

HERITAGE PROTECTION FOR THE 21ST CENTURY

1 SUMMARY

- 1.1 This report seeks Members' views on a Government White Paper which proposes extensive changes to the arrangements for the designation and protection of the historic environment.

2 PROPOSALS EXPLAINED

- 2.1 The White Paper proposes the creation of a single designation regime that is simple and easy to understand. The key elements will be:-

- a single system for national designation to replace listing, scheduling and registering;
- all national designation decisions to be made on the basis of special architectural, historic or archaeological interest;
- the publication of detailed selection criteria for national and local designation;
- the devolution of responsibility for national designation to English Heritage.

- 2.2 The White Paper also proposes more public involvement and less secrecy in the arrangements for designation. Specific points to be addressed include:-

- the creation of a new register to replace existing lists and schedules;
- clearer designation records and access for the public through internet portals;
- a new consultation and appeal process;
- interim protection for historic assets;
- quicker decisions.

- 2.3 Other proposals include providing new tools for local planning authorities to protect locally designated buildings from demolition, a statutory duty for local authorities to maintain or have access to Historic Environment Records, and an improved UK-wide system of marine heritage protection.

- 2.4 The new system of national designation is intended to replace the current regime of listing (for buildings), scheduling (for monuments) and registering (for parks and gardens) with a single system to be called the Register of Historic Buildings and Sites of England – every designated historic asset in England will be recorded in the new register.

- 2.5 The Government does not propose to revise the current system for grading historic assets. Therefore, the terms Grade I, Grade II* and Grade II will continue to be the standard for recognising the importance of historic assets. All scheduled monuments will be classified a G1, but this grading will be reviewed by English Heritage.
- 2.6 Every designated building or site will be recorded using a new Historic Asset Record (HAR) and the new register will be available to view through 'The Heritage Gateway', an internet portal.
- 2.7 The requirement for Listed Building Consent or Scheduled Monument Consent will be replaced with a new procedure called Historic Asset Consent (HAC). The requirement for Conservation Area Consent will be abolished and merged with planning permission.
- 2.8 The changes to the regime for Conservation Area Consent would also include bringing back within control the partial demolition of unlisted buildings within a Conservation Area (this control was lost in 1997 as the result of a decision in the Courts).
- 2.9 The arrangements for local listing will be strengthened by the inclusion of local lists on the relevant Historic Environment Record. There will be additional protection provided by classifying the demolition of all local designated buildings as 'development', though the intention is then to grant permitted development rights for demolition, which local authorities would need to remove by the making of a Direction (called an Article 4(1) Direction).
- 2.10 A new system of marine heritage protection will enable the designation of a broader range of marine historic assets, including built structures, archaeological sites, and the sites of wrecked vehicles, vessels or aircraft.

3 DISCUSSION AND RESPONSE

- 3.1 There is no doubt whatsoever that the existing arrangements for the designation and protection of historic assets in England is extremely complicated and little understood by the public. Therefore, in principle, an overhaul of the system is long overdue. All aspects from the impenetrable jargon used to describe listed buildings and scheduled monuments to the secrecy around the procedures for designation is deserving of review.
- 3.2 The proposals in the White Paper have been in preparation for some considerable time and have evolved from a long running research project to effectively 'field test' the new arrangements prior to implementation. Many people closely involved with the historic environment were concerned that any change to the system could reduce the protection provided to historic assets.
- 3.3 However, with one or two reservations, the proposals do seem to be robust and whilst providing simplification and clarity to the process will not reduce the level of protection provided. Furthermore, the new system should provide

more public involvement and opportunities to gain access to information about the historic environment.

