

# Agenda



## Cabinet Member for Regeneration & Investment

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Date: Friday, 4 November 2016

Time: 10.00 am

Venue: Cabinet Member's Office

To: Councillor J Richards

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Item		Wards Affected
1	<u>Planning Performance Agreements (PPAs) (Pages 3 - 8)</u>	All Wards
2	<u>Response to Welsh Government Consultation on TAN 24: Historic Environment, Secondary Legislation to support the Historic Environment (Wales) Act 2016 and draft guidance (Pages 9 - 30)</u>	All Wards

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# Report

## Cabinet Member for Regeneration and Investment

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### Part 1

Date: 3 November 2016

Item No:

**Subject** Planning Performance Agreements

**Purpose** To seek approval to enter into, and implement Planning Performance Agreements (PPAs) as part of Development Management procedures

**Author** Development and Regeneration Manager

**Ward** All Wards

**Summary** PPAs are a project management tool that the Government has developed to help local authorities and applicants deliver decisions on planning applications for major, complex or long term developments, where appropriate. In essence, a PPA is an agreement between a developer and a local authority (and potentially other key players, such as statutory consultees) setting out who will do what and when. It is designed to address some common problems encountered by local authorities and applicants, such as timescales, resources, and the quality of applications and decisions, by providing a framework and management approach for delivering good quality outcomes. They have the potential to give developers greater certainty and confidence in the planning process. They are not purely a way of delivering decisions faster and are not an income generating tool. They are a way of achieving collaboration between an applicant, the local authority and other stakeholders. In addition to key benefits, there are pitfalls which the following report outlines.

**Proposal** To agree to the introduction and implementation of PPAs as part of the Development Management Service offered by the Council, where appropriate.

**Action by** Head of Regeneration, Investment and Housing

**Timetable** Immediate

This report was prepared after consultation with:

- Head of Law and Regulation
- Head of Finance
- Head of People and Business Change

**Signed**

## 1. Background

- 1.1 Periodically Development Management receive requests to consider entering into a Planning Performance Agreement in order to project manage the planning application process for major developments as well as engagement required for schemes subject to the Developments of National Significance (DNS) and Nationally Significant Infrastructure Projects (NSIP) regulations. Although not universally supported or sought by major developers, there are clearly some larger developers/agents/inward investors that support their use and some that have had experience of them elsewhere. National organisations such as the British Property Federation also actively encourage their use
- 1.2 To date, Newport City Council has not used them as part of its planning service. However, it is apparent that such agreements are suitable for certain types of scheme and we need to have authorisation in place to negotiate and implement such Agreements, where appropriate.
- 1.3 As an entirely voluntary tool, PPAs are not part of the service's statutory function nor is it obliged to consider or enter into them. The Agreements themselves are not legally binding nor is there any recourse available to any party to challenge failure to meet any agreed timetable. It is, first and foremost, a business document – a project management device, that the Authority can enter into if there are merits in doing so. Similarly, any parameters and timetables in the Agreement are included and agreed by mutual agreement and can be tailored to suit the Authority's resources, the expectations of the developer and the nature of the project for example. They will have the effect of overriding the statutory timescales for determination of a planning application as set by Welsh Government. So the 8/16 weeks timescales for applications are replaced by those agreed in the PPA and therefore such applications are effectively removed from the standard performance monitoring process. Applicant rights of appeal to the Planning Inspectorate for non-determination will be applicable if targets are not met. All applications associated with a PPA will need to be subject to normal planning fees but the Agreement is not to be used as an income generator, it must only cover the costs incurred by the Authority to meet the terms of the Agreement.

## 2. The Benefits

- 2.1 These are summarised below:
  - They can afford some developers greater confidence in the planning process by mutual agreement of planning timescales for major or complex proposals;
  - They encourage collaboration between an applicant, authority and other stakeholders;
  - Early discussions associated with a PPA encourages early discussion of key elements of the proposal(s) thereby facilitating the front-loading of the planning process;
  - It can encourage a greater mutual understanding of the project needs and resources required to set realistic expectations and provide greater certainty;
  - It can minimise the risk and costs of appeal;
  - It allows the LPA to recoup the costs of additional resources that may be required in order to meet the terms of the PPA. Such charges can be set by the Authority but would need to be agreed with other parties and must not be profit-making. It is likely that additional staff may need to be recruited to enable an existing member of staff to focus on the development associated with the PPA, the cost of this will be fully met by the PPA;
  - Applications subject to PPA are not subject to normal performance reporting in a similar way to applications where extensions of time are agreed, the 8/16 week determination periods will not apply. However, targets in the PPA must be met or rights of appeal and reporting decisions made outside statutory timescales will apply;
  - They can also be applied to the negotiation of Section 106 legal agreements, reserved matters, discharges of conditions and other consents;
  - In some cases, the Authority may not have in house expertise and skills to consider aspects of the proposal. Ordinarily, this may require the Authority to pay for external consultants for

example. Where skills gaps are identified at an early stage, the cost of this resource can be built into the PPA.

