

RESPONSE TO THE HERITAGE WHITE PAPER HERITAGE PROTECTION FOR THE 21ST CENTURY

Incorporating views from
the Royal Town Planning Institute (RTPI)
the Royal Institution of Chartered Surveyors (RICS) and
The Institute of Historic Buildings Conservation (IHBC)





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1. Foreword

Heritage is an important topic that falls within the responsibility of several departments of government. Successful reform requires joined-up government. What is true for government is equally true for the professional institutions whose members provide a broad range of heritage advice and services.

The Royal Town Planning Institute (RTPI) is the leading professional body for spatial planners in the United Kingdom. It is a charity with the purpose to develop the art and science of town planning for the benefit of the public as a whole. It has over 20,000 members who serve in government, local government and as advisors in the private sector. Many spatial planners are closely involved in the development of policy for and the management of the historic built environment.

The Royal Institution of Chartered Surveyors (RICS) is the world's leading professional body dealing with land, property and construction issues. It has 130,000 members world wide, working in both the public and private sectors and in large and small organisations. Under the terms of the Royal Charter RICS is obliged to act in the public interest in all aspects of its work. RICS firmly believes that it is vital to make the historic environment accessible to all, but that it is equally important to ensure that the built and natural heritage is protected. More specifically, RICS has a Building Conservation Forum dedicated to dealing with conservation issues.

The Institute of Historic Building Conservation (IHBC) is the professional body for building conservation practitioners and historic environment experts working in the United Kingdom. It exists to establish, develop and maintain the highest standards of historic built environment conservation practice, to support the effective protection and enhancement of the historic built assets, and to promote heritage-led regeneration and access to the historic environment for all. Many members are spatial planners and/or work closely with spatial planners.

This document represents a joint response to the Heritage White Paper from three professional institutions, working together. The response has been formed drawing together internal consultations and the results of meetings with members and stakeholders. These include:

- Discussions with other professional bodies and planning interest (Local Government Association (LGA), Institute of Field Archaeologists (IFA), Association of Local Government Archaeological Officers (ALGAO); Built Heritage Forum, Architectural Heritage Fund, UK Association of Preservation Trusts, Civic Trust, Prince's Regeneration Trust, Country Landowners and Business Association.
- Promotion and participation in White Paper dissemination events such as those held by the Society of Antiquaries, Heritage Link and the University of Oxford (OUDCE).
- Promotion of discussion at meetings of link organisations such as the Urban Design Alliance (UDAL) whose membership includes Royal Institute of British Architects (RIBA), Royal Institution of Chartered Surveyors (RICS), Royal Town Planning Institute (RTPI), Institution of Civil Engineers (ICE), Urban Design Group (UDG), Landscape Institute (LI), Institute of Highways and Transportation (IHT), Civic Trust, The Institute of Historic Building Conservation (IHBC), The Institution of Highways incorporated engineers (IHIE)

and the Conference on Training in Architectural Conservation (COTAC) (for membership see <http://www.cotac.org.uk/AboutCOTAC/members.htm>).

- Responses to the IHBC's formal internal Membership Consultation booklet published following the launch of the White Paper, including responses from individual members and from IHBC branch meetings in England and Wales and discussions at the IHBC's governing Council and Policy Committee.
- Consideration by the RTPI Policy and Practice Committee, which is charged with the monitoring and development of planning policy and practice for the RTPI.
- Consideration by the RTPI Marine Spatial Planning Task Group in respect of the marine heritage proposals. This expert group includes representatives in marine related practice from the UK as a whole and hence has enabled full consideration of those elements of the white paper with application beyond England and Wales.

As professional institutions with key roles in the management of the historic and built environment, we are committed to the founding principles of the White Paper, as established through *Power of Place* (2000) and *A Force for our Future* (2001). The IHBC in particular has been extensively involved in the more detailed exploration of the ideas in the White Paper, linked to Heritage Protection Reform (HPR). This involvement has helped identify the many practical issues that need addressing, most of which were recognised in the report to the Culture Media and Sport Parliamentary Select Committee [Protecting and Preserving our Heritage, 20 July 2006]. The fundamental idea of creating a simplified, accessible, accountable, responsive and integrated management system for the historic environment is one that our institutions firmly support and that our members welcome.

Building on this shared aspiration, we want to encourage development of an agenda for integrating conservation strategies and philosophies into wider social, cultural and economic sectors, and to do this by thinking about conservation 'outside the box'. As the White Paper indicates and as we have long demonstrated, built and cultural environment conservation is not a process that can be restricted only to those items demarcated because of 'historic' or 'prehistoric' exclusivity. That is the world of museums. Conservation is about both preservation and enhancement through the positive management of change, applying appropriate standards of management to valued places deserving of extra effort and investment. It must be recognised that the historic environment delivers a range of social and economic goals, in addition to supporting more sustainable patterns of development and regeneration. In particular, historic areas and buildings have crucial roles in supporting diversity and helping towns, cities and rural areas to adapt their economies to meet modern demands.

This paper is intended to lead the way forward. It is not only a response to the government's stated intentions; it is a working tool to guide government on the details of the White Paper and its implications, and a plan to lead the future strategies of our institutions.

Our joint response has three main parts:

- reviewing the substantive issues for heritage protection in the 21st century, providing a framework for how IHBC, RICS and RTPI – alongside the many other stakeholders in the sector – should move forward;
- addressing the proposals and their implementation; and
- responding to the consultation questions.

A presentation has also been prepared by Planning Aid that explains in broad terms the significant role that heritage conservation planning can and should have in delivering social, economic and environmental regeneration objectives, with reference to a large number of case study examples. This presentation has been appended to this response and should be viewed alongside it.

We hope this paper will help refine and, as needed, reform the thinking expressed in the White Paper. Certainly it will provide IHBC, RICS and RTPI with a future strategy on the basis of the White Paper's statement of government's intentions, and to work with government and other organisations to deliver its aims.

2. Substantive Issues: Protecting our Heritage in the 21st Century

Summary

Our institutions fully support the reform drivers and directions identified in the White Paper, and in particular the commitment to retaining or improving current levels of heritage protection. However our practical knowledge of local conservation planning services and our firm commitment to them, allows us to appreciate the real extent to which they are under threat or in decline. It is essential that any changes are accompanied by wider reforms and adequate resources to underpin the new system.

Our institutions warmly welcome the Heritage White Paper, *Heritage Protection in the 21st Century*, as much for what it represents – a commitment to simplify and clarify heritage systems – as for the individual proposals it contains. The White Paper proposes to simplify and modernise the key processes for managing the historic environment, focussing primarily on designation and control. This is a commendable starting point.

We particularly welcome the White Paper's interest in bringing the historic environment as a whole, including scheduled monuments, into the mainstream of wider environmental management, through the planning system. The scale and technical complexity of the necessary legislative consolidation should not be under-estimated. We commend and encourage the willingness and energy of DCMS in identifying and responding to the need for reform.

However this commendation has to be coupled with criticism of the narrowness of the White Paper's approach. Reform must extend beyond the cultural interests of the sponsoring department to the wider operations of government, particularly DCLG and the Treasury. The major benefits to the planning system coupled with the huge economic, social and environmental advantages of properly implemented proposals, should allow DCMS and English Heritage to make a successful case for appropriate investment and support. The range of issues and the need for a broader approach have been evidenced in a recent succession of Select Committee reports (ODPM Select Committee report on the Role of Historic Buildings in Urban Regeneration; Culture Media and Sport Select Committee reports on the Built Heritage and – forthcoming - on Caring for Our Collections; House of Lords Select Committee on Science and Technology report on Science and the Heritage).

The White Paper's recognition that the Historic Environment is a vital part of Sustainable Communities is extremely welcome, but unfortunately comes after 5 years of Planning Reform during which the Historic Environment has been conspicuously absent from ODPM and now DCLG Sustainable Communities initiatives. The longstanding role of Conservation Areas in engaging public involvement has been completely overlooked and there have been considerable practical difficulties in integrating existing Conservation Area appraisals and other conservation policies into reformed local development frameworks: in large part because conservation issues were not considered in an integrated manner when the new system was

designed. Rather than building on progress, this White Paper comes at a time when much ground has to be made up. Further, noting the breadth, scope and joined up nature of other recent government policy positions such as are set out in the energy, marine and planning white papers; it is most regrettable that DCLG and DEFRA in respect of the marine environment are not formal signatories to it.

The White Paper does not go far enough in recognising the social, economic and sustainability benefits of historic environment conservation in terms of both environmental and cultural sustainability, or its impact on the wider arena, for example in fiscal and corporate support and in planning legislation and guidance. This prevents other departments and interests from appreciating the potential benefits or impacts of the proposals. The focus remains on the narrow procedural changes that must underpin the wider reforms – for example the integration of archaeological processes into current practice, and the recognition in that sector of the role of pre-application discussion.

In addition, we are very surprised that the White Paper has not recognised the increasingly integrated nature of conservation and urban design services at local level, or indeed the close integration with spatial planning and regeneration. It is essential that both DCMS and English Heritage recognise this trend and the very considerable conservation and wider social and economic benefits that flow from it.

