

Ministerial Advice

To: 1. Manon Antoniazzi
2. Mark Drakeford, Cabinet Secretary for Finance and Local Government,

From:
Historic Environment Service (Cadw), Nantgarw
Tel.

Date: 10 November 2016

Subject: **POLICY - FORMER GROVE PARK SCHOOL, WREXHAM**

Reference number: MA-P/MD/7512/16

When is a decision required from the Minister? Urgent: the Cabinet Secretary is asked to turn toward this matter at the earliest opportunity.

1. What is the issue you are asking the Minister to consider?

1.1 The decision to be taken is whether or not to list the former Grove Park School ("the Building"), Wrexham.

2. What action(s) are you recommending to the Minister?

2.1 That you decide whether or not to list the Building as a building of special architectural or historic interest bearing in mind the pertinent legislation, guidance, representations and advice submitted with this Ministerial Advice.

3. Deputy Director, Statement of Assurance

I, Manon Antoniazzi confirm that I have quality assured this advice.

3.1 I am satisfied that the recommended decision or action, if agreed, would be lawful and affordable. Welsh Government policy priorities and cross portfolio implications have been fully considered.

Advice

4. Context - What is the situation that has led to this advice?

Background

4.1 Cadw's assessments of the merits of the case for listing are provided under cover of emails dated 15 March 2016 and 24 May 2016 which are copied at docs 1 and 2 respectively. Doc 1 includes a letter from Mr Marcus Jones in favour of listing the Building. Doc 2 includes Historic England's peer review of Cadw's March assessment. Photographs taken of the Building during the site visit of 2 March 2016 are at doc 3. Additional information that has been submitted in support of listing, and Cadw's assessment of it, is at doc 4.

4.2 Cadw's advice, as recorded in docs 1 and 2, is that the Building does not meet the threshold for listing as a building of special architectural or historic interest. The Building was previously assessed and rejected for listing in 1994 and in 2007/8. The Building does have some architectural and historic interest and could be considered

an important building at a local level but is typical rather than exceptional at a national level when compared with the key examples of buildings of its type. The Director of Listing for Historic England conducted a peer review of Cadw's March assessment and concluded that it was sound.

4.3 Before the old decision (on whether or not to list the Building) was taken in August of this year we consulted the owner, the local planning authority and the Royal Commission on the Ancient and Historical Monuments of Wales regarding the possible listing of the Building. We provided consultees with a copy of a draft list description which explained the Building's features and the reasons for the possible listing.

Consultation Summary

4.4 The replies and other representations that were submitted as a consequence of the consultation are copied at doc 5.

4.5 Wrexham County Borough Council – The Council was strongly against listing the Building as it was said to be contrary to the weight of expert opinion that the Building did not meet the criteria to be listed. This view was supported by the Council's own independent expert who used to work for Cadw assessing buildings for listing and who is a co-author of the Pevsner Architectural Guides to Buildings of Wales. Given the weight of expert opinion, the Council considered that listing the Building would be irrational and lack credibility as it said that there was a consistent failure by the Welsh Government to consider the expert assessments and to take due account of its own published listing criteria in arriving at its conclusion. The Council did not consider the Building to be a key example of its type and said that to list it would be inconsistent with the outcome of the survey of historic buildings in Wales when those key examples were listed. The Council did not agree that the Building has aesthetic merit as an ambitious building as it was said to fall short of real aesthetic quality when compared to the design of other listed schools from that period. Furthermore, the Council considered that the Building's stylistic flair had been exaggerated.

4.6 Save Our Heritage – (a group dedicated to saving the Building) commented that the Building is rather unique, with an overall appearance and style that is forward looking. The use of patterned brickwork was said to be an ornate touch that adds to the Building's attractiveness. The twin sweep staircase was said to bring a touch of elegance to what would otherwise be a very utilitarian entrance hall. The cloistered quadrangles were also mentioned as enabling the pupils to move around the school regardless of the weather conditions. The group was in favour of listing of the Building.

4.7 The Twentieth Century Society (a body that specialises in architecture and design in Britain from 1914 onwards) – the Society was in favour of listing the Building and considered it to be an architecturally and historically significant one with national interest due to its war-time role. The Society commented that the Building has a plain but handsome exterior of red brick that is modestly decorated between ground and first floor windows with herringbone brickwork. Furthermore, that the main entrance hall boasts an elegant staircase in the art-deco style, and is flooded with natural day light by roof lanterns. The Society considered that other key internal features include the parquet and terrazzo flooring, the sleek timber mouldings, the main hall being well proportioned and well lit, and the wooden seating on the upper balcony.

