

Ms C Davies
Deputy Clerk
Communities, Equality, and Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

22 May 2015

Dear Ms Davies

Consultation: Historic Environment (Wales) Bill

1. Preamble

- 1.1 Thank-you for your invitation to give evidence to the Committee.
- 1.2 As requested we have used the terms of reference set by the committee as a framework for our response. This is focused on the proposals concerning monuments and records rather than the built heritage and whether the proposals will achieve the stated aims.
- 1.3 We have also provided a short summary description of our organisation purpose and key functions. We have previously been invited to contribute to, and have responded to, a number of stakeholder soundings during the preparation of the Bill and associated draft Statutory Guidance and draft new or revised advice notices and documents.

2. The Glamorgan-Gwent Archaeological Trust (www.ggat.org.uk)

- 2.1 We are one of four Welsh Archaeological Trusts working closely with other national, regional and local bodies, to help protect, record and interpret all aspects of the historic environment, and make the results available to the public.
- 2.2 Our stated object is to advance the education of the public in archaeology and our primary focus is within South Wales. In delivering our object our current Forward Strategy is founded on five key strategic objectives: Fostering Public Understanding; Improving Access and Engagement; Discovery and Research; Developing the Trust; Archive Care and Deposition.
- 2.3 We maintain the regional Historic Environment Record, and are retained by Unitary Authorities and other organisations to provide strategic advice, and also case management support where development proposals, agri-environmental, forestry and woodland schemes impact on the historic environment. We also carry out a wide variety of archaeological projects for public and private sector bodies, including environmental impact assessment, field survey, excavation and heritage interpretation. The Historic Environment Record, which has been developed over many years by the Trust, is a key charitable asset. The GGAT HER Charitable Trust holds and owns the record.
- 2.4 The Trust promotes knowledge and learning about the Historic Environment through digital outputs, publications, displays, leaflets,

GLAMORGAN
GWENT
ARCHAEOLOGICAL
TRUST LTD



Glamorgan-Gwent
Archaeological Trust
Limited

Heathfield House
Heathfield
Swansea SA1 6EL

Tel: (01792) 655208
Fax: (01792) 474469

www.ggat.org.uk
email: contracts@ggat.org.uk

Registered Office: As above
Registered in Wales No. 1276976
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lectures and talks and enables active engagement through voluntary participation in projects.

3. Will the legislation give more effective protection to listed buildings and scheduled monuments?

3.1 We consider that in broad terms the provisions within the Bill will improve the protection of listed buildings and scheduled monuments.

3.2 We particularly welcome the measures to extend the definition of a Scheduled Ancient Monument, to weaken the 'defence of ignorance', to introduce enforcement and stop notices, and to enable archaeological investigation of an ancient monument in imminent danger of destruction.

3.3 These proposed measures further underpin protection of Wales's archaeological heritage and are consistent with widely held principles. They address a number of shortfalls in the existing legislative provision applicable to Wales.

3.4 The first three, and in most instances the last, should not be difficult or costly to implement. With regard to that potential exception, the Memorandum (Clause 102) notes the particular difficulties caused by Climate Change impacts. Potentially these can be very severe, particularly for sites on the coastline, and although the imminence of danger of destruction is difficult to predict, it has and will continue to occur. In some circumstances the costs of investigation and recording could be significant.

3.5 We particularly note that in the past there has been an apparent reluctance by officials to pursue enforcement of conditions attached to Scheduled Ancient Monument consents (Memorandum Clauses 79, 81, 82), as there was a lack of powers short of taking action through the courts. We note the Memorandum is clear that the provisions of the Bill will allow enforcement of conditions (Memorandum Clause 84, 91, 94), however, we are unsure whether the related clauses in the Bill have sufficient clarity.

4. Will the legislation enhance existing mechanisms for the sustainable management of the historic environment?

4.1 We welcome the provisions in the Bill for local planning authorities to create and maintain Historic Environment Records, to allow Heritage Partnership Agreements, and to streamline the Scheduled Ancient Monument consent process.

4.2 The description of the contents of a Historic Environment Record in the Bill is one that would meet expectations to ensure informed decision-making at local level. Clause 33 (2) 8h) of the Bill has sufficient flexibility to ensure that tangible historic environment remains that do not satisfy criteria to justify national protection are identified. This particular issue will need careful consideration in the proposed Statutory Guidance.

