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To: Heads of Planning

Dear Colleague

Historic Environment (Wales) Act 2016

This letter provides an update on the implementation of the Historic Environment (Wales) Act 2016 ("the 2016 Act") and changes to the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act"). In particular, we would like to bring your attention to the commencement of provisions within the 2016 Act, new Regulations, changes to directions on aspects of listed building and conservation area consent procedures, and new supporting guidance as set out in the annexes to this letter. The key points that affect your interests are outlined below.

Urgent works to preserve listed buildings and recovery of expenses (sections 54 and 55 of the 1990 Act): extension of scope and recovery of costs

The powers to carry out urgent works to preserve listed buildings were extended by the 2016 Act. The Historic Environment (Wales) Act 2016 (Commencement No. 1 and Transitional Provisions) Order 2017 commences section 30(6) of the 2016 Act which allows for costs that are not recovered from the owner following urgent works to be the subject of a local land charge. The section also allows for the expenses to carry interest until recovery. The interest rate is set by The Listed Buildings (Urgent Works) (Interest Rate on Expenses) (Wales) Order 2017. The rate is set at 2% per annum above the Bank of England base rate. These provisions will come into force on 31 May 2017.

Historic environment records (sections 35–37 of the 2016 Act)

The 2016 Act requires the Welsh Ministers to compile and keep up to date a historic environment record for each local authority. The 2016 Act also placed a duty on certain public bodies, including local and National Park authorities, to pay regard to statutory guidance on the compilation and use of historic environment records. The Historic Environment (Wales) Act 2016 (Commencement No. 1 and Transitional Provisions) Order 2017 commences these provisions on 31 May 2017. The statutory guidance was published in April and a separate letter was issued to the local authority providing further information.

Mae'r Gwasanaeth Amgylchedd Hanesyddol Llywodraeth Cymru (Cadw) yn hyrwyddo gwaith cadwraeth ar gyfer amgylchedd hanesyddol Cymru a gwerthfawrogiad ohono.

The Welsh Government Historic Environment Service (Cadw) promotes the conservation and appreciation of Wales's historic environment.

Rydym yn croesawu gohebiaeth yn Gymraeg ac yn Saesneg.
We welcome correspondence in both English and Welsh.



BUDDSODDWR MEWN POBL
INVESTOR IN PEOPLE



Statutory consultation, interim protection and reviews of decisions to list a building or schedule a monument (sections 1AA–1AE of the Ancient Monuments and Archaeological Areas Act 1979 and sections 2A–2D of the 1990 Act).

The 2016 Act requires the Welsh Ministers to consult on proposals to list a building or schedule a monument, provides for interim protection of the asset until a decision is made on the proposal and also provides a right for an owner or occupier to request a review of a Welsh Minister's decision to list or schedule. The Historic Environment (Wales) Act 2016 (Commencement No. 1 and Transitional Provisions) Order 2017 commences these provisions on 31 May 2017. Regulations setting out the procedures and grounds for reviews have also been made and will come into force on 31 May (The Scheduled Monuments (Review of Scheduling Decisions) (Wales) Regulations and The Listed Buildings (Review of Listing Decisions) (Wales) Regulations 2017).

Local planning authorities need to be aware that during the period of interim protection a building proposed for listing will be protected as if it is already listed. Therefore, works may require listed building consent, with unauthorised works constituting an offence as well as being subject to enforcement. Local planning authorities will be served notice of the proposed inclusion of a building on the list at the same time that the owner / occupier is consulted and interim protection applies.

The Regulations also make the local authority an interested person in the review of a listing decision or scheduling decision, allowing you an opportunity to make representations. The procedures are closely modelled on the arrangements for planning and listed building consent appeals and will be conducted by the Planning Inspectorate.

Heritage impact statements

The Planning (Listed Buildings and Conservation Areas) (Wales) (Amendment No. 2) Regulations 2017 amend the 2012 Regulations replacing the requirement that an application for listed building consent is accompanied by a design and access statement with a requirement for an application for listed building or conservation area consent to be supported by a heritage impact statement. This requirement will come into force on 1 September 2017.

