

Taking precautions



Barmouth (Morguefie)

WALES HAS SOME 30,000 listed buildings, 4,000 scheduled ancient monuments, 372 registered historic parks and gardens and two World Heritage Sites. How we look after these assets, and assets still to be recognised, is an issue of central significance to the character of town and country, and to our sense of place and identity. At the same time, planning for the heritage needs to be integrated with planning for wider objectives associated with regeneration and sustainability.

Published on 8 March, *Heritage protection for the 21st century* is the long-awaited outcome of the English and Welsh Heritage Protection Review. The white paper presents distinct proposals for Wales and England, reflecting the differences that exist in the organisa-

tion of heritage protection, the development of statutory lists, and the devolution of powers.

The white paper foreshadows the Assembly's use of its powers under the 2006 Government of Wales act to develop secondary legislation for Wales following a bill suggested for the 2007-8 parliamentary session but in all likelihood to be held back until 2010.

The origins of the white paper lie in a chain of initiatives that began in England with the publication of *Power of place* in December 2000. This was published by English Heritage following an in-depth analysis of issues affecting the historic environment. The government responded a year later with *Force for the future*. In Wales, the former environment minister, Sue Essex, initiated a broad review of historic environment policy that led, amongst other

Matthew Griffiths and Andrew Hill assess the Heritage Protection white paper and what it could mean for Wales

initiatives, to the establishment of an Historic Environment Group that advises ministers on heritage issues and encourages public appreciation of the historic environment.

Current heritage protection mechanisms are part of a complex system of designations – some statutory, some not. These include listed buildings, ancient monuments, historic parks and gardens, and conservation areas. Some assets are covered by more than one designation. Heritage protection is the Cinderella of local government, while at the level of the Assembly Government it has recently been the responsibility of the culture minister, and been separated from planning and sustainability.

A formal review of heritage protection mechanisms began in 2003. It is this aspect of the system that has found its outcome in the white paper.

The paper formally recognises the differences between heritage management practice and the roles of government in England and Wales. For example, we have no equivalent of English Heritage; Cadw is a division of the Assembly Government. Local authorities play a lesser role in recording the heritage and have fewer heritage-related staff than those in England. In Wales the archaeological trusts maintain regional historic environment records. Thus, although the new primary legislation will be shared with England, a distinct approach to the process of heritage protection will be followed in Wales.

In a forthcoming Heritage Protection Bill the Assembly Government will use its new powers under the 2006 Government of Wales act to obtain for Welsh ministers powers ▶

equivalent to those of their English counterparts – including the making of secondary legislation. It is also intended to seek power for the Assembly to pass “Assembly Measures” giving it enhanced legislative competence in relation to specific devolved matters including aspects of the historic environment.

Underpinning the White Paper are strategies to streamline and modernise the designation of historic buildings and sites; to integrate management of the historic environment more closely with planning; and to require local councils to adopt and support information resources for the historic environment. Integration with planning foreshadows attempts to be more effective in controlling development in sensitive areas, through enhancing tools such as characterisation.

It is proposed that legislation should unite listing, scheduling and registration procedures in a single statutory register to cover all heritage assets: listed buildings, ancient monuments, parks and gardens, World Heritage sites, and, perhaps, historic battlefields. There will be a single designation based on criteria of “special architectural, historic or archaeological interest”. In Wales, there will be no new selection criteria, but new non-statutory guidance especially in regard to post-war structures and industrial remains.

There will be no change to current listed building grades, and there will be no new hierarchy for ancient monuments – though all might be automatically designated Grade 1.

Procedures for consulting owners of sites proposed for designation will be formalised and consultation will embrace local authorities. There will be a statutory right of appeal against designation.

Some sites may benefit from



Llandrindod Wells (Matthew Griffiths)

voluntary heritage partnership agreements to regulate their management. The councils and National Parks will have a statutory duty to adopt and support the historic environment records produced by the archaeological trusts.

There is an important proposal to bring “locally listed” buildings within the planning system to prevent their demolition without consent, and it is proposed to abolish conservation area consent and merge it with planning permission at the same time as levels of control over the partial demolition of unlisted buildings in conservation area are restored so as to be equivalent to those in place before the 1997 Shimizu judgement.

The paper also mentions a review of ecclesiastical exemptions from secular controls and the adoption of heritage partnership agreements to manage listed sites and buildings. Cadw intends to encourage the development of characterisation work in town and country to help manage historic environments in ways that preserve local distinctiveness.

“with respect to any buildings or other land in a conservation area... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”

s.72, Planning (listed buildings and conservation areas) act 1990

Generally we should welcome the greater integration of conservation and heritage management with the planning system and policy that reflects the growing need to plan for sustainability. We can support the underlying aim of integrating and simplifying the heritage management system. The unified register, the maintenance of the existing grading system, and the good intentions regarding local listing, pre-designation consultation and conservation area protection are all to be applauded – but there are serious issues with aspects of the detail.

