

## Consultation on a proposal for regulations required by the Historic Environment (Wales) Act 2016 and four guidance documents

### Consultation response form

Since this consultation treats a 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 13 January 2017.

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 If someone has asked for their name and address not to be published, that is an important fact we would take into account.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be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published.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.

**Annex 5 — Consultation response form**

<b>Consultation on a proposal for regulations required by the Historic Environment (Wales) Act 2016 and four guidance documents</b>		
<b>Date</b>	14 November 2016	
<b>Name</b>	Jill Bullen	
<b>Organisation</b>	Natural Resources wales	
<b>Address</b>	Welsh Government Building Rhodfa Padarn, Aberystwyth, SY23 3UR	
<b>Email address</b>	jill.bullen@cyfoethnaturiolcymru.gov.uk	
<b>Telephone</b>	0300 065 4706	
<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>	

A. Proposal for regulations under the Historic Environment (Wales) Act 2016 to set out procedures for a review of a decision to designate a scheduled monument or listed building

Grounds for review

<b>Q1.</b>	<b>Do you agree with the grounds of review for designations of scheduled monuments?</b>			
	Yes	<b>x</b>	No	
Comment				

<b>Q2.</b>	<b>Do you agree with the grounds of review for designations of listed buildings?</b>			
	Yes	<b>x</b>	No	
Comment				

When and how should a review application be made?

<b>Q3.</b>	<b>Do you agree that a request for a review should be made within 3 months of receipt of a notice of designation?</b>			
	Yes		No	
If not, what timescale would be appropriate?				
No comment				

<b>Q4.</b>	<b>Should any other information be required in the review application?</b>			
	Yes		No	<b>x</b>
If yes, please specify.				

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### Review procedures

<b>Q5.</b>	<b>Do you believe that the procedures outlined are reasonable and fair for all involved in designation reviews?</b>		
	Yes		No
If not, how could they be improved?			
No comment			

### Award of costs

<b>Q6.</b>	<b>Do you agree with the measures proposed for the award of costs to deter unreasonable behaviour in designation reviews?</b>		
	Yes		No
If not, how could they be improved?			
No comment			

B. Draft statutory guidance for certain public bodies — *Historic Environment Records in Wales: Compilation and Use* — as required by the Historic Environment (Wales) Act 2016

<b>Q7.</b>	<b>Does the draft statutory guidance, <i>Historic Environment Records in Wales: Compilation and Use</i>, clearly set out the roles and responsibilities of the relevant public bodies?</b>			
	Yes	<b>x</b>	No	
How could this section be improved?				

<b>Q8.</b>	<b>Does the draft statutory guidance, <i>Historic Environment Records in Wales: Compilation and Use</i>, give the relevant public bodies adequate guidance on how they may contribute to the compilation of historic environment records?</b>			
	Yes	<b>x</b>	No	<b>x</b>
How could this section be improved?				
The guidance does not indicate how the sharing of new/updated historic environment records to the HER should proceed.				

<b>Q9.</b>	<b>Does the draft statutory guidance, <i>Historic Environment Records in Wales: Compilation and Use</i>, clearly set out how the relevant public bodies should use the historic environment records in the exercise of their functions?</b>			
	Yes	<b>x</b>	No	
How could this section be improved?				

C. Draft best-practice guidance: *Managing Listed Buildings at Risk in Wales*

<b>Q10.</b>	<b>Will the draft guidance, <i>Managing Listed Buildings at Risk in Wales</i>, support the more effective management of historic buildings at risk?</b>		
	Yes	<b>x</b>	No
How could it be improved?			
<p>The draft guidance should include an assessment of the managed listed buildings from the standard flood risk criteria  <a href="https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications">https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications</a></p>			

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<b>Q11.</b>	<b>Does the advice on condition, use and ownership contained in the draft guidance, <i>Managing Listed Buildings at Risk in Wales</i>, cover the key issues?</b>		
	Yes		No
<b>x</b>			
<p>If not, what is missing?</p> <p>A flood risk assessment is required.</p> <p>Add text in bold to include NRW in section 1.4 ‘Other Organisations’  <b>Natural Resources Wales would be able to provide advice on protected species requirements and advice on the need for surveys and derogation licenses.</b> Suggested footnote to add:  <a href="https://naturalresources.wales/apply-for-a-permit/protected-species-licensing/european-protected-species-licensing/bat-licensing/?lang=en">https://naturalresources.wales/apply-for-a-permit/protected-species-licensing/european-protected-species-licensing/bat-licensing/?lang=en</a></p> <p>Add text in bold to 4.1 condition, page 7, bullet point 3  ‘When buildings are already at risk ...provide advice about the nature of the risk and what work is needed to reduce or remove it, <b>including advice on how to consider and address likely impacts on any protected species present.</b></p> <p>Add text in bold to 4.1 condition, page 7, bullet point 6 ‘In some circumstances, there may be a case for enabling development ...Tests setting out when enabling development might be acceptable are given in Conservation Principles for the Sustainable Management of the Historic Environment in Wales. <b>Consideration will also need to be given to likely impacts on any protected species present.</b></p> <p>Page 11 Further Information, Legislation, <b>add links</b> to the Wildlife and Countryside Act 1981 as amended and the Conservation of Habitats and Species Regulations 2010 as amended</p> <p>Page 11 Further Information, Best-Practice Guidance, <b>add a link</b> to ‘Bats in Traditional Buildings’ (2009) English Heritage, National Trust &amp; Natural England)  <a href="https://historicengland.org.uk/images-books/publications/bats-in-traditional-buildings/">https://historicengland.org.uk/images-books/publications/bats-in-traditional-buildings/</a></p>			

