches Trust

The National Churches Trust supports and promotes church buildings of historic, architectural and community value. It is the only independent, UK-wide charity supporting churches, chapels and meeting houses of all Christian denominations, providing grants, support, advice and information and seeking to highlight the value of these important buildings.

The Theatres Trust

The Theatres Trust is the National Advisory Body for Theatres, protecting theatres for everyone. It operates nationally in England, Scotland and Wales promoting the value of theatre buildings and championing their future. It is a statutory consultee on theatre buildings in the planning system, provides expert advice on the sustainable development of theatres, distributes small capital grants, and helps to promote awareness and solutions for theatres at risk. It champions all theatres, historic, contemporary and new, in theatre use, in other uses or disused.

Ymddiriedolaeth Addoldai Cymru Welsh Religious Buildings Trust

The Welsh Religious Buildings Trust is a charity that acquires and conserves some of the best examples of redundant (non-Church in Wales) religious buildings in Wales. It has a national role in promoting the understanding, appreciation and enjoyment of the religious built-heritage of Wales, and working to emphasise its continued relevance for today's society as well as for future generations. The Trust: (i) identifies and acquires suitable redundant architecturally or historically important religious buildings; (ii) protects the buildings in its care, and ensures their appropriate conservation and maintenance; (iii) promotes, through the example of buildings in its care, best conservation practice, including the use and sustainability of traditional skills and materials; (iv) encourages visitors to buildings in its care, and seeks to remove barriers affecting access by any group or individual (v) encourages community participation in the use, care and operation of buildings in the Trust's care; (vi) works with relevant organisations to promote the protection, knowledge, understanding and enjoyment of Wales' religious built heritage.

Association of Preservation Trusts Wales

With a relatively small population of around 3 million, Wales has at least 30 active Trusts who are members of APT. Of these 30, only one Welsh-based Building Preservation Trust (BPT), Ymddiriedolaeth Addoldai Cymru (Welsh Religious Buildings Trust), actively operates across the whole of Wales. Wales has also benefitted from 5 UK Trusts that have undertaken work or given advice in Wales. All 30 trusts in Wales that are members of UKAPT were formed between 1979 and

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2010 and are registered as charities and companies limited by guarantee. Largely owing to the work of the Development Officer in Wales between 2004-2008, over a third of Trusts in Wales were formed in the past seven years. So, although well established in Wales, BPTs are a relatively 'young' movement when compared to the rest of the UK.

Council for British Archaeology

The CBA is a voluntary organisation which works to promote the study and safeguarding of Britain's historic environment, to provide a forum for archaeological opinion, and to improve public interest in, and knowledge of, Britain's past. The aims of the CBA are to raise the profile of archaeology throughout society, in all parts of the United Kingdom, and to strengthen public care for and understanding of the historic environment. In doing so, our contributing aims are to: (i) advance and assist research; (ii) provide a framework for communication and discussion represent to the wider community any consensus which emerges from such discussion; (iii) campaign for the study and conservation of the historic environment; (iv) be a focus for the promotion of archaeology in education; (v) give information about archaeology to all sections of the community; (vi) encourage widespread participation in archaeology throughout society; (vii) support the work of local, regional, specialist, and national societies.

Welsh Historic Gardens Trust

The Welsh Historic Gardens Trust (WHGT) is a national organisation campaigning to save historic gardens and parks from neglect, indifference, insensitive planning and planting for future generations. WHGT aims to: (i) Raise the profile of parks and garden heritage in Wales which make such a rich and varied contribution to our landscape; (ii) Promote interest and enjoyment in the beauty and diversity of Welsh parks and gardens including the famous and less well known, large and small, formal and picturesque, to the widest audience possible to ensure their survival for future generations; (iii) Promote the restoration and conservation of threatened parks and gardens which are of special historic interest in Wales; (iv) Research and document the garden history of Wales, an important element of the historic and cultural identity of the Nation.

II Wales Heritage Group's response to the Communities, Equality and Local Government Committee

The Wales Heritage Group thanks The Communities, Equality and Local Government Committee for the opportunity to provide evidence about the Historic Environment (Wales) Bill. The Wales Heritage Group welcomes the review of the heritage framework in Wales.

The Group has some general points to make:

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- Whilst it is understood that a consolidated Bill could not be produced within the time and financial limits available, consultees have found the disjointed approach confusing. It has given rise to comments and criticisms on omissions and inclusions relating to matters that may be covered in the existing Acts.
- The six week consultation period was inadequate to allow all the information to be fully discussed and analysed. It did not allow coordination between various interested parties. Even organisations whose committees meet monthly (and many do not) were unable to consider the material in any depth; the matter is likely to have appeared only once on such an agenda.
- We congratulate the Bill team on their use of plain English in the Explanatory Memorandum;
- The section of the Explanatory Memorandum looking at the Options, costs and benefit was also helpfully informative though some of the possible costs were queried

1 With regards to the general **principles** of the Historic Environment (Wales) Bill and the need for legislation with the aim of:

1.1 more effective protection to listed buildings and scheduled monuments;

1.1.1 Introduction of enforcement and temporary stop notices for scheduled monuments

- We welcome the enforcement and temporary stop notices.
- We would welcome the further development of stop notices for use in the context of active neglect of a monument/historic asset particularly when this becomes active damage.

1.1.2 Powers of entry for the archaeological investigation of an ancient monument in imminent danger of damage or destruction

- We welcome the enhanced arrangements

1.1.3 creation of a statutory register of historic parks and gardens

- We welcome the statutory register of historic parks and gardens. Our concerns are:
 - That the register is not accompanied by a new consent regime for registered parks and gardens;
 - That 'material consideration' provides inadequate protection for registered historic parks and gardens;
 - That if Cadw will only have to be consulted on planning applications which affect Grade I and II* registered parks or gardens, this provides inadequate protection for grade II gardens;
 - That a garden being on the list imposes no duty of care on the owner.

1.1.4 extension of the scope of urgent works to listed buildings and the recovery of costs through the introduction of local land charges

- We welcome the extension of the scope of urgent works to listed buildings
- We welcome the opportunity for the recovery of costs provided they are First Charge against a property. If it is only one of many potential charges this new power may be of little benefit (e.g. if a mortgage takes precedence).
- There is insufficient information provided in the Bill material as to the efficacy of this measure.

1.1.5 introduction of temporary stop notices for listed buildings

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- We welcome the introduction of temporary stop notices.
- We would welcome the further development of stop notices for use in the context of active neglect of a monument/historic asset particularly when this becomes active damage.

1.1.6 Heritage Partnership agreements

- We welcome the duty of LPAs to arrange Heritage Partnership Agreements
- We strongly request adequate consultation with the wider public, as with a listed building application, so that HP agreements become a part of the standard planning consent procedure.

1.2 enhancing existing mechanisms for the sustainable management of the historic environment;

1.2.1 requirement for local planning authorities to create and maintain historic environment records

- We welcome the statutory status for Historic Environment Records but the process needs clarifying to ensure that coverage remains comprehensive and does not fragment between the WATs and LPAs.
- The process for funding the HER in the context of the statutory requirement placed on local planning authorities needs clarifying.
- We welcome the statement of the required scope of HERs in section 33 including characterisation studies
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1.2.2 relaxation of the conditions for an application for a certification of immunity from listing

- We welcome this measure in general as a way of providing certainty for potential purchasers of undesignated buildings of some historic interest especially in the context of regeneration, but provision needs to be made for the possibility of hidden features that are later exposed through investigation, alteration or demolition.
- When a building is being evaluated for a certificate of immunity consideration should be given to potential future changes in listing criteria or professional opinion regarding architectural and/or historical significance.

1.3 introducing greater transparency and accountability into decisions taken on the historic environment.

1.3.1 establishment of an advisory panel for the Welsh historic environment

- The Wales Heritage Group's members have differing views on the value, role and scope of an Advisory Panel.
- There needs to be clarification concerning the respective roles of the Advisory Panel and the Historic Environment Group, if the latter is to continue.
- An Advisory Panel needs to be an independent body with freedom to set its own agenda rather than simply being presented with an agenda for a programme of work. While its work programme 'must be published' there is currently no requirement to publish its output.
- The Bill and accompanying documentation does not specify the range of skills that will be sought for the Panel. It is important that it includes persons with skills and knowledge covering the whole historic environment (this is not currently covered by HEG).