We consulted on the draft guidance for Heritage Impact Assessment in Wales last year and the final guidance will be published on 31 May 2017. In the period prior to commencement of the requirement, we will continue to provide local authorities with support on the new requirements through forums such as the Built Heritage Forum. We would also appreciate your assistance in informing owners / occupiers / agents and others who submit consent applications of the new requirements.

Changes to Listed Building Consent Checklist

A new listed building consent checklist for applications made to the Welsh Ministers is being developed and further information will be sent under separate cover.

Technical Advice Note 24: The Historic Environment

To complement the provisions contained in the Historic Environment (Wales) Act 2016 and Planning Policy Wales Chapter 6: The Historic Environment, a new Technical Advice Note 24: The Historic Environment will be published on 31 May 2017. It provides further information and detailed planning guidance to fully reflect how the historic environment should be considered through the planning process.

It replaces Welsh Office Circulars 60/96 Planning and the Historic Environment: Archaeology, 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas and 1/98 Planning and the Historic Environment: Directions by the Secretary of State for Wales.

Directions

The replacement of Welsh Office Circular 1/98: Planning and the Historic Environment: Directions by the Secretary of State for Wales by TAN 24 has required the making of three new directions which come into force on 31 May 2017. The three directions are attached at Annex A and, as you will note, do not change the effect of the directions they replace.

Guidance

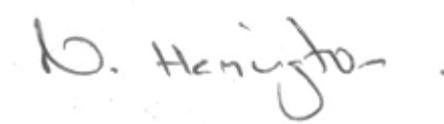
A suite of further guidance to support the 2016 Act will also be published on 31 May and is summarised in Annex B. The guidance will be available on the Cadw website <http://cadw.gov.wales/historicenvironment/publications/?lang=en>

Cadw will work with the Built Heritage Forum and local planning authorities to identify training needs linked to this new policy and guidance.

Yours sincerely



Gwilym Hughes
Assistant Director Historic Environment
Historic Environment Service (Cadw)
Department for Economy, Skills and
Natural Resources



Neil Hemington
Chief Planner
Planning Directorate
Department for Economy, Skills and
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Annex A

LISTED BUILDING CONSENT APPLICATIONS (DISAPPLICATION OF DUTY TO NOTIFY WELSH MINISTERS) (WALES) DIRECTION 2017

The Welsh Ministers in exercise of the powers conferred upon the Secretary of State by section 15(1) and (6) of the Planning (Listed Buildings and Conservation Areas) Act 1990¹ and now exercisable by them² give the following Direction.

Commencement and application

1. This Direction comes into force on 31 May 2017 and applies to applications for listed building consent made to a local planning authority relating to land in Wales.

Interpretation

2. In this Direction-

“the Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990;

“Circular 1/98” means Welsh Office Circular 1/98: Planning and the Historic Environment: Directions by the Secretary of State for Wales.

Disapplication of duty to notify the Welsh Ministers of intention to grant listed building consent

3. Section 13 of the Act does not apply in the case of an application for listed building consent to carry out works affecting only the interior of a Grade II (unstarred) listed building.
4. Paragraph 3 does not disapply section 13 if the works involve demolition.

Revocation

5. The Direction contained in paragraph 15 of the Welsh Office Circular 1/98 is revoked.

Signed by the Welsh Minister for the Economy and Infrastructure, one of the Welsh Ministers



Date

2/5/17

¹ 1990 c.9

² The functions of the Secretary of State under section 15(1) and (6), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions Order 1999, S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

LISTED BUILDING APPLICATIONS AND DECISIONS (DUTY TO NOTIFY NATIONAL AMENITY SOCIETIES AND THE ROYAL COMMISSION) (WALES) DIRECTION 2017

The Welsh Ministers in exercise of the powers conferred upon the Secretary of State by section 15(5) and (6) of the Planning (Listed Buildings and Conservation Areas) Act 1990¹ and now exercisable by them² give the following Direction.

