

## Consultation on proposals for secondary legislation to support the Historic Environment (Wales) Act 2016 and various best-practice guidance documents

### Consultation response form

Since this consultation treats a wide range of topics relating to the historic environment, you may find that some of the following questions fall outside your interest or experience. Therefore, please feel free to answer as many or as few of the questions as you like.

Please return this form to reach the Welsh Government no later than 3 October 2016.

If you have any questions, please email:

[historicenvironmentleg@wales.gsi.gov.uk](mailto:historicenvironmentleg@wales.gsi.gov.uk)

or telephone:

01443 336091 / 01443 336090

#### Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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<b>Consultation on proposals for secondary legislation to support the Historic Environment (Wales) Act 2016 and various best-practice guidance documents</b>		
<b>Date</b>	15 September 2016	
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<b>Type</b> <i>(please select one from the following)</i>	Individual	
	Business	
	Local planning authority	
	Government agency/Other public sector body	<b>x</b>
	Professional body/Interest group	
	Voluntary sector (community group, volunteer group, self-help group, cooperative, enterprise, religious group, not-for-profit organisation)	
	Other group not listed above	

<b>Confidentiality — Responses to consultations may be made public on the internet or in a report.</b>	
<b>If you do not want your name and address to be shown in any documents that we produce, please indicate here</b>	
<b>If you do not want your response to be shown in any documents that we produce, please indicate here</b>	

Proposals for regulations and procedural changes

A. Regulations to set the interest rate for costs accrued from urgent works

<b>Q1.</b>	<b>Do you agree that the interest rate that should be included in regulations is the Bank of England Base Rate plus 2%?</b>		
	Yes		No
Comment No comment			

B. Procedure to claim for compensation associated with temporary stop notices for scheduled monuments and listed buildings

<b>Q2.</b>	<b>Do you agree with the time period in which a claim for compensation associated with a temporary stop notice must be made?</b>		
	Yes		No
Comment No comment			

C. Simplification of the scheduled monument consent process

<b>Q3.</b>	<b>Do you agree with the mechanism proposed for a simplified scheduled monument consent process for uncontentious works?</b>		
	Yes	<b>x</b>	No
Comment Natural Resources Wales agrees with the mechanism for simplifying consent for uncontentious works to a scheduled ancient monument. A simpler process will encourage landowners to regard ancient monuments on their land as a positive asset by removing delays and paperwork in order that they may carry out management works. Guidance will be needed to clearly define which works can be consented in this way and which would require the full consenting process to be applied.			

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D. Heritage impact statements and associated guidance

<b>Q4.</b>	<b>Do you agree that a heritage impact statement should be required for every application for scheduled monument consent (unless otherwise agreed with the Welsh Ministers), listed building consent and conservation area consent?</b>		
	Yes		No
Comment No comment			

<b>Q5.</b>	<b>Do you agree that heritage impact statements should replace design and access statements for listed building consent applications?</b>		
	Yes		No
Comment No comment			

<b>Q6.</b>	<b>Do you agree that an access statement should be required in any heritage impact statement where the proposed works would alter the means of access to or within a listed building?</b>		
	Yes	<b>x</b>	No
Comment Both access and health and safety requirements can present particular problems, earlier consideration in the design process would be advantageous. Often these are afterthoughts leading to poor design solutions and/or visual impacts that have not been thought out properly.			

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<b>Q7.</b>	<b>Do you agree with the proposed contents for a heritage impact statement?</b>		
	Yes	<b>x</b>	No
<p>Comment</p> <p>We support the approach and ethos of integrating consideration of the historic environment into the development of projects. Overall we are supportive of the methodology, it closely reflects the approach we take in Natural Resources Wales with Environmental Impact Assessments (EIA's).</p> <p>We recommend that the sustainability of access should be considered, for example changing flood risk and protection (such as a managed realignment, Flood Risk Management Project or as indicated by the Shoreline Management Plan). Such projects or policies may bring forward, delay or alter access by altering flood risk.</p> <p>This new guidance presents an opportunity to add a new paragraph on how the historic environment and heritage impact statements could contribute/align with the sustainable management of natural resources and any local plans or statements.</p>			