- There is a need for a review of the various bodies associated with Cadw such as the Built Heritage Forum and the Historic Environment Group to ensure that there is comprehensive representation of all historic environment interests and organisations. It was reported that during preparation for the Bill invitations to participate in discussions, workshops etc were somewhat haphazard.

1.3.2 *consultation, interim protection and review for designations*

- We warmly welcome interim protection. Satisfactory consultation procedures are already in place.

2 Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them,

2.1 Whilst protection of the historic environment is being granted a higher profile by the Welsh Government, simultaneously there is the real threat of diminished resources, both in terms of appropriate staff and finance, in local authorities and at Cadw.

2.2 The introduction of a third Act additional to the two existing Acts, rather than a single consolidated Act, will inevitably confuse many involved in the care and management of the historic environment. This process was surely intended to produce clarity rather than confusion.

3 Unintended consequences arising from the Bill,

3.1 We have identified a number of omissions from the Bill:

3.1.1 There is a disappointing lack of consideration for climate change issues (e.g. the impact of more frequent storm surges (piers), increased rain fall and sea level rise) and mitigation measures, and an absence of policy regarding sustainable building, and the appropriate treatment of traditional buildings with particular regard to energy efficiency. The Bill needs to have hooks to link with future policy.

3.1.2 We accept that the ecclesiastical exemption will remain but we regret the lack of a wider reference to religious buildings. We are aware of the Welsh Government's request for a strategic plan for places of worship and we hope there will be opportunities for adequate consultation on this. We hope that it will give adequate weight to the proper care and conservation of religious buildings.

Suggestions have been made for a higher profile for the existing databases of Wales's religious buildings. This is a particular issue regarding unlisted buildings for non-exempt denominations, or buildings of denominations without a robust system of building control. We understand that some dioceses in Church in Wales are trialling a Church Heritage Record similar to that launched by the Church of England and we welcome that initiative.

3.1.3 Statutory consultees are not mentioned within the Bill with the exception of section 18 which discusses them in relation to the register for historic parks and gardens, and there is a wider problem of the inconsistency of involving amenity societies in strategic planning with regard to the historic environment. The position of statutory consultees would be strengthened if the Bill included the requirement for consulting them on listed building applications, strategic planning and listing applications.

3.1.4 There is no reference to the third sector as it relates to the historic environment and the issue of coordinated action for the voluntary sector which the Hyder report investigated. The Wales Heritage Group has come into existence to help address this unsatisfactory situation.

3.1.5 Much of Wales built historic environment consists of buildings that are not formally designated. There has to be an adequate way of protecting this large part of the cultural heritage. Currently this is effected partly through the List of Historic Assets of Special Local Interest but the current weight assigned to the List of 'material consideration' is poorly understood by the wider public. We suggest research is needed to judge whether existing lists are adequate and whether the existing legislation is providing proper protection.

3.1.6 We suggest consideration of a Duty of Care for owners of listed buildings.

3.1.7 We ask that consideration be given to enabling amenity societies (that wished to be) to be consulted on applications for Scheduled Monument Consent for built Scheduled Ancient Monuments.

4 The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum),

We have concerns about how local authorities will be able to afford non statutory duties such as compiling Lists of Historic Assets of Special Local Interest in Wales.

Cadw requires adequate resourcing in a time of financial stringency to ensure that they can properly take the lead in helping enact and support the new legislation.

The Bill lacks a requirement for adequately trained and experienced professional staff to be employed by Local Planning Authorities to ensure the best outcome for the historic environment from the proposed legislation.

5 The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

If the proposed new measures are not effective for protecting the historic environment and in particular, if the land charge for recovery of costs for urgent works, does not adequately protect buildings at risk, then supplementary legislation must be introduced.

6 Other issues: statutory consultees

We have asked (3.1.3) that statutory consultees are referred to within the Bill. A number of member organisations of the Wales Heritage Group are already statutory consultees, others are voluntary national organisations. Two of the Wales Heritage Group's member organisations, the Welsh Historic Gardens Trust and the Theatres Trust, are actively seeking to be included as statutory consultees:

"The Welsh Historic Gardens Trust has long and wide-ranging experience in helping to conserve and enhance the historic parks and gardens of Wales and in responding to planning applications concerning them and welcomes the opportunity to become the amenity body/statutory consultee required to be consulted by LPAs in relation to planning applications. The thresholds for consultation on historic parks and gardens that the Trust would like to be applied are that it be consulted on all grades (I, II* and II) of registered parks and gardens and their settings. WHGT believes that since many of the major threats in

the past have been to Grade II listed landscapes and gardens these sites should also come under the jurisdiction of the new heritage legislation. If the WHGT is to undertake such work it would wish to seek parity with the other amenity societies and sufficient funding to be able to support a part-time case-worker. It cannot fund an operation of this magnitude and complexity on its own. However, the Trust notes that in the Voluntary Sector Impact Assessment for the Bill it is stated that 'the Bill does not contain any provision which will impact directly on the voluntary sector other than those with a significant landholding containing historic assets'. This is not realistic in relation to this consultation process especially in relation to the time consuming but productive role that pre-application discussion can play in influencing applications concerning these listed sites. Although some consultation does occur already this is inconsistent and partial and falls far short of the Wales wide standard you would expect."

"The Theatres Trust requests that it is included as a statutory consultee on listed theatre buildings in Wales. Currently our statutory powers do not extend to listed theatres which enviably means that we are not notified on applications for listed building consent for theatres and therefore are not able to totally fulfil our role as set up by The Theatres Trust Act of 1976. This is something of an anomaly, for example, we will be consulted on an application to erect a flagpole (because it needs planning permission) but we may not be consulted at all on changes to a listed theatre's interior if no planning permission is required. The Culture, Media and Sport Select Committee said in its report on 22 July 2008 on the proposed Heritage Protection Bill for England and Wales – *'Recommendation Four: We recommend that the Government ensures that the role of statutory consultees such as The Theatres Trust is properly incorporated into the heritage protection reforms in addition to their existing role in the planning system.'* That Bill did not proceed. The Trust would be willing to work with the Welsh Government to identify a route through either Primary or Secondary Legislation to strengthening our status as a statutory consultee on listed building consent applications in Wales that affect theatres."

HE 42

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Cyd-bwyllgor y Cymdeithasau Amwynderau Cenedlaethol
Response from: The Joint Committee of the National Amenity Societies

Committee Clerk
Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

18th June 2015

To: SeneddCELG@Assembly.Wales

Dear Sir or Madam,

HISTORIC ENVIRONMENT (WALES) BILL: consultation response

The Joint Committee of the National Amenity Societies (JCNAS) brings together a group of voluntary sector organisations with an interest in the historic environment. The Societies have a formal role in the planning system for Wales and use this to offer expert advice and to articulate the views of many thousands of members and supporters.

We are pleased to have opportunity to comment on this bill. Detailed points will be covered in a separate response from the Welsh Heritage Group, in which JCNAS member-organisations are actively involved. The JCNAS merely wishes to register its support for the bill's general aims. It offers some sensible and worthwhile improvements to existing legislation. Examples include interim protection for listed buildings and ancient monuments while under consideration for designation; more effective enforcement and prosecution mechanisms; and a register of historic parks and gardens. These and other changes proposed are much-needed and

have the potential to put Wales at the forefront of historic environment conservation and care in the UK. We strongly urge that the primary objectives of the bill are not weakened or reduced during the process of consideration by committees and the Assembly,

HE 43

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Y Gymdeithas Diogelu Adeiladau Hynafol
Response from: The Society for the Protection of Ancient Buildings

Committee Clerk
Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

18th June 2015

To: SeneddCELG@Assembly.Wales

Dear Sir or Madam,

HISTORIC ENVIRONMENT (WALES) BILL: consultation response

The SPAB is the UK's oldest building conservation organisation, and has had an interest in Wales since its earliest days. Today we have a formal advisory role in the secular and ecclesiastical consent systems that influence work to Welsh listed buildings. We are also involved with 'buildings at risk'. The Society employs two part-time staff members whose responsibility it is for historic buildings in Wales. In addition we have many members in the country and involve them in our work as volunteers. The Society therefore welcomes the opportunity to comment on the Historic Environment (Wales) Bill. We form part of the Joint Committee of the National Amenity Societies and Welsh Heritage Group, and have had some input into the separate responses to the consultation made by these bodies, but the Society also wishes to offer its own view on the proposals, following consideration by our committee of expert members.