- The Agreement can be flexible in respect of cost recovery, allowing the Authority to agree a capped figure and then invoice on a time basis (for example) in order to ensure that the Authority does not incur unexpected costs.

### **3. The Pitfalls**

3.1 These are summarised below:

- A PPA may be seen as unfair, or lacking transparency as it can be viewed that a developer is being given a preferential service;
- It will impact on existing resources in respect of the preparation, implementation and management of Agreements;
- A PPA may be seen as pre-judging the outcome of a planning application, particularly where money has been paid for non-statutory services;
- It is likely that significant work will need to be undertaken in respect of the preparation of a framework for PPAs and associated charges prior to agreeing to enter into any Agreements;
- PPAs are not appropriate in all cases and should be reserved for those cases where the Authority considers them to have considerable merit;
- Its content must be mutually agreed and cannot be imposed on a particular development, irrespective of the merits of having a PPA in place;
- They are not legally binding and there is no recourse for the Authority if things go wrong;

### **4. Financial Summary**

4.1 The proposed use of PPAs raises issues with regards to staff and financial resources. Discretionary charges for non statutory services can be levied in the same way as the Authority currently charges for non-statutory pre application advice, and there will likely be a need for a charter or framework for such charges in the short term. The preparation and review of the use of PPAs will require staff resources over and above those currently committed, however is it not anticipated that additional staff will need to be recruited to develop the charter or framework, nor to oversee the completion of the actual agreement. However there is likely to be a requirement for additional resources in order to deliver the terms of the agreement. This may be in the form of existing staff being seconded to a certain project and the PPA paying for the temporary replacement of relevant Officers. It may involve the secondment of an Officer from another Local Authority who has better experience of the scheme proposed. Again the PPA would need to cover these costs in their entirety.

4.2 Whilst the PPA process allows for costs to be recouped, the charges will apply after the signing of any Agreement and any requirement to pay these charges will not be legally binding, albeit with major inward investors/developers there is a clear incentive to comply with the terms of the Agreement. Any discretionary charges will need to be open to scrutiny and reviewed as this arrangement is undertaken on a not for profit agreement and cannot be seen as an income source.

## 5. Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Potential additional financial and resource burdens on the LPA.	H	L	Major and complex development proposals already incur significant resource costs by the Authority. Following initial training, PPAs should not increase these costs as any extraordinary resource implications should be recouped via the Agreement.	Development Services Manager
The Authority will be requested to enter into PPAs in all cases	H	L	PPAs will not be acceptable in all circumstances. If significant requests arise in the future, the Authority can legitimately refuse to enter into PPAs and only accept cases where it believes there is significant merit in doing so. If regularly used, the Council will need to prepare a Charter or framework to inform the PPA process and further clarify the circumstances in which they may be appropriate.	As above
Other stakeholders will consider them unfair and unaccountable	M	M	A lack of knowledge of PPAs may result in criticism from other stakeholders of the planning system who may view it as a method to leapfrog normal planning services for a premium. PPAs will need to be carefully worded, publically available and mutually agreed and any charges made must reflect resource costs only.	As above

## 6. Links to Council Policies and Priorities

- 6.1 The Development Management service is a statutory function of the Council. PPAs would assist with the delivery of the Council's policies and priorities through the determination of planning applications, provision of pre application planning advice and post determination services such as discharges of conditions, to a mutually agreed timetable.

## 7. Options Available

- 7.1 The options available are:

- a) To proceed to agree to PPAs in appropriate circumstances, i.e. on suitable major proposals or schemes subject to DNS or NSIP regulations, where an applicant requests or agrees to it and where the Head of Regeneration, Investment and Housing considers a PPA will be of mutual benefit to the scheme and service delivery;
- b) To proceed to confirm that the Council will not enter into PPAs in any circumstances;

## **8. Preferred Option and Why**

- 8.1 Option (a) above is the preferred option. The proposed use of PPAs has implications for the function of development management within Newport and may raise a number of concerns along with many benefits in appropriate circumstances. It is therefore important that the Council's views are taken into account in its decision to offer PPAs as part of its Development Management Service.

## **9. Comments of Chief Financial Officer**

- 9.1 Resources will be required for the Council to implement and provide the new scheme which will be funded by the additional income streams developers will pay for the service once it is established.
- 9.2 A framework for setting fees and recovering costs will need to be developed. The Council must carefully monitor both the costs incurred to implement and provide the scheme along with the charges made to ensure it is seen to be provided on an equitable and not for profit basis.