It is imperative that there is more appreciation of the ongoing impact of wider legislative and procedural reform on the historic environment and its management, including local government re-structuring, energy efficient buildings, sustainability indices and related reforms. It is essential that such reforms are encompassed as far as possible if there is to be an effective implementation of the complex range of proposals identified here.

We recognise that the lack of breadth is in part a result of the origins of the White Paper in the 'cultural' government departments. However the arrival, virtually concurrently, of four key and related review documents, the Heritage White Paper, the Planning White Paper, the Marine White Paper and the review of the General Permitted Development Order, suggest that there was a huge opportunity to link existing historic environment protection into wider place-management processes. It is most unfortunate that the chance to widen the reforms through these concurrent reviews has not been taken. Whilst the Planning White Paper makes limited cross-reference to the Heritage White Paper, it contains no specific proposals to reform those heritage protection matters falling under the CLG remit. In particular, we regret that conservation area reform has not been addressed in the planning White Paper. And we would very much have liked to see more positive proposals to make the delivery of design and heritage-led regeneration easier.

In reality the key to heritage protection depends on 'joined up government' as much as the 'joined-up' historic environment. Effective management under the reforms proposed will only be achieved by integrating the positions of departments responsible for planning, local government, environment and fiscal policy: all of which have a strong bearing on the operation of the heritage system. To succeed, the Heritage Protection Review must be fully resourced and enabled through wider fiscal, legislative, procedural and management reforms.

We have identified 6 broad policy themes emerging from White Paper's proposals that need to be addressed in detail as the reforms progress:

- establishing a supportive financial and fiscal regime;
- establishing a supportive legislative framework;
- supporting effective place management;
- delivering economic development and competitiveness;
- responding to the relationships between the historic environment, economic and social well-being, including community cohesion and social inclusion; and
- responding to the relationship between the historic built environment and climate change.

Establishing a supportive financial and fiscal regime

Reduced investment by government and other core funders in our built heritage is set to undermine the heritage and community factors in regeneration and related developments.

Already around one third of planning applications have potential impact on the historic environment. The recent joint report (Heritage Link, English Heritage, the National Trust, the Historic Houses Association and the Heritage Lottery Fund) prepared to contribute to the Government's forthcoming Comprehensive Spending Review 'Valuing our heritage: The case for future investment in the historic environment' points out that 'without upfront investment implementation will not be possible.' **The Institutions are extremely concerned about the resource implications of the White Paper.**

We call on government in the following terms.

- Government should re-consider the inequitable and unjustified rate at which VAT is charged on repair or refurbishment, but not on new build. There is a current financial incentive to replace old and historic fabric with new, rather than to repair it. The ODPM Committee report on The Role of Historic Buildings in Urban Regeneration (2004) recommended that that '[t]he tax system needs to favour the preservation and reuse of historic buildings rather than deter it.'
- Government should recognise within the fiscal systems the contributions to sustainability of the retention, maintenance and refurbishment of traditional buildings, in particular the capacity for historic buildings and places to reduce carbon emissions when managed using best practice in conservation
- Government should recognise the substantial regeneration and economic development potential of historic places and ensuring that area grant schemes and other supporting mechanisms are properly resourced. The White Paper has been brought forward at a time when resources for historic areas have been cut, both English Heritage's partnership schemes for conservation areas and the Heritage Lottery Fund's Townscape Heritage Initiative programme. We believe it to be essential to reverse these cuts as part of the reform process. Area grant schemes are the big success story of the past decade. They have helped to turn around previously failing areas, attract private sector investment, and transform them into thriving places for people to live, work and spend leisure time. They have delivered substantial economic development benefits and helped to make towns and cities more competitive. We believe that area grant schemes are one of the most successful and important programmes run by the national heritage organisations. If a new protection system is introduced and not supported by such grant schemes heritage protection will only apply to more prosperous areas. However effective the protection system, it will not protect the heritage assets in areas of market failure and high deprivation indices unless accompanied by robust grant programmes. Providing proper resources for area grant schemes and other grant programmes should be a priority for English Heritage and DCMS as part of the heritage protection reform process.

- Government should recognise the role of the public and communities in the care of the heritage.

Establishing a supportive legislative framework

Creating an integrated statutory framework for the delivery of conservation and historic environment services must underpin any integration of heritage protection within wider management systems. Such a framework will bring with it the additional benefit of supporting the sustainable development agenda.

- To secure historic high standards of protection the delegation of responsibility should be accompanied by a statutory responsibility for heritage protection. Such a purpose could address: "a means to protect historic buildings, areas, places and monuments for current and future generations, to provide a framework for managing change, and to promote schemes to enhance and regenerate the built heritage for the wider social and economic good and as a means to creating more sustainable environments".
- Legislation should be amended to provide clarity over heritage protection, removing legal uncertainties (such as whether replacement of windows is material) and ensuring sensible provisions on Permitted Development rights so as to prevent incremental degradation
- The White Paper is marked by its disregard of the Conservation Area issue. The Conservation Area is the historic area to which people relate, in which they live, work and play and where they want to see clear, logical and easily understood controls. The various conservation area grant schemes are the big success story of the past decade, delivering substantial social and economic benefits, especially in under-performing areas. Despite this importance the Conservation Area has become the Cinderella of the historic environment.

Members of our institutions working in local authorities are constantly approached by members of the public who are concerned by what they consider to be harmful alterations to buildings in Conservation Areas, often being carried out by their neighbours. They expect designation to mean something and they are surprised to hear that Conservation Areas offer such weak protection without additional Article 4 controls. What residents, property owners, businesses and even those set to destroy buildings need is simplicity and consistency. Variations in controls from area to area, and even street to street do not help the conservation cause. The public do not understand Article 4 and they are complex, time consuming and highly political to impose.

There is a pressing need to make Conservation Areas simpler, more consistent, more open, and understandable. There is a need for Conservation Area designations to give the kind of protection expected by the public. The designation of a Conservation Area should remove certain kinds of permitted development as a matter of course, without the need for additional designations. Without such a fundamental reform the future of large parts of our historic environment is jeopardised and subjected to further incremental destruction. An integrated approach is needed, combining designation, definition of permitted development, character analysis and pro-active management in a one-stage process.

- The White Paper sets out to simplify heritage legislation and give a clearer and easier regulatory framework for owners of heritage assets but it fails to recognise the realities which most such owners face in meeting a series of potentially conflicting regulatory requirements: Building Regulations, the Disability Discrimination Act, Housing Act, environmental health, energy conservation requirements etc. IHBC members spend much of their time working with owners to try to resolve such conflicts. The White Paper also overlooks the provisions under

the Building Regulations (notably Parts L and M) for special consideration for "historic buildings" (widely defined). The White Paper's failures to fully recognise this wider regulatory context, and the realities faced by historic building owners, severely undermine its potential usefulness.

- The failure to fully integrate the Historic Environment into major Government initiatives needs to be remedied to embed the Historic Environment as a core Government concern. A broader strategic approach would recognise the potential opportunities, for example to integrate Historic Environment information into core local government information management activities (e-government / Best Value indicator BV 157, Freedom of Information Act responsibilities, etc).

Supporting effective place management

A heritage management system has to provide for the multi-layered, complex and potentially surprising nature of heritage assets. Controls and decision making systems must integrate complex issues as simply as possible. The White Paper sets the foundation for this in part, but further action beyond the proposals is essential.

Reforms must secure both delivery and capacity at the heart of local government. It is important that obligations are placed on local planning authorities to identify and care for their historic places, and provide specialised services for their conservation.

Local planning authorities require two things to effectively manage their historic places:

- a properly skilled professional team able to provide expert input into planning decisions, including raising public awareness through outreach and education, and undertaking pro-active enhancement.
- adequate resources specifically supporting conservation and design services and, through fiscal and funding opportunities, providing market support where required.

The reform of heritage protection in local authorities is unlikely to be successful unless both of these conditions are met.

The report by Atkins 'Historic Environment Local Delivery'¹ completed in 2006 emphasises the important positive role of conservation specialists in local authorities as a constructive force for change with a strong local commitment. That report concludes that '[c]onservation specialists working at district level are fully 'plugged in' to the local scene and to the community. These services know the physical character of their area and the detail of development pressures and proposals very well and they have usually developed a network of contacts within the community.... They use highly developed negotiation skills in their close dealings with owners and the general public'.

But this praise for successful services should be set against the IHBC/EH survey into 363 local planning authorities in England. Almost 20% had no specialist conservation service whilst many others relied on part time consultants or officers from other authorities. 30% of local authorities have 1 full time or part time conservation officer. The issue is not so much the current capabilities and professionalism of local conservation services but the future of such services as conservation falls ever further down corporate priorities. Coupled with this is the perception that the

¹ Historic Environment Local Delivery Project Consolidated Report (The Atkins Report), April 2006, for EH and DCMS http://www.culture.gov.uk/NR/rdonlyres/46531C18-134A-425D-A348-E63E74E1187C/0/hrp_atkins_heldreport.pdf

conservation profession has an ageing profile which could see large numbers of experienced officers retiring just as the reforms come into place.

