



· INSTITUTE · OF · HISTORIC ·
BUILDING · CONSERVATION

Making Heritage Work

DEFRA
Air and Environment Quality
EU & International Air Quality
Area 3C
Ergon House
17 Smith Square
London
SW1P 3JR

James Caird
Consultant Consultations Co-ordinator
Glebe House
Caynham
Ludlow
Shropshire
SY8 3BN

Tel (01584) 876141

Web site www.ihbc.org.uk

E-mail consultations@ihbc.org.uk

Dear Sirs

CONSULTATION ON THE USE OF NON-COMPLIANT PAINTS FOR HISTORIC BUILDINGS

The Institute of Historic Building Conservation (IHBC) is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

The Institute welcomes the opportunity to comment on the consultation.

The Institute understands why the proposed regime is necessary but is somewhat dismayed that yet another responsibility will be placed on the staff of local planning authorities. The Institute hopes that the administrative workload may, by regulation and guidance, be kept to a minimum.

Consultation question 1 - Are you content with the definitions proposed for historic buildings and vintage vehicles? If not, please supply details.

Answer - The proposed definition of historic building fits the existing definitions of historic building in the Planning and Ancient Monument Acts but does not mention the proposed revisions to the Heritage Protection currently being undertaken. This will give status to locally designated heritage assets. Any proposals arising from this consultation would need to take account of this.

Consultation question 2 - Do you consider there to be reason to use other definitions of 'vintage vehicle', e.g. those mentioned in paragraph 7.2.3?

Answer - The Institute has no view on this question.

Consultation question 3 - Do you consider that non-listed buildings within a conservation area may have a specific need to use non-compliant paints to conserve their historic character and hence that of the conservation area?

Answer - Yes, such use may, occasionally be merited and cases are likely to arise under the Heritage Protection Review. The Institute suggests that this be allowed for under the discretion of the licensing authority subject to Government guidance.

Consultation question 4 - Do you agree with our proposals for who would be the licensing authority and administer the licensing scheme for historic buildings?

Answer - The Institute is not clear why questions 4 and 5 have been put in the way they have been given:

- the substantially greater estimates of the use of non-compliant paints for car restoration than for historic buildings,
- the health and safety background to the Directive and,
- the current role of local authorities in this area.

It would seem sensible for the principal licensing role to be taken on by the Environmental Health departments of local authorities. The conservation sections/officers of authorities should be consulted in respect of the justification for the issue of licences in historic buildings cases.

Consultation question 5 - Do you agree with our proposals for who would be the licensing authorities and administer the licensing scheme for vintage vehicles?

Answer - See the answer to question 4.

Consultation question 6 - Do you agree with the licensing process set out in paragraph 9 and Annex A of the partial RIA, in relation to a) individual and occasional users; b) specialist businesses? If not what alternative process would you suggest bearing in mind the constraints in the Directive?

Answer - The Institute is happy with the principles of the proposed system. The sample applications are not complicated but clear guidance would be necessary to ensure that as many applications as possible were completed fully and correctly.

Consultation question 7 - Do you agree that all relevant information is captured by the declaration in Annex A to this paper? What other information should be included?

Answer - The Institute is happy with the proposal.

Consultation question 8 - Do you agree that the applicant for a licence should apply to the licensing authority in the area they live or where the principal place of business is situated or should an applicant be able to apply to any licensing authority?

Answer - In order to minimise the costs of the proposed regime and other regulatory regimes, the application should be made:

- in the case of business applications, to the local authority in whose area the operation of the licence will be based;
- in the case of individual applications, to the local authority in whose area the restoration or work will occur.

Consultation question 9 - In what circumstances, if any, might an applicant wish to apply to a licensing authority other than the one for the area in which they live?

Answer - The Institute cannot envisage any advantage in this unless for perceptions of better levels of service or more positive outcomes. Such potential issues could be addressed in Regulations and guidance.

Consultation question 10 - Do you agree that it should be left to the licensing authority to determine in each particular case the frequency with which a licence-holder should report the information required in paragraphs 4 and 5 of Schedule 1 of the SI – see paragraph 9.4 and 9.5? If the frequency should be stipulated in the licence through the SI, what should that frequency be?

Answer - The Institute is not convinced that this should be discretionary. Most returns are made annually and there seems to be no reason why the proposal should not conform to standard practice.

Consultation question 11 - Are there any other conditions which should be specified in the licence (not left to the discretion of the licensing authority)?

Answer - The Institute is unclear why the proposal leaves the question of actual quantities of paint used as a discretionary one. It seems to us that the scheme will be of little ultimate use unless its impact can be measured. We would wish to see all users be subject to returns stating:

- the licensed quantities;
- the actual quantities used on a case-by-case basis.

We do not see this as having significant cost implications for users. In cases of single use the cost recording and returning the relevant data will be negligible. In the case of business users, the measure would add little to standard stock control and safe materials handling procedures.

Consultation question 12 - Do you agree that there should be a review and appeals mechanism? If so, do you think that the mechanisms set out in the draft SI are reasonable? Is an appeals mechanism required or would a review mechanism suffice?

Answer - The Institute thinks that there needs to be some mechanism to cover cases where applicants for licences feel they have not been fairly dealt with by the licensing authority. It would contravene the principles of natural justice for there to be no right of appeal beyond the licensing authority, but the proposal to require internal review first would appear sensible.

Consultation question 13 - Are you content that the enforcement and offence/penalties provisions are: a) proportionate and b) sufficient to be effective in achieving their aims – compliance with the Directive?

Answer - The Institute is content with the proposals for offences.

Consultation question 14 - Do you feel that all relevant offences have been included in part 5 of the draft SI?

Answer - The Institute is content with the proposals for offences.

Consultation question 15 - Are there any other issues which you feel should be included in the guidance for the licensing authority?

Answer - Guidance needs to make it clear that the justification for using non-compliant paint on historic buildings is the maintenance of the historic character of the fabric.

Quality of execution is as important of issue as the material used. Guidance should make it clear that licensing of non-compliant material should occur only where the authority has confidence that the outcome will justify the issuing of the licence.

Consultation question 16 - Are you content that the partial RIA is a reasonable assessment of the costs and benefits arising from the implementation of the licensing scheme?

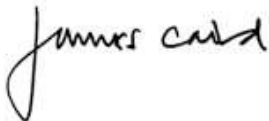
Answer - The Institute is concerned that the regime will impose yet another duty on local authorities. It has no information on the resources available to environmental health departments, but the conservation staff of local planning authorities are a scarce resource who, if engaged in paint licensing work will have less time for their normal duties. This is of concern, but the effect will be reduced if conservation staff do not have an administrative role.

Consultation question 17 - Are the costs of setting up and administering a licensing scheme reasonably presented? Do the proposed licensing authorities consider that they can recover their costs through fees as stated in the proposal?

Answer - The Institute has no information on which to base an informed answer to this question.

The Institute hopes these comments are helpful.

Yours faithfully

A handwritten signature in black ink that reads "James Caird". The signature is written in a cursive style with a large initial 'J'.

James Caird
Consultant Consultations Co-ordinator