## **10. Comments of Monitoring Officer**

- 10.1 The proposed Planning Performance Agreements are in accordance with the Council's incidental planning powers and the power under Section 93 of the Local Government Act 2003 to charge for discretionary services. The agreements are effectively a project management tool which Council and developers can use to agree timescales, actions and resources for handling particular applications. They cover the pre-application and application stages but may also extend through to the post-application stage and the negotiation of section 106 agreements. Planning performance agreements can be particularly useful in setting out an efficient and transparent process for determining large and/or complex planning applications and would not be appropriate for all types of planning applications. The Council will, therefore, need to establish clear guidelines and charges for the use of these PPA's, to cover the costs of providing these discretionary planning services. It also needs to be made clear that the project management services provided under these PPA's will not compromise the impartiality or objectivity of the planning application process.

## **11. Staffing Implications: Comments of Head of People and Business Change**

- 11.1 The proposal to move to a more efficient way of working through Planning Performance Agreements in appropriate circumstances is supported.
- 11.2 The involvement of stakeholders and requirement for transparency is emphasised under the Wellbeing of Future Generations Act 2015 and as such the Cabinet Member will need to be assured that the process identifies the involvement of stakeholders when PPAs are used, noting the risks identified.
- 11.3 There are no direct HR implications contained within this report. However any additional staffing resource that may be generated by this approval (ref: p2.1) would need to be considered via a recruitment business case.

## **12. Comments of Cabinet Member**

12.1 Cabinet Member has approved the report.

## **13. Comments from Non Executive Members**

None received

## **14. Local issues**

14.1 The proposals affect all wards of Newport.

## **15. Scrutiny Committees**

15.1 The Consultation Paper has not been through Scrutiny Committees.

## **16. Equalities Impact Assessment**

16.1 N/A

## **17. Children and Families (Wales) Measure**

17.1 N/A

## **18. Consultation**

18.1 The Council has not undertaken any consultation in relation to this report. Officers from Development Management have been involved in the preparation of this document and examples of PPAs successfully used by neighbouring Local Authorities have been considered.

## **19. Background Papers**

19.1 None.

Dated: 3 November 2016



# Report



## Cabinet Member for Regeneration and Investment

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### Part 1

Date: 3 November 2016

Item No:

**Subject** **Response to Welsh Government Consultation on Technical Advice Note 24: Historic Environment, Secondary legislation to support the Historic Environment (Wales) Act 2016 and draft guidance**

**Purpose** To outline the introduction of a new Technical Advice Note, Secondary Legislation and guidance that Welsh Government is seeking to introduce with regard to the historic environment and to respond to their consultation.

**Author** Planning Policy Manager

**Ward** All

**Summary** Welsh Government is seeking to introduce a new Technical Advice Note, Guidance and Secondary Legislation to support the recent introduction of the Historic Environment Act. Planning plays a significant role in the protection and conservation of the historic environment and their introduction will ensure the historic environment is well-protected and accessible. This consultation will have implications for the preparation of future Local Development Plans and the consideration of Listed Building Consents, Conservation Area Consents and some planning permissions.

**Proposal** **To respond to the Welsh Government Consultation paper as per the contents of this report and answers to specific questions set out in Appendices A and B.**

**Action by** Head of Regeneration, Investment and Housing

**Timetable** Immediate

This report was prepared after consultation with:

- Head of Law and Regulation (Monitoring Officer)
- Head of Finance (Chief Finance Officer)
- Head of People and Business Change
- Planning Policy Team

- Law and Regulation (Planning and Land)

**Signed**

## 1. Background

- 1.1 The Historic Environment (Wales) Act 2016 was enacted to make important improvements to the existing systems for the protection and management of the Welsh historic environment. The Act stands at the centre of an integrated package of secondary legislation, new and updated planning policy and advice, and best-practice guidance on a wide range of topics. Taken together, these will support and promote the careful management of change in the historic environment in accordance with current conservation philosophy and practice.
- 1.2 This consultation seeks views on:
- Secondary Legislation:**
- Regulations to set the interest rate for costs accrued from urgent works
  - Procedures to claim for compensation associated with temporary stop notices for scheduled monuments and listed buildings
  - Simplification of scheduled monument consent procedures
  - A requirement to include heritage impact statements as part of the application process for scheduled monument consent, listed building consent and conservation area consent.
- Guidance:**
- Managing Change to Listed Buildings in Wales
  - Managing Change in World Heritage Sites in Wales
  - Managing Conservation Areas in Wales
  - Managing Lists of Historic Assets of Special Local Interest in Wales
  - Setting of Historic Assets in Wales
- 1.3 All these documents and proposals have been developed as components of a wider programme to improve the protection and management of the Welsh historic environment that is linked to the implementation of the Historic Environment (Wales) Act 2016. All documents and proposals are the subject of this consultation response.