The White Paper makes no mention of 'place-making' or 'place-shaping', or of the relationship of conservation to urban design and other built-environment disciplines. These are themes that also emerge from the Lyons review of local government². Recognition is lacking of the cross-disciplinary nature of conservation services in local authorities. While the Atkins report³ identified the complexity of the delivery mechanisms and the wide-ranging benefits of the outputs across government priorities, the White Paper gives little recognition to how the historic environment must sit within the wider management systems in local government. Similarly, the integration of design and conservation services in local government is recognised in the recent English Heritage-supported first-stage survey of conservation services in planning authorities carried out by the IHBC⁴. This found that around a third of local planning authority conservation staff were involved in a combination of work which includes statutory planning and conservation work but also involves developing conservation led regeneration schemes, capital projects, urban design projects, enhancement and major improvement schemes. Many conservation staff are part of an integrated design and conservation team offering advice not only on the historic environment but also on the design of new build.

Central and local government must value, enable and empower historic environment management through resorting, statutory support and guidance, investment and training. Managing historic places – designated or otherwise - requires input both from communities (to help determine what we value, how it is used and what we want to do with it) and skilled professionals (to devise and deliver management actions). Local conservation services are well integrated into the local planning system and its democratic foundations. It is essential that reforms do not lead to the disintegration of this strong relationship between local conservation and planning in favour of more regional structures.

Suitably trained and resourced professionals must have the capacity, credibility, status and authority to deliver services effectively. We firmly believe that this is the major challenge in reform, and the key to future success.

We call on government in the following terms.

- Government should ensure integrated and meaningful reforms a cross-sectoral and cross-government departmental approach should be developed at a corporate and government level. (as described in the IHBC CMS Select Committee submission appended)
- The definition of historic environment services in local government should be developed, including duties, services, resources and corporate processes
- Government should put in place expectations and resource settlements for local government which make clear that appropriately educated and trained staff should be used.
- Training and skills in private sector advisers is equally vital. We are confident that many of the most high-profile problems with the heritage protection system arise more from a pre-determined antagonism for protection rather than from the process itself. Trained professionals are able to distinguish between that which is culturally significant and that which

² Final Report, The Lyons Inquiry into Local Government, 21 March 2007
<http://www.lyonsinquiry.org.uk/>

³ Historic Environment Local Delivery Project Consolidated Report (The Atkins Report), April 2006, for EH and DCMS
http://www.culture.gov.uk/NR/rdonlyres/46531C18-134A-425D-A348-E63E74E1187C/0/hrp_atkins_heldreport.pdf

⁴ Quantifying Local Planning Authority Conservation Staffing, 2006/7, English Heritage & IHBC

is not. Disagreement tends to arise where guidance is not observed or standards are stretched and conflict often occurs where applicants use professional teams that lack the necessary skills.

- Significant investment in training, professional standards and processes across the entire professional landscape of the historic environment is required.
- Support should be provided for training for professionals, designers, craftspeople and skilled construction workers, including training in traditional building techniques. This could include a national programme to develop building conservation skills in the construction industry, focussing particularly on areas of high deprivation indices.
- Enforcement is a concern that crosses all the areas of heritage protection. It must be properly resourced and have the appropriate legislative and corporate support. Without proper enforcement the impact and long-term effect of heritage and regeneration investment can be lost. The White Paper offers little for enforcement and the rehabilitation of buildings using statutory powers. It is hoped that the reassurance that there will be not weakening of such will be honoured.
- Government should recognise the prevalence of integrated design and conservation services in producing guidance on local historic environment delivery services
- Action is also needed at the central government level, including a rebalancing of DCMS and English Heritage policy, to support privately owned historic built environment resources. We welcome English Heritage's recent recognition of these priorities in its re-drafting of the 'Conservation Principles'. We suggest that review is carried out of national design and conservation bodies such as CABE, the Design Commission for Wales and English Heritage leading to closer working and integration of guidance.
- The most positive and pro-active side of conservation services need to be encouraged and expanded. Performance and involvement differs across authorities. However, many design and conservation services have delivered millions of pounds worth of regeneration, with substantial economic development and community benefits.

Economic development and competitiveness

The White Paper makes some reference to sustainable communities, but does not deal with key Barker 2 concerns such as economic development, productivity or competitiveness. There needs to be a stronger emphasis on the role of heritage in delivering urban regeneration, attracting investment, helping areas and local economies to transform to modern demands, etc. Such initiatives could include:

- Develop best practice for RDAs and other regeneration and funding bodies
- Research the role of heritage in delivering economic development and improving productivity and competitiveness.
- Action to influence development finance, to reduce resistance to funding refurbishment, mixed use development, etc.
- Better promotion and communication of the social and economic outcomes and benefits of conservation. The White Paper does not recognise the success of area grant schemes around the country, or make proposals to build on this success. We would like to see a marked shift of priority away from visitor sites and towards supporting pro-active enhancement and regeneration, especially through area grant schemes. To achieve effective grant support for underperforming areas and areas of market failure and/or high deprivation indices it may be possible to formulate new criteria to focus area grant schemes (EH, HLF and WAG) on such areas.

- Promote the role of local authority conservations service in building partnerships to enable project delivery, in responding to the bidding culture and in successful project formulation and management. This important role was described in the report by Atkins 'Historic Environment Local Delivery'⁵ which stated that local conservations services tend to be 'resourceful in enlisting or partnering with others in the authority and elsewhere to deliver outcomes and schemes..... District conservation services deliver physical change on the ground, frequently by seeking and initiating multi-funded projects, often leading to management of relatively large capital projects.'
- The heritage sector should be encouraged to develop and retain bidding and project management skills.
- Introduce a statutory requirement to carry out Buildings at Risk surveys (with new guidance and/or a performance indicator) to undertake buildings at risk strategies and to include 'mini action plans' for buildings identified as being at risk may be the way forward. Buildings at Risk, a major issue in the conservation and management of the local historic environment, is excluded from discussion in the White Paper.
- Develop closer links between DCMS and DCLG, recognising that while DCMS is the primary funding department for national conservation bodies, DCLG is the primary funder for local government conservation services, and that the outcomes and benefits of heritage fall primarily under the remit of DCLG. Similarly, there is a need to develop closer links between WAG departments.

Relationships between the historic environment, economic and social well-being, including community cohesion and social inclusion

Whilst government policy and practice has strongly acknowledged the economic and social value of managed and visited historic environment sites (cultural visitor attractions), the same cannot be said of the wider built historic context that is largely in private ownership. Historic buildings and areas contribute strongly towards the historic evidence base, character, appearance, value and economic role of many villages, towns and cities. They establish a sense of place and provide an educational resource. They underpin tourism even though they may not themselves be visitable. They provide accommodation for and attract small and medium enterprises. They contribute towards the achievement of regeneration objectives. They provide housing opportunities. They require careful and coordinated approaches to use, re-use and repair if they are to realise their ongoing contribution to society and the economy.

There is a need for an integrated and coherent strategy to realise the added value conservation can bring to economic and social well being through the beneficial and sympathetic management of the historic environment across government and local government. It is essential that this strategy should address the current service weaknesses identified in the Atkins Report⁵.

- The White Paper does not address social agenda planning issues such as the development of mixed uses and tenures, catering for diversity, social inclusion, etc. There is almost no reference to stakeholders – those who own, rent, live, spend recreation time or work in historic buildings or areas.
- It makes passing reference to Planning Aid, but fails to recognise the casework, community planning and education and training programmes provided by the service in respect of design and conservation matters. These services enable the less-well-off, local communities and hard to engage groups to fully participate in the planning of their area.

⁵ Historic Environment Local Delivery Project Consolidated Report (The Atkins Report), April 2006, for EH and DCMS http://www.culture.gov.uk/NR/rdonlyres/46531C18-134A-425D-A348-E63E74E1187C/0/hrp_atkins_heldreport.pdf

- There needs to be a shift in focus by English Heritage, DCMS and CADW from visitors to occupiers and users of historic sites, with emphasis on the role of historic places in supporting communities and diversity and promoting social inclusion.
- DCMS targets for heritage need to be expanded beyond visitors to a range of social and economic factors relevant to stakeholders.
- The sector needs to develop better community engagement skills, and to ensure that national bodies base their guidance and principles on meaningful discussion with communities and individuals.
- DCMS and CADW should have a stake in Planning Aid England and Planning Aid for London on the planning matters falling under that Department's remit. Similar principles apply to the Welsh Assembly Government and Planning Aid Wales.
- There could be a commitment to capacity building and support for local voluntary groups to obtain funding and deliver projects to improve their areas.

Relationships between the historic built environment and climate change

The retention and re-use of historic buildings can contribute to targets and aims for sustainable development. There is still often a lack of awareness of the energy required to manufacture materials and construct new buildings. The destruction of buildings represents the loss of their embodied energy and necessitates a new investment of energy to construct the replacement. Demolition can also contribute to landfill, compounding environmental problems. Conservation can be a wholly sustainable economic activity, maximising the use of existing built fabric, promoting the use of natural materials and minimising the use of new non-renewable materials.

In addition, historic buildings and areas have a key role in supporting mixed use and tenure, pedestrian-friendly environments and more sustainable urban grains and structures.

- Research to identify the carbon effects of heritage conservation actions should be undertaken. This should include urban design-based analysis of the contribution of historic buildings and areas to creating more sustainable patterns of development.
- Heritage conservation policy on global warming should be developed.
- Generic guidance on making historic properties more energy-efficient without damage to their special interest should be provided.