Commencement [and application]

1. This Direction comes into force on 31 May 2017 and applies to applications for listed building consent made to a local planning authority relating to land in Wales.

Interpretation

2. In this Direction

“the Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990.

“Circular 1/98” means Welsh Office Circular 1/98: Planning and the Historic Environment: Directions by the Secretary of State for Wales.

Notification to National Amenity Societies

3. Notice of applications for listed building consent and of the decisions taken by local planning authorities on those applications shall be given to the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings, the Victorian Society and the Royal Commission on the Ancient and Historical Monuments of Wales in the following cases
 - (a) for works for the demolition of a listed building; or
 - (b) for works for the alteration of a listed building which comprise or include the demolition of any part of that building.

Revocation

4. The Direction contained in paragraph 10 of Circular 1/98 is revoked.

¹ 1990 c.9

² The functions of the Secretary of State under section 15(1) and (6), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions Order 1999, S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

Signed by the Welsh Minister for the Economy and Infrastructure, one of the Welsh Ministers

A handwritten signature in blue ink, appearing to be 'Ien S', written in a cursive style.

Date

2/5/17

CONSERVATION AREAS (DISAPPLICATION OF REQUIREMENT FOR CONSERVATION CONSENT FOR DEMOLITION) (WALES) DIRECTION 2017

The Welsh Ministers in exercise of the powers conferred upon the Secretary of State by section 75 (2), (3) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990¹ and now exercisable by them² give the following Direction.

Commencement

1. This Direction comes into force on 31 May 2017.

Interpretation

2. In this Direction

“the Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990.

“Circular 1/98” means Welsh Office Circular 1/98: Planning and the Historic Environment: Directions by the Secretary of State for Wales.

Disapplication of requirement for conservation area consent

3. Section 74 of the Act does not apply to the following description of buildings
 - (a) a building with a total cubic content not exceeding 115 cubic metres (determined by external measurements) or any part of such a building, other than a pre-1925 tombstone;
 - (b) a gate, wall, fence or means of enclosure which is less than one metre high where abutting on a highway (including a public footpath or bridleway), waterway or open space, or less than two metres high in any other case;
 - (c) a building erected since 1 January 1914 and in use, or last used, for the purposes of agriculture or forestry;
 - (d) a building required to be demolished by virtue of an order made under section 102 of the Town and Country Planning Act 1990;
 - (e) a building required to be demolished by virtue of any provision of an agreement made under section 106 of the Town and Country Planning Act 1990;

¹ 1990 c.9

² The functions of the Secretary of State under section 75 (2) to (4), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions Order 1999, S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

- (f) a building in respect of which the provisions of an enforcement notice issued under section 172 of the Town and Country Planning Act 1990 or sections 38 or 46 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require its demolition, in whole or in part, however expressed;
- (g) any building required to be demolished by virtue of a condition of planning permission granted under section 70 or 177(1) of the Town and Country Planning Act 1990;
- (h) a building required to be demolished by virtue of a notice served under section 215 of the Town and Country Planning Act 1990;
- (i) a building included in an operative clearance order or compulsory purchase order made under part IX of the Housing Act 1985 or to which a demolition order made under part II of that Act applies;
- (j) a building purchased by a local authority by agreement where part IX of the Housing Act 1985 applies to that building;
- (k) a redundant building (within the meaning of the Mission and Pastoral Measure 2011) or part of such a building where demolition is in pursuance of a pastoral or redundancy scheme (within the meaning of that Measure).

Revocation

4. The Direction contained in paragraph 20 of Circular 1/98 is revoked.

Signed by the Cabinet Secretary for Economy and Infrastructure, one of the Welsh Ministers



Date

2/5/17

Annex B: Summaries of the statutory and best-practice guidance

Managing Change in World Heritage Sites in Wales sets out general principles for understanding and managing World Heritage Sites in Wales, including how they are protected through the planning system.

This best-practice guidance is aimed primarily at decision makers, including local authorities, statutory undertakers and prospective developers, to raise the profile of World Heritage Sites in Wales and to help them manage change without adverse impact on their Outstanding Universal Value. Managers and stakeholders of World Heritage Sites may also find it useful to inform management plans, alongside UNESCO's *Operational Guidelines for the Implementation of the World Heritage Convention*.