## 2. Consultation Responses

- 2.1 Full details of the consultation response concerning the proposed Secondary Legislation can be found in Appendix A of this report.
- 2.2 This Technical Advice Note is welcomed and is in the main supported. The consultation response concentrates on clarification of points raised within the TAN but is supportive of the overall purpose of the document. It should be noted that the comments provided do not include a response to the questions raised on World Heritage Sites because of the lack of such sites within Newport's authority boundary.
- 2.3 Comments include the need for amendments to the text to ensure the use of consistent language between legislation, planning policy and guidance. This ensures clarity in the application of heritage measures. The main points raised within the consultation response are set out within this paragraph; full detail can be viewed in Appendix A. The TAN does not mention the use of Archaeologically Sensitive Areas within the development plan system. This is a planning designation that can be utilised within a Local Development Plan and can aid in the sustainable management of such finite resources as archaeology and should be mentioned within this document. There is no mention of the new system of Heritage Partnership Agreements and it is considered that the TAN should note this new process of agreeing a number of proposed works to a site within one agreement which may save time and provide certainty for a complex site. The need to clarify that the

whole building is listed and that the list description is not a definitive list of parts of a building that need to be protected. Understanding the character and special character of a building is broader than this. The need to justify why a listed building could not be retained in a new development is supported and ensures that such considerations are clearly dealt with in the process. The need for increased sustainable methods of construction for fuel and power etc. is welcomed but that this is not at the expense of the special character and long term condition of the building, which itself has embodied energy. Finally, clarification as to what constitutes substantial demolition would be welcomed.

- 2.4 Full details of the consultation response concerning the proposed Secondary Legislation and Guidance documents can be found in Appendix B of this report.
- 2.5 The proposed Secondary Legislation set out within this consultation is supported. The proposed interest rates and levels of compensation are deemed appropriate. The introduction of Heritage Impact Assessments are welcomed and should ensure that information supplied within a HIA is suitable and thorough enough to enable a straightforward consenting process to occur. There is currently a lack of consideration and detail provided on the historic significance of a proposal from many applicants and this causes delay and unnecessary complication. The introduction of HIA will enable applicants a clear understanding of the level of detail and thought required when submitting applications for scheduled monument consent, listed building consent and conservation area consent.
- 2.6 The proposed guidance documents are welcomed and for each there are minor comments made concerning points of clarification and emphasis to strengthen the guidance. The main points are set out within this paragraph. It is considered that the replacement of the Design and Access Statement with Heritage Impact Assessments is better placed to get the information required for heritage type applications. The use of characterisation studies to create baseline evidence of a Conservation Area is considered worthwhile. This background study of the broader historic area can include assistance from external public groups who can buy into the process and the outcome of the assessment creates an understanding of the significance of an area which is beneficial to the planning process. It is considered that the creation of lists of historic assets of special local interest may raise expectations that such locally recognised buildings can be protected. In reality this is very difficult to achieve as well as their being worrying resource implications from this proposed action.
- 2.7 In conclusion, the Welsh Government documents and secondary legislation set out as part of this consultation are broadly welcomed but it is felt minor changes are required to ensure the best use of these proposals.

### **3. Financial Summary**

- 3.1 Responding to the consultation will have no financial implications on the Council. If the consultation proposals are approved as currently written, it is not likely to have any financial implications to the Council.

### **4. Risks**

<b>Risk</b>	<b>Impact of Risk if it occurs*</b>	<b>Probability of risk occurring</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its</b>	<b>Who is responsible for dealing</b>
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	(H/M/L)	(H/M/L)	effect	with the risk?
The Council does not respond and its views are not considered	M	L	Proposing a response to be submitted to Welsh Government	Planning Policy Manager
Risk of having unclear national planning policy, guidance and secondary legislation on the historic environment	L	L	Responding to the Welsh Government consultation to make the Council's views known.	Planning Policy Manager

\* Taking account of proposed mitigation measure

## 5. Links to Council Policies and Priorities

5.1 The LDP is one for the four statutory plans the Council has to produce. Ensuring an adopted plan is in place and is continually reviewed is a corporate priority. The Development Management service is also a statutory function of the Council. The introduction of a new TAN and new guidance will have implications for the preparation of future LDPs and the planning application determination process.

## 6. Options Available

6.1 The options available are:

- a) Respond to the Welsh Government as per the proposed response set out in Appendices A and B;
- b) Send an amended response to Welsh Government;
- c) Not to respond to the consultation.

## 7. Preferred Option and Why

7.1 Option a) is the preferred option for the reasons outlined in this report.

## 8. Comments of Chief Financial Officer

8.1 As noted in the report – responding to the consultation have no financial impacts and the changes recommended should also have no financial impact.

## 9. Comments of Monitoring Officer

9.1 There are no specific legal issues arising from the Report as the Welsh Government is simply seeking responses at this stage to its consultation document on the proposed new Technical Advice Note, Guidance and Secondary Legislation to support the new Historic Environment Act. The proposals are to be supported, in principle, albeit that there are a number of points of technical detail that need further clarification.

