

## NORTH LANARKSHIRE COUNCIL

### REPORT

To: PLANNING AND TRANSPORTATION COMMITTEE	Subject: HISTORIC SCOTLAND CONSULTATION ON A DRAFT HERITAGE BILL ON ANCIENT MONUMENTS AND LISTED BUILDINGS.
From: HEAD OF PLANNING & DEVELOPMENT	
Date: 13 AUGUST 2009   Ref: I/PL/BHD/09/04/RC	

#### 1. PURPOSE OF REPORT

- 1.1 To advise Committee regarding a current consultation from Historic Scotland and to seek approval for the submission of a detailed response to the consultation.

#### 2. BACKGROUND

- 2.1 Historic Scotland has recently issued a consultation on the Ancient Monuments and Listed Buildings (Amendment) (Scotland) draft Bill:  
[www.historic-scotland.gov.uk/currentconsultations](http://www.historic-scotland.gov.uk/currentconsultations)

This is described as a tightly focussed amending Bill that will introduce new provisions and remove barriers to the use of existing powers that will help the management of the historic environment.

#### 3. RESPONSE TO CONSULTATION

- 3.1 The draft Heritage Bill is generally to be welcomed and a proposed consultation response is set out in Annex A. The response makes a number of suggestions for further amendments that could also be added to the Bill, including:

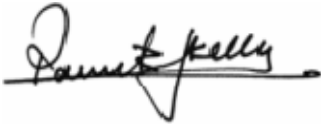
- better controls on potentially harmful developments in Conservation Areas;
- new powers for Historic Scotland to give grants to LA's and others to assist repair and acquisition costs of listed buildings in need of urgent repair;
- The desirability of a review of Ecclesiastical Exemption, to enable LA's to have control over proposed changes to listed churches;
- adding a requirement for Completion Certificates for Listed Building Consent works.

#### 4. CORPORATE CONSIDERATIONS

- 4.1 The draft Heritage Bill will assist the Council's roles in management of the historic environment through new measures and powers, but without introducing any new significant burdens on Local Authorities.
- 4.2 There are no sustainability or equality considerations arising from this report.

5. **RECOMMENDATION**

- 5.1 It is recommended that Committee approves the submission to Historic Scotland of the consultation response to the Ancient Monuments and Listed Buildings (Amendment) (Scotland) draft Bill, as set out in Annex A.

A handwritten signature in black ink, appearing to read 'Patrick Kelly', with a horizontal line underneath.

**PATRICK KELLY**  
**HEAD OF PLANNING AND DEVELOPMENT**

Local Government Access to Information Act: for further information about this report, please contact Richard Cartwright on 01236 616537

## RESPONSE FROM NORTH LANARKSHIRE COUNCIL TO THE CONSULTATION ON THE DRAFT ANCIENT MONUMENTS AMENDMENT BILL

The proposals in the Bill are generally welcomed by North Lanarkshire Council and the following measures are particularly supported:

- Section 2, extending the offence from damage to 'disturbance' of an Ancient Monument (AM), although we suggest the term 'physical disturbance' would be clearer.
- Section 4, removing the defence of ignorance
- Section 5, increasing the level of fines
- Section 6, clarifying the powers of entry to inspect a Scheduled Monument (SM)
- Section 7, on SM Enforcement Notice, Stop and Temporary Stop Notices
- Sections 8-10 on Monuments under Guardianship, extending powers of Sc Ministers to fund / provide public facilities.
- Section 11, extending grants for AM's to 3<sup>rd</sup> Parties including tenants and conservation charities.
- Section 12, introducing a power of entry for investigative works to a non- scheduled AM.
- Section 14, new power for Sc Ministers to give grants to anyone promoting understanding of the historic environment.
- Section 17, introducing ability to refuse to accept a SM application within 2 years of a similar application.
- Section 19, increase in fines as a deterrent to unauthorised LB works
- Sections 21/22 on Stop and Temporary Stop Notices with unauthorised Listed Building (LB) works, and new powers of entry
- Sections 23/24 new fixed penalty fines for breach of LB enforcement, including escalation if breach continues- we support this provided fines are sufficiently large to act as a strong deterrent.
- Section 25, liability for Urgent Works costs to be registered against the property (& any new owner).

The main contribution in this response is to suggest that, within the parameters of the review, there may be opportunities to add to the Bill's provisions and increase its usefulness. Our suggestions for additions are:

### **CONSERVATION AREAS**

1. Some general additional controls on development in Conservation Area would be most helpful, ie universal CA restrictions on permitted development\* (*could add after Section 65 of 1997 Act*) – thereby reducing the administrative burden on Local Authorities to prepare Article 4 Directions. Alternatively, could introduce a simpler method for LA's to withdraw PD rights in CA's where appropriate.
2. Encouragement to LA's to carry out Conservation Area Appraisals and Management Plans, within 5 years of designation \* (*amend the duty in Section 63 of 1997 Act which is 'to prepare preservation and enhancement proposals,' to reflect current best practice and PAN71*).
3. Amendment of *Section 66 of the 1997 Act* would be most useful to clarify the requirement for Conservation Area Consent for partial demolition of a building within a Conservation Area.

### **CERTIFICATE OF IMMUNITY FROM LISTING (as proposed sec 18 of bill)**

4. A Certificate of Immunity application should have to be from someone with a legitimate interest in a property, perhaps also with a fee for the application, to seek to avoid the danger of many blanket applications and a significant diversion of resources away from the workload of Historic Scotland's crucially important list review work, which must have priority (*amend Section 18 of draft Bill*). It should also be made clear that Local Authorities will be notified of any application for a Certificate of Immunity, to allow for comments to be made, and also of any approved Certificates for

Immunity. We suggest clarification is needed regarding the expected outcome of an application for a Certificate of Immunity i.e. if approved the Certificate will be issued, if refused the building will be automatically added to the Listed Building Register.

### **LISTED BUILDINGS- GRANTS**

5. Further extending availability of grants to LA's is sought, to underwrite costs of serving and carrying out Urgent Works and property purchases after Repairs Notice served – helping to remove local authority reluctance to act \* (*amend Section 69/70 of 1997 Act*).
6. enabling listed building acquisition grants to be given to more bodies than LAs and NTS is also suggested by IHBC, to encourage the involvement of eg Building Preservation Trusts (*further amend Section 69/70 of 1997 Act*).

### **LISTED BUILDINGS- ECCLESIASTICAL EXEMPTION**

7. North Lanarkshire Council believes there is a strong case to remove ecclesiastical exemptions, given the general failure of religious bodies to have robust conservation review bodies in place. This would simplify the process of dealing with changes to listed buildings and would not constitute a heavy additional burden on local authority resources \* (*could be introduced by amending Section 54 of 1997 Act*)

### **LISTED BUILDINGS- OTHER**

8. Introduce a requirement to notify the LA upon starting to implement a LBC and also a requirement to seek a LBC Completion Certificate, which would assist monitoring work and reduce burdens on Local Authorities (*amend Section 16 of 1997 Act*).
9. Need to make clearer who is responsible to request historic building recording prior to LB works being carried out (*amend Section 15 of 1997 Act*).
10. Remove 'deliberate' when applied to owners allowing LBs to fall into disrepair, to make it easier for minimum compensation to be awarded and thereby provide a better deterrent to owner neglect \* (*amend s45 of 1997 Planning LB's and CA's Act*).

### **ARCHAEOLOGICAL ISSUES**

11. Extend Certificates of Immunity to above ground Ancient Monuments.
12. Make it an offence to remove *any* finds from a SM (not just metal detector finds).