- 3.4 At present one of the problems with new designations is the level of secrecy required to ensure historic assets are not damaged prior to a decision being reached. There are legislative tools available to prevent damage occurring but the White Paper proposes a far simpler solution of automatic interim designation. This arrangement also provides an opportunity for more openness and transparency and public involvement in the final decision without the risk that a building might 'disappear' overnight. There will also be a right of appeal to challenge a designation decision.
- 3.5 The new Heritage Asset Register (HAR) is intended to provide a more comprehensive and coherent record and one that will make much more sense to the public and this is certainly to be welcomed.
- 3.6 So, as far as the main elements of the new system for designation and recording historic assets are concerned, the proposals are positive and will, it is considered, be a significant improvement over the existing system. The other side of the process is, though, the arrangements for deciding on changes or alterations to historic assets.
- 3.7 Again, the bringing together of Listed Building Consent and Monument Consent into one procedure called Historic Asset Consent makes sense and will have the effect of reducing the complications inherent in the current arrangements. Local planning authorities will be responsible for determining Historic Asset Consent. For some authorities this could result in an additional workload as a result of dealing with Ancient Monuments, but in Rochford there is only a handful of Ancient Monuments and workloads are not likely to be unduly affected.
- 3.8 Conversely, there should be some slight reduction in the administrative burden resulting from the abolition of Conservation Area Consent as a separate process. This is another area where simplification is to be welcomed, since the public certainly do not understand the differences between the requirement for Conservation Area Consent and planning permission.
- 3.9 Allied to the changed procedure for consent in conservation areas would be amendments to the Demolition Direction, firstly to clarify that planning permission would be required for the demolition of an unlisted building and amendments to the General Permitted Development Order to reinstate protection for partial demolition. This, since the 1997 case, resulted in the removal from any control of the partial demolition of unlisted buildings.
- 3.10 The arrangements for the local listing of buildings has a somewhat chequered history and a key concern has always been the limitations on the protection of local list buildings. In Rochford, experience over a number of years

demonstrated that it was extremely difficult and in most cases impossible to prevent wholesale changes or demolition of local list buildings. The White Paper proposes a more positive regime for local lists, including making the demolition of locally designated buildings 'development'. However, rather than leave this change as a national requirement for consent to be sought for the demolition of a local list buildings, the Government also proposes to grant permitted development for demolition. This means that local planning authorities would need to make an Article 4(1) Direction, which must be approved by the Government, in order to remove these rights.

- 3.11 This does seem to introduce a level of additional bureaucracy into the arrangements for local listing since rather than a simple national procedure, every local planning authority would need to laboriously justify the removal of permitted development of demolition for every local list building.
- 3.12 The detailed arrangements for the marine historic environment are not provided in the White Paper, but in principle the proposals to improve the system are to be welcomed. Rochford District has a long coastline in a part of the country with a rich maritime history. Therefore, it is possible that extending the net for protection of the marine historic environment could result in an additional burden on the local planning authority.
- 3.13 There are two further matters the Government would like to hear views on. First, the value of new statutory guidance promoting pre-application assessment and discussion for all major applications which may affect historic assets. It is considered that statutory guidance to this effect would be a positive enhancement of the planning system and reinforce the important role that comprehensive site analysis and preparation of design briefs have in the evolution of schemes on major development sites.
- 3.14 Second, whether there would be merit in expanding the current operation of Certificates of Immunity to enable an application to be made at any time, and for a site as well as a building. A Certificate of Immunity (COI) provides a developer with certainty that a building will not be listed. There is no compelling reason why a developer should not be able to apply for a COI at any time and this would provide a useful mechanism for dealing with historic asset issues in advance of a planning application. Furthermore, the extension of a COI to apply to a site makes sense for the same reason.

4 ENVIRONMENTAL IMPLICATIONS

- 4.1 It is essential that the new structure for the protection of historic assets is robust and comprehensive and avoids any unseen consequences for the protection of the country's historic assets.

5 RESOURCE IMPLICATIONS

- 5.1 Taking all the changes into account, it is considered there will be a requirement for some additional resources, most likely in terms of staffing. At this stage in the development of the new system it is not possible to accurately quantify. At present the Council has a formal arrangement with Essex County Council for the provision of advice and guidance on historic assets, maintenance and update of the register, etc. This arrangement may need to be reviewed to accommodate the requirements of the new system.

6 RECOMMENDATION

- 6.1 It is proposed that the Committee **RESOLVES**

That, subject to views from Members, the report forms the basis of the Council's response to the Department of Culture, Media and Sport on the White Paper, Heritage Protection for the 21st Century.

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Background Papers:-

Heritage protection for the 21st Century, Department of Culture, Media and Sport, March 2007.

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