<b>Q8.</b>	<b>Does the guidance, <i>Heritage Impact Assessment in Wales</i>, clearly articulate when, why and how to use the heritage impact assessment process and provide useful advice on the presentation of the heritage impact statement?</b>		
	Yes	<b>x</b>	No
<p>Comment</p> <p>We very much welcome the iterative process for heritage impact statements which is useful to ensure the relevant issues are considered throughout the design process.</p> <p>We would like to see a recommendation in the guidance that heritage impact statements can be integrated with an EIA, where one is being produced. This would highlight both positive and negative impacts and would contextualise the heritage impact statement within wider environmental and socio-economic effects.</p> <p>There is a risk of overburdening developers with many individual heritage impact statements for projects, if they are all developed individually the cumulative and indirect effects may be missed.</p> <p>If heritage impact statements are integrated in this way, practitioners could signpost specific elements such as those required under a heritage impact statement.</p> <p>We welcome a degree of flexibility to decide the most appropriate way to incorporate what needs to be done whilst also ensuring the heritage impact statement is site specific, clear, simple and can be easily interpreted on site by engineers and contractors.</p>			

Best-practice guidance documents

E. *Managing Change to Listed Buildings in Wales*

<b>Q9.</b>	<b>Will <i>Managing Change to Listed Buildings in Wales</i> provide useful guidance for the owners of listed buildings and their agents?</b>		
	Yes	<b>x</b>	No
<p>Do you have any suggestions as to how it can be improved?                  Particularly useful is the section describing the process of gaining consent. The earlier sections would benefit from links to examples or case studies as well as further detailed guidance, although these are referenced as further reading, hyperlinks are useful to take the reader straight to the relevant piece of guidance.</p>			

F. *Managing Change in World Heritage Sites in Wales*

Q10.	Will <i>Managing Change in World Heritage Sites in Wales</i> be effective in helping decision makers protect the Outstanding Universal Value of Welsh World Heritage Sites?		
	Yes	x	No
<p>Comment</p> <p>We consider that the guidance will help decision makers to protect the Outstanding Universal Value (OUV) of World Heritage Sites (WHS). Overall the guidance is well set out and covers the key areas in regard to WHS planning management terminology, context and considerations. Further clarification and additional guidance is recommended in the following areas:</p> <p>2.1 should the third bullet point refer to heritage impact statements as well as/instead of design and access statements (and in 3.2 last bullet point)</p> <p>2.2 The setting of a scheduled monument is also a material planning consideration. The setting of some of Wales' WHSs have been defined and set out in a Buffer Zone, those without a buffer zone will require consideration on a case by case basis when assessing the effect of change on planning management decisions.</p> <p>2.3 Attributes of visual presence and status in the landscape are also important to refer to here, as this in many ways contributes to the OUV of Edward's Castles and Pontcysyllte WHS and the contextual understanding and integrity of all three WHSs.</p> <p>2.4 Management Plans also need to be mindful of the landscape, habitat, species and environmental baseline context, to ensure decisions for the WHS are sustainable and address all material planning considerations.</p> <p>3.2 Local Development Plans Second bullet point starting 'Balance the needs of...' add landscape. As all of the WHSs lie within or adjacent to National Parks/AONBs. We recommend an additional bullet point recognising the importance of WHS for social cohesion, fostering a sense of pride and place and as a focus for education, economic development &amp; tourism.</p> <p>We recommend that a link is made to the sustainable management of natural resources and the Environment Act and that overlaps and connections between the historic and natural environments are recognised and valued.</p> <p>3.3 We suggest that SPGs/Management Plans could also include a guide to likely inappropriate development and which proposals are likely to require Design &amp; Access Statements/heritage impact statements.</p> <p>3.4 As well as identifying views that contribute to the OUV, it would be helpful to identify in the Management Plan/SPG which aspects of setting contribute to OUV (and to refer to the settings guidance) We recommend that the national landscape designations National Parks and</p>			

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Areas of Outstanding Natural Beauty (AONB) are specified in the second paragraph.

3.5 states ‘where a buffer zone exists it should include the immediate setting’ and section 3.15 of the draft TAN24 states ‘where a buffer zone exists it defines the immediate setting of a WHS’. This is contradictory, consistency between the two documents is needed.

Glossary. Buffer Zones. It would help to clarify that the Buffer Zone is not a designation, but a planning tool for screening development that due to its proximity near the WHS could affect the sites OUV. There have been local complaints in relation to the Pontcysyllte WHS that the buffer zone imposes ‘an added layer of protection to the site’. A change of emphasis would be helpful.