4.3 Whilst we would agree that there should be a need for regulations as envisaged at Clause 33 (9) of the Bill, care needs to be taken that there are not any unintended consequences. We see this provision as designed primarily to allow potential for expansion, for example were it to be

deemed appropriate to require the inclusion of culturally significant sites or intangible heritage. We would prefer to see it expressed in such a way that it could not allow for the removal of the contents established by the passing of the Bill.

- 4.4 We support the principle that Historic Environment Records should be afforded protection to ensure information on the whole historic environment is accessible and used for informed and sustainable decision-making and that the record should be publically accessible. In respect of Publication it may be appropriate in some circumstances and particularly where large datasets are requested for a local planning authority only to issue the data under particular controls (e.g. a licence). Do the powers to do this need to be articulated in the Bill or in the proposed Guidance?
- 4.5 We agree that the Bill should contain provisions to allow one or more authorities to discharge the functions through another *person*, and the need for Welsh Ministers to approve this. We note that a regional approach to the management of Historic Environment Records has particular strengths. Currently 11 of the 12 local planning authorities in South Wales have adopted (for the purposes of the General Development Order) the Historic Environment Record that we maintain and all use it, notably for development control purposes. If it were to be the case that any or all of these authorities were to take up the option to discharge the duty via ourselves we do not see that there are any practical difficulties that would be insuperable. However, we note that this record, now held in a separate Trust that we created and managed, was developed under our powers to support the delivery of our object. It is a key charitable asset that needs to be available to us to support our delivery to both present and future beneficiaries. Whilst we do not want to make any comment on the draft guidance for Historic Environment Records at this time, the Guidance will need to take care in how it addresses the issue of the future protection of such records and particularly of rights (including intellectual property rights) during any transfers of responsibility.
- 4.6 With regard to costs for management and maintenance of our Historic Environment Record we note that currently we have good support from the local authorities to whom we provide planning control support. The grants from each authority are small but together match the current provision for our region from Cadw (Memorandum Clause 460). We also note that the recovery fees for commercial access that we charge are far higher than the figure identified in the Memorandum (Clause 461 and repeated at 470), but that our charges are comparable to those made by local authorities who manage their own Historic Environment Records. We note and welcome the proposal (at Memorandum Clause 468) to increase the Welsh Government support for Historic Environment Records to ensure one full time staff member; in our case it would be detrimental if this was at the expense of the existing local authority support. This and some specific project work has allowed us to have two full time staff equivalents. We need to be able to maintain the higher level of resource to ensure that we could deliver the required service in an area which has a

significant concentration of population and development activity when compared to other regions in the Principality.

- 4.7 The provisions for Heritage Partnership Agreements is a forward looking measure which should allow both more cost-effective and perhaps more importantly better integrated management of holdings containing one or more heritage assets or individual heritage assets with multiple designations. The Bill would seem to contain ample provisions. Good articulation in regulation of the operational requirements and effective implementation should enable positive and sustainable outcomes.
- 4.8 The improvements to enforcement notices and temporary stop notices will allow better protection of significant historic assets at risk.

5. Will the legislation introduce greater transparency and accountability into decisions taken on the historic environment?

- 5.1 The modernising of the consultation process for both Listed Buildings and Scheduled Ancient Monuments, including the method that decisions are communicated, and the incorporation of clearer and more transparent review mechanisms should improve transparency.
- 5.2 We understand that the establishment of an Advisory Panel for the Welsh Historic Environment is designed to allow expert advice on the formulation, development, resourcing and delivery of historic environment policy and strategy in delivering the core areas of knowledge, conservation, and public engagement and it will have a broad remit in the provision of this advice. We welcome the intention that appointments will be made on Nolan Principles and the Code of Practice for Ministerial Appointments to Public Bodies, we would expect that the size of the panel will be sufficient to include expertise on the diverse components that form the Historic Environment and also have the competence to challenge delivery perspectives.

Yours faithfully



AG Marvell FSA MCifA

Chief Executive

For and on behalf of the

Glamorgan-Gwent Archaeological Trust Ltd