## **10. Staffing Implications: Comments of Head of People and Business Change**

- 10.1 Newport is fortunate to have some exceptional historic buildings and environments which contribute to the economic, social, cultural and environmental wellbeing of the city. Protection and conservation of the historic environment is therefore vital to ensure future generations will also benefit from it. The Welsh Government documents and secondary guidance will play a welcome part in this and the proposed response to the consultation will help ensure that the contents of the documents are correct.

## **11. Local issues**

- 11.1 The Planning Policy Wales applies across the whole of Newport

## **12. Scrutiny Committees**

- 12.1 No consultation has taken place with a Scrutiny Committee.

## **13. Equalities Impact Assessment**

- 13.1 This is a Welsh Government consultation.

## **14. Children and Families (Wales) Measure**

- 14.1 This is a Welsh Government consultation. It is not believed that Welsh Government has specifically targeted children and families to respond to this consultation.

## **15. Consultation**

- 15.1 Internal consultation has taken place within the Planning Policy Team which includes the Council's Conservation Officer. The Welsh Government is seeking responses by 3 October 2016.

## **16. Comments from Non Executive Members**

None received.

## **17. List of Appendices**

APPENDIX A: Proposed Council response to Secondary Legislation and Guidance  
APPENDIX B: Proposed Council response to Technical Advice Note 24: Historic Environment

Date: 3 November 2016

## Tan 24 Proposed Consultation Response

### CONSULTATION FORM

#### Technical Advice Note 24: The Historic Environment

We want to know your views on the proposed changes to the Welsh Government's planning policy on the historic environment.

Please submit your comments by 3 October 2016

If you have any queries on this consultation, please email: [planconsultations-b@wales.gsi.gov.uk](mailto:planconsultations-b@wales.gsi.gov.uk) or telephone: 029 2082 6802 / 3524

#### Data Protection

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

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

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

#### Confidentiality

Responses to consultations may be made public on the internet or in a report.

If you do not want your name and address to be shown on any documents we produce please indicate here

If you do not want your response to be shown in any document we produce please indicate here

## CONSULTATION FORM

Technical Advice Note 24: The Historic Environment		
<b>Date</b>	29 <sup>th</sup> July 2016	
<b>Name</b>	Matthew Sharp	
<b>Organisation</b>	Newport City Council	
<b>Address</b>	Newport Civic Centre, Newport, NP204UR	
<b>E-mail address</b>	<a href="mailto:Ldp.consultation@newport.gov.uk">Ldp.consultation@newport.gov.uk</a>	
<b>Telephone</b>	01633 210058	
<b>Type</b> <i>(please select one from the following)</i>	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self-help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

<b>Q1</b>	<b>Do you agree that the approach taken achieves a balance between the sustainable management of change and the protection of the historic environment in Wales? If not, how do you think this can be done?</b>	<b>X</b>
	Section 1 of the draft TAN contains advice on the sustainable management of change affecting the historic environment.	
	<b>Agree</b>	<b>X</b>
	<b>Neither Agree nor Disagree</b>	
	<b>Disagree</b>	
<b>Further comments</b>		
Paragraph 1.27 suggests that proposals affecting the setting of historic assets will be compared to the existing and not against some past scenario. It needs to be clear that this is only the case when the existing situation is lawful.		



<b>Q2</b>	<b>Do you agree that the advice regarding the relationship between nature conservation and the historic environment is clear? If not, how do you think the advice can be improved?</b>	<b>X</b>
	Section 1 of the draft TAN contains advice on the relationship between nature conservation and the historic environment.	
	<b>Agree</b>	
	<b>Neither Agree nor Disagree</b>	<b>X</b>
	<b>Disagree</b>	
<b>Further comments</b>		

<b>Q3</b>	<b>Do you agree that the advice to local planning authorities to develop locally distinctive policies and guidance on the historic environment is clear? If not, how can it be improved?</b>	<b>X</b>
	Section 2 of the draft TAN contains information on how the development plan process should consider the historic environment.	
	<b>Agree</b>	<b>X</b>
	<b>Neither Agree nor Disagree</b>	
	<b>Disagree</b>	
<b>Further comments</b>		
On page 11 paragraph 2.3 the third bullet point. Suggest revising wording after 'category' to enable authorities to use their own registers or information as well as the All-Wales list.		

<b>Q4</b>	<b>Do you agree that the advice on how World Heritage Sites are to be considered in the planning process is clear? If not, how do you think this can be improved?</b>	<b>X</b>
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	Section 3 of the draft TAN contains information on World Heritage Sites.	
	<b>Agree</b>	
	<b>Neither Agree nor Disagree</b>	<b>X</b>
	<b>Disagree</b>	
<b>Further comments</b>		
N/A		

<b>Q5</b>	<p><b>Do you agree that the advice on how archaeological remains are to be considered through the planning process is clear? If not, how do you think the advice can be improved?</b></p> <p>Section 4 of the draft TAN contains information on archaeological remains.</p>	<b>X</b>
	<b>Agree</b>	
	<b>Neither Agree nor Disagree</b>	<b>X</b>
	<b>Disagree</b>	
<b>Further comments</b>		
<p>There is no mention of Archaeologically Sensitive Areas within the TAN which is a key planning consideration. The TAN goes straight into Development Management considerations and does not mention the way in which Development Plans can manage this resource.</p> <p>Para 4.2 It may be more suitable instead of using the term 'expert' another term such as qualified competent persons.</p>		

