

The Ancient Monuments and Listed Buildings (Amendment) (Scotland) draft Bill

The following is Stirling Council's response to the above consultation

In general terms, all of the measures in the new draft Bill are supported by Stirling Council. However, the following comments are offered in respect of specific proposals and suggestions made for a small number of additions to the bill which it is considered would fulfill all of the policy aims outlined above.

Archaeology

Sections 2 & 13 include a new offence of 'disturbance' of a scheduled ancient monument. However, there is no definition of what will constitute 'disturbance'. This needs to be clarified in the final document.

Section 16 extends the range of historic environment assets that can be designated as a scheduled ancient monument under the 1979 Act to include artefact scatters; archaeological deposits etc. It is suggested that the boundaries of such 'monuments' will be difficult to define and therefore map.

Listed Buildings

Section 18 introduces a new power that will enable Scottish Ministers to offer any person a certificate of immunity from listing which will guarantee that a building will not be listed during the five years from the date of the certificate.

1. There is a need to ensure that such applications are adequately assessed before an immunity certificate is issued. It is suggested that Part 5A(1) of the draft Bill be reworded as follows:

"The Scottish Ministers may, on the application of any person **with a legitimate interest in a property, and having assessed the merit of the building for inclusion in the statutory list of buildings of special architectural or historic interest as provided for in sections 1-3 of the Act**, issue a certificate"

2. It is also essential that adequate consultation with appropriate bodies including the local authority is undertaken before the issuing of any immunity certificate. It is suggested that an extra provision be inserted within 5A of the draft Bill, stating:

"Before approving any application under this section the Scottish Ministers shall consult such persons or bodies, including the Local Authority, who may possess special knowledge and/or interest in the building and/or buildings of architectural or historic interest."

3. It is crucial that local authorities are informed of any certificate issued. The wording of section 5A should include a requirement for the Scottish Ministers to give notice to Local authorities as soon as possible after any application for immunity has been approved and a certificate has been issued.

4. The introduction of an additional provision to allow review of a certificate of immunity, should new information come to light, should be included within the Bill. The introduction of a fee for an application for a certificate should also be considered.

The following additional measures should be considered for inclusion in the Bill with regard to Listed Buildings and Conservation Areas

1. Some general additional controls on development in Conservation Area could be introduced to reduce the need to apply Article 4 Directions.

2. Improving the ability of local authorities to take action through provision of grant to underwrite costs of serving and carrying out Urgent Works and property purchases after Repairs Notice have been served.
3. The introduction of a mechanism to protect buildings between being identified for listing and actual listing.
4. Remove 'deliberate' when applied to owners allowing listed buildings to fall into disrepair, to make it easier for minimum compensation to be awarded and thereby provide a better deterrent to owner neglect.
5. Local listing with legal protections could be introduced, as an optional statutory designation for LA's to use.
6. Introduce a requirement to notify the local authority upon starting to implement listed building consent and to notify upon completion of work to bring the provisions relating to listed building consent in-line with the provisions of the new Planning Act relating to planning permission.