The SPAB strongly supports the bill's introduction. The changes it proposes have the potential to amend some of the flaws in existing listed building and scheduled

monument legislation. Ideally we would have hoped to see even greater change, including a duty of care placed upon the owners of designated structures. Nevertheless, the bill as drafted still offers a significant step forward and has the potential to set Wales ahead of other UK nations in terms of historic environment protection. We particularly applaud the proposals to provide interim protection where a structure is being considered for listing or scheduling, the introduction of stop notices, and the allowance of local authority urgent works to occupied parts of listed buildings. Inevitably there are some issues of detail that demand comment and we offer below thoughts on matters that might be explored further at committee stage.

Urgent Works – while the extension of powers to cover occupied parts of properties is extremely welcome, it will be important for local planning authorities that costs incurred can be recouped. We urge that such costs are made a first charge on the property.

HERs – the formal requirement to maintain HERs is very welcome. Their role within the consent system perhaps needs to be further defined. Local planning authority will no doubt have some concern about the cost of managing HERs. Charges for use by professionals and the public must not be so substantial as to be a deterrent.

Parks and Gardens – we welcome the requirement to maintain a register but we would prefer to see a separate consent regime introduced alongside it.

Scheduled monument enforcement – we question whether an appeal by the owner should be heard in a magistrate's court since our experience is that magistrates may not have the expert knowledge needed to deal with a specialist issue of this kind.

Buildings enjoying the ecclesiastical exemption – these lie beyond the scope of the bill, but we consider it important that exempt denominations maintain control regimes for listed buildings that have an equivalence to those provided by the secular system. The Assembly may need to consider how this is ensured after the bill's reforms take effect.



Advisory Panel for the Welsh Historic Environment – we support the Panel’s creation. Its role will need to be clarified in due course, with the full breadth of the historic sector properly represented.

National Amenity Societies – we would welcome a specific reference in the Act to the requirement that that National Amenity Societies should be notified of listed building applications involving demolition, and that they have 28 days in which to respond.

We hope that these comments can be considered, but wish to reiterate our support for the primary aims of the bill.

1. The CLA is broadly supportive of the Bill, as far as it goes, but it and the accompanying policy and guidance have some serious gaps:
 - (i) While we support the intentions behind the new and extended discretionary powers in the Bill, some amendment of detail may be needed to make it effective and fair. Above all, it is essential to add good new guidance, on whether, when, and how these powers should be used, both to avoid unintended consequences, and to achieve potential improvements in heritage protection which the Bill could not achieve by itself (see section C below). Without good guidance, and potentially amendment, we could not support these provisions.
 - (ii) Effective management of the historic environment requires effective policy and guidance. These are more important than the changes in the Bill. The new draft Planning Policy Wales (PPW) Chapter 6 and TAN24 improve on current policy, but to protect heritage effectively, and to comply with the Well-being of Future Generations Act's Resilient Wales Goal, they need further work (see section G).
 - (iii) Most fundamentally, the Bill does not substantively address the current and growing problems in heritage protection, or make the changes needed to create a system that protects heritage effectively (see section D).

B. The CLA and the historic environment

2. The CLA's 3,500 members in Wales manage at least a quarter of Welsh heritage, including well over half of rural heritage. As by far the biggest stakeholder group of managers and owners of heritage (charitable, commercial, and private), we are one of the half-dozen key stakeholders in the heritage field. The CLA believes strongly in effective and proportionate heritage protection (see 22 below).
3. The CLA has been a member of the Welsh Government's External Review Group from the start, and has contributed extensively to detailed discussions on the Bill and the accompanying policy and guidance.
4. We are surprised that the Committee – perhaps unintentionally – does not seem to have invited oral evidence from owners of heritage. Heritage cannot survive without owners, and we hope that this does not reflect a traditional (though usually

unstated) view that the role of owners is simply to pay whatever heritage costs and that they would not have any other worthwhile contribution to make.

C. The Bill: giving more effective protection to listed buildings and scheduled monuments

5. The new and amended enforcement powers in the Bill itself could give a somewhat greater degree of protection to scheduled monuments, and perhaps to listed buildings, but the changes by themselves miss an important opportunity, and could well cause harm.
6. Three issues are crucial here. The first is the danger of mis-targeting of planning enforcement. The 'paradox of enforcement' is that local authorities tend not to target enforcement on the small number of malign owners who deliberately damage heritage, or encourage it to decay in the hope of gaining valuable planning permissions, because they are difficult and have sharp lawyers. Instead, enforcement tends to be targeted on essentially-benign owners who have made technical breaches which have not permanently harmed significance or the public interest, but are easier to deal with and give a good 'clear-up rate'. Failing to pursue malign owners causes real harm (see 8 below). But pursuing essentially-benign owners also causes real harm, because stories of apparently-well-meaning owners being 'bullied' by local authorities, using tools which can appear to disregard natural justice and can lead to bankruptcy, obviously harm heritage by discouraging people from owning it at all.
7. The second issue is the danger of mis-diagnosis of the heritage at risk problem as one of 'neglect' by owners, soluble simply by forcing them to pay for works. It is now well-established (i) that most buildings at risk have substantial 'conservation deficits', so owners repairing them would make large (often six-figure) financial losses, and (ii) that just carrying out repairs is, by itself, unlikely to save a building at risk. The root of the solution is viable long-term use, not just repair: a building which is viable and relevant and used is likely to be put, and kept, in repair.
8. The third issue is lack of enforcement. It is important to heritage protection that malign owners who deliberately or carelessly cause serious harm to heritage, or refuse to accept clearly-viable and reasonable solutions for buildings at risk, are identified and enforced against or prosecuted. Not doing that can lead to systemic harm, not least because malign purchasers of heritage feel they can safely outbid benign purchasers.
9. Resolving these issues may require some amendment of the discretionary powers in the Bill in the interests of natural justice (we will discuss this further with Cadw). But above all it is essential to add good guidance. That needs to go beyond mere restatement of the law: it needs to give practical guidance on whether and when these new (and existing) discretionary powers should be used, and how. The new TAN does not yet provide this. This guidance should be drafted by Cadw, but with

input from the beginning from external stakeholders with experience of enforcement and heritage at risk, including voluntary sector bodies, and owners – the External Review Group would be a logical place to begin this.

10. This guidance – in practice largely an expansion of PPW 3.8 – is not a chore, but an opportunity. Without it, the Bill itself would not much help heritage protection or heritage at risk, and might well cause harm. With good new guidance, in contrast, the Bill could make a substantive or even substantial positive difference.

D. The Bill: enhancing existing mechanisms for the sustainable management of the historic environment

11. The Bill fails to do this, because it does not substantively address the fundamental and steadily-worsening mismatch between the current heritage protection system and its resourcing. Welsh Government has long been aware of the problem, which was the primary concern raised in the 2013 public consultation. A previous Minister concluded¹ that “resources are under pressure...the traditional delivery systems...may prove to be ill equipped to face the future... our plan of action needs to be realistic...we cannot assume that long-established ways of working will be viable or relevant...”. These concerns are of course not unique to heritage; mismatch of systems and resources and the need for solutions were at the core of the Williams Report recommendations (“it is better to invest in reform now, before it is too late, and to create a public sector and services of which we can all be proud, rather than face prolonged and ultimately unsustainable cuts...”)².
12. Why, therefore, does the Bill not address the problem? The current legislation requires expert scrutiny of any proposed change to heritage by skilled experts in local authorities or Cadw, or both. That labour-intensive system might be fine if it were resourced, but central and local government have many pressing concerns and have not and will not see detailed scrutiny of every heritage proposal, good or bad, as a key resourcing priority. There is widespread concern that cuts will continue or accelerate, and that the system will progressively collapse. One symptom is that few listed building consent decisions are taken within the prescribed deadline³, but the real problems are much greater, above all that the widespread perception of a failing consent system discourages the sympathetic changes needed if heritage is to remain relevant and valued and viable and to be maintained in future.
13. Many respondents to the 2013 public consultation asked Welsh Government to provide the extra money needed to run the existing system. If – as seems inevitable – it does not, it instead needs, with stakeholders, to reform the system so that it can work with the resource which will actually be available. Several solutions are available. An obvious step, given that most proposed changes to

¹ Ministerial Priorities for the Historic Environment of Wales, Welsh Government and Cadw, 2012.