<b>Q6</b>	<p><b>Do you agree that the advice on how particular historic assets, namely 'historic parks and gardens' 'historic landscapes' and 'assets of special local interest', are to be considered through the planning process is clear? If not, how do you think the advice can be improved?</b></p> <p>Sections 7 to 8 of the draft TAN contain information on how such assets are to be considered through the planning process</p>	<b>X</b>
	<b>Agree</b>	<b>X</b>
	<b>Neither Agree nor Disagree</b>	
	<b>Disagree</b>	

**Further comments**

Para. 7.3 states that proposals affecting a registered park and garden will require the relevant consent before work commences. Suggest that the term 'consent' is not quite right in this context and permission/consent may be required, but also this suggests that all work will require some form of consent when this is not actually the case.

<b>Q7</b>	<b>If you have any related issues which we have not addressed, please let us know.</b>	<b>X</b>
	<b>Agree</b>	<b>X</b>
	<b>Neither Agree nor Disagree</b>	
	<b>Disagree</b>	

**Further comments**

There is no mention of Heritage Partnership Agreements within the TAN. It is felt that at least a signpost to these agreements will ensure that such an approach is known to all parties.

The consistency of language is critical within all the documents, so that language is consistent between legislation, policy and guidance to avoid confusion.

Paragraph 5.5 where the Welsh Ministers propose to include a building on the list or remove them, it is noted that they must inform owners and occupiers, however, they also have to inform Local Planning Authorities and this is missing here.

Para 5.7 The text as written suggests that the list description explains why the building is of special interest. However this is not the case and to avoid confusion with applicants is suggested that the text is reworded. For example it could be amended to: List descriptions draw attention to those features of the building which led to listing, and may explain why the building is of special interest.

Para. 5.9 notes that there will be times when repairs and minor alterations may not require listed building consents which can be done with written agreement from the local authority. This would be likely to result in excessive paperwork and cause confusion to applicants as no formal agreement is technically required. Suggest rewording for those seeking minor works to seek advice from the local authority before undertaking work.

Para 5.14 by footnote 68, this suggests that the Design Commission for Wales are the only specialists but it is important to note the advantages and need for the involvement of specialist conservation professionals throughout the design process.

The last bullet point in para 5.15 notes that need to consider the reason why a listed building could not be retained in a new development. This is particularly welcomed.

Para 5.29 notes that local planning authorities should be sympathetic towards the alteration of listed buildings and help them meet the building regulations regarding the conservation of fuel and power. This should stress the need for such alteration to be carried out in a way that safeguards the special character of the building and does not compromise its condition in the longer term. It would also be useful to reference the embodied energy in buildings and the environmental benefits of the use of sustainable materials and the retention rather than replacement of historic fabric. Signposts to further guidance from sources such as the Sustainable Traditional Buildings Alliance (STBA) may also be helpful.

Para 6.11. The current wording seems a little contradictory as it states that demolition amounts to the

removal of a whole building, but then goes on to suggest that the removal of everything but a façade would also be demolition. There should perhaps be further discussion of the concept of “substantial demolition” and that there are other circumstances when consent might be required. Clarity as to what constitutes substantial demolition would be welcomed; this is possibly beyond the scope of a TAN, but further guidance might assist.

### How to respond

Please submit your comments by 3 October 2016, in any of the following ways:

Email	Post
<p>Please complete the consultation form and send it to :  <a href="mailto:planconsultations-b@wales.gsi.gov.uk">planconsultations-b@wales.gsi.gov.uk</a>            [Please include <b>Technical Advice Note 24: The Historic Environment</b>’ in the subject line]</p>	<p>Please complete the consultation form and send it to:            TAN 24 Consultation            Planning Policy Branch            Planning Directorate            Welsh Government            Cathays Park            Cardiff            CF10 3NQ</p>

Additional information
<p>If you have any queries about this consultation, please contact:            Email: <a href="mailto:planconsultations-b@wales.gsi.gov.uk">planconsultations-b@wales.gsi.gov.uk</a>            Telephone: 029 2082 <b>6802</b> / 3524</p>

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

### Consultation response form

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

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

If you have any questions, please email:

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

or telephone:

01443 336091 / 01443 336090

<b>Data Protection</b>	
<p>Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.</p> <p>The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.</p> <p>Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.</p>	
<b>Consultation on proposals for secondary legislation to support the Historic Environment (Wales) Act 2016 and various best-practice guidance documents</b>	
<b>Date</b>	August 2016

