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Your Ref:

8 September 2009

Historic Scotland  
Longmore House (G55D)  
Salisbury Place  
EDINBURGH  
EH9 1SH

FAO Victoria Murray

Dear <sup>Ms</sup> Murray

**Consultation on the Implementation of the Removal of the Duty of Planning Authorities to Notify Historic Scotland on certain types of Listed Building Consent Applications**

The response to the above consultation was considered by Angus Council at the Infrastructure Services Committee on the 25 August 2009 and by the Development Standards Committee on 1 September 2009.

As agreed I herewith enclose the Respondent Information Form together with the response to the specific questions.

I trust that this is to your satisfaction

Yours sincerely

*Gillian E. Phillips*

**GILLIAN PHILLIPS  
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*Received on 10/9/2009 V. Murray*

## ANNEX 1 – RESPONSE TO SPECIFIC QUESTIONS

### **Background**

**Q1 – In what capacity are you involved, or have you previously been involved, with the listed building consent process (e.g. applicant, agent, amenity body, planner, etc)?**

Planning Authority

### **Entry Criteria**

**Q2 – What criteria do you think a planning authority should meet in order to qualify for taking sole responsibility for determining listed building consent applications and what resources do you think may be involved?**

The basic principles of criteria set out in the conclusion of the consultative report are sufficient enough to cover the basic perspective required to allow a planning authority to consider undertaking the delegation of straightforward listed building consent applications.

It should be essential under the “access to specialist conservation advice” criteria that those officers responsible for signing off any listed building consent applications should be a Member of the Royal Town Planning Institute (MRTPI). It would also be essential for planning authorities to have access to advice from officers with a conservation accredited qualification or membership of a conservation or heritage body. There may be resource implications in maintaining access to such officers.

An up to date development plan should also be set out as a requirement under the “appropriate policies” criteria to ensure that policies are up to date and fit for purpose to be able to consider applications under delegated authority.

Each planning authority should ensure that as well as having a sufficient level of conservation expertise to match their requirements regarding volume and type of applications, administrative support and availability of IT should also be considered when reviewing resource implications.

The nature of any monitoring arrangements may also have resource implications for planning authorities and any monitoring arrangements should be structured to ensure that they are proportionate to the level of risk involved.

**Q3 – Do you agree with the criteria proposed following the pilot?**

Yes. The basic principles of the criteria are acceptable but would be dependant on individual planning authority capabilities and should not be taken as a “one size fits all” approach. The amount of expertise available and the requirement for such will vary from authority to authority depending on the types and number of listed buildings within their individual area.

**Q4 – It is Scottish Ministers’ view that planning authority policies should be in line with national policy before they take on the responsibility for determining applications. Do you agree? If not please explain why.**

Yes but it is essential that a planning authority has an up to date development plan.

### **Scope of applications included.**

**Q5 – Do you think the scope of applications identified in Schedule 1 is appropriate? Please explain your answer. It would be helpful if you could consider whether:**

- anything else be included/omitted?
- Schedule 1 be extended to include category A-listed buildings?
- Schedule 1 be determined by exception rather than inclusion?

Schedule 1 is quite comprehensive in the scope of included types of application for non-notification and the suggestion within the report to include external ramps and curtilage buildings within the Schedule would be acceptable. However consideration should also be given to the inclusion of small two storey extensions where the existing building is two storeys.

The inclusion of category A-listed buildings within Schedule 1 may be dependant on the ability felt by the individual planning authority to undertake determination of such applications without guidance from Historic Scotland. However, given that category A buildings are of national importance then it should be deemed appropriate that some form of consultation would still exist between the planning authority and Historic Scotland. Angus Council would favour formal consultation prior to determination.

The determination of Schedule 1 by exception or inclusion would again be determined by agreement between Historic Scotland and the individual planning authority. However Angus Council considers that Schedule 1 should be determined by exception.

***Monitoring of the scheme.***

***Q6 – Do you think the method of monitoring planning authorities' decisions during the pilot was effective?***

Yes. However, the requirement to provide the information required by Schedule 2 for every application, including copies of application forms, drawings, consultation responses, representations etc for every application appears unduly onerous and inconsistent with the government's planning reform agenda in terms of proportionate involvement of agencies. The evidence from the exercise does however support Angus Council's experience of limited call-in of applications and it is expected that this should provide Historic Scotland with the confidence to remove any such requirement from future monitoring arrangements.

***Q7 – Do you think that planning authorities' decisions should be monitored as part of any future scheme?***

***Please explain why/why not?***

Yes. A degree of monitoring is considered appropriate in order for Historic Scotland to confirm that the development proposals affecting the built heritage are being appropriately determined. However, it is considered that the level of monitoring should be proportionate with the risks involved through the decision making process. Any monitoring regime should be compatible with the government's objectives in terms of planning reform. Historic Scotland's focus should be to provide added value to the planning system by using resources that are freed up as a consequence of any new delegation to provide expert and constructive advice to planning authorities at an early stage in the decision making process as required. It is considered that this would be of greater value (to planning authorities and the built heritage) than using limited resources to review decisions that have already been made.

Post decision monitoring offers limited protection to the built heritage. A more positive approach might be to identify Historic Scotland as a statutory consultee in respect of listed building consent proposals affecting category A and B properties. This would allow Historic Scotland to intervene at an early stage where it was considered necessary thus ensuring that account is taken of their comments and minimising potential damage to built heritage interests. If a planning authority wished to depart from Historic Scotland's advice then the application would be notifiable. This would reflect comparable agency involvement with planning applications. It is considered that this would be no more onerous for Historic Scotland than reviewing the level of information currently required by Schedule 2. However, this review would be undertaken at an earlier and more useful stage in the process thus providing an additional safeguard to our heritage.