² Williams Review, foreword, 2014.

³ Hyder report Refining the listed building consent process, 2013.

heritage are neutral or beneficial, is to streamline legislation and procedures so that those proposals are handled in a lighter-touch way, freeing up scarce local authority and Cadw staff to focus on the cases which might be harmful, and also on more, but better-targeted, enforcement. In addition, Welsh Government and stakeholders need to define what must (for reasons of democracy and transparency) be done by the public sector, and devise monitoring systems and sanctions to ensure that that is actually done in practice.

14. Welsh Government will need to address this problem sooner or later. It would obviously be better to do it sooner, working with heritage stakeholders to devise new more-financially-sustainable systems which work and which therefore actually increase, not reduce, the protection of heritage on the ground. Some of that will require at least minor changes to the primary legislation, so Welsh Government will have to return to heritage legislation again.

E. The Bill: introducing greater transparency and accountability

15. We welcome the inclusion of new rights of consultation and review in the listing and scheduling processes. Though Cadw has consulted in most (not all) cases, the absence of these statutory rights was hard to reconcile with natural justice.
16. A statutory Register of Parks and Gardens should have similar statutory rights. If it does not, it is important that guidance makes it clear firstly that owners should be consulted automatically, and have an informal right of review, and including (importantly) a right of review, against clear criteria, for all sites in the existing Register. Secondly, there must be clear designation criteria. Thirdly, it must be clear that inclusion on the Register does not prevent all subsequent change.
17. The new Advisory Panel is welcome in principle but raises important issues. Firstly, though it is not designed to represent stakeholders, it is important that it is broadly representative, and takes experience not only from central and local government and the voluntary sector but also from owners of all kinds, commercial developers, and heritage professionals. Secondly, it is very important that Cadw and Welsh Government have direct formal links to heritage stakeholders. That implies a continuation of the External Review Group, or a re-formed Historic Environment Group which again includes not only central and local government and the voluntary sector but also owners of all types, commercial developers, and heritage professionals. This stakeholder group and the Advisory Panel need defined roles, roles which do not put the stakeholder group in a subordinate position.

F. The Bill: unintended consequences and other matters

18. As in 5-10 above, we think some of the new powers in the Bill could have serious unintended consequences, but that amendment and new guidance can resolve the problem. We have no comments on the other matters raised.
19. It is important that historic environment law and policy align seamlessly with planning law and policy, and with sustainable development principles, so that these are all considered consistently, predictably, and at the same time.

G. Planning Policy Wales (PPW), the TAN, and other guidance

20. It is impossible to have effective heritage protection without effective policy and guidance. Although the Committee's terms of reference do not focus on the new PPW chapter 6, the new TAN, the guides to managing change, etc, we see these as very important, much more so than the Bill itself.
21. In general terms, the drafts improve on current policy, but important parts still do not fully reflect the current best practice approach to heritage protection, which has changed radically. The traditional mid-C20th approach did not have a clear policy approach to change based on consideration of significance, use, adaptation, costs, viability, or proportionality. Instead it was based on general presumptions against change, and on the 'preservation' of 'fabric', illustrated by the statement in the still-current Circular 61/96, Annex D, that "historic buildings should be considered in the same light as antiques, paintings or manuscripts...".
22. Modern C21st conservation best practice, captured (at least partly) in Cadw's 2009 *Conservation Principles*, instead encourages owners of heritage to conserve its significance, working out what matters about it and then ensuring that this is looked after and/or enhanced by enabling it to be relevant, appreciated, and used, and to produce (directly or indirectly) a stream of income to cover its maintenance costs. This best practice makes sympathetic change as easy as possible, and harmful change as difficult as possible. It stresses proportionality. It also values certainty, setting out a clear policy approach to change, so an owner who has analysed significance properly and drawn up sympathetic proposals taking that significance into account can be confident that consent can be obtained. It also accords with the Well-being of Future Generations Act's Resilient Wales Goal (to "support... resilience and the capacity to adapt to change").
23. We commend the approach in some of the new guidance, for example in *Managing change to listed buildings*, which says that "conservation is about the careful management of change", that "change may be desirable or necessary, but needs to be well managed", that "a deep understanding of the significance of your listed building goes a long way towards ensuring that any changes you propose respect what's special about it", and that "owners who take advice, gather evidence, make a realistic heritage impact assessment ...are often surprised at

what changes can be approved". Similarly, we welcome Heritage Impact Assessments (HIAs) which encourage that process, as a replacement for the ineffective Design & Access Statements, though it will be important that the HIA guidance stresses proportionality.

24. Other areas however need further work if they are to safeguard Wales's heritage effectively. In particular, the core documents, PPW chapter 6 and the new TAN 24, need to fully encompass the principle of the need for viability, resilience, and sympathetic change, and the importance of proportionality. The CLA will continue to contribute to this process via the External Review Group and public consultations.

For further information please contact:

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CLA reference (for internal use only):

HE 45

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales)
Bill

Ymateb gan: Cyngor Bwrdeistref Sirol Wrexham

Response from: Wrexham County Borough Council

Dear Sirs

Historic Environment (Wales) Bill

Wrexham County Borough Council welcomes the opportunity to comment on the general principles of the Historic Environment (Wales) Bill through the terms of reference as set out for the Communities, Equality and Local Government Committee inquiry.

General Principles

The principles of the Bill, which seek to introduce greater accountability and transparency, provide greater protection to the historic environment and enhance existing mechanisms for its sustainable management, are generally welcomed.

Giving more effective Protection to Listed Buildings and Scheduled Monuments

The Bill sets out provisions which allow for immediate action to be taken in the event of unauthorised works to scheduled monuments and place less restriction on access to land in the event that damage has occurred. In light of the recent destruction of a section of Offa's Dyke near Chirk, these provisions, in addition to limitations placed on the defence of ignorance, are welcomed and bring legislation in line with listed building controls.

The Bill proposes the creation of a statutory and comprehensive register of historic parks and gardens. The publication of specific guidance on the protection and management of these sites, as referred to in paragraph 332 of the Explanatory Notes, is welcomed and considered essential to increasing awareness, understanding value and ultimately care of these often neglected assets. However, maintaining the register does not bring any additional statutory protection which would have been a more desirable outcome of the Bill.

Provisions in the Bill to extend the scope of urgent works and provide a mechanism for the recovery of expenses are wholly supported and provide an additional tool in tackling the issue of buildings at risk. However the requirement that urgent works should 'not interfere unreasonably with residential use' will undoubtedly be open to interpretation and could lead to higher incidence of appeal cases.

The Bill makes provision for the introduction of temporary stop notices. As demonstrated through our own experience of court proceedings, written

instruction to stop work is insufficient whilst a court injunction is often time-consuming. A temporary stop notice provides a much needed mechanism to bring a swift halt to unauthorised works and is therefore welcomed.

Enhancing Existing Mechanisms for the sustainable Management of the Historic Environment

In placing a statutory duty on local authorities to maintain the Historic Environment Record, this brings potential cost implications of approximately £6,000 per annum relating to formal monitoring of the resource. Provision of the service through the Welsh Archaeological Trust and ongoing funding from the Welsh Government is essential in ensuring that no additional burdens are placed on an already stretched service. There is a need to ensure consistent standards in the active management of the resource and integration with existing local authority systems.

Provision for the introduction of Heritage Partnership Agreements is supported. Whilst time consuming in their formulation, they offer many longer term benefits. The potential use of such agreements is under consideration in relation to the Pontcysyllte Aqueduct and Canal World Heritage Site.

Introducing Greater Transparency and Accountability

Interim Protection of assets is considered an essential component in a more transparent designation process. The potential for demolition at consultation stage and need for such protection has been evidenced in the attempted destruction of the Former Mines Rescue Centre, Wrexham. Interim protection eliminates the risks of compensation placed on the local authority in serving Building Preservation Notices as an alternative means of protection during the interim period.

Potential Barriers to Implementation

A reduction in the number of Conservation Officers in addition to planning and support staff presents one of the greatest threats as well as a general lack of resources in terms of both time and money.

Measures proposed such as the use of urgent works notices will require political support at local level to ensure they are used to their full potential.

Unintended Consequences of the Bill

No significant consequences are foreseen other than as already referenced above.

Financial Implications

Financial implications are not considered to be significant with the exception of the potential increase of duties in relation to the maintenance and operation of the historic environment record.