<b>Name</b>	Matthew Sharp	
<b>Organisation</b>	Newport City Council	
<b>Address</b>	Civic Centre, Newport, NP204UR	
<b>Email address</b>	Ldp.consultation@newport.gov.uk	
<b>Telephone</b>	01633210067	
<b>Type</b> <i>(please select one from the following)</i>	Individual	
	Business	
	Local planning authority	/
	Government agency/Other public sector body	
	Professional body/Interest group	
	Voluntary sector (community group, volunteer group, self-help group, cooperative, enterprise, religious group, not-for-profit organisation)	
	Other group not listed above	

**Confidentiality — Responses to consultations may be made public on the internet or in a report.**

If you do not want your name and address to be shown in any documents that we produce, please indicate here

If you do not want your response to be shown in any documents that we produce, please indicate here

## Proposals for regulations and procedural changes

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

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

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

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

C. Simplification of the scheduled monument consent process

<b>Q3.</b>	<b>Do you agree with the mechanism proposed for a simplified scheduled monument consent process for uncontentious works?</b>		
	Yes	/	No

## D. Heritage impact statements and associated guidance

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

<b>Q5.</b>	<b>Do you agree that heritage impact statements should replace design and access statements for listed building consent applications?</b>		
	Yes	/	No
A Listed Building Consent requires detail and the HIA is better placed to get the information required for an application than the previous DAS was.			

<b>Q6.</b>	<b>Do you agree that an access statement should be required in any heritage impact statement where the proposed works would alter the means of access to or within a listed building?</b>		
	Yes	/	No
Yes, the equal access / or not needs to be clearly considered and where it cannot be achieved this is clearly justified.			

<b>Q7.</b>	<b>Do you agree with the proposed contents for a heritage impact statement?</b>		
	Yes	/	No
Subject to comments made in response to Q8 below, it seems that the contents are appropriate.			

<b>Q8.</b>	<b>Does the guidance, <i>Heritage Impact Assessment in Wales</i>, clearly articulate when, why and how to use the heritage impact assessment process and provide useful advice on the presentation of the heritage impact statement?</b>		
	Yes	/	No



The guidance is generally well presented and welcomed. However, the following observations are offered:

Whenever there is mention of early engagement with local authorities the majority of these queries will be through pre-application processes, this should be welcomed and encouraged. The fact that in some cases it may be mandatory should also be noted.

In section 1 (What is Heritage Impact Assessment?) the description should include reference to the need to provide justification for proposals.

The need to consider a site's setting is also important to note and a reference to relevant guidance would be welcome.

It is important that applicants are clear that it is not only the large obvious changes that matter but the detailed impact of elements such as the provision of necessary services, for example. These can also have a significant impact and are often overlooked. This message might be usefully reinforced in sections 3.4 and/or 3.5.

On page 10 paragraph 3, the text gives the option of contacting the LPA or Cadw. In practice it will mainly be appropriate to contact the LPA, so suggest putting in text 'relevant consenting authority' for clarity purposes.

Section 7 and example Tables – It is not clear where an applicant should set out the options that have been considered. It is agreed that the mitigation section is often the best place, but in many cases it should form part of the justification; this is not obvious to the reader at present, suggest stronger wording in this section.

In section 7 it is suggested that proposals for offsetting damage are a kind of mitigation. We feel that offsetting is a "last resort" which should only be considered when proposals are necessary and cannot be adequately mitigated. As such, this should be listed separately.

## Best-practice guidance documents

### E. *Managing Change to Listed Buildings in Wales*

<b>Q9.</b>	<b>Will <i>Managing Change to Listed Buildings in Wales</i> provide useful guidance for the owners of listed buildings and their agents?</b>		
	Yes	/	No

The guidance is generally well presented and welcome. However, the following observations are offered:

Last paragraph Page 1, A reference to guidance on settings seems appropriate here.

Page 2, first paragraph; suggest that the Local Planning Authority should be cited as a first point of enquiry, and that the specifics of the relevant criminal offence should be clearer.

Page 2, second paragraph, It is not clear what 'realistic' means in this context suggest removal of the term in favour of something to suggest that assessments should be well-informed.

Page 2 Significance, All too often we hear "only the front is listed" or suggestions that only those parts mentioned in the list description are significant. Could these myths be dispelled here?

It would also be useful to note that HIAs are a requirement when applying for Listed Building Consent.

2.1. Suggest there is a reference to guidance here.

2.4 would it be worth adding a suggestion that lost features can sometimes be reinstated? The comment on UPVC windows is rather specific and does not consider that poorly detailed components in other materials can also be very damaging.

3.1, it would be useful to specifically state that some materials or alterations can affect a building's ability to accommodate structural movement and also point out that elements such as windows/door frames can form an integral part of the structure of traditional buildings.

3.2 The reference to reports available from local planning authorities on the condition of buildings is considered misleading and likely to raise expectations; this would normally be based on nothing more than a very brief external visual survey. It would be extremely useful to stress the importance of using a specialist who is familiar with traditional buildings.