The proposals for conservation area consent are new and were not floated in discussions prior to the white paper. One of three questions for consultation asks for responses to the proposal that conservation area consent should be merged with planning permission, and to the suggested amendments to the demolition direction to restore the status quo before 1997. It is also suggested that there would be an obligation on planning authorities for conservation professionals to be involved in pre-application discussions and the management of planning

applications affecting conservation areas.

The Civic Trust for Wales has accepted the principle of simplification but asked for reassurances that the intentions and safeguards of existing legislation will not be eroded – at least until something better than the conservation area is invented. Government must ensure that section 72 of the 1990 planning act will still apply, or will be restated.

It needs to be clear that an application for demolition will not be judged against the proposed merits of new build, and there should be clarification also of the extent to which planning permission will be needed for partial demolition, and whether permission will be required for permitted development that entails partial demolition.

Finally, given the lack of professional resources within Welsh local authorities – an issue that has to be addressed, and isn't – any system that fails to give a conservation professional the lead officer role in managing relevant applications (as opposed to simply insisting on their involvement) will be flawed.

In fact, when one stands back from the detail of the white paper and thinks about missed opportunities, the failure to recognise the significance of conservation areas and to think creatively about their potential is pretty glaring. Town schemes and Townscape Heritage Initiative programmes have shown how conservation areas can be the basis for heritage-led area regeneration. More, while there are problems with conservation area management – not least resource-starvation – conservation areas generally have a special significance as historic areas to which people relate. The process of designation, appraisal and management can engage people directly in decisions about their surroundings in a way that builds social

inclusion and fosters sustainability. The next *About Wales* will carry discussion from our recent conference on conservation areas – for now let us argue that there is a *prima facie* case for reform that the white paper entirely sidesteps.

This is of a piece with a more general silence about the relationship between heritage and regeneration. It has nothing to say on buildings at risk registers any more than on conservation areas. There is in particular, as the RTPI and IHBC have recognised, a failure to discuss the relationship between conservation and place-making, and the extent to which urban design and conservation can be approached in an integrated manner. There is painfully little on community engagement with the heritage, and the relationships between amenity bodies and local government in heritage management and community planning.

The white paper does not address the long-standing anomaly that full-rate VAT is charged on repairs to historic buildings. Neither does it have anything substantive to say about training and skills shortages. Perhaps this arises from the narrow focus on heritage protection, but again these were wider opportunities here that have been overlooked. We still need, in Wales as in England, an effective delivery plan for the historic environment that ties up with government initiatives in planning, sustainability and regeneration.

Perhaps the shift of responsibility for the historic environment from culture to the Assembly Government's sustainability minister will offer the chance for fresh political thinking.

Another area in which opportunities run the risk of being fumbled is that of local listing. This is the process through which local authorities create lists of locally significant

buildings, sites and spaces whose historic character and townscape significance deserve to be taken into account within the planning process. Cardiff, for instance, has such a list. The English section of the paper proposes that there should be new guidance to planning authorities on criteria for the selection and management of locally listed buildings. It is not clear whether or not this will be copied, or developed independently, by the Assembly Government. Moreover, the process through which, once listed, such buildings can be given an additional measure of protection, has not been thought through at all.

One problem is that of commitment, resources and skills. Local lists should be mandatory and there should be an obligation on planning authorities to provide dedicated support for these. But there is an even greater lacuna in the white paper. It is suggested on one hand that locally listed assets are brought under the umbrella of development, and at the same time that permitted development rights are granted for such development. In other words, to gain additional protection planners will have to resort to seeking Article 4 directions to withdraw permitted development rights. This is an unpopular, bureaucratic and cumbersome system, which lots of councils won't use because it too often turns out to be a costly waste of officer time. The consequence could well be more demolitions.

There needs to be something stronger than the suggestion that local plan policies, or the designation of works to locally listed assets as a material consideration, if protections are to be adequate. One solution would be to reinstate the statutory Grade 3 status for locally listed heritage assets, with management of these assets and issues relating to consents being devolved to local authori-

ties. Locally listed sites would have the same level of statutory protection as Grade 1, 2* and 2 assets, but the greater flexibility to be applied would be recognised through guidance. Alternatively any application for demolition could be considered against the same criteria as unlisted buildings in conservation areas, as set out in Welsh Office circular 61/96. Other alterations could be classed as development, but not permitted development.

Such a system could reduce pressure on Cadw to consider spot-listing unlisted assets as Grade 2 or higher.

Above all, working properly, and in a simple and transparent way, local lists could become an effective way for communities to recognise assets that are important to their sense of place and identity. And there is considerable potential for local authorities to build partnerships with amenity bodies and local organisations such as civic societies in identifying, recording and documenting candidates for local listing.

Info

The white paper and associated documents can be downloaded from the Cadw web site:

www.cadw.wales.gov.uk

The Civic Trust for Wales web site carries our formal consultation response: www.civictrustwales.org

The Royal Town Planning Institute and Institute of Historic Building Conservation have published a joint response, submitted to the Department of Culture, Media and Sport: www.rtpi.org.uk.