Appropriateness of the Powers for Welsh Ministers

The proposed measures seem appropriate.

Additional Points

It is unfortunate that the Bill fails to make any provisions for strengthening the management and protection of conservation areas.

I hope you will find these comments useful in your consideration of the Bill.



HE 46

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Awdurdodau Parciau Cenedlaethol Bannau Brycheiniog, Arfordir
Penfro ac Eryri

Response from: The Brecon Beacons, Pembrokeshire Coast and Snowdonia
National Park Authorities

Introduction

1. The three Welsh national parks have a statutory duty to conserve and enhance cultural heritage. The historic environment is a central pillar of cultural heritage and we welcome this opportunity to comment on the Historic Environment (Wales) Bill.
2. Protection and promotion of the historic environment of Wales occurs across all areas of the Welsh national parks' practice. The Welsh national park authorities employ heritage specialists with expertise in historic building conservation and archaeology to help meet their responsibilities towards the historic environment. Through activities such as planning casework, the implementation of Townscape Heritage Initiatives, facilitating targeted conservation schemes for listed buildings at risk, undertaking repairs to damaged archaeological sites, and through outreach, discovery and education programmes the Welsh national parks help protect and enhance the outstanding historic environment of Wales.
3. We have structured our response to follow the terms of reference laid out in the consultation letter.

General principles of the Historic Environment (Wales) Bill

4. We welcome the Bill as a much needed improvement in the measures available to the Welsh Government and to local planning authorities (including national park authorities) for protection of the historic environment. It addresses some long-standing concerns.

Giving more effective protection to listed buildings and scheduled monuments

5. We support the following as very positive measures:
 - 5.1 Introduction of temporary stop notices for listed buildings and scheduled monuments;

- 5.2 Introduction of enforcement notices for scheduled monuments;
- 5.3 Powers of entry for the archaeological investigation of a scheduled monument in imminent danger of damage or destruction;
- 5.4 Extending the scope of urgent works notices for listed buildings, the removal of the need for buildings to be unoccupied before undertaking such enforcement, and the recovery of costs through legal land charge;
- 5.5 The widening of scheduling criteria so that a broader range of features can be given statutory protection, including for example prehistoric lithic (stone tool making) scatters, battlefields, marine deposits and deposits bearing evidence of peoples' relationships to ancient environments;
- 5.6 Amendments to the scheduled monument consent process that will streamline and improve upon current arrangements.
- 6. We feel that the Bill would be improved by addressing the following matters:
 - 6.1 Amendments to the criminal offences and defences relating to scheduled monuments. Whilst it is positive that the terms under which the perpetrators of damage to scheduled monuments can plead ignorance have been tightened-up we feel that the measures in the Bill are still too weak and may prove unworkable in practical terms. They could provide too much latitude for perpetrators to avoid prosecution. We feel strongly that the defence of ignorance should be removed. We note that there is no defence of ignorance for listed buildings.
 - 6.2 Dual designation (i.e. where a heritage asset is designated as both a scheduled monument and a listed building) should be removed. It is widely felt to lead to confusion and in some cases to be detrimental to conservation needs.
 - 6.3 The criteria for listing buildings should be reviewed so that Victorian buildings can be given equal prominence to earlier building traditions. We feel that Victorian buildings make a contribution to the character of the building stock in Wales which is not fully recognised within the listing criteria.
- 7. We would welcome clarification on the following matter:
 - 7.1 A prerequisite of a number of the measures is that information on listed buildings and scheduled monuments is made readily available to the public. This is an important matter and we would welcome further details of this commitment and the proposed timing of its implementation. The information should be made available through the Cadw website and should

include accurate digital mapping of the spatial extent of designated assets and full bilingual (i.e. Welsh and English) descriptions of all assets including registered parks and gardens.

Enhancing existing mechanisms for the sustainable management of the historic environment;

8. We welcome the creation of a statutory register of historic parks and gardens and the attendant removal of voluntary inclusion. We feel that there is a significant lack of expertise provision across the historic environment sector and within local authorities with regard to historic parks and gardens at the expense of their conservation. We note provision for preparation of guidance on historic parks and gardens in the Explanatory Memorandum, page 106, but question whether the £5,000 allocation will be sufficient. Development of the guidance is a positive initiative and we would hope to be consulted on its development in due course.
9. We very much welcome the proposal to place Historic Environment Records on a statutory footing. HERs are important repositories of information about the historic environment and form the backbone of archaeological decision making within the planning process in particular. They are an increasingly useful source of information relating to historic buildings and historic landscapes.
10. The wording of the Bill with respect to HERs is succinct and clear in most respects but does not make the range, value and importance of undesignated assets (the core of any HER) sufficiently clear in our opinion (33h). We accept that it might be preferable to restrict the scope of the wording in the Bill itself, but note that this places an added emphasis on the accompanying statutory guidance relating to HERs. We feel that the draft statutory guidance needs strengthening and clarification with regards to the scope and content of HERs (discussed further below).
11. We welcome heritage partnership agreements as a mechanism for effective management of groups of designated heritage assets. We note that the creation of HPAs must demonstrate due democratic process and transparency and must not lead to the weakening of protection of any individual asset forming a component of an agreement in comparison to the protection it would be afforded were it not in the agreement.
12. It is a disappointment that arrangements relating to Conservation Areas (CAs) have not been strengthened (for example by revocation of permitted development rights for all CAs and the clarification of arrangements relating to demolition of buildings in CAs).

13. We feel that ecclesiastical exemption, which applies to many of Wales' most important historic buildings, is an anomaly and are disappointed that the Bill does not address it in any way. The national park authorities have variable experience of ecclesiastical exemption and the efficacy of the Diocesan Committees in following best conservation advice. There is no doubt that Diocesan Committees can provide invaluable pools of expertise promoting good inter-disciplinary approaches to conservation advice. However, in order to ensure consistency of best practice for historic buildings, including religious buildings, across Wales, the implementation of this advice should be subject to the same planning and listed buildings controls as are other historic buildings. The draft Technical Advice Note TAN 24 states that best practice should be followed for buildings subject to ecclesiastical exemption but we are not clear how stricter observance of these requirements will, or could, be monitored and enforced.

Introducing greater transparency and accountability into decisions taken on the historic environment.

14. We welcome the establishment of an advisory panel for the Welsh historic environment. There must be a clear distinction between the roles of the new Advisory Panel and the Historic Environment Group (HEG). HEG undertakes valuable work but its remit is not well defined and there is a feeling that awareness of its actions is not in all cases as broad as it should be. The terms of reference of both HEG and the new Advisory Panel should be clearly defined and the working of both, and appointments to them, made transparent.
15. We strongly welcome the proposed consultation, notification, interim protection and review processes for listed buildings and scheduled monuments. We note with regards to review mechanisms that the criteria against which the appropriateness of designation of a heritage asset must be based on the accuracy of information relating the date, function or character of the asset and not on matters of practicality or the wishes of the owner or petitioner. We feel that the Bill does not make it sufficiently clear that only buildings which are newly listed are subject to the appeal process.

Potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them

16. Whilst the Bill imposes a requirement on local planning authorities to create and maintain Historic Environment Records, in practical terms, the assumption is that this responsibility will be discharged through agreements with the Welsh Archaeological Trusts (WATs). The WATs have developed their HERs over a forty-year period and they are an important resource supported

by powerful software. We support such agreements in principle on the basis that the formalisation of the current arrangements that the national park authorities have with the WATs in relation to access to their HERs should not involve any additional costs to the authorities.

17. In seeking reassurance that the requirements of the Bill with regards to HERs will not place additional burdens on the national park authorities, we would welcome clarification of the following issues within the statutory guidance and look forward to the opportunity to comment upon the guidance in due course: ownership and copyright of data held in the HERs; the extent of local authority involvement in monitoring and enforcing data content and standards; governance of the WATs as pertains to the HERs; procedures for accessibility of HER data and continuation of service in the event of failure of a WAT. In terms of the latter point, we understand that relevant mechanisms are in place (e.g. the HER charitable trust and a memorandum of understanding between Cadw and the WATs on HERs) and would welcome detail on these in the statutory guidance.
18. These details will enable the national park authorities to assess potential cost implications of the HER requirements, for example in relation to staff time, training needs and communication mechanisms. We note that additional burdens on staff at a time of local authority cuts could affect capacity and the ability to meet service requirements.
19. The data held by the HERs is predominantly monolingual in English. National park authorities have both their own and national policies to meet with regards to bilingual Welsh-English provision. We would welcome further guidance on the implications of bilingual provision for local authorities' responsibilities towards HERs.
20. On a specific point, we ask that section 1AA of the Bill should be amended to refer specifically to national park authorities amongst the list of appropriate bodies to consult in relation to certain changes to the Schedule.
21. A core concern in terms of potential barriers to the implementation of the Bill's provisions is resourcing. Building conservation officer posts have been particularly affected by local authority cuts and the capacity of local authorities to meet their responsibilities towards the provisions of the Bill could be significantly compromised as a consequence.

