

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.

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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."