4.8 Save Britain's Heritage (an independent body campaigning to save threatened historic buildings) – was in favour of listing the Building and welcomed the draft list description which acknowledged the Building's special architectural interest and its quality and character. They considered the main entrance hall with its double sweep stair to be a particularly handsome feature.

4.9 The Royal Commission on the Ancient and Historical Monuments of Wales – were in favour of listing the Building.

Legal challenge

4.10 After the old decision (which was to list the Building) was taken in August of this year Wrexham County Borough Council brought a legal challenge against the decision. We agreed to the quashing of the old decision on the ground that the decision failed to fully set out the reasons on which it was based. The old decision has been quashed by the Court, the slate has been wiped clean and a new decision, in no way related to or restrained by the old decision, must be made.

Listing criteria

4.11 The Secretary of State's power to place buildings of special architectural or historic interest on a list is in section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This power has been transferred to the Welsh Ministers in relation to Wales. Section 1 is copied at doc 6. The purpose of listing a building is to ensure that its special architectural or historic interest are recognised and that any works that would affect its character as a listed building are controlled. A consequence of listing a building is that it becomes a criminal offence to carry out any unauthorised works on the building that affect its character as a listed building. Works can only be authorised by obtaining and adhering to the terms of a listed building consent.

4.12 The Welsh Office circulars 61/96 *Planning and the Historic Environment: Historic Buildings and Conservation Areas* and 1/98 *Planning and the Historic Environment: Directions by the Secretary of State for Wales* contain guidance on the listing of buildings and are copied at doc 7. An excerpt from Annex C to circular 61/96 is set out below:

“1. The following are the main criteria which the Secretary of State applies in deciding which buildings to include in the statutory lists:

- architectural interest: the lists are meant to include all buildings which are of importance to the nation for the interest of their architectural design, decoration and craftsmanship; also important examples of particular building types and techniques (e.g. buildings displaying technological innovation or virtuosity) and significant plan forms;
- historic interest: this includes buildings which illustrate important aspects of the nation's social, economic, cultural or military history;
- close historical associations with people or events of importance to Wales;

- group value: especially where buildings contribute an important architectural or historic unity or are fine examples of planning (e.g. squares, terraces or model villages).

2. Age and rarity are relevant.....After about 1840, because of the greatly increased number of buildings erected and the much larger numbers that have survived, greater selection is necessary to identify the best examples of particular building types, and only buildings of definite quality and character are listed.....The approach adopted for twentieth century listing is to identify key examples for each of a range of building types – industrial, educational, hospitals etc – and to treat these examples as broadly defining a standard against which to judge proposals for additions to the lists.”

4.13 The emphasis in these criteria is on national significance, though the guidance explains that this cannot be defined precisely.

4.14 The state of repair of a building is not normally taken into account in a listing decision (otherwise owners could avoid listing simply by neglecting buildings) – issues of whether or not alternative uses and repairs are realistically achievable can be taken into account when considering applications for listed building consent.

4.15 Factors such as the costs of repairs to a building and a listing being considered to compromise future uses for the site are not relevant in a listing decision. Such factors take into account matters beyond the architectural and historic merits of a building.

4.16 The listing of a building is not a bar to all change but applicants for listed building consent must be able to justify their proposals and show why works which would affect the character of a listed building are desirable or necessary.

5. What is your advice to the Minister?

Options

5.1 The decision whether or not to list the Building will hinge on a judgement about whether or not it has special architectural or historic interest at the national level. The decision is one of balance and must be made bearing in mind the pertinent legislation, guidance, the representations and advice that have been submitted under this Ministerial Advice. This is a new Ministerial Advice - the old Ministerial Advice on this matter (MA/P/KS/5795/16) should not be considered in making the decision.

5.2 The excerpt from Annex C of circular 61/96 (set out above) guides you, among other things, to take two steps when deciding whether or not to list the Building. First, you have to reach a decision as to the architectural or historic interest of the Building. Secondly, you must assess those merits against the key examples of its type which broadly define the standard to be met when considering whether or not the Building should be listed. These two steps must be taken before making your decision and you must clearly explain your reasons at each step.

