

HERITAGE LINK SUBMISSION TO THE CMS COMMITTEE INQUIRY ON THE DRAFT HERITAGE PROTECTION BILL

1. SUMMARY

Heritage Link brings together 86 voluntary organisations concerned with heritage in England representing interests from specialist advisers, practitioners and managers, volunteers and owners, to national funding bodies and local building preservation trusts. Much of the historic environment is cared for - supported, managed or owned - by these organisations and thus they and their own members - from the eight national amenity societies with statutory functions to the hundreds of local civic societies - have firsthand and longstanding experience of the heritage protection system as well as advisory and educational roles.

For the detail, we are encouraging our specialist members to comment to your Committee and to DCMS. Their casework experience make them an outstanding independent resource and we hope you will find their responses valuable.

We welcome the Draft Heritage Bill as a milestone in creating a more integrated, robust, streamlined and more transparent heritage protection system. This submission

- sets out Heritage Link's **positive support for the objectives** of the Draft Bill
- identifies a number of points where **clarification or improvements** could be made, particularly **over costings and transitional arrangements**
- expresses concern that **National Amenity Societies must meet the increased costs** of their expanded role
- recommends areas where the **level of public involvement in the heritage protection system could be improved**
- reflects widespread **lack of confidence in Local Authority capacity** to deliver historic environment services of the quality envisaged in the Draft Bill.

2. OVERALL AIMS AND SCOPE OF THE DRAFT BILL

This Draft Bill, the first step in creating a heritage protection system fit for the 21st century, recognises the positive role the historic environment plays in society. As well as drawing together disparate legislation, we particularly welcome new elements - Heritage Protection Agreements, provisional registration, the requirement for local authorities to maintain or have access to Historic Environment Records and bringing protection in Conservation Areas back to pre-Shimizu levels.

2.1. Commitment to protection levels

Government has assured us throughout the process that the new regime will not lessen the level of heritage protection. The Bill as drafted extends and enhances protection in a number of areas and we appreciate DCMS and English Heritage effort in achieving this. We expect that this level of protection will not be diminished in the final Heritage Protection Bill or the secondary legislation.

- **The Committee might seek the same assurance from the present Culture Minister.**

2.2. Core principles

While we welcome the level of protection set out in the Draft Bill, there are areas where the Bill, or the spirit of the Bill does not match up to the three core principles in the Heritage White Paper. These were:

- developing a unified approach to the historic environment
- maximising opportunities for inclusion and involvement
- supporting sustainable communities by putting the historic environment at the heart of an effective planning system.'

2.2.1. *Developing a unified approach to the historic environment*

The combined Register, the revised and new categories of Heritage Assets and the new Historic Asset Consent will give a more co-ordinated framework. There are also measures to achieve more joined up management in the Local Authorities. However this unified approach is still not reflected in central government.

In our response to the Heritage White Paper we hoped that cross Government support would be made more evident in the Bill itself. But the Draft Bill makes no mention of CLG, the Department responsible for planning, building and the environment, local government and for neighbourhoods and communities.

We still consider that combined sponsorship of the Bill would give a far stronger message of cross government commitment.

- **We recommend that the Committee looks into the relationship between DCMS and CLG over the Bill.**

2.2.2 *Maximising opportunities for inclusion and involvement*

This is the area which concerns Heritage Link most but could be enhanced before the Bill is formally introduced. Measures like the online Register and the new duty to maintain or have access to Historic Environment Records have enormous potential for public engagement.

However the Draft Bill does not deliver expectations of the Heritage White Paper in developing the scope for public consultation. The National Amenity Societies will be consulted on an extended range of registration issues which could be burdensome if not properly resourced and we comment on this under the Impact Assessment.

With the White Paper's intention to maximise opportunities for inclusion and involvement we are surprised that the consultation with the wider voluntary heritage sector is so limited. The expertise and commitment of the voluntary sector makes it a key player in the heritage protection system.

As currently drafted, Clause 9e includes the National Amenity Societies in the list of those to be consulted and 'any other person the heritage authority considers appropriate in view of that person's special knowledge or interest....'

But it excludes organisations such as local civic and amenity societies, historical and archaeological groups. These have specialist local knowledge and are willing to contribute many man-hours often on a voluntary basis. Community groups to whom the assets may be important as part of the local environment should also have a role. One of the intended non-monetisable benefits of the new system is '*greater inclusivity*

through involving more groups in the decision making process and also improving the quality of decision making through consideration of a range of expert opinion' (para 26 Impact Assessment), yet this is not borne out in the Draft Bill as it stands.

