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Kelly Maskell  
The Planning Inspectorate  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ

|                                     |                                                                          |
|-------------------------------------|--------------------------------------------------------------------------|
| Eich cyfeirnod<br>Your reference    | 3221901                                                                  |
| Ein cyfeirnod<br>Our reference      | HM                                                                       |
| Dyddiad<br>Date                     | 12 March 2019                                                            |
| Llinell uniongyrchol<br>Direct line | 0300 025 9098                                                            |
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Dear Ms Maskell,

**APPEAL REF: 3221901**

Thank you for your letter of 12 February 2019 inviting our comments on the above planning appeal. We note that the appeal is made against the refusal of an outline planning application for up to 6 dwellings within the setting of the Walker Fan House Building and the Vertical Winding Engine House, Wynnstay Yard, The Green, Ruabon, Wrexham. Both of these structures are scheduled monuments and listed buildings and details are available on our website at the following web link:

<https://cadw.gov.wales/historicenvironment/recordsv1/cof-cymru/?lang=en>

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes, the local development plan and associated guidance. I have attached Annex A for further information.

Cadw was not consulted by the Council on the original planning application but it is clear that the proposals will impact on the setting of both of the structures. Such impact is a material consideration in determining the planning application / appeal. As no such analysis had been submitted by the applicant, the application is clearly inadequately documented. In light of national policy and guidance, the applicant should have commissioned an assessment of this impact in accordance with Welsh Government published guidance entitled "*The Settings of Historic Assets in Wales*"

We have taken the opportunity to review the information that is available and we consider that the proposed development will (i) change the current industrial setting of both of the historic assets to a residential one, (ii) enclose the Walker Fan House Building by erecting new buildings either side of it and possibly requiring it to be fenced for safety reasons as there are no proposals to stabilise the structure, and (iii) confuse the relationship between the two historic assets. On balance, we consider that it is likely that the proposed development would radically change the character of

Mae Gwasanaeth Amgylchedd Hanesyddol Llywodraeth Cymru (Cadw) yn hyrwyddo gwaith cadwraeth ar gyfer amgylchedd hanesyddol Cymru a gwerthfawrogiad ohono.

The Welsh Government Historic Environment Service (Cadw) promotes the conservation and appreciation of Wales's historic environment.

Rydym yn croesawu gohebiaeth yn Gymraeg ac yn Saesneg.  
We welcome correspondence in both English and Welsh.



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INVESTOR IN PEOPLE



the area, significantly changing the manner in which the historic assets are understood, experienced and appreciated. We consider that the proposed development is likely to have a significantly adverse impact, causing significant harm to the setting of these nationally important historic assets, contrary to national planning policy and guidance.

These views are provided without prejudice to the final decision made by either by the Welsh Ministers, or any person appointed by the Welsh Ministers to determine the appeal.

Yours sincerely,

Helen May  
Casework Team Leader

**APPEAL 3221901**Planning Policy Wales (PPW) and Technical Advice Note 24: Historic Environment (TAN24)

The planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond its curtilage. Any change that impacts on an historic asset or its setting should be managed in a sensitive and sustainable way.

Scheduled Monuments

PPW explains that the conservation of archaeological remains and their settings is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in a direct adverse impact on a scheduled monument (or an archaeological site shown to be of national importance)

TAN 24 elaborates by explaining that when considering development proposals that affect scheduled monuments or other nationally important archaeological remains, there should be a presumption in favour of their physical preservation in situ, i.e. a presumption against proposals which would involve significant alteration or cause damage, or would have a significant adverse impact causing harm within the setting of the remains.

Listed Buildings

PPW explains that there should be a general presumption in favour of the preservation or enhancement of a listed building and its setting. The primary consideration for development within the setting of a listed building is section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 which explains that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Welsh Ministers shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In this respect the Courts have ruled that considerable weight and importance should be applied to this duty and there is case law which indicates that there is strong presumption against the granting of planning permission where there is harm to the setting of a listed building. The Courts have gone on to state that even if the harm is limited, or less than substantial, that harm should be given considerable importance and weight. This then needs to be taken into account alongside wider national and local development plan policies by the decision maker in undertaking the planning balance. In undertaking the planning balance the decision maker must determine if the benefits of the proposal outweigh the harm.

Assessing the degree of harm which a development could cause to the setting of a listed building is a matter for the Inspector's planning judgment. However, if s/he does conclude that there will be harm, s/he must give it considerable importance and weight. Therefore, there is a strong presumption against granting planning permission for development which would harm the setting of listed buildings.

Cadw

12 March 2019