5.3 On step 2, Cadw's assessment of 15 March 2016 explained that a benchmark for listing inter-war schools is set by a key group of schools in the former county of Glamorgan, designed by the county architect between 1922 and 1932, D Pugh

Jones. The assessment refers specifically to three schools of this type and period including St Ilan Comprehensive School, Caerphilly, Twyn County Junior School, Caerphilly and Tonyrefail School, Rhondda Cynon Taff. I have therefore attached the list descriptions for these buildings and photographs (copied at doc 8) that were taken at the point when they were inspected for listing, to enable you to consider the comparative exercise that has been undertaken by Cadw in reaching your decision about whether or not to list the Building.

5.4 It is important to consider the opinions on both sides of the case and the weight to assign to those opinions. You can either:

- i. list the Building, if you consider that it is of special architectural or historic interest with sufficient quality and character to be listed as one of the best examples of its type.

Or

- ii. not list the Building, if you consider that it is not of special architectural or historic interest with sufficient quality and character to be listed as one of the best examples of its type.

5.5 Option i is consistent with the opinions of Mr M Jones, the Twentieth Century Society, Save Britain's Heritage, Save our Heritage and the Royal Commission on the Ancient and Historical Monuments of Wales. Their representations do not overtly assess the Building against the Pugh Jones schools or other schools and, as such, do not assist you with the comparative element of the exercise outlined in paragraph 5.2 above. Option i is also consistent with the opinion of Mr R George who has assessed the Building against schools other than the Pugh Jones schools (a school in Sheffield and another in Belfast). Cadw's consideration of Mr George's assessment is at doc 4.

5.6 Option ii is consistent with Cadw's previous advice (docs 1 and 2) and is supported by Wrexham County Borough Council and its own independent expert (doc 5). The peer review undertaken by Historic England also points to this option being the more appropriate outcome. Insofar as the expert opinion before you has assessed the Building against the Pugh Jones schools that have been listed, the consensus is that the Building is not of equal merit.

5.7 There is an element of judgement on this issue. The excerpt from Annex C to circular 61/96 set out above includes an indication that the key listed examples for each building type should be treated "as broadly defining a standard against which to judge proposals for additions to the lists".

6. What legal or policy obligations are relevant to this advice?

6.1 Planning (Listed Buildings and Conservation Areas Act 1990 -The relevant legal powers to include a building in the list of buildings of special architectural or historic interest are contained in section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The functions were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 and the functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of the Government of Wales Act 2006.

6.2 Well-being of Future Generations (Wales) Act 2015 – Consideration has been given to the application of the duty, to carry out sustainable development in the Well-being of Future Generations (Wales) Act 2015, to this decision. It has been concluded that, within the narrow context of this decision, the application of the duty does not meaningfully direct the decision.

6.3 Welsh Language - There are no specific issues relating to the Welsh Language as a result of this Ministerial Advice.

6.4 Equality and Human Rights - There are no specific issues relating to Equality and Human Rights as a result of this Ministerial Advice. This is confirmed by the Stage 1 Equality Impact Assessment that has been undertaken in relation to this case, and listing more generally (doc 9).

6.5 The United Nations Convention on the Rights of the Child (UNCRC) - There are no specific issues relating to the UNCRC as a result of this Ministerial Advice.

6.6 Tackling Poverty -This submission raises no issues concerning the tackling poverty agenda.

7. What are the financial implications of Ministers agreeing to this advice and which budget will this be paid through?

7.1 The recommendation contained in this submission does not give rise to any direct additional costs to the Welsh Government.

7.2 Economy & Infrastructure Corporate Finance has cleared the financial implications set out in this paragraph under number EI/CF/16/509. There are no issues of regularity or propriety associated with this MA, nor are the proposed courses of action novel. However due to the sensitivities involved the MA is regarded as potentially contentious and a clearance number has been obtained from the Corporate Governance Unit, reference AS11/16/07

8. What communication or media activity is planned following this decision?

8.1 There has been some press interest in the Building. Officials will therefore work with your press team about publicising the new decision.

Annex A:

Mandatory CC (MA – Policy Advice)

E&I Ministerial Advice List

Additional Copy recipients