- **Heritage Link recommends that all clauses in the final Bill (including sections on Conservation Areas) relating to consultation and representation, should be amended to:**

'any other person or organisation the heritage authority considers appropriate in view of that person or organisation's special knowledge or interest in'

2.2.3. Supporting sustainable communities by putting the historic environment at the heart of an effective planning system.

The Impact Assessment says the Bill '*will support sustainable communities by putting the historic environment at the heart of an effective planning system operating at local level.*

At central government level this principle is less evident. The Explanatory Notes scarcely refer to its place in the wider context of the Planning Bill or the future of PPGs 15 and 16. The range of legislation repealed through this Draft Heritage Protection Bill indicates how the historic environment permeates a huge range of public life. Until we know what form the new Planning Guidance will take, we are not convinced that the historic environment is at the heart of an effective planning system.

We recommend that the historic environment, cutting across so many Departments, should have its own Planning Policy Statement which would put the historic environment at the heart of an effective planning system at the highest level.

- **Heritage Link advises the Committee to seek clarification on the progress CLG and DCMS have made in the developing a Historic Environment National Policy Statement.**

2.3. Scope

The Draft Bill sets out primary legislation necessary to bring together separate sources of information, legislative procedures and working practice but is a small part of the whole package of secondary legislation, planning policy and guidance - some 96 different pieces in all, we understand.

Even with the Explanatory Notes and the Commentary published by English Heritage, we cannot judge how well the new heritage protection regime will operate on the basis of the Draft Bill alone. The guidance and consultations issued so far are encouraging but the Implementation programme and Transitional arrangements are also critical. We and our members would be better able to take up opportunities for consultation, 'maximising opportunities for inclusion and involvement' if we could plan further ahead.

- **It would be helpful to have an indication of what and when related material will be published.**

2.4. Omissions

We particularly regret the omission of Clauses on Conservation Areas. Paragraphs 278 and 279 in the Explanatory Notes outline positive changes proposed in designation and protection levels but until the final Bill is published, we do not have information on public involvement in the designation of Conservation Areas, rights of appeal or enforcement. The 10,000 or so Conservation Areas are the main planks of heritage protection and involve thousands of

people who care for their local environment. They are an extremely valuable way of maintaining and enhancing the local environment, sustaining the identity of our cities, towns and villages and a means of involving the public in discussion about what should be protected and why.

Similarly, local listing has huge potential to engage new audiences in protecting what they value. Lack of detail implies a lower value is being given to the local scene and to local participation which was not in the spirit of the White Paper. Given that one of the core principles of the Heritage White Paper was 'maximising opportunity for inclusion and involvement' we very much regret the omission of fuller details on Conservation Areas and local designation.

Finally the section on English Heritage grant and loan making powers is also important to the heritage sector and its omission from this pre-legislative scrutiny part of the Bill process is regrettable.

It is regrettable that these significant sections are not given the same degree of pre legislative scrutiny and public consultation as the other sections.

- **We recommend that the omitted sections are published by DCMS with some form of public consultation before the Bill is finalised.**

3. ESTIMATE OF COSTS AND BENEFITS SET OUT IN THE IMPACT ASSESSMENT

The new system will not work if stakeholders, English Heritage, Local Authorities, the private and voluntary sectors are unable to fulfil their part in implementing it effectively and within a reasonable, defined period. The costs and benefits set out in the Impact Assessment are part of a much bigger picture.

3.1 Central and local government

Additional responsibilities transferred to English Heritage and to local authorities must be properly funded together with capacity building for other stakeholders if the new regime is to work. Joint lobbying in support of English Heritage improved the last CSR settlement but, next time round, the Treasury should build the costs of implementing the Heritage Bill and other measures into its early plans rather than respond to eleventh hour pressures.

We are not in a position to question the costs set out in the Impact Assessment, but suggest the following points should be clarified:

- **How the 'savings' of £4.80m over five years will fall back to DCMS, English Heritage and local authorities to give the 'net' figure of £1.7m?**
- **How the shortfall between EH estimated needs and its CSR settlement will be managed and what impact this will have on other English Heritage operations and public profile?**
- **What other costs arising from transition and implementation have been explored and when these will be made public?**

We welcome DCMS commitment to meeting the costs of new burdens placed on local authorities by the Draft Heritage Protection Bill, provided this does not impinge upon the future funding of English Heritage. We are also concerned how funding is safeguarded in Local Authority budgets to secure the new heritage protection system when CLG has confirmed to Heritage Link that 'it is for local authorities to decide on their local priorities'.