Managing Change to Listed Buildings in Wales sets out general principles to consider when making changes to listed buildings and explains how to apply for listed building consent, including the roles and responsibilities of owners, local planning authorities and the Welsh Government's Historic Environment Service (Cadw).

This best-practice guidance is aimed principally at owners of listed buildings and agents acting on their behalf to help them understand the implications of owning a listed building and making changes to it.

Managing Conservation Areas in Wales sets out the policy context for the designation and management of conservation areas and the duties of local planning authorities. It also identifies key aspects of best practice for their designation and appraisal, including the participation of stakeholders and the development of local policies for positive management and enhancement so that their character and appearance are preserved and enhanced.

This best-practice guide is aimed mainly at local planning authorities to ensure a consistent approach to conservation area designation, appraisal and management throughout Wales.

Heritage Impact Assessment in Wales sets out the general principles to consider when planning changes to historic assets and applying for listed building and conservation area consent.

This best-practice guide is aimed principally at owners and occupiers of historic assets and their agents. It will help them to understand why, when and how to use the heritage impact assessment process and write heritage impact statements.

Managing Lists of Historic Assets of Special Local Interest in Wales sets out general principles and good practice for preparing and managing lists of local historic assets — including criteria, nomination, consultation, validation, appeals and monitoring — and provides guidance on their use in the planning system.

This guidance is aimed primarily at local planning authorities, but also at third sector organisations and the owners of historic assets, to encourage all sectors to work together to protect and enhance historic assets of special local interest.

Managing Listed Buildings at Risk in Wales outlines the critical relationship between a building's use, ownership and condition, and how the careful balance between these elements can be managed to ensure a sustainable future. It also outlines the roles and responsibilities of owners, the Welsh Government and local authorities. It shows how policies and programmes to manage listed buildings at risk can be successful, but also explains the statutory powers that can be used to protect listed buildings at risk where appropriate.

This best-practice guidance is aimed primarily at local authority conservation, planning, housing, regeneration and development departments. It may also be of interest to owners, occupiers and agents, as well as local communities and third sector organisations that have a vital role in caring for listed buildings at risk.

Setting of Historic Assets in Wales explains what setting is, how it contributes to the significance of a historic asset and why it is important. It also outlines the principles used to assess the potential impact of development or land management proposals within the settings of World Heritage Sites, ancient monuments (scheduled and unscheduled), listed buildings, registered historic parks and gardens, and conservation areas.

This best-practice guidance is aimed at developers, owners, occupiers and agents, who should use it to inform management plans and proposals for change which may have an impact on the significance of a historic asset and its setting.

Managing Change to Registered Historic Parks and Gardens in Wales sets out general principles to follow when considering changes that may have an impact on registered historic parks and gardens. It explains the status of the register of historic parks and gardens in Wales and its place in the planning system, including the roles and responsibilities of owners, local planning authorities, amenity societies and the Welsh Government's Historic Environment Service (Cadw). Although the register is statutory, registration does not introduce any new consent regimes.

This best-practice guidance is aimed principally at owners of registered historic parks and gardens, and agents acting on their behalf, to help them understand the implications of owning a registered historic park or garden and managing changes that affect it.

Managing Historic Character in Wales explains why it is important to recognise historic character and use it as an evidence base for conservation, regeneration and planning work. It shows how policies and programmes to manage change can take inspiration from the past to help create and sustain

distinctive places for the future. *Managing Historic Character in Wales*, together with *Managing Lists of Historic Assets of Special Local Interest in Wales*, focuses on those aspects of local heritage that have considerable value for local communities, including those that are not designated for their special national interest or importance.

The best-practice guidance is aimed primarily at local authority conservation, planning, housing, regeneration and development departments, as well as Welsh Government departments. It will also be of interest to local communities and third sector organisations, as well as owners, developers and agents, who have a vital role in identifying, promoting and caring for local historic character.