

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 This is a missed opportunity to reform an area of heritage planning legislation that is now outdated inappropriate and cumbersome in operation.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).