- **How will CLG and/or DCMS ensure that an appropriate level of funding to support the Heritage Protection Bill at local level - for transitional, implementation, operating or training costs - is not diverted elsewhere?**

3.2 Non government heritage sector

It is remarkable that the impact on the non government sector and in particular our own members has been so lightly dismissed given the core principle for maximising opportunities for inclusion and involvement.

We welcome the continuing statutory role of the national amenity societies in heritage asset consent but increasing or extending their involvement to registration and allied procedures such as appeals, CNIRs and Heritage Partnership Agreements is not resource neutral. The Impact Assessment does not ascribe any costs to the expanded role:

'Amenity societies may also incur costs in providing advice on all designations. However while they will be statutory consultees, they are not statutorily obliged to respond and are therefore free to fulfil this role in the light of their resources and priorities.' Para 14

The new statutory duty for local authorities to receive and take into account expert advice on heritage asset consent is welcome. Where in-house expertise is not available, this can only fall to the voluntary sector in the majority of cases.

As expert advice is the key to the whole protection system, it seems extraordinary to recognise the knowledge and expertise available through the voluntary sector but deem it optional. Apart from the national amenity societies' statutory role we expected the contribution of civic societies, local history and archaeological societies and other representatives from the local communities would be recognised. They have a major contribution to make in raising awareness of the new regime, its operation and implications not only to local groups but also to the wider public.

We hope that in the development of guidance there will be more emphasis on the opportunities in the whole process of protection for amenity and stakeholder groups to contribute their views at an appropriate stage rather than at the end when they can make little difference and their views are more likely to be considered obstructive.

- **What steps is English Heritage taking to understand the impact of the new regime on the voluntary heritage sector and its contribution?**
- **What steps is English Heritage taking to provide support in enabling the voluntary heritage sector to play an effective role?**

Heritage Partnership Agreements could be a valuable means of managing historic assets in a range of different ownerships, bringing efficiency savings and long term benefits. However the pilots demonstrate that they are resource heavy in the early stages.

- **We recommend that further work is carried out to provide a better understanding of the resources needed to support setting up HPAs effectively.**

4. STAFFING AND SKILLS LEVELS NEEDED FOR EFFECTIVE IMPLEMENTATION OF THE PROVISIONS IN THE DRAFT BILL

We are glad that the Committee is addressing the delivery side of the new heritage protection regime. We understand that English Heritage is currently developing an implementation programme.

- **English Heritage should consult key stakeholders in the sector at an early stage in drawing up implementation programmes in order to achieve the best possible partnerships in training and capacity building.**

Understanding the special interest in a heritage asset stands at the centre of the system, making the new standard of designation descriptions the key to the real benefits of the new regime. English Heritage staffing capacity is such that the half a million existing descriptions will take years to upgrade. Piecemeal updating, through strategic programmes of national designation or in response to risks is not going to resolve the backlog.

Proposals for 'transitional arrangements' are yet to be published, but we are concerned that present funding plans could leave little opportunity for an accelerated revision of current descriptions. Without these new descriptions within a reasonable period, the old and new systems will, in effect, operate in parallel. This could cause much confusion, undermining the simplification and clarity that the new system sets out to deliver.

- **Additional staff resources for English Heritage are needed to bring the 'legacy' designation descriptions up to the standard required to achieve the benefits of the new protection regime.**

The Committee is already aware of the dearth of staff and skills levels to resource heritage protection in Local Authorities so they will also be aware that the DCMS commitment to fund the Local Authorities' additional administrative burdens, though welcome does not resolve the existing crisis in staffing and skills in Local Authorities' historic environment services.

- **What measures are DCMS and CLG taking to strengthen public confidence in the capacity of local authorities to deliver efficient and effective historic environment services?**

We hope that the complete and revised text of the Bill will include much more scope for national and local voluntary heritage organisations to engage formally with heritage protection. Their experience of the heritage protection system, their advisory and educational services as well as their ties with the local community gives them a role in facilitating the transition not only for local groups but also for the general public. As well as bringing their extensive knowledge and expertise to bear, participation increases levels of civic involvement and responsibility. Even limited additional capacity building will lever in additional funding and expertise.

- **Voluntary heritage bodies should be supported to maximise opportunities for public participation and civic involvement in the Heritage Protection Bill and to spread understanding and appreciation of the new system.**

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13th June 2008

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