

PCB02 Tai Hanesyddol Cymru | Historic Houses Wales

Senedd Cymru | Welsh Parliament

Y Pwyllgor Deddfwriaeth Cyfiawnder a'r Cyfansoddiad | Legislation, Justice and Constitution Committee

Gwaith craffu ar Filiau Cydgrynhoi Llywodraeth Cymru ym maes cynllunio | Scrutiny of the Welsh Government's planning Consolidation Bills

Ymateb gan: Tai Hanesyddol Cymru | Evidence from: Historic Houses Wales

Firstly, this is an extremely lengthy document to scrutinise, especially given ours and other heritage bodies resources at a time of increasing financial pressure on all of us. Whilst we welcome any legislation that is essentially a structural consolidation, this is not an easy document to digest.

It does though appear to pull planning law into one Welsh statute and integrates heritage references cleanly, but our time allowance is limited. We trust that the Legislation, Justice and Constitution Committees legal advisors are themselves scrutinising compliance with the four areas identified for compliance purposes:

i. The Scope

Whilst there are no direct references to “historic houses” as a named category in the Bill we recognise that the protections for historic houses instead appear under the statutory categories listed buildings, features of special architectural or historic interest, conservation areas, and the linked provisions of the Historic Environment Act – all of which are the legal mechanisms that protect historic houses. So, the scope of areas relating to historic houses appears to be covered.

We do though have to draw your attention to the use of the term ‘preserve’ rather than ‘conserve’ in Section 404. As a term enshrined in law, *preservation* takes precedence in planning decisions and courts over the policy principle of *conservation*. However, a strict “duty to preserve” can limit owners’ ability to make sensitive changes. It may result in buildings being neglected if restoration must meet a rigid, often subjective historical standard. Overly rigid preservation can threaten both the financial viability and long-term survival of historic properties.

ii. Have the relevant enactments been included?

From our initial reading of the documentation it does not appear to create new obligations for owners of historic houses beyond what already exists under the Historic Environment (Wales) Act. It also does not appear to dilute protections: in that the duties to preserve listed buildings and conservation areas remain as strong as before. It also does not appear to weaken or strengthen the substantive duties of the Historic Environment Act aiming to simply import them where relevant to planning.

- iii. As regard to substantive changes cross referenced with potential substantive legal effect, as allowed by Standing Order 26C, this is difficult to respond to on our part, this requires deeper legal scrutiny than we can offer here.
- iv. Any “changes” seem to be largely procedural consolidations. The Bill in relation to historic houses appears to:
 - Align compensation, appeals, and enforcement with planning procedures.
 - Tidy up how repair/compulsory acquisition powers interact with planning processes.
 - Re-frames heritage provisions so that all planning law sits in one place, but without altering the underlying effect.

At this stage we believe the Bill aims to consolidate the legal effect of existing enactments with respect to historic houses. It does not appear to introduce changes outside of current heritage legislation, but ensures that planning law and heritage law are properly integrated for clarity and consistency.

On this basis we give support in-principle for the bill at this stage.

Yours sincerely,

Phil Godsal

Chair – Historic Houses Wales