Unintended consequences arising from the Bill, the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum), the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

22. No comment

HE 47

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales)
Bill

Ymateb gan: Stephen Briggs

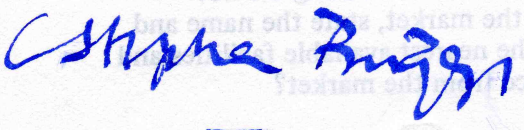
Response from: Stephen Briggs

Dear Sir or Madam,

1. I offer whole-hearted support to the general principles behind the intention of the Historic Environment (Wales) Bill with its potential to offer the historic environment greater sustainability and more effective protection.
2. My comments here concern the Registration of historic gardens and parklands and the fitness of the available documentation to uphold its task Statutorily. These views are informed mainly by experience at the Royal Commission on Ancient and Historical Monuments (Wales) between 1987 and 2006, and from ongoing personal interest in retirement since. At RCAHMW I initiated a database of historic gardens meant to inform site conservation and preservation for research, education and Registration nationally. The point that Statutory Registration needed backing by a complementarily comprehensive database was always borne in mind.
3. To meet the requirements of the Planning process Statutory protection needs documenting with accurate well-informed evidence-based descriptive and historically researched texts to justify claims for dating, architectural and garden styles, rarity and access potentials. Inadequate research could result in losses of unique features (some of which may be buried) when challenges are made from inappropriate development proposals or unmonitored vandalism.
4. At present the quality of Register entries is variable. This is partly because its component volumes were compiled by several contractors, not all of whom researched to the same depth, and only two of whom visited the National Monuments Record to consult on all the sites proposed for inclusion. Indeed, during the compilation of site dossiers prior to Register completion, contact by Cadw with RCAHMW and the Archaeological Trusts was very limited. As some of the information passed to Cadw from RCAHMW's survey or research was never incorporated into the Registers, it is clear that the problem sites mentioned in the writer's 2008 review of the Register's first revision (attached herewith) are not alone. Some Registered sites are documented by very limited bibliographical or archival research so that even some much-acclaimed site histories may be open to challenge.
5. It is therefore clear that the Register is in urgent need of revision, updating and probably even expansion. Ideally, such work ought to be undertaken by appropriately qualified staff under the guidance of more experienced officers. Furthermore, it is important that attention should be paid to updating the RCAHMW database, so that the two exercises run in tandem. Both requirements have important future funding implications.

6. A more detailed critique of this position – including more problem sites - could be provided to the Government’s consultation should that be required.

Yours sincerely,



A handwritten signature in blue ink, appearing to read 'Stephen Rugg', is written over a faint, repeating watermark of the text 'The National Monuments Record for Wales'.

Senior Investigator RCAHMW (1973-2006), sometime Head of Archaeology and Manager of Parklands and Gardens databasing project 2004-2006; Member of Cadw-ICOMOS Historic Gardens Register Steering Committee during the 1990s; Life Foundation Member Welsh Historic Gardens Trust, Editor WHGT journal *Gerddi* 2004-2012; Member Appointed by the Secretary of State for Wales on Brecon Beacons National Park Planning Committee 1986-1995; Sometime member of Councils of Society of Antiquaries of London; Institute for [Field] Archaeologists GB 1998-2005; IfA Wales present committee and Council for British Archaeology Wales Cymru intermittently 1973-2013; Secretary for Industrial Archaeology 1982-91.

THE ANTIQUARIES JOURNAL 88 (2008) 485-9: *REVIEWS*

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Published and online databases of historic parks and gardens, with particular reference to Wales. Coflein <<http://www.coflein.gov.uk>> 31 July 2008)

Canmore <http://www.canmore.gov.uk/Hi/ENG/Search+RecordsCARN/> >(31 July 2008)

Parks and Gardens UK <<http://www.parksandgardens.ac.uk>> (31 July 2008)

Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, part I: Parks and Gardens, Additional and Revised Entries, Volume 1 (with text in Welsh and English) 300mm. Pp xv +76, 15 site plans. Cardiff, Cadw, Welsh Assembly Government, Cardiff CF15 7QQ, 2007. ISBN 9781857602494

When the National Monuments Record for Wales (NMRW) at RCAHMW in Aberystwyth began compiling digital sites and monuments databases as part of its changing remit in the early 1990s, Wales lagged well behind England in the designation and recording of historic parklands and gardens. Initially, data was transferred from paper records, where they existed. But in the case of parklands and gardens, these were few and far between. The Cadw Registers (see below) were being compiled quite independently from Cardiff, so the Commission’s historic gardens record was built up from systematic searches of the first and second editions of the 25-inch OS Plans: mainly the latter. Teething troubles were addressed slowly. An early quantum shift from *Foxpro* to the present *Oracle* system demanded the time-consuming manual recovery of lost ‘child tables’ carrying important garden details. Eventually launched in October 2005, this gardens database was integrated into a map-based countrywide sites and monuments record (SMR) for Wales known as *Coflein* (Welsh for memory: <http://www.coflein.gov.uk>). Administered from RCAHMS in Edinburgh, it operates alongside Scotland’s online record, *Canmore*. *Coflein* is described on its homepage as a ‘public online database..combining .. information about archaeological sites and buildings of all periods with catalogue information about the NMRW archive collections, and adds that ‘increasingly, archives can be viewed and downloaded directly..’

As RCAHMW is not the only record-holding body in Wales, a further statement explains how ‘a public online portal is being developed to enable searching across databases created by other organisations in Wales concerned with aspects of the historic environment.’ Online since 2002 as predecessor to *Coflein* ‘CARN (Core Archaeological Record iNdex) is the public entry-point to the Extended National Database compiled by archaeological organisations across Wales.’ CARN’s 7

partner bodies include the four Archaeological Trusts, Cadw and the National Museum of Wales. By mid-2008 COFLEIN's complement of c 80,000 sites included around 2,500 garden entries. Of these, about 2,200 range from higher status properties to undated peasant steadings. The remainder are individual features found in gardens or parklands – mainly of architectural significance. Separate access into the NMR section of the database is needed to download pdf documents of the designated sites on the *Cadw-ICOMOS Historic Gardens Registers*. The strength of any database lies in its constant enhancement through use, development and revision. With this in mind, the Commission made efforts during the mid 'nineties to involve the voluntary sector in a gardens databasing partnership. These efforts all but foundered for several reasons, though a small but welcome number of site descriptions was contributed by three county groups of the Welsh Historic Gardens Trust Ceredigion, Clwyd and Pembrokeshire. (The latter county contributes to this day).

The Welsh Commission never undertook garden surveys on the scale of its former English counterpart, though over the years staff did visit a number of sites. Some earthworks were surveyed, however, though not all their details are yet incorporated into *Coflein*. In fact many online entries are nonetheless backed up by descriptive texts and non-digitised media. Enquirers are encouraged to email the NMR for up-to-date information on uncatalogued site documentation or about ongoing investigations.

It is noteworthy that the third edition of *Parks and Gardens: A researcher's guide to sources for designed landscapes* (Lambert *et al* 2006), mentions CARN as ‘.. a national resource for archaeology and architecture, including parks and gardens’ (p.49), because, as will be seen, garden historians otherwise seem to have been slow to recognise its potential.

Although RCAHMW now appears to employ no dedicated specialist staff to develop or maintain a serious level of investigation or outreach for historic gardens, and the quality of total database coverage remains uneven, *Coflein* is still probably the most comprehensive online tool available for researching estate nuclei and historic gardens in Britain.

