



RTPI Cymru

Royal Town Planning Institute
Sefydliad Cynllunio Trefol Brenhinol

Royal Town Planning Institute
Cymru (RTPI Cymru)
Studio 107
Creative Quarter
8a Morgan Arcade
Cardiff
CF10 1AF

██
██
www.rtpi.org.uk/wales

2 September 2022

e-mail response sent to: seneddLJC@senedd.wales

Dear Sir/Madam,

Response to: Scrutiny of the first Welsh Consolidation Bill – the Historic Environment (Wales) Bill

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 27,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,300 members. The Institute seeks to advance the science and art of planning, working for the long-term common good and well-being of current and future generations. The RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

Thank you for the opportunity to respond on the scrutiny of the Historic Environment (Wales) Bill. The following response highlights the key planning issues in relation to the matters set out by the Legislation, Justice and Constitution Committee.

Firstly, we recognise the complexity and sometimes confusing structure of the existing legislative framework and in particular the lack of clarity about which Westminster legislation applies in Wales and the consequent difficulties this causes for practitioners and users.

We therefore welcome the work taking place on Welsh law, along with the principles of simplification, consolidation and codification of planning law in Wales. RTPI Cymru has responded at all the various developmental stages of this work and look forward to continuing to support the work moving forward.

The scope of the consolidation

Wider consolidation and implementation

We welcome this consultation focusing on consolidation and the ongoing work that is taking place that forms part of an important bigger picture. Easier terminology, clear unambiguous provisions, identifying redundant provisions and enabling a comprehensive Welsh language translation of single legislation is all supported.

It would have been useful at the outset and to accompany this consultation to have a document that explains the relationships between the affiliated Bills and the transitional arrangements. This is particularly the case in relation to the Historic Environment Bill and Planning Bill. We have previously raised concerns in our response to the Planning Law in Wales (2018) consultation, to the separating out of the rural and historic environment legislation, from planning. Our concern largely related to ensuring that the separation does not undermine the application of core planning law, across urban and rural contexts for example; with the rural/historic legislation divorced from planning. We note that the principle of having a planning code is that it incorporates all the legislation relating to planning, so a document explaining how this will work in practice would have been useful to accompany this first consolidation Bill consultation and the others that will follow.

It would still be extremely useful to understand more about implementation, timescale and resources. For example, how will Cadw support the implementation of the Bill across the sectors, Local Planning Authorities etc.

Consolidation, simplification/easing access are important drivers. We note the significant work that has taken place, for example in relation to case law, we welcome the clarification of curtilage and the definition of listed building within Section 7(b)5, now clarifying the inclusion of curtilage buildings at the time of listing. As part of the update in terminology, Cadw should consider a revision to the '[Managing Change in Listed Building](#)' to include more specific guidance and supporting the codification of the Historic Environment Bill.

Timescales

RTPI Cymru raises concern regarding the indicative timescale implications of the Bill. For example, the Explanatory Memorandum states,

“third sector bodies and amenity societies currently disseminate information on the operation of the existing legislation, so they will need to update this to reflect the changes. As noted above, Cadw will be providing updated information to such bodies, and we therefore estimate that the burden of updating individual websites will be minimal, and probably in the region of one person for one day.” [pri-ld15211-em-e.pdf \(senedd.wales\)](#) Pg19.

We believe that this timescale is significantly underestimated given the extent of the legislation/new terminology/ new guidance which will need to be read, understood and embedded, at a time where resources and capacity are stretched in many sectors.

Relevant enactments have been included within the consolidation.

We raise a general concern regarding the implications of ‘unknowns’ in relation to relevant Acts being included in the consolidation. For example, we note that Subsection (7) of Section 75 clarifies that “a monument situated in, on or under the bed of the sea below the low water mark” can not be considered as a “monument of special historic interest” and while we accept these might be rarely found, we do question whether provision should be made for such an unknown situation, to safeguard the historic environment. We understand in this specific case, protection would have previously been provided by the Protection of Wrecks Act 1973.

If you require further assistance, please contact RTPI Cymru on [REDACTED] or e-mail Roisin Willmott at [REDACTED]

Yours sincerely,



Dr Roisin Willmott OBE FRTPI
Director
RTPI Cymru