Q11.	<b>Will the guidance assist in the consistent management of World Heritage Sites in Wales, especially those which are located in more than one local authority area?</b>		
	Yes	x	No
<p>Comment</p> <p>The guidance and management mechanisms set out to protect the OUV, particularly in 2.4 and 2.5, should encourage and contribute to the consistent management of WHS across local authority boundaries.</p> <p>An explanation of what the OUV means in laypersons terms would be beneficial to help planners and planning applicants in understanding how development proposals can positively, and consistently, address the conservation requirements of the WHS. This information could be set out within a WHS SPG.</p> <p>The recommended shared adoption of SPG by different authorities in 3.3 is good practice, we recommend that collaboration to develop consistent policies is also recommended as good practice.</p>			

G. *Managing Conservation Areas in Wales*

<b>Q12.</b>	<b>Will <i>Managing Conservation Areas in Wales</i> encourage local planning authorities to adopt a consistent approach to conservation areas across Wales?</b>		
	Yes	<b>x</b>	No
<p>Do you have any suggestions as to how it can be improved?</p> <p>3.2 We would welcome an addition of a specific reference to setting in addition to the other factors, wherein adjacent buildings, trees or other features that are not within the Conservation Area contribute to it by forming part of the wider scene in views and vistas, or form part of a functional relationship to the subjects of the Conservation Area (e.g. an adjacent river corridor to a mill or bridge area). Each case will vary but on occasion the contribution of longer distance views and vistas to nearby countryside or landmarks may be important to recognise as well.</p> <p>We welcome the use of character and character areas to identify coherent areas for conservation to avoid the piecemeal effect that a very tightly drawn boundary may lead to.</p> <p>We would welcome additional recognition of landscape character in this section, particularly with reference to wider landscape settings, and the use of LANDMAP information and derived studies to assist with this.</p> <p>8.4 Trees and Open Spaces We welcome reference to both the contribution to character and amenity, and the wider functional context of trees and open spaces as green Infrastructure and reference to Natural Resources Wales here.</p> <p>9.0 Monitoring and Review In reviewing past tightly drawn boundaries we suggest that this will also be a good opportunity to identify settings and recognise them in future management.</p> <p>The point of making good photographic records of buildings from the street is an important one. Equally the record should also include other elements that make up the character of the Conservation Area and its setting, for example streetscapes, tree cover, gardens, boundary treatments, unusual features, views and vistas. This is not with view to preventing any change but collectively the character may be much more than just about the buildings. The structure and quality of spaces between buildings, both public and private, including both hard and soft landscape treatment, may be important to the Conservation of the area. They may also form aspects of the urban design palette that new development should use to integrate with or enhance the Conservation Area, for example extending a tradition of using garden hedges into an adjacent new development.</p> <p>Contacts section: In the contacts section at the end, for Natural Resources Wales we welcome reference to landscape character but would also add seascape character and</p>			

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LANDMAP information to the same point.

Historic Landscape Characterisation:

Finally, there is no reference anywhere specifically to Historic Landscape Characterisation, which has generally been carried out for the Registered Historic landscapes by the relevant Archaeological Trusts. These assessments can add additional historic context to the other forms of landscape assessment that may be used when considering settings.

H. *Managing Lists of Historic Assets of Special Local Interest in Wales*

<b>Q13.</b>	<b>Do the general principles and advice on good practice in <i>Managing Lists of Historic Assets of Special Local Interest in Wales</i> provide sufficient guidance for local planning authorities to set up and use local lists?</b>		
	Yes	<b>x</b>	No
<p>Do you have any suggestions as to how the guidance can be improved?                  Good, clear guidance to enable local lists to be developed. Suggestions for improvements include:                  Fast facts read more like statements, can any existing proven evidence/figures support the statements?</p> <p>Section 1, paragraph 3, recommend add historic landscape to the text in addition to parks and gardens. Selected historic landscapes may be added to the local list where they have a particularly distinctive, or unique, historic character that aids the understanding and recognition of the historic assets as a whole, for example the historic landscape may have a particularly strong and coherent sense of identity and place where historic elements such as buildings, bridges and traditional boundaries have historic unity.</p> <p>2.1 add historic landscape context where relevant                  3.2 would benefit from adding a justification/explanation of boundary                  3.6 Would rephrase that monitoring and review is essential                  3.7 first bullet, add asset as more than properties could be added to the list</p> <p>4. This is an opportunity to add paragraphs on referring to local lists when developing Area Statements, Well-being plans and the work of the Public Service Boards to future proof the guidance and aid the inclusion of the historic environment in these key plans</p> <p>Add 'LANDMAP Methodology Historic Landscape, 2016, Natural Resources Wales' under Conservation and Characterisation</p> <p>Add to Historical Information. 'LANDMAP - The online records for Historic Landscape maps and surveys  <a href="http://www.naturalresources.wales/landmap?lang=en">http://www.naturalresources.wales/landmap?lang=en</a></p> <p>Add NRW contact details to Contacts page 12.</p>			

