

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