***Q8 – Do you think that there are other ways which monitoring could be done?***

***If yes, then how? It would be useful if you could consider:-***

- ***Who should carry out the monitoring?***

- ***Should all cases be monitored or just a sample?***
- ***How frequently should monitoring information be submitted?***
- ***If a sample of cases are monitored how should the samples be selected?***
- ***What would be good measures of success, i.e. what kind of information should be submitted for monitoring?***

There are a number of options available regarding the monitoring of decisions and would be dependant on individual planning authorities. Options for monitoring should always include Historic Scotland in some capacity but consideration could be given to an annual monitor of a sample of cases by Historic Scotland for each planning authority either solely or in conjunction with either the Conservation Officer or equivalent. It is considered that the format of monitoring should be determined by Historic Scotland and the individual planning authority when the relevant Joint Working Agreement is drafted. This could take account of local factors such as available expertise.

If required or on an intermittent basis then there should be the opportunity for Historic Scotland to undertake an audit of decisions taken for a specific time period. This would ensure national, as well as local level, consistency.

The value of submitting the monitoring information to Historic Scotland on a regular basis is questioned. It is considered that the planning authority should be required to provide Historic Scotland with a list of applications determined and to maintain a handling report for every listed building consent application that is determined. A sample of these could be requested on an annual basis by Historic Scotland with an annual review of a sample of cases undertaken in conjunction with the planning authority. It is considered that this form of monitoring would be more proportionate and would reflect the government's wider objectives in relation to culture change and the planning reform agenda.

Measures of success should be in relation to reduction in time taken to issue listed building application decisions, the percentage of approved applications that are in compliance with policies and evidence of added value through amendments to improve the final application submission or approved application.

***Q9 – Do you think monitoring information for planning authority decisions on C(S)-listed buildings should also be included?  
Please explain why/why not?***

It is considered that planning authorities should be required to maintain a report on the handling of the application along the lines set out in Schedule 2. This would demonstrate that all relevant factors had been taken into account in the determination of an application. These reports would thereafter be available for Historic Scotland to review as necessary. A requirement to submit further information to Historic Scotland in relation to Category C(S) listed buildings would place an additional burden on planning authorities; would give rise to resource implications for planning authorities and Historic Scotland; and would not be consistent with the government's planning reform agenda.

### ***Review***

***Q10 – How regularly do you think a planning authority's overall performance should be reviewed and how do you think this should be carried out?***

It is considered that this is a matter for the individual Joint Working Agreements. Angus Council would favour annual monitoring with a formal review of the Joint Working Agreement every four years.

***Q11 – Do you think that there are any issues that might lead to the withdrawal of the ability of planning authorities to determine applications without notifying Scottish Ministers?***

Theoretically there may be occasion where in an unforeseen circumstance it might be necessary to withdraw the planning authorities' ability to determine applications for example if an authority were to lose a number of fully qualified and experienced officers or that the conservation expertise was no

longer available. Additionally there may exceptionally be circumstances where a planning authority does not determine applications in accordance with national or local policy as a matter of routine thus compromising the built heritage.

**General**

**Q12 – Do you support the principle of giving planning authorities sole responsibility to issue listed building consent for more straightforward applications?**

**Please explain your answer.**

Yes. The principle of giving planning authorities sole responsibility to issue listed building consent for more straightforward applications is welcomed. Although Schedule 1 itself requires to be robust and not open to interpretation regarding what is determinable under the scheme it is necessary for Schedules to be determined on an individual basis, suitable to the individual needs and abilities of each planning authority.

Angus Council's experience is that very few applications are called in by Historic Scotland which suggests that the planning authority's decision making is sound and robust. Allowing greater delegation should allow quicker decision making with the associated benefits for the economy. It should allow Historic Scotland to focus its attention on areas of genuine national interest which is consistent with the government's objectives for planning reform. It should also allow Historic Scotland to provide support and guidance to planning authorities during the application process where necessary. It is considered that this would be a more valuable and constructive use of Historic Scotland's resources than focusing time and attention on reviewing decisions through an extensive and disproportionate monitoring system.

It should however be reasonable to expect that a planning authority should be able to have access to an opinion or advice from Historic Scotland regarding any category type application during its determination should the authority feel it necessary. This should be no more onerous on Historic Scotland as consultation time required will have been sufficiently reduced through planning authorities taking on the delegated powers. This is something that could be undertaken at existing liaison meetings held between planning authorities and Historic Scotland.

Historic Scotland should also look to be involved at an earlier and more strategic level for potential larger proposals and projects regarding the historic environment. This would ensure that views are taken on board from the outset and therefore may allow for further delegated approval where initial discussions and conditions of proposal are set out prior to application submission.

Angus Council feels that this proposed delegation of power is welcomed to facilitate improvements in the determination of applications for listed building consent. Angus is proud that there has been no need in recent times to have an application called in by Historic Scotland regarding decision making. Angus Council is adequately set to be able to take on board the requirements of any delegated decision making as it has an established Planning Service which has a number of officers who are not only MRTPI accredited but also have conservation related qualifications. It also has a dedicated conservation team within its Natural and Built Environment Section and therefore would be acceptable to determining applications under delegated decision.