Conclusion

We recognise that it is not the duty of the white paper alone to resolve all the issues. However, given their relevance to the white paper's policy aspirations, it is essential that a substantial 'heritage implementation plan' is delivered to move forward the proposals.

3. Evaluation and Implementation: Parts 1 & 2: England & Wales

Summary

Our institutions recognise the potential of the proposed reforms to reaffirm the value of heritage protection, in particular within the wider place-management practice explored in 'Power of Place' and 'A Force for our Future'. These reforms could lay the foundation for significant reinvigoration of heritage services, and should provide a successful framework for future protection. But such reforms must be introduced with an informed appreciation of their impact, accompanied by appropriate implementation proposals and supported by adequate resources. Otherwise, they will lead to the complication of a marginalised interest already under real threat, rather than to the modernisation of sustainable place-management. The White Paper's proposals are assessed here in the context of these wider considerations.

Joined-up, integrated, cross-sector thinking about the historic environment energised planners and heritage professionals at the start of the heritage reform process. Such thinking was clearly expressed in *Power of Place* and *A Force for our Future*. It has a continuing relevance to the proposed reforms, and has helped us to develop evaluation criteria to help the governments understand the impact of the proposals identified in the White Paper and, and identify priorities for their implementation.

Our White Paper Evaluation Criteria

This section sets out the principles that we have used to evaluate the proposals and issues attached to their practical implementation.

- **Maintain or enhance protection**
New heritage protection controls should ensure that changes to controls, resources and decision making processes do not lead to a diminution of care and protection for assets already assessed as significant, or a disparity between the management of currently identified assets and those that might be identified in the future.
- **Simplify**
Our institutions support proposals to rationalise and simplify the designation and control system for the historic environment, to secure open, transparent, accountable and accessible procedures. However we recognise the potential risks to assets that might emerge from new forms of transparency, accountability and access to information.
- **Delegate**
Our institutions broadly support the proposition that heritage asset decision-making should normally be delegated to properly resourced and structured management systems, capable of responding to local community views and issues. Typically, this means a suitably empowered and resourced local authority conservation service, working within clearly defined democratic processes and planning policy frameworks.

- **Inform**
Governments should continue to encourage and promote the widest possible awareness, understanding and appreciation of the values of the historic environment, to ensure that stakeholders understand the importance of the assets in their care or control, and can manage them accordingly.
- **Train and educate**
A higher skills base should be secured for advisers, decision-takers, managers and stakeholders.
- **Guide and oversee**
Provide guidance for Historic Environment and related services, and how they should operate and integrate within the wider delivery programmes of local government, and ensure that standards are maintained through appropriate direction, oversight and scrutiny
- **Integrate**
Integrating government management processes – including legislation – will bring efficiency to conservation services. If over-complex processes are simplified by new legislation the increased legislation integrates the processes to simplify and bring efficiencies to the system.
- **Invest**
Build capacity to deliver the benefits of the historic environment by establishing a sympathetic complementary framework outside conservation, for example through regularising the VAT regime between existing stock and new build, and ensuring area grant schemes are properly resourced. With carbon trading as a significant global market in its own right, the economic benefits of investment in conservation are more evident than ever before.

The proposals in the white paper and any 'heritage delivery plan' should continue to be tested against these criteria. Where proposals do not satisfy them, they should be reviewed. Where the relevant criteria are not addressed in the White Paper, they should be adopted as concrete targets by governments.

Evaluation of Recommendations in the White Paper

Introduction

For clarity, our institutions have addressed the White Paper proposals in the context of the summary recommendations on pp 8-9 of the published White Paper, elaborated as appropriate by reference to supplementary proposals and numeration provided in the main text.

To recognise how the aspirations of the White Paper apply within Wales' devolved status, unified reference is made to both England and Wales where this is applicable, and specific reference to England or to Wales where this is appropriate.

1.1 We will promote a new holistic approach towards the historic environment by creating a single designation regime that is simple and easy to understand. (England and Wales).

This is warmly welcomed by our institutions, and is recognised as being wholly in accordance with the evaluation criteria identified above. However, serious concerns remain over the practicalities of the proposals in light of resource limitations faced by the bodies responsible for this work. It is essential that adequate resources are provided to secure this aspiration. The immediate danger is that the proposals could, in the absence of sufficient resources, result in simply overlaying a new system on the variety of processes already in place. There should not be any question of this being allowed to occur. DCMS and English Heritage must engage widely to secure the necessary investment. As representatives of informed practitioners in the planning system we are keen to help support that engagement.

- **We will create a single system for national designation to replace listing, scheduling and registering (England) / We will bring together the current designations of listing, scheduling and registered historic parks and gardens into new definitions of historic buildings and sites (Wales)**

This is welcomed as according well with the White Paper evaluation criteria, but concerns remain about the limited recognition of capacity and resources, particularly with regard to transitional arrangements. The change cannot simply add another layer of process or terminology to the existing systems. Allied to this is the need to recognise the public impact of dropping the term 'listed building' which is well understood by people and has a strong brand image.

- **All national designation decisions will be made on the basis of special architectural, historic or archaeological interest. (England) / Designation decisions will be taken in the light of special architectural, historic or archaeological interest (Wales)**

This is warmly welcomed as a natural extension of the single register. To maintain current standards of protection there must be a suitable transition strategy from the existing to the new statutory frameworks which has regard to the body of case law that underpins current protection.

One area where current designation levels will not continue is of Areas of Archaeological Importance (AAI's). While this will only affect a very limited area it can be seen as a regrettable move. The AAI gives a very good comprehensive control over archaeology in the towns it covers and removing it will create a less comprehensive and more fragmented approach relying solely on PPG16.

- **We will make designation decisions easier to understand by publishing new detailed selection criteria for national and local designation. (England) / We see no need in Wales for a major change on selection criteria ...Nevertheless we shall review the criteria ...and consult on the outcome of the review (Wales).**

Again this is warmly welcomed in principle, and the work already carried out has provided significant comfort that this is viable. We welcome the retention of grading and accept that Scheduled Monuments could be graded at I initially, but would urge speedy re-evaluation by professionals applying the new Principles of Selection.

Given the long-running backlog of several thousand errors, anomalies and inadequacies in the existing entries and descriptions for Listed Buildings which still require urgent attention, there can be little doubt that the onus is to be placed on local planning authorities, property owners, or applicants to produce and check the new descriptions. In any case the process of review and updating will take many years to complete, unless provided with substantial

additional resources and charged with changed priorities. As responsible professional bodies and environmental charities, we cannot ignore the importance of the early resolution of these issues.

We welcome the focus on local designations, but caution that there is no capacity in local government to deal with this at present. Any proposals should be backed by concrete resources and/or evaluation criteria if there is any real expectation of their application in the short to medium term.

We welcome the proposed review of selection criteria in Wales, and subsequent consultation.

- **To support the existing selection criteria, we will produce non-statutory selection guides (Wales)**

This is warmly welcomed in principle, although there may be merit in delaying the formal publication of these guides until the review of selection criteria is concluded.

- **We will devolve responsibility for national designation in England to English Heritage.**

While some of our consultees have expressed reservations over this, we do not consider that obstacles are insurmountable subject to the controls and processes securing or improving on the current situation. If English Heritage is to have powers of designation it should also be provided with adequate statutory powers to ensure an appropriate future for designated assets. Examples include the current inability of English Heritage to secure the Compulsory Purchase of Buildings at Risk. However we would caution against any additional obligations being passed to English Heritage without appropriate resources. In Wales, the transfer of statutory responsibility for national designations from NAW to WAG has already been implemented as part of the Government of Wales Act.

1.2 We will improve designation by involving the public in decisions about what is protected and how, and by making the process simpler and quicker.

Again this is warmly welcomed as being wholly in accordance with our evaluation criteria, subject to the reservations identified above regarding the provision of appropriate resources and capacity.

- **We will involve the public in shaping a new programme of national designation.**

This is welcomed in principle, but we would caution that the programme is ambitious. It is essential that current high standards of professional input to designation are maintained. This will ensure that cultural priorities are enriched by a new depth of engagement, and not undermined by interim or localised considerations.

In addition, we welcome thematic designation provided this does not lead to favouring academic assessment over spot-listing's responsive and community-based distinction. This would run against the spirit of the White Paper and its wider aspirations to empower communities. It is not clear whether this aspiration is shared by WAG.

- **We will create new Registers of Historic Buildings and Sites of England to replace existing lists and schedules. (England) / We will set up a unified statutory Register of Historic Sites and Buildings of Wales (Wales)**

This is welcomed as a suitable clarification in line with the evaluation criteria identified above. However it is essential that this is properly resourced so that the new system can be in operation as speedily as possible. In addition a suitable framework for managing between old and new systems must be devised as part of the implementation plan. The resource impacts on building owners, managers, historical and amenity groups, Welsh archaeological trusts and local government, in addition to the entity charged with maintaining the list, also need to be recognised. As discussed below, we do not consider that reliance on the current definition of statutory Historic Environment Records (HERS), is an acceptable reserve in the absence of the proposed new style of register entry.