D. Draft best-practice guidance: *Managing Change to Registered Historic Parks and Gardens in Wales*

<b>Q12.</b>	<b>Does the draft guidance, <i>Managing Change to Registered Historic Parks and Gardens in Wales</i>, clearly explain the implications of owning a historic park or garden included in the statutory register?</b>		
	Yes		No
<b>x</b>			
<p>How could it be improved?</p> <p>Should be a clearly identified section/heading on how Registration relates to Planning Policy &amp; the planning system, Planning related advice also needs to be given a specific heading.</p> <p>More specifically,</p> <p>1.2 – is there more detail on criteria for Registration e.g. rarity, representativeness, condition? Could reference a more detailed document, as for 1.3 relating to how significance is determined.</p> <p>1.5 – Local authorities ‘must consult us’ – clarify this means Cadw.</p> <p>1.6.3 Qualify the sentence ‘NRW can also provide advice about National landscape designations...’ with ‘NRW can also provide <b>strategic</b> advice about National landscape designations such as National Parks, AONBs and the Register of Historic Landscapes’ and highlight the wording about <b>contacting local planning authority to apply for planning permission.</b></p> <p>1.6.3 NRW ‘may consult us’ – clarify means Cadw</p> <p>2.3.1 – could identify the difference between identified ‘essential setting and ‘setting’ – something that comes up in planning applications and appeals often, with ‘setting’ considered unimportant as ‘opposed to essential setting’</p> <p>2.3.2 – explain more about contribution of parks &amp; gardens to Registered Landscapes as not only about views, though views are important. For example parks &amp; gardens may contribute to the character of the historic landscape or be a key feature of the historic landscape.</p>			



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<b>Q13.</b>	<b>Will <i>Managing Change to Registered Historic Parks and Gardens in Wales</i> help owners and their agents to manage historic parks and gardens to achieve high-quality, sensitive change?</b>		
	Yes		No
<b>x</b>			
<p>How could it be improved?</p> <p>The document could include sections on:</p> <ul style="list-style-type: none"> <li>• Enabling development: how to appropriately manage</li> <li>• Subdivision of property and land within historic parks: how to avoid compromising historic integrity</li> <li>• Sensitive integration of modern development: how to integrate modern needs and utilities within an historic environment, car parking and bin stores etc.</li> <li>• When a new vision for a Historic Park or Garden may be appropriate</li> </ul> <p>2.3.5 Management, avoiding additional permanent boundaries in open parkland is mentioned here, this should also be mentioned under 2.3.8 Management in terms of stock management. Fencing dividing up parkland should be avoided if at all possible and stock management should use historic boundaries. Shelters for stock (horses frequently, but also other stock) can also have a detrimental impact on parkland.</p>			

## E. Draft best-practice guidance: *Managing Historic Character in Wales*

<b>Q14.</b>	<b>Does the draft guidance, <i>Managing Historic Character in Wales</i>, clearly explain what historic character is?</b>		
	Yes		No <b>x</b>
<p>How could it be improved?</p> <p>The text in section 1 encapsulates the range of factors that contribute to historic character well. However the summary diagram on page 20 simplifies this too far so that it seems that it is only ‘buildings and layout’ that are the key contributors. The ‘What is historic character?’ definition in the diagram could be expanded to <b>It’s the unique identity of a place which is a product of its history and expressed in its buildings and landscapes, their form and layout, hidden archaeology and people’s stories and associations.</b></p>			

<b>Q15.</b>	<b>Does the draft guidance, <i>Managing Historic Character in Wales</i>, give sufficient information to support the effective management of historic character?</b>		
	Yes		No <b>x</b>
<p>If not, what is missing?</p> <p>2.3.1 Sources of Information: add seascapes to the Natural Resources Wales bullet on page 5. Suggested additional text <b>Seascape assessments map places in coastal and marine areas based on their character. Natural Resources Wales coordinates this work in Wales.</b></p>			

### Additional comments

<b>Q16.</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>

## How to respond

Please submit your comments by 13 January 2017 by email or post.

### Email

Please send the consultation form to:

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

[Please include '**Consultation on historic environment regulations and guidance 2**' in the subject line.]

### Post

Please send the consultation form to:

Regulations and Guidance Consultation 2  
Legislation and Policy Team  
Historic Environment Service (Cadw)  
Welsh Government  
Plas Carew  
Unit 5/7 Cefn Coed  
Parc Nantgarw  
Cardiff  
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