At the End of May 2008 *The Parks and Gardens Data Service Ltd* was launched in London. Some of what follows is adapted from its website. A not-for-profit company set up through partnership between the Association of Gardens Trusts and the University of York, its project began in July 2005 and runs to March 2009. It is backed by a grant of nearly £1million from the Heritage Lottery Fund with contributions in kind by volunteers and members of the Association of Gardens Trusts. Coverage is intended of all historic parks, gardens and designed green spaces of England, Northern Ireland, Scotland, Wales, the Isle of Man and the Channel Islands. It is ‘for anyone who wants to find out more about historic parks and gardens - schoolchildren, academics, professionals or members of the general public’. By the end of March 2009, it will include around 7,000 basic records and 500 more detailed records of historic parks and gardens across the UK. Themed articles, virtual tours, and learning resources for schools are also planned. The facility also offers training facilities for researching and recording historic parks and gardens. Although mentioning that it gives online access to thousands of records..contributed by the UK's 37 gardens trusts and other heritage organisations, such as English Heritage, Cadw, Historic Scotland and the Northern Ireland Heritage Gardens Committee, and whilst acknowledging help from RCAHMW and RCAHMS, neither of the major existing national SMR databases *Coflein* and *Canmore* appears in the covering text.

Searching is by area and place-name. Map-based access is provided by *Google Imagery Bluesky* which offers an aerial photographic dimension not immediately available on any existing online database, though *Google Earth* (using the same vertical aerial photography) can now be freely downloaded and used independent of this data service.

Designated (and some other) sites may also be accessed alternatively, through linkage to several individual heritage organisations. As at present the Welsh section is dominated by Cadw-registered sites (probably some 450-500), this references most Welsh gardens. Incidentally, the sites on Historic Scotland's own website seem to be similarly duplicated by this ‘new’ database. But whereas all sites linked to Historic Scotland and Cadw are listed by virtue of their designation, those many other undesignated gardens online - described, databased, and often surveyed and planned by the Scottish and Welsh Commissions are denied similar linkage treatment. So whereas *Canmore* lists over 1745 historic gardens, that website is not obviously cross-referenced under any Scottish site descriptions. And although *Coflein* is linked to some Welsh gardens in the *Reference* section, it is absent from others that would equally benefit. Bibliographical citation seems to be generally inconsistent throughout and no bibliographical or referencing standard seems to have been adopted. Consequently, some important

sites lack their most important references, while others are supported by relatively obscure citations and the authority of some organisations is favoured over others, though without obvious reason.

One is left asking how the HLF came to approve the expenditure of £1million to create a new online database, the main body of which duplicates existing government-funded databases, and which draws much, if not most of its content from those sources. Why promote a new database rather than develop the existing scholarly, evidence-based data sources already established (and arguably under-funded) within the governmental heritage framework?

The recently published Register of Landscapes, Parks and Gardens of Special Historic Interest I Wales: Part 1 Parks and Gardens, Additional and Revised Entries, Volume 1, is the latest in the series of publications on parklands and gardens making up Part I of the ICOMOS *Register of Landscapes* (Part 2 being *Registers of the Historic Landscapes* proper). It is preceded by Register Volumes on: Gwent, 1994; Clwyd, 1995; Gwynedd, 1997; Powys, 1998; Glamorgan, 2000 and Dyfed, 2002 (all published by Cadw: Welsh Historic Monuments: Cardiff). These were researched by four main consultants together with Cadw staff who undertook the remaining research and editorial. The consultants' approaches seem to have differed in certain respects, so the process of bringing their work to the press cannot have been easy. Cadw's policy intention of updating and revising historic gardens Registration is much to be welcomed. This new volume presents thirteen new sites and two revisions. Updating recognises both that important sites still await discovery and recognition; that landscape values are not static, and that interesting gardens are still being planted (though they have to be at least 25 years old for inclusion here). A revision policy additionally accepts that changing circumstances or fresh discoveries may demand the writing of new site interpretations. Here the revisions are to Dewstow House and Plas Machynlleth. Ten of the new sites (Coytrahen House, Bridgend; Coryton House and Whitchurch Hospital, Cardiff; Bailey Park and Linda Vista Gardens, Abergavenny; Chepstow Park; the Nelson Garden and Wonastow Court, Monmouth; Penrice Castle Swansea and Nos 15 and 17 Stow Park Circle (St Elvios House), Newport) are in South Wales; one (Cardigan Castle) is in mid-Wales, and only two (Hendre House, Conwy, and Trawsfynydd Nuclear Power Station), are in the North. Of these, seven are currently in public ownership or are managed in the public interest.

A regular formula for text and site plan was adopted in Register compilation from the first in 1994. Often drawing on existing official Listed Building or Scheduling information, the texts usually offer detailed site descriptions of all features within site curtilages as well as brief notes on garden makers and the families who maintained them. These accounts are usually thorough and accurate. And give or take a few quibbles about chronological interpretation, most should stand up to scrutiny under cross-examination at Public Enquiry – though others, like Aberglasney and Old Gwernyfed are certainly also now in need of revision. The addition of more important public parks to the Register is now particularly to be welcomed, as, hopefully, this advisory designation encourages forward-looking local authorities to seek appropriate resourcing levels for maintaining them properly.

There is, however, some unevenness of coverage in the bibliography and documentation of the Registers generally. Some texts have not always enjoyed full advantage of supporting information resources available outside Cadw. Consequently, it may be worth using the present volume to offer observations on these problems and suggest ways of improving future accounts.

Until recently, sensitivities about the de-commissioning process at Trawsfynydd Nuclear Power Station inhibited useful discussion of the product of that remarkable partnership under which Sir Basil Spence designed the building while its accompanying landscape was laid out under the eye of Dame Sylvia Crowe. Here, at last, Cadw has grasped the nettle and recognised Crowe's important role if not Spence's (his work here has never been Listed), by offering her landscaping Grade II* Register status. Unfortunately, Crowe's vision will soon be deprived of Spence's two complementary reactor towers - originally intended at full height to resemble a medieval castle in the rugged Snowdonia landscape - because they are to be lowered to accommodate fashion.

The Register here offers modest bibliographical documentation to back up its comprehensive description and appraisal of the Crowe-Spence partnership, but omits mention of any material listed on *Coflein*. Hence the absence of NMR entry C421142 on a deposit made in 2000 of 'photocopies and transcripts of documents held by the Public Record Office, relating to the construction of the power station and landscape development, including correspondence, site drawings, minutes of the public inquiry held in February 1958, minutes of the design meeting held in 1962 with notes by Sylvia Crowe... collated for the Welsh Historic Gardens Trust using a grant from Countryside Commission for Wales...' (deposited in 2000). Among other material which could have also usefully informed the background to this designation entry is Crowe's personal testimony on her landscaping philosophy at

Trawsfynydd in *Country Life* (October 19th 1961, 872-4).

Inconsistencies in documentation and bibliography in the Registers generally can sometimes relate to a lack of clarity about the history of site discovery, recognition and survey. On the face of it, the entry supporting Chepstow Park Wood's place on this Register as a thirteenth-century deer park unfolds as a remarkable and laudable piece of fieldwork, discovery and research. Interestingly, however, *Coflein* reveals that OS staff knew of the site in 1958, when they described it briefly on the OS Antiquity Card (Os495card; ST49NE16) documenting its name on all maps since.

Similar criticisms beset the account of the Pulhamite Garden that formerly belonged to St Elvio's House and which lies behind nos 15 and 17 Stow Park Circle, Newport. This at first sight also appears to have been discovered by Cadw Staff. But *Coflein* offers a fuller story. St Elvio's was investigated by the RCAHMW during its demolition in 1998, when R.F.Suggett and G.A.Ward discovered, described and photographed the garden and its Victorian plantings, even detailing how 'Coal dust covers the former asparagus beds' (NMR photos 980090-3 and 4). A record fine awarded against the developer (£200,000) for illegally demolishing the house is reported in *The Newsletter of the Ancient Monuments Society* (Summer 1998).

A final concern must be articulated about the very nature of bibliographical support for the Register's revision of Dewstow House near Caerwent, where excavation has shown its Pulhamite garden to be much more extensive than appreciated when it was first Registered in 1994. Fundamental differences arise in the presentation of a revised bibliography. The 1994 account listed a handful of secondary printed sources: Bradney's *County History* of 1929; Birbeck's local history of 1978; an autobiographical work of 1987; a newspaper article, and an unpublished *Archaeological Field Evaluation* by the Glamorgan-Gwent Archaeological Trust of 1992 (which seems better defined as a primary source).