4.6 Is it worth mentioning enabling development here?

4.8 the section on energy-efficiency measures should reference the embodied energy in buildings and the environmental benefits of the use of sustainable materials and the retention rather than replacement of historic fabric. Signposts to further guidance from sources such as the Sustainable Traditional Buildings Alliance (STBA) may also be helpful.

5.3 It is useful to note the statutory pre-application service. The majority of Councils still provide a free service and this should be noted to encourage dialogue.

5.4 Listed Building Consent is additional to and separate from planning permission *and Building Regulations*. Suggested the last three words should be added.

5.5, second paragraph, suggest removing the term 'but no more than necessary' to encourage the applicant to supply the detail that is often missing in applications. Instead it might be useful to state that all the information provided on drawings or within supplementary information should be directly relevant to the subject of the application.

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

<b>Q10.</b>	<b>Will <i>Managing Change in World Heritage Sites in Wales</i> be effective in helping decision makers protect the Outstanding Universal Value of Welsh World Heritage Sites?</b>			
	Yes		No	
<p>We would be happy to defer to the comments of LPAs with more experience in the protection of World Heritage Sites.</p>				

<b>Q11.</b>	<b>Will the guidance assist in the consistent management of World Heritage Sites in Wales, especially those which are located in more than one local authority area?</b>			
	Yes		No	
<p>We would be happy to defer to the comments of LPAs with more experience in the management of World Heritage Sites.</p>				

## G. *Managing Conservation Areas in Wales*

<b>Q12.</b>	<b>Will <i>Managing Conservation Areas in Wales</i> encourage local planning authorities to adopt a consistent approach to conservation areas across Wales?</b>			
	Yes	/	No	
<p>The guidance is generally well presented and welcome. However, the following observations are offered:</p> <p>Statement of Purpose – This suggests that all LPAs have guidance documents on Conservation Areas, but this is not the case. Whilst advice should be available, the document could reinforce that the basic principles of preservation and enhancement are applicable in the absence of any specific written guidance.</p> <p>The use of characterisation studies as baseline evidence of a Conservation Area is a worthwhile task, which will increase knowledge and confirm boundary choices within its broader reflection of the historic areas of a town or city. Mention of such an approach could be mentioned here. There are known approaches such as that undertaken by Cadw and Civic Trust Wales Toolkit.</p> <p>Paragraph 6.2 talks about advertisement control, but does not mention the harm that can be caused by the erection of advertisements that do not ordinarily require consent. Discussion of the potential designation of areas of Special Advertisement Control would be welcomed.</p> <p>The guidance should enforce the principle that the values of conservation areas comprise much more than their aesthetics. There is a particular need to consider the communal, evidential and historic values of an area and the individual buildings within it. Throughout the document there could usefully be more cross-referencing to the basic principles of conservation as set out by Cadw's <i>Conservation Principles</i> and/or British Standard 7913.</p>				

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

<b>Q13.</b>	<b>Do the general principles and advice on good practice in <i>Managing Lists of Historic Assets of Special Local Interest in Wales</i> provide sufficient guidance for local planning authorities to set up and use local lists?</b>			
	Yes	/	No	
<p>The guidance is generally well presented and welcome. However, the following observations are offered:</p> <p>It is considered that the first “fast fact” is misleading and suggests that the LPA can easily protect such assets, though in many cases this is something that is very difficult to achieve. The fact could be seen to raise expectations which cannot be fulfilled by the LPA.</p> <p>Introduction, second paragraph, ‘this allows LPAs to manage change’ this statement is also challenged as there are limitations to what a LPA can do.</p> <p>3.1. There are clear and worrying resource implications from this section; suggest rethinking this section in light of these constraints.</p>				

## I. *Setting of Historic Assets in Wales*

<b>Q14.</b>	<b>Does <i>Setting of Historic Assets in Wales</i> adequately explain why setting is important and how it should be assessed?</b>			
	Yes	/	No	
<p>The guidance is generally well presented and welcome. However, within the sixth “fast fact”, the wording suggests that some level of harm is acceptable and this should only be minimised; should harm not be avoided wherever possible?</p>				

<b>Q15.</b>	<b>Does the guidance explain the visual and especially the non-visual components of setting sufficiently?</b>			
	Yes	/	No	

<b>Q16.</b>	<b>Does the guidance explain how to take the visual and non-visual components of setting into account during the assessment process?</b>			
	Yes	/	No	

## Additional comments

<b>Q17.</b>	<b>We have asked a number of specific questions. If you have any related issues that we have not specifically addressed, please raise them here.</b>
The consistency of language is critical within all the documents, so that language is consistent between legislation, policy and guidance to avoid confusion.	
Training on new processes such as HIA would be welcomed, to ensure that the quality of assessment and validation is maintained.	

## How to respond

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

### Email

Please send the consultation form to :

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

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

### Post

Please send the consultation form to:

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

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