- **We shall consider whether historic battlefields might form part of the new Register (Wales only)**

This is warmly welcomed. Wales' register of historic parks and gardens, which will form part of the new unified statutory Register of Historic Sites and Buildings of Wales, is one half of a register which also lists landscapes of outstanding or special historic interest, an initiative in which Wales has taken a UK lead. Consideration should be given to including this historic landscapes register, as well historic battlefields, into the new Register.

- **We will open up the system by introducing simpler and clearer designation records and improve public access to these records through a new internet portal (England). Cadw will build on the Historic Wales web portal (Wales)**

This is warmly welcomed, and the IHBC is particularly happy to be directly involved with the development of the Heritage Gateway in England. We are working closely with the Heritage Gateway to secure a substantial information resource for the new protection system. In addition both RTPI and IHBC will continue to emphasise the need to link historic environment information systems with other information management systems, both inside government and outside it.

- **We will update older descriptions to ensure consistency of approach and to provide local planning authorities with clear and up-to-date guidance about the significance of an item and the reason for designation (Wales only)**

It is recognised that in view of the recent completion of the all-Wales listing survey, the well advanced scheduling programme, the Register of Historic Landscapes, Parks and Gardens and the designation of two World Heritage Sites, the quality of information available about designated assets in Wales is good. However, the proposal to up-date some older descriptions and to provide guidance about significance of individual items is warmly welcomed.

- **We will end dual designation (listing and scheduling) for historic assets (Wales only)**

This is consistent with the need for clarity of selection, designation and control and is therefore warmly welcomed.

- **We will open up the system by introducing new consultation and appeal processes (England) / We will extend formal consultation with owners ahead of designation. (and)..We will provide a statutory right of appeal against designation decisions and introduce new arrangements for independent appeal (Wales).**

This is welcome and is in line with the evaluation criteria. However we note the very ambitious timescales, and the very open terms for appeal. We would emphasise the resource commitments that are attached to this. It cannot be allowed to lead to any diminution in the work of the national heritage body. Grounds for appeal need to be transparent. Otherwise appeal could introduce uncertainty and delay. We would highlight the need to maintain or improve on the balance the current system gives to amenity society interests.

- **We will introduce interim protection for historic assets (England and Wales)**

This is welcomed. Interim protection is an essential part of the proposed procedures, in line with the evaluation criteria. However it must be substantial and properly resourced within the operations of the planning system.

- **We will speed up the system and deliver designation decisions faster. (England only?)**

This is welcomed. However it must be substantial and properly resourced as a discrete responsibility within the operations of the planning system. If not, pressure to respond to targets here will lead to the diminution of resources in other areas of responsibility. This would go counter to the evaluation criteria. It is not clear whether this aspiration is shared by WAG.

1.3 We will support sustainable communities by putting the historic environment at the heart of an effective planning system.

This is warmly welcomed by our institutions, and broadly encouraged by all stakeholders. The overarching aspiration is a fundamental part of the White Paper evaluation criteria. However, it is essential that the priorities of the historic environment are not subsumed by the wider planning agenda. Notably there is a specific need for resources, legislation and controls, as well as more generic guidance and capacity building, to ensure that there will not be a diminution of protection. This will be a key challenge for the implementation processes. We have explored the wider issues in chapter 2 above, and would expect close cross-reference to these in the implementation of the proposals.

- **We will streamline regulation by merging Listed Building Consent and Scheduled Monument Consent (England only), and by consulting on the merging of Conservation Area Consent with planning permission (England and Wales).**

There is a broad welcoming of the principle of streamlining systems, not least as this is wholly in line with the evaluation criteria cited above. Unifying Listed Building and Scheduled Monument consent is a logical consequence of the unified register. However, it is recognised that few Welsh local authorities have dedicated archaeological expertise and that there are advantages in Cadw determining the relatively few SMC applications, often in conjunction with applications for grant aid. The continuation of the current control arrangements is therefore appropriate. The proposal that the legislation be framed flexibly to allow Welsh local authorities with appropriate archaeological expertise and procedures to determine SMCs, if they wish to do so, is welcomed.

In the context of merging Conservation Area Consent and planning permission there is some concern that without proper controls, guidance, support and resources, the standards of protection could or would be diminished. The matter is discussed in more detail below. We would welcome and encourage the requirement for a conservation professional to work on applications in Conservation Areas, though this should be tied to the requirement that skilled conservation officers overseeing the internal management of the process.

We would welcome restoration of pre-Shimizu levels of protection for Conservation Areas. This is a priority and should not be tied to the merger of Conservation Area Consent and planning permission.

- **We will work with the exempt denominations to agree the operation of the new Exemption under the new system (England) / We will review the current scope of the Ecclesiastical Exemption and planned changes with the exempt denominations (Wales)**

We welcome a review of Ecclesiastical Exemption in the light of the wider statutory changes, in particular the commitment that church systems should reflect secular systems of control. While perhaps not as simple as the evaluation criteria might suggest, we accept that the special circumstances of places of worship can continue to be recognised.

However there are significant questions to be answered in the review. How will changes to be made to the ecclesiastical system to ensure that it can parallel the democratic and accountable procedures of the secular planning system? If it does succeed in establishing a parallel process, what are its benefits, and by perpetuating duplication of roles does it not fail the test of simplification as considered in the evaluation criteria above?

- **We will introduce greater flexibility into the system through new statutory management agreements for historic sites. (England) / We will introduce HPAs on a voluntary basis (Wales).**

Heritage Partner Agreements will be of limited short-term impact but should be developed as a means of providing clarity and simplification to owners and the public, and to build capacity to designate assets that might not be otherwise manageable under current systems.

Management agreements, like conservation plans and other policies developed by owners, civic interests and local authorities in partnership, can only help develop common ground and understanding. They provide flexibility in managing the consent process and may prevent disputes with owners of large-scale commercial and institutional property. However we recognize they will, in practice, apply to a very small number of buildings and sites and they are not a panacea against intransigence and opposition. If compiled around 'heritage asset consent' they will not cover the need for planning permission, which could still, with such mainly non-domestic properties, be necessary alongside heritage consent.

Consideration needs to be given to how the preparation of such documents is to be facilitated, funded and monitored. The proposed procedure only carries conviction and the

scope for realistic implementation if the *Agreement* and the generally complex and extensive supporting documentation have been soundly and properly devised. From the report on the pilot studies: *Heritage Protection Review* (by David Baker of Historic Environment Conservation, of April, 2006), it appears the proposed procedures for the preparation and adoption of such agreements only offer real benefits for property owners and managers if seen as a long-term investment.

There is a concern that, in the absence of any additional capacity in local government – there is little chance of their having application in the foreseeable future. However we do recognise that, subject to resources, they may well have some impact on the heritage protection systems of the future. The claims on time and fees incurred by both owners and local planning authorities in producing effective agreements and their supporting documentation may be considerable. It is crucial that commensurate resources and guidance are provided if there is to be any expectation of their application.

The contract framework for these agreements must be comparable to the open, transparent, civic-minded and amenity-focussed legislation that is used for heritage protection under the current system. The new procedures must be structured to benefit from synergies between other place management tools such as LDFs, Conservation Plans, Conservation Area Management Plans and World Heritage Site management plans.

- **We will consult on the scope to reduce uncertainty and ensure early consideration of heritage issues through a greater role for pre-application discussion. (England and Wales).**

Please see the responses below. It should be observed that our institutions are quite clear that one of the underlying sources of uncertainty for development in historically sensitive areas is the failure to employ adequately skilled professional advisers familiar with the requirements of the conservation process.

Similarly it should be understood that the role of pre-application discussion is well developed in planning, including through the provision of guidance. Pre-application discussions on heritage proposals already occur widely and continuation of this practice should be encouraged.

- **We will clarify and strengthen protections for World Heritage Sites. (England) / We will strengthen protection and provide more planning policy guidance for World Heritage Sites (Wales).**

This is very much welcomed by our institutions. However this must be closely tied to the production of Management Plans. Such plans should link closely to comparable systems within the planning process, in line with the principle of clarifying the system.

We do wonder how the introduction of strengthened protection for World Heritage Sites in England and Wales will marry with the perpetuation of the existing system in the other UK countries.

- **We will enhance protection for archaeological remains on cultivated land. (England only).**

This is welcome subject to the proper resources additional to current conservation and historic environment services. It is not clear whether the intention is shared by WAG.

- **We will provide local planning authorities with new tools to protect locally designated buildings from demolition (England) / We will bring the demolition of locally important buildings within the sphere of development control. (Wales).**

Local listing is welcome as a statement of commitment to local interests within the planning system in line with the evaluation criteria cited above. In particular guidance for local lists is welcomed, but consideration should be given to making such lists mandatory for all local authorities. Local lists can protect the local environment for the communities that value it.

But against a backdrop of simplification identified in the evaluation criteria, the White Paper proposals offer further complexity. We recognise government concern to reduce regulation as a priority but we are clear on the necessity that local listing should be accompanied by a simple regulatory procedure that is in line with our evaluation criteria.

A simple protection framework is required. The procedure identified in the White Paper, using Article 4.1 Directions to remove newly added permitted development rights, is inappropriate and clearly out of line with the evaluation criteria and the aims of White Paper. The proposal would create a complicated and opaque protection system for locally listed buildings. It would provide complexity and uncertainty to building owners. It would discourage planning authorities from taking steps to protect buildings due to resource commitments and uncertain legal obligations (including compensation). It would alienate civic interests by promoting interest in the local heritage and expectation in local designation which would then fail to materialise.