I. *Setting of Historic Assets in Wales*

Q14.	Does <i>Setting of Historic Assets in Wales</i> adequately explain why setting is important and how it should be assessed?		
	Yes	No	x
<p>Comment</p> <p>Clarity is needed on the use of the terms Register and Designation. Registered Historic Landscapes are not a designation but are included in a Register but the Managing Conservation Areas in Wales document p5 lists the Registered Historic Landscapes among ‘designated historic assets’ i.e. a designation. It should be explicit that Registered Historic Landscapes are not a designation.</p> <p>Clarity is needed as to whether Registered Historic Landscapes are a form of Setting or an Asset. The draft heritage Impact Assessment document refers on its p2 to ‘all of these historic assets’ whereas In the settings document on its p2 ‘What is setting?’ says “...the setting of a scheduled industrial steam engine house might be its associated industrial landscape of quarries, tramways, or waste heaps.” (i.e. a landscape is a setting in which we can relate different individual features to understand a coherent whole). In our view, Registered Historic Landscapes are a heritage asset in their own right and may have their own setting. It is also the case that landscapes, including Registered Historic Landscapes, can form the setting of individual features within them, such as Scheduled Monuments.</p> <p>Settings of Registered Historic Landscapes are not included in the Statement of Purpose – it refers to the Guide to Good Practice, ASIDOHL &amp; Conservation Principles. However these documents do not deal with the settings of Registered Historic Landscapes. It says that the guide is equally applicable to all historic assets, irrespective of their designation but then says it doesn’t apply to Registered Historic Landscapes. This is confusing and seems to imply that Registered Historic Landscapes are not historic assets but the setting to individual assets. It should be clear that Registered Historic Landscapes are historic assets in their own right, with their own settings, but can also form the setting of individual features.</p> <p>The Introduction omits Registered Historic Landscapes as part of the historic environment. They are referred to in 1.23 of TAN24, but not 1.25 (included in other sites). The impression given is that they are not part of, or not an important part of the historic environment, which is of concern. Registered Historic Landscapes should be acknowledged as part of the historic environment and recommend that an explanation of how setting relates to Registered Historic Landscapes is included. Consistency with and within TAN24 is needed.</p>			

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<b>Q15.</b>	<b>Does the guidance explain the visual and especially the non-visual components of setting sufficiently?</b>		
	Yes		No
<p>Comment</p> <p>Suggest add to Factors to be considered when assessing the impact of a proposed change or development on the setting of a historic asset at 4.3 Stage 3:</p> <p>The visual impact of the proposed change or development relative to the character of the historic asset and its setting (not quite covered in the built character &amp; landscape key characteristics)</p> <p>Whether the proposed change distracts from or competes with the historic asset &amp; its setting e.g. through the introduction of movement &amp; noise</p> <p>It would be useful to have some explanation of the use of the terms essential setting &amp; setting and significant views and incidental views.</p> <p>Stage 3 2nd to last paragraph – moderate impacts can be defined as significant in EIA terminology.</p> <p>5. Offsetting – could include reference to recording or survey of features within the setting e.g. features associated with the historic asset.</p>			

<b>Q16.</b>	<b>Does the guidance explain how to take the visual and non-visual components of setting into account during the assessment process?</b>		
	Yes		No
<p>Do you have any suggestions as to how it can be improved?</p> <p>See Q15.</p>			

Additional comments

<b>Q17.</b>	<b>We have asked a number of specific questions. If you have any related issues that we have not specifically addressed, please raise them here.</b>
<p>References to historic assets in the marine and seascape environments could be improved connecting to the UK Marine Policy Statement and the forthcoming Welsh National Marine Plan.</p>	

How to respond

Please submit your comments by 3 October 2016 by email or post.

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### Email

Please send the consultation form to :  
[historicensementleg@wales.gsi.gov.uk](mailto:historicensementleg@wales.gsi.gov.uk)  
[Please include '**Consultation on historic environment regulations and best-practice guidance**' in the subject line.]

### Post

Please send the consultation form to:  
Regulations and Guidance Consultation 1  
Legislation and Policy Team  
Historic Environment Service (Cadw)  
Welsh Government  
Plas Carew  
Unit 5/7 Cefn Coed  
Parc Nantgarw  
Cardiff  
CF15 7QQ