This new bibliography lists only the 1987 autobiography. All other documentation is missing. Disturbingly, only two primary sources are added. One is simply a personal acknowledgment; the other refers to Dewstow's web site (address not stated in the Register but currently <www.dewstow.co.uk/gardens.htm> access 31 July 2008).

No criticism is intended here of Dewstow Golf Club or any other business using that web site, but the principle of referencing a commercial website in preference to scholarly bibliography when submitting a site for national heritage designation sets a worrying precedent. To begin with, web sites are notoriously impermanent. Private sites are more vulnerable to change or permanent loss than government-sponsored ones and this particular website anyway carries no bibliography. So this 2007 supporting documentation cannot substitute the one presented in 1994.

Finally, and perhaps most importantly, a serious principle about conflict of interest is at stake here. The Dewstow website promotes commercial recreation and accommodation, so its principal objectives are incompatible with those of Cadw-ICOMOS. Supporting proposed site designation texts using promotional data from historic site owners effectively puts their interest - or that of their successors in title - above the kind of independently-compiled evidence-based research that should underpin conservation measures being made in the public interest. In short, reference to a commercial website instead of a scholarly bibliography could undermine the Register's authority in the event that its text would be needed to defend a site's status at Public Enquiry.

This review touches upon a number of problems related to both funding and scholarly values for site documentation and outreach. The most obvious public interest concern is the current and ongoing duplication of resourcing in website database creation. Also of relevance to heritage practitioners is the need to establish clear parameters of scholarly standard both in databases and site designation submissions, though it is difficult to see how standards might be set and achieved. In the short term, closer communication and cooperation in the provision of data between some of the government heritage bodies would ensure greater evenness in the use of supporting documentation for all purposes, particularly where the rapid availability of new site descriptions may be problematic. Perceptions about conflict of interest and its potential consequence also need addressing, as a continuing failure to recognise that will only demean the success of the fundamentals we are here to deliver - the survey, documentation and protection of the historic environment. Such questions assume particular poignancy given the proposals set out in the new Heritage Bill, which may well, if passed, establish the new framework for designation for several generations to come.

Lambert, D, Goodchild, P and Roberts, J 2006. *Parks and Gardens: a researcher's guide to sources for designed landscapes*, Redhill, Surrey.

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill
Ymateb gan: Fforwm Gwyddoniaeth mewn Treftadaeth Genedlaethol
Response from: The National Heritage Science Forum (NHSF)

The National Heritage Science Forum (NHSF) represents the major UK institutions making significant contributions to heritage science. It aims to support the strategic development of heritage science in terms of research, capacity building, application, collaboration and infrastructure.

1 Introduction

1.1 The NHSF welcomes the opportunity to contribute to the Communities, Equality and Local Government Committee's call for written evidence with respect to the Historic Environment (Wales) Bill.

1.2 In submitting this evidence, the NHSF has focused on the role of heritage science in underpinning the goals of the Bill in the response areas of:

- *giving more effective protection to listed buildings and scheduled monuments;*
- *enhancing existing mechanisms for the sustainable management of the historic environment;*

2 Establishment of an Advisory Panel for the Welsh historic environment

2.1 NHSF supports the establishment of an advisory panel for the Welsh historic environment that will provide expert advice on the formulation, development, resourcing and delivery of historic environment policy and strategy. NHSF proposes that this advisory panel should include heritage science expertise.

3 Requirement for local planning authorities to create and maintain historic environment records

3.1 NHSF supports the provisions in the Bill for the creation of Historic Environment Records that meet a recognised standard for the purposes of informing archaeological and other heritage management advice.

3.2 NHSF has the following comments on the associated draft guidance “Managing Historic Environment Records in Wales – Statutory Guidance”.

Within the document the following sections have particular reference to heritage science:

1.1 What is a Historic Environment Record?

1.2 What is the Historic Environment Record used for?

Both sections make it clear that the Historic Environment Record (HER) is designed to protect heritage by supporting conservation management and informing management decisions. These goals rely on evidence based delivery for their success. Identifying, measuring and documenting change leads to data that can be used to develop predictive management strategies that make best use of resources. Heritage science delivers insight into decay mechanisms, rates of change and its outcomes, which are all essential to develop quantified predictive management and risk assessment. NHSF advocates that there should be consideration for how government will ensure that expertise necessary to deliver this data will be available. In the absence of underpinning materials science to support development of management policy, damage to the Welsh economy may occur from loss of heritage as a tourism resource. Responses to climate change will also be limited by lack of hard data. Further, it may be worth considering how staff will be trained (Section 6.2) to interface with heritage science to better understand and develop effective management strategies within HER.

Notes:

The National Heritage Science Forum (NHSF) was set up to address the recommendations of the House of Lords Science and Technology Select Committee Inquiry on Science and Heritage and to implement the objectives of the National Heritage Science Strategy (NHSS).

NHSF’s members are 19 leading organisations active in the field of heritage science. Through its membership NHSF brings together communities of practice, including both heritage scientists carrying out research and practitioners in the arts, humanities and sciences who apply research results to their own work.

The NHSF provides a platform to speak with one voice to inform Government, policy-makers and funders of the role of heritage science in delivering social impact, to provide equality of opportunity for public engagement with heritage science, and to disseminate improved understanding of cultural heritage underpinned by heritage science research.

Current members:

- Amgueddfa Cymru - National Museums Wales
- Birmingham Museums Trust
- British Library
- British Museum
- Cardiff University
- English Heritage
- Historic England
- Historic Royal Palaces
- Historic Scotland
- Icon, the Institute of Conservation
- National Trust
- National Galleries Scotland
- Natural History Museum
- Oxford University
- Royal Armouries
- Tate
- The National Archives
- University College London
- University of Cambridge Museums & Botanic Garden

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Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cyngor Sir Fynwy

Response from: Monmouthshire County Council

**Committee Clerk
Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.**

15 June 2015

Dear Sir

The Historic Environment (Wales) Bill

Consultation comments from Monmouthshire County Council

Thank you for the opportunity to comment on the draft Bill.

Monmouthshire has an especially large number of heritage sites designated as either listed buildings, scheduled monuments, registered parks and gardens as well as having part of the Blaenavon Industrial Landscape World Heritage Site. Heritage is therefore an issue of high importance to this Council and its long track record in maintaining a high standard of conservation was reflected in it being the first local authority in Wales to receive delegation from Cadw.

We welcome the Historic Environment Bill and very largely support the proposed changes and measures it proposes, though we would like to make the following comments.

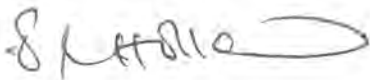
- We would like clarification on the recovery of costs with regard to Urgent Works Notices. Currently this is done through a S.55 Notice but the Bill proposes that local authorities would be able to place a charge on the land. Our concern is that unless this is a first charge this option might not result in any recovery of costs and so we would like Ministers to amend this measure accordingly.
- In Monmouthshire we are having to address a considerable amount of unauthorised works so we welcome the proposed introduction of Stop Notices.
- We are disappointed that the opportunity has not been taken to afford statutory protection for historic gardens, only the statutory duty to maintain the Register. Whilst any approach to consent would have to take into account the need for planting it would be of benefit to provide greater protection to garden and parkland design.
- We would have liked to have seen stronger powers proposed for rescuing Buildings at Risk. The existing system too often ends up with the Urgent Works Notices or Compulsory Purchase occurring only at the point where the building is about to be

lost altogether. Not only does this mean that in the intervening period there is considerable loss of historic character but also the eventual repair is a great deal more expensive. Allt y Bela, near Usk is a good local example of this.

- A requirement to introduce local lists would present a real resource issue. Monmouthshire's Conservation team would not have the capacity to compile and maintain such lists without additional resource which in the current economic climate is not an option. Monmouthshire has a larger number of listed buildings (c.2,500) than most authorities in Wales and therefore we already have a lot of heritage to monitor and manage. Our concern is that it will raise public expectations but it is unclear to us what, in reality, will be achieved through creating non-statutory local lists. These existed in the early days of listing and were abandoned in early 1980's because their status was ineffective in delivering meaningful protection

Please keep us informed of progress of this Bill.

Yours sincerely

A handwritten signature in black ink, appearing to read 'E Holland', written in a cursive style.

Edward Holland
Conservation Manager