Modern protection should involve simple designation that brings with it simple controls. Local Lists can be a useful tool especially when supported by firm planning policy. They are part of a wider community led appreciation of heritage. Many locally listed buildings are outside Conservation Areas and therefore currently have no demolition controls. The proposal that demolition of Local List buildings is made 'Development' is welcome. The suggestion that demolition then becomes Permitted Development seems pointless and bureaucratic. If a building is on a Local List there should be a presumption against demolition as for any other designated heritage asset. Any application for demolition should be considered against the same criteria as unlisted buildings in conservation areas, found in 4.27 and 3.16-3.19 of PPG 15 and in circular 61/96.

There is concern also that where Article 4 Directions are used compensation could be payable. Prevention of demolition could lead to substantial compensation costs and is likely to prevent local authorities taking such a designation route.

Threats to buildings may lead local authorities to seek Article 4 Directions as a matter of emergency. This last minute action would create uncertainty and ill feeling with owners. Such a proposal does not, therefore, provide the certainty and simplicity that building owners want and that the White Paper seeks.

Other material alterations to buildings on local lists should, whilst being Development, not then be made Permitted Development. This approach would simplify the system for everyone involved taking away the bureaucracy and uncertainty of Article 4 Directions.

Since the WAG proposal lacks detail it is not clear whether identical procedures will be proposed. However the absence of any reference to proposed new statutory guidance on locally designated buildings in Wales is noted with concern, and WAG is urged to incorporate this into its proposals.

- **We will introduce statutory consultation with Cadw, the Garden History Society and the Welsh Historic Gardens Trust in respect of planning applications affecting registered parks and gardens and their settings. (Wales only).**

This is warmly welcomed. The proposal that the Register of Historic Parks and Gardens should carry more weight and be more consistent with other elements of the designation system is supported. However, it is considered that, even if no new statutory controls are introduced, the Register of Historic Landscapes be accorded more weight by being included in the new unified Register.

- **We will broaden and develop existing work in the area of urban and rural landscape characterisation (Wales only).**

The work currently being undertaken by Cadw staff and others is a development of characterisation of registered historic landscapes has great potential for identifying and celebrating local identity and distinctiveness in the historic environment. Cadw's commitment to broadening and developing this activity is warmly welcomed.

1.4 We will improve the heritage protection system by raising the profile of the historic environment, promoting a more joined-up approach, and increasing capacity at local level.

This is warmly welcomed by our institutions, not least given the extensive threats faced by conservation services, their serious decline in some areas, and their total absence in others. However it must be said that to date the sector has limited confidence in the capacity of the governments at UK level to deliver this laudable aspiration.

We can only urge the governments to progress this by enacting and supporting the changes identified in chapter 2 above. In doing this they need to recognise the strained capacity of local conservation services, including:

- resources
- the age profile of current staff, with many set to retire about the time the changes will be coming in place and with no clear succession strategies in place
- the limited information currently available on conservation services in local authorities, and the absence of projections of how they will evolve over the period until the new proposals are in place, especially in light of widespread legislative and organisational reform
- the apparent lack of substantive direction and scrutiny of the bodies that will take on responsibility for heritage protection
- the current decline in conservation, regeneration and tourism in local authority corporate priorities and budget setting.

Whilst it is assumed that WAG shares the aspirations set out in this section, it is a matter of considerable concern to our institutions that consideration of these issues is almost entirely absent from Chapter 2.

- **We will underpin new legislation with new policy guidance.**

This is welcome and encouraged. Our institutions have waited for many years to see the emergence of updated guidance in the form of firstly PPG and now PPS. The integrated management of the historic environment can not function in a meaningful way without an integrated guidance document to bring together aspects of PPGs 15 & 16. The update of Welsh Office Circulars is also urgently required.

The guidance must be sufficiently detailed to provide effective support for decision-making by both applicants and regulators. It should also be drafted to be relevant and useful in resolving the wider regulatory context affecting conservation decisions. We commend British Standard BS 7913:1998 *A guide to the principles of the conservation of historic buildings*, which both provides an excellent basis for resolving value conflicts and promoting the individual solutions needed for successful conservation, and as a British Standard carries weight in relation to other British Standards and regulations. Much could be achieved simply by making BS 7913 widely available at an economic price.

The proposal for Guidance for Historic Environment Services is also especially welcome. As key institutions responsible for the delivery of these services through our membership, we are very keen to work together in the development of such guidance.

- **English Heritage will implement a new programme of training, support and capacity building for English local authorities and local heritage organisations.**

This statement is warmly welcomed in principle by our institutions, but is inadequate to assure us that adequate capacity and sufficient skilled staff will be available to deliver the White Paper objectives. It would have been both helpful and more credible for this consultation to have included proposals specifically addressing current skills shortages and the additional skills needs arising from the White Paper. In this context it should be noted that the present skills shortages are likely to be magnified by a “retirement time bomb” as many current senior conservation professionals leave the profession from 2010 onwards – at just the time when implementation of the White Paper will require more skilled staff. It would be no exaggeration to say that this White Paper comes at a time of an unrecognised crisis in terms of the availability of suitably experienced professionals, and that this situation is likely to get worse unless very positive action is taken to remedy it.

There must be a clear strategy for providing the professionals needed, in both public and private sectors, and ranging from conservation specialists to other professions (highway engineers, building control, etc) who are aware of conservation issues and the need for special consideration. English Heritage’s HELM initiative, specifically mentioned in the White Paper, has so far only raised awareness, not provided skills development – and so far to a very limited audience. What is needed is a strategy which goes much further, combining a step-change in development of specialist course capacity with workplace-based accreditation / qualifications supported by employers, plus promoting conservation awareness in the training of professionals whose work impacts on the historic environment, and awareness-ranging outreach on a much larger scale. In this context we particularly welcome the new involvement of the IHBC and the RTPI with the strategic development of the HELM programme. The development should identify opportunities for partnership and capacity-building with stakeholder interests, including the professional bodies and the

regional Centres of Excellence. Historic environment skills should be a specifically identified and promoted within Sustainable Communities skills initiatives.

The White Paper does not either adequately recognise the importance of wider training programmes being delivered by other bodies dealing with design and conservation, such as those offered by CABE, IHBC, the Civic Trust, RTPI, Planning Aid, and independent providers. Both IHBC and RTPI deliver successful training, including: national and regional conferences and summer schools; volunteer training, community planning and education for hard-to-engage groups the Urban Design Network, etc. In addition work on accreditation and standards – from National Heritage Training group to COTAC and Urban Design Alliance (UDAL), provide some of many opportunities for forward development. Implementation strategies must begin to develop these.

All these initiatives, although contributing to conservation awareness, will not increase and develop the number of skilled professionals, unless and until there is sufficient employer support. English Heritage has the scope to give, but has not yet provided, a very significant lead *as an employer* in catalysing the coming together of relevant Sector Skills Councils in a cross-sector initiative to promote and support careers, standards, and qualifications in professional historic environment conservation. The demand for public sector training needs to be supported and resourced through DCLG, and given priority in initiatives delivered through the Local Government Employers' Organisation. A specific historic environment counterpart to the PATH "Tomorrow's Planner" programme could be a significant step in drawing in career entrants from under-represented communities.

The need for training, support and capacity building for local authorities and local heritage organisations is, if anything, a more deep-seated and more long-standing requirement in Wales than in much of England. This suite of related issues were highlighted in the Reports of the Welsh Affairs Committee *The Preservation of Historic Buildings and Ancient Monuments* (1993 and 1997), and more recently in WAG's *Review of the Historic Environment in Wales* (2003). Our institutions consider that raising the competence and numbers of those professionally engaged in heritage conservation and raising the profile of the sector and its value both within government and amongst the public at large are the two most important challenges facing the historic environment in Wales. Consequently the silence of the White Paper on these issues as they apply to Wales may represent a missed opportunity. It is hoped that WAG will bring forward proposals on these issues at the earliest opportunity.

Our institutions will be happy to work with the Departments on the development and delivery of the suggested strategy and other initiatives.

- **We will improve access to information about the historic environment by introducing a statutory duty for local authorities to maintain or have access to Historic Environment Records. (England) / We will introduce a statutory requirement on local authorities to adopt and support historic environment records either directly or through the agency of others (Wales).**

Our institutions welcome the White Paper's recognition of the importance of access to high-quality historic environment information to support the conservation and management of the historic environment within the planning system. This is particularly welcome in the light of the evaluation criteria, notably promoting inclusion through easy access to

understanding of our historic places. Properly implemented, providing accessible and comprehensive information is one of the most important benefits the new system can bring, as it will secure quality outcomes as well as promote savings and efficiencies by reducing conflict and contradiction within the process.

