
PROTECTING OUR HISTORIC ENVIRONMENT – CONSULTATION PAPER

1 SUMMARY

- 1.1 This report seeks Members' views on a consultation paper entitled 'Protecting our historic environment: making the system work better', published by the Department for Culture, Media and Sport. Comments on the document are required by 31st October 2003.

2 INTRODUCTION

- 2.1 In November 2002 the Government announced its intention to carry out a review of the legislation which protects the historic environment. The key aims of the review are to create a positive approach to managing the historic environment and a legislative framework that protects but enables appropriate change. A copy of the consultation document has been placed in the Members' Library.
- 2.2 Four major areas for improvement have been identified: simplifying (current arrangements are complex and confusing); openness (designation arrangements are secretive and owners are not engaged); flexibility; and rigour (conserve the best, without devaluing the currency).
- 2.3 The present legislation and guidance includes: The Ancient Monuments and Archaeological Areas Act 1979; The Planning (Listed Buildings and Conservation Areas) Act 1990; The Town and Country Planning Act 1990; and PPG15 on listed buildings and conservation areas and PPG15 providing advice on archaeology.
- 2.4 The consultation includes a series of questions and a response to these is suggested in the next section of this report.

3 SUGGESTIONS FOR CHANGE

- 3.1 The questions included in the consultation paper are listed in appendix one to this report.

Q1.1

It is true that there are different lists for different features of the historic environment, but it is not clear that lumping listed buildings, ancient monuments, conservation areas, etc. into one list will help to clarify the situation. If anything, this may complicate the situation further. It is also suggested that there be two parts to the list for national and for local designations. Overall, it is considered that a single list divided into various sections would be no better than the current system where there is, say, differentiation between listed buildings and ancient monuments. Conservation

Areas are already listed locally and there is little to be gained by adding them to a local section of a national list, which is effectively another piece of unnecessary bureaucracy.

Q1.2

Conservation Areas are designated locally. There is nothing whatsoever to be gained from the introduction of a parallel power at national level.

Q2.1

There is no reason why English Heritage should not be capable of maintaining the lists (or list depending on the decisions taken with regard to a unified list), subject to appropriate safeguards. It is noted that it is proposed to give owners and applicants a new right of appeal as part of the revisions to the listing process. The criteria on which buildings are added to the list are clearly stated in PPG15.

Q2.2

The internal mechanism by which English Heritage makes designation decisions needs to be straightforward and not overly bureaucratic. An independent committee would be an acceptable arrangement, and, in the case of post-war buildings, CABE's (Commission for Architecture and the Built Environment) could be represented on the committee when such buildings are being considered.

Q3

The criteria for listing are included in PPG15, but there is concern that purely economic considerations should not affect listing decisions. That having been said, it is suggested that English Heritage (if assuming responsibility for listing) should have some discretion to determine that a building will not be listed because its future would not, as a result, be secured. It is also suggested that a building not proposed for listing might in some cases be subject to recording. This latter point makes some sense and merits support.

However, the key question is to decide the balance between an economic future for a building and justification for listing. It is considered that in most cases it will be better to list a building (assuming it meets the PPG15 criteria) and use the listing as a lever to promote restoration. Preservation Trusts and other groups have, for example, a successful track record of renovating buildings and without a listing the opportunity to use their expertise and the preferential loan arrangements they can obtain, it is inevitable that more buildings will be lost.

Q4.1 and 4.2

It is suggested that Grade II buildings might be migrated to a local list, where they would not of course enjoy the same level of protection. There is no doubt that some buildings included as Grade II listings may not be justified their listed status. On the other hand, resource implications aside, it is

considered that it is better to retain the listing and undertake a rigorous review, rather than simply transfer all Grade II buildings to a local list.

Q5.1

A 'statement of significance' explaining the reasons for listing is considered to be essential and this would be of immense value in the delivery of development control and enforcement processes. However, there is no doubt that an immense resource would be required to prepare statements, particularly as they would need to be kept up to date.

Q5.2

Without significant resource allocation the only sensible way forward would be to introduce a system requiring a statement to be produced when a change is proposed. This would result in some delay, no doubt, but given that we are dealing with the heritage of the nation, a small delay should be considered acceptable to owners.

The only other alternative would be for English Heritage to draw up a programme of review to be funded by the Government that would enable both the preparation of statements, but also an assessment of the Grade II listings.

Q5.3

Maps would provide a clear indication of the buildings and structures covered by the listing, though again significant resources would certainly be required to prepare these.

Q6.1

Yes, provided prospective buildings are protected during the consideration of listing. The key consultation must be with the owner of the building, though District and Parish Councils should also be consulted.

Q6.2

No

Q6.3

Yes, as mentioned above.

Q7.1

A right of appeal would be justified based on the proposed more open and transparent listing process.

Q7.2

To owners.

Q8.1

There is justification for introducing a single consent regime for all protected buildings, monuments, etc. Certainly if local authorities took responsibility for dealing with applications for ancient monument consent, the process should

justifiably parallel the one for dealing with Grade I and II* listings, which requires consultation with English Heritage.

It is considered that a schedule listing precisely what works would and would not require consent is not practicable and could have the effect of undermining the protection of the building. In any event, it is clear that such a statement could not be easily prepared for the large number of buildings currently included in the list. There is already some flexibility in that repairs to a listed building are not generally subject to the requirement for an application.

Q9.1

Management agreements are not appropriate as an alternative to statutory consents. It is generally clear that repairs can be carried out without consent, but where there are proposals to make alterations, etc, that will change the character of a listed building, such proposals should be properly scrutinised.

Q10

It is not agreed that the management agreements that have been developed for managing SSSIs, for example, are appropriate for listed buildings and should not be accepted as an alternative to consent arrangements.

Q11 and Q12

Providing suitable financial incentives to ensure that farmers can operate their farms and at the same time protect historic sites.

Q13

The Government believes that the new LDD linked as it is to the community strategy will provide new opportunities for the engagement of local communities, civic societies and parish councils. No particular views on the form of guidance.

Q14

Provide additional grant aid to enable the process to be completed. There have been successful enhancement schemes, but these have tended to be based on English Heritage grants.

Q15

Control over demolition of locally listed buildings would provide some justification for maintaining a local list. At present, with no real controls, there is little, if any, justification for local lists. However, alteration rather than demolition is very often the key issue. It is not clear that controls over alteration could be introduced, though perhaps a more limited control that related solely to external alterations might be an option.

Q16

An interesting question since it touches on the future of arrangements that currently exist in Essex, where the County Council maintains a conservation

team to provide casework advice to local authorities. At the moment, this advice is free to districts (though costs are, of course, funded by council tax), but it may not remain so in the future. It is not clear that a sub-regional team could easily provide the same level of contact and advice.

Q17

Many local authorities do not have the resources to employ specialist conservation officers or the numbers of listed buildings to justify such an appointment. Nevertheless, it is clear that such advice is required. It would certainly be helpful for there to be a number of shorter courses available to enable planning professionals to develop enhanced skills in dealing with listed buildings. There is not always a requirement for specialist degree level and above qualifications, though highly qualified conservation professionals are required in districts with high concentrations of important protected buildings.

RECOMMENDATION

It is proposed that the Committee **RESOLVES**

That, subject to Members' comments, this report forms the basis of the Council's response to the consultation paper 'Protecting our Historic Environment.'

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Background Papers:

Protecting our historic environment: making the system work better – DCMS, July 2003

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