However there are three areas in which the proposals, as articulated in the White Paper, should be treated with some circumspection:

- **The impact of statutory HERs on the provision of Historic Environment Services within the planning services**

Statutory status is proposed for Historic Environment Records (HERs), but not for other aspects of design and conservation services. There is a danger that this rather narrow and limited statutory role could deflect staff, resources and capacity from pro-active historic conservation and design project work. Records services should only be given statutory status as an integral part of a wider statutory recognition of design and conservation services. Without such linkages, the situation would parallel the early twentieth century creation of a national record system – the National Monuments Record – without a link to the other change-management processes in place then. We would note that this is just the sort of division in historic environment service that the current White Paper proposals has intended to confine to history.

- **The operation of statutory HERs as support for the legislative reforms**

In our reading – and as recently confirmed in public debate (Oxford, OUDCE, 18 June 2007) – HERs also will have a unique role in the implementation strategy for HPR that is not recognised in their current make-up or terms of operation, their 'Benchmarks'. For the majority of assets lacking formal 'statements of significance' at the time of the commencement of the new system, HERs, supported by the Heritage Gateway, should provide what are in effect 'interim information resources' for consideration during the management process.

However the provision of such a service by the current HER infrastructure is hampered by a lack of clarity in the role of the HER, by resources, and by the absence of agreed base-line standards of historic environment information services in the context of planning requirements. The inclusion of a statutory obligation on the planning authority to support a HER is not a sufficient formal link between the historic environment information that is needed to underpin understanding – a key principle in the new system – and what will be the local planning service's delivery strategy for the historic environment.

- **The function of the HERs as information management systems**

In terms of the actual statutory status, it is proposed that Historic Environment Records take the form in which they have been developed by the archaeological community in conjunction with English Heritage and DCMS. We appreciate that this is a long-held objective among archaeological colleagues, but in the context of Heritage Protection Reform, and of developing new approaches fit for the 21st century, it is a far too narrow approach. As IHBC noted in its response to the HER

Benchmark consultation, the HERs as proposed are Sites and Monument Records re-named, and we still await development to reflect the new and much wider role which their name implies. However we do very strongly welcome initial research efforts by DCMS and DCLG, concurrent with the White Paper, to build links between the varied information systems that form the tools of the conservation officer.

We are concerned that HERs have been developed as primarily digital records. These digital developments have progressed concurrently with increasing disposal and destruction of hard copy planning and other archives. It seems to us that there is a very real risk of efforts and resources being concentrated on the development of digital indexes (HERs as now constituted) to historic environment information, while the primary records to which they refer are at risk of destruction: a more balanced and holistic approach is needed. It is our view and expectation that the management of, and education about, the historic environment should be supported by an integrated approach to information and records, combining hard copy archiving, digitisation, and managed disposal. This should include clear guidance on archiving and disposal of planning records, coupled with guidance on management of records generated through the planning system. The pilot studies carried out for Heritage Partnership Agreements could have been very helpful in assessing such matters; it was therefore particularly disappointing that no attempt seems to have been made to monitor or assess record-keeping for the pilots.

HERs are currently based on benchmarks devised by and for archaeologists. This narrow approach is inappropriate under the White Paper's proposals for their wider role in planning given the existence of European standards (CIDOC) covering architectural, archaeological, and portable heritage, which could have provided a basis for a joined-up approach. A truly joined-up approach to data standards would also recognise the need for linkages with environmental and other data needed to support sustainable management of the historic environment.

We are also concerned that not only do the HER digital standards not meet wider needs in the historic environment, but they are also separate from, and largely incompatible with, recent major e-government and e-planning developments led by DCLG. The management and dissemination of digital historic environment information needs to be considered in this wider e-government context, including: integrated procedures, at local planning authority level, will be needed to manage the new unified consents; designation information will need to be delivered digitally to owners and prospective purchasers through NLIS; consent processes and management agreements will need to be electronically recorded and linked in processes which cross-reference to planning, enforcement, building control, etc.; and the provision of information via the web is required through e-government (both Best Value Indicator BV157, and Freedom of Information Act).

It is our view in this wider e-government context that:

- It will simply not be possible for HERs to function as stand-alone entities: what is needed is **linked systems** in communication with each other (e.g. County SMR / HERs holding archaeological information linked to integrated systems at District /

Local Planning authority level, with information held and managed at the point of need).

- The White Paper has completely overlooked a very significant opportunity to embed the management and dissemination of historic environment information within core e-government duties. The future of historic environment information would be much more secure if fully integrated into e-government, rather than perceived as a separate “add-on” extra.

Much of the above concerns do not apply in Wales where the Historic Environment Records are independently held and managed by the four Welsh Archaeological Trusts on behalf of the local authorities within their respective areas, and the listing process is substantially complete. The service level agreements which exist between most authorities and their trust already provide a mechanism for the free flow of information and the SLAs can be readily modified to take account of the proposed statutory duty. The enhanced status of HERs will not therefore have a consequent effect upon the activities and priorities of local authority conservation staff although there clearly may be an impact upon the staff and resources of the archaeological trusts. HERs are part of an integrated and evolving structure of records of the Welsh historic environment, which includes records held by Cadw, RCAHMW, NMR, and NMGW and access via the new Historic Wales web-portal. The imposition of a statutory duty upon local authorities should include a duty upon them will encourage them to utilise these records in determining effective management of the historic environment.

Conclusion

While we recognise the ambitious scale of the government's intentions, the biggest problems facing the implementation of the new system are a potential lack of resources, both financial and professional, and the transition between old and new systems. Clearly they will be in operation in tandem for a significant period, decades at the minimum. At this stage it is imperative that more detailed thought is given to the transition processes and implementation. Our institutions are very keen to contribute positively to the discussions and to advise on the strategy for implementation.

4. Evaluation and Implementation: Part 3: The Marine Environment

Summary

Our institutions support the principle of extending heritage protection in the marine environment, but call for the closest possible integration between the proposed reforms and current DEFRA proposals for a marine planning system.

Our institutions have also addressed the White Paper marine proposals in the context of the summary recommendations, utilising the same broad approach and criteria outlined in Section 3 of this paper above.

DCMS, along with Ministers in Wales, Scotland and Northern Ireland, will develop an improved UK-wide system of marine heritage protection that can work effectively alongside national systems.

This proposal is welcomed in principle, including the establishment of a UK-wide basis for a marine heritage protection system, recognising the devolved nations interests in administration.

However there is a major concern that such a system should be integrated with the marine planning system that is currently proposed by DEFRA, together with devolved nations emerging proposals for marine planning in their waters.

The white paper proposes to ensure that changes to the marine heritage protection system are *'consistent and compatible with any proposed changes to the wider marine management framework that may be brought forward through a Marine Bill, and wider changes to the heritage protection system on land'*. Whilst such an ambition is superficially laudable, it would be preferable if it went beyond consistency and compatibility to full integration.

An ideal marine planning system would be the place where a marine historic asset is recorded, where policies and decisions about its management are made and where the effects of competing or damaging marine uses are also considered. Above all, the concept of a stream of marine heritage designation and consent that is not shown on a marine plan and comprised within the operation of the marine planning system should be avoided.

- **We will broaden the range marine historic assets that can be protected.**

We support the commitment to review and broaden the extent of protectable marine heritage, including the proposal to develop criteria that reflect the presence of significance and value to nations other than those within the UK, given the long use and global significance of UK seaways.

- **Designation decisions will be made on the basis of special archaeological or historic interest.**

The proposed new statutory selection criteria are welcome in principle, but they fail the evaluation criteria identified in section 2 as the criterion of "*special archaeological or historic interest*" should be expanded to include architectural, marine architectural and other cultural interest.⁶

- **We will make designation decisions easier to understand by publishing new selection criteria for marine designation.**

We support the proposal to continue broad stakeholder engagement in applications to list marine assets.

- **We will introduce simpler and clearer designation records.**

The proposal to designate a zone surrounding a listed asset, within which marine activities would be licensed, with the scope of licensing depending on the nature and significance of the asset is welcomed as a practical response to significant issues in the marine environment:

- that the water column and bed material (including heritage assets) can be mobile, suggesting the need for a wide 'heritage management zone'; and
- marine operations (such as scallop dredging) can also affect wide areas and so precautionary margins around heritage assets are often justified.

However, this proposal demonstrates the likely intimate relationship between the listing and marine licensing and consent regime, suggesting that a Marine Management Organisation (MMO) would be a strong candidate to carry out the tasks of designation, defining the scope of the licensing requirements and determining license applications.

The proposal not to include a grading system for marine assets is justifiable, but only on the basis that a systemic database recording the nature and significance of each listed asset is kept, to support an evaluation of the significance the asset and the effects of works upon it that will have to be undertaken through the marine planning system when proposals are made that could affect its site.

However we do not agree that marine assets should be recorded on the same register as terrestrial assets. Scope should be retained for the marine asset register to develop in different ways and to hold and record different information to that current considered to be appropriate on land. Further, a Marine Management Organisation (MMO) might be a more appropriate custodian of a new unified marine asset register than terrestrial heritage agencies, as it will be the primary user of the data held in the register.

⁶ A possible formulation would be: 'to conserve and enhance those [...] places which are of [special] scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value'.

Source: Planning & Environment Act 1987 (Victoria), Section 4.

- **We will introduce interim protection for marine historic assets.**

We support the proposal for interim protection of potentially listable marine assets.

- **We will consider the scope for a new, flexible consents system, including provision for management agreements.**

We support the proposal for site management agreements to stand instead of the need for repeated license applications for ongoing marine uses.

- **We will introduce a new statutory duty on the Receiver of Wreck to inform heritage bodies about marine historic assets.**

The Receiver of Wreck should be placed under a statutory obligation to report potential marine heritage assets to the relevant authorities.

However on the basis that there is a clear justification for the delegation of designation decisions about land-based assets to national heritage agencies, the justification for the retention of Ministerial designation for marine assets is not well made. It may be that the distinction lies in the raised likelihood of decision having to take into account factors bearing on the national or defence interests, or international relations, but if this is the case, it is not made clear. There remains an argument that a Marine Management Organisation (MMO) or possibly terrestrial heritage agencies should be the designating authority.

The arguable need for a mandatory provision for reporting of wreck/salvage discoveries and the disturbance of potential historic sites should be kept under close review. To the extent compatible with international obligations and the law on salvage, means of ensuring that marine assets are disclosed and evaluated for protection should be developed. Without such means, many marine assets will continue to be effectively 'mined' by salvage undertakings without any consideration being given to the public interest impact of this.

Conclusion

The marine proposals are broadly welcomed. However, opportunities should be taken to fully integrate marine conservation planning and marine heritage management with proposals to plan and manage the marine environment more broadly.

5. The Consultation Questions

Summary

Our institutions broadly welcome the replacement of conservation area consent with an appropriate requirement for planning permission for demolition in a conservation area.

Pre-application discussions on heritage proposals already occur widely and continuation of this practice should be encouraged.

The scope of certificates of immunity from listing should only be extended if applications for such certificates are made subject to formal notification.

Question 1

Should Conservation Area Consent be removed as a specific consent and merged with planning permission? The merger would be combined with amendments to the demolition Direction to ensure planning permission would be required for the demolition of an unlisted building in a Conservation Area and amendments to the General Permitted Development Order to reinstate levels of protection pre-Shimizu.

Since the changes wrought by the Shimizu ruling, the limits of Conservation Area Consent (CAC) restrictions and requirements are not widely understood by the public. As suggested, protection against demolition in conservation areas should be returned to pre-Shimizu levels, providing control over part demolition and giving a greater degree of certainty and more coherence to conservation area provisions and management policies.

The proposal will hopefully simplify the situation and simplification and clarity are to be welcomed.

The reassurance that statutory guidance will require all such applications to involve input from conservation professionals is very welcome and some of the fears of our consultees may be allayed if this requirement is strongly made.

However, a number of concerns have been raised which must be addressed if appropriate levels of protection are to be maintained:

- Currently, applications for demolition are considered against the same broad criteria as listed buildings which are laid down in PPG 15 and circular 61/96. These criteria balance a number of factors but are primarily concerned with establishing the heritage value of the building. There is concern that if CAC were to become part of a normal planning application these criteria for demolition would no longer be given adequate weight or, potentially, even apply. The only relevant criteria would then be the quality of the replacement rather than the architectural or historic qualities of the original. Merging CAC with planning permission should be essentially a procedural clarification that does not allow for a shift of focus away from the principle consideration of the demolition of a building in a conservation area to the consideration of the new development. Indeed it is notable that English Heritage's Conservation Principles specifically note that 'Subjective

claims about the architectural merits of replacement buildings cannot justify the demolition of statutorily protected buildings.’ (para 111).

- As Conservation Areas are to be on the local part of the Register there is a concern that the penalties that link the demolition of listed buildings and unlisted buildings without consent under the 1990 Act may be lost. Appendix No 2 – Proposed operation of Historic Asset Consent does not cover and does not mention conservation areas. There is a danger that the national and local lists become a two level scheme with different criteria being applied.
- It would be appropriate if the proposed new control did not attract a fee for application in the same manner as the existing controls.
- It would be desirable to clarify the extent to which planning permission is required for part demolition, placing it beyond doubt for most purposes. Such work must link closely to parallel Communities and Local Government planning reforms, such as the Householder Development Consent Review (HDCR).

We have commented on the need for simpler, clearer and more consistent controls in Conservation Areas elsewhere in our submission. Conservation Areas are the heritage asset which communities care most about, the most widespread and locally loved manifestation of our heritage. If changes in Conservation Area controls are not brought about communities will see little in the White Paper to protect their historic environment. Without companion reforms to the remainder of Conservation Area controls the White Paper’s underlying aims of simplification and clarity for heritage protection will not be met.

Question 2

As a means of promoting early consideration of heritage issues in large scale developments, should there be new statutory guidance promoting pre-application assessment and discussion for all major planning applications which may affect historic assets?

The benefits of pre-application discussions are already widely recognised. They have long been a central part of practice in the planning system, including heritage conservation and urban design services. To this extent, this ‘proposal’ is not a new one.

Pre-application discussions are most successful where meaningful community and amenity engagement occurs at the pre-application stage. Without this, there is a risk of decisions apparently being taken behind closed doors, limiting the ability for local communities to influence outcomes. Clear guidance needs to be produced over the need and means to engage local communities at a pre-application stage where major applications are involved.

Involvement of stakeholders should not produce a two tier system where some key groups are involved early on in the process and other excluded until the application has progressed too far for them to influence.

We are aware that pre-application discussion – or its de facto equivalent – is provided as a dedicated service by some planning authorities on payment by developers. The practice can have certain benefits, but the potential for conflict with the democratic or civic aspects of the planning system is significant. The proposal should make it clear that the discussions with

local planning authorities will not attract a fee whilst it will most likely be incumbent upon developers to pay for pre application assessment and investigation which may inform that advice.

We wonder what status the advice would be given and are concerned that views as a result of pre-application discussion could become binding if the objective of the reform is for applicants to have certainty. This could be problematic as it could exclude other players in the democratic process not involved in the discussions and could also be influenced by new information which comes to light after the discussions.

Question 3

As a means of providing greater certainty to developers, should the current operation of Certificates of Immunity be expanded to enable an application to be made at any time, and for a site as well as an individual building?

Certificates of immunity can provide valuable certainty to developers carrying out major projects that their site and structures within it are not going to become subject to listing during the re-development process, with unforeseen consequences for the form and costs of the eventual re-development. To this extent, the concept of area-based certificates has merit.

However, whether area-based or for individual structures, a certificate of immunity should not result in potentially protectable assets being assessed to a lower level of rigour than they would be had a listing proposal come forward in due course

Few members of our institutions have had experience of the use of certificates of immunity under the current system and they appear to be scarcely used. This may be because developers believe that an application for a certificate will almost always result in designation or it may be that early intervention from conservation professionals as part of the pre application process results in potential designations being identified and dealt with early on in the process either through spot listing or through negotiation for retention.

There are clear requirements to publicise planning applications and applications for listed building consent. In addition, the White Paper proposes improved consultation measures where buildings are proposed for listing. However, no such requirements exist for applications for certificates of immunity. Local communities are often unaware that such applications have been made and have no opportunity to influence decisions. This inconsistency needs to be addressed before extensions to the scope of certificates of immunity are considered. Advertising and consultation requirements for a certificate would provide opportunities for public and stakeholder comment before a decision is made.

6. Summary

Our institutions fully support the reform drivers and directions identified in the White Paper, and in particular the commitment to retaining or improving current levels of heritage protection. However our practical knowledge of local conservation planning services and our firm commitment to them, allows us to appreciate the real extent to which they are under threat or in decline. **It is essential that any changes are accompanied by wider reforms and adequate resources to underpin the new system.**

Our institutions recognise the potential of the proposed reforms to reaffirm the value of heritage protection, in particular within the wider place-management practice explored in 'Power of Place' and 'A Force for our Future'. These reforms could lay the foundation for significant reinvigoration of the services, and should provide a successful framework for future protection. **But such reforms must be introduced with an informed appreciation of their impact, accompanied by appropriate implementation proposals and supported by adequate resources. Otherwise, they will lead to the complication of a marginalised interest already under real threat, rather than to the modernisation of sustainable place-management.**

Our institutions support the principle of extending heritage protection in the marine environment, but call for the closest possible integration between the proposed reforms and current DEFRA proposals for a marine planning system.

Our institutions broadly welcome the replacement of conservation area consent with an appropriate requirement for planning permission for demolition in a conservation area. However, we consider that care is needed to ensure that this reform does not reduce the needed to consider the preservation or enhancement of the conservation area when making demolition decisions.

Pre-application discussions on heritage proposals already occur widely and continuation of this practice should be encouraged.

The scope of certificates of immunity from listing should only be extended if applications for such certificates are made subject to formal notification.

APPENDIX 1

A presentation, highlighting ways in which built heritage planning and management around largely privately owned heritage assets can deliver social, economic and environmental regeneration objectives has been developed by Planning Aid.

Go to: <http://www.rtpi.org.uk/download/1644/Appendix-1-IHBC-RTPI-PAid-E-.pdf>

APPENDIX 2

The evidence submission made by IHBC to the Culture Media and Sport Parliamentary Select Committee: Protecting and Preserving our Heritage.

The points raised in this submission remain pertinent and illustrate the IHBC's earlier identification of practical issues of heritage reform. The evidence should be considered alongside this response.

Go to: <http://www.rtpi.org.uk/download/1646/Appendix-2-IHBC-CMS-Cttee.pdf>