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BUILDING · CONSERVATION

Making Heritage Work

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Dear Victoria

HISTORIC SCOTLAND'S CONSULTATION the Removal of the Duty of Planning Authorities to Notify Historic Scotland on Certain Types of LBC Applications

The Institute of Historic Building Conservation 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 Scottish branch of the Institute of Historic Building Conservation (IHBC) welcomes the opportunity to respond to this consultation. At the outset, we would wish to make a number of general comments on this consultation and on the finalised Joint Working Agreement between Historic Scotland and Local Authorities.

General Comments

1. The Institute is concerned that the finalised JWA Agreement document published on 9th July 2009, along with an invitation letter to Planning Authorities to sign up to this JWA, appears to include *with immediate effect* the opportunity to approve LBC and CAC applications without notifying Historic Scotland (see para 53 and Appendix 10- the latter states "the opportunity to approve LBC and CAC applications without first notifying Historic Scotland *now* exists"). This appears to be at odds with Jim MacDonald's statement in Section 7, para 30 of the current Consultation document on the Implementation of the Removal of Duty to Notify, that *following* review of consultation responses, that Scotland's Planning Authorities will *then* be invited to approach Historic Scotland about taking part in the scheme. It has now been clarified at a meeting held on 8th September 2009 that the latter statement is correct and that no new opportunity to determine Category B LBC applications will be offered until early 2010 at the earliest; the IHBC welcomes this confirmation.

2. Secondly, we are also surprised and disappointed that the results of the survey of Scottish Local Authorities on their staffing, policies and procedures on the historic environment has still not been published. These results would potentially have been of

great assistance in making considered responses to the current consultation. There is also a great danger that any subsequent surveys carried out will not get a good response rate, if there is seen to be little value in completing a survey.

3. Paragraph 5 of the finalised Joint Working Agreement states that planning authorities need to have access to specialist advice, and Appendix 2 to the document gives further clarification of Historic Scotland's expectations on this. Whilst the Institute welcomes the statement "Generally staff employed in this area should be qualified ... IFA or IHBC..", we are concerned about the later statement which could be interpreted as contradicting this: "Where existing staff have developed a sound understanding of historic environment issues based only on experience this will also be recognised."

The Institute is concerned at this change in wording and emphasis thereby introduced as (a) it would seem to offer an easy way for a LA to 'tick a box', secure agreement to signing a JWA, and take on more delegated LB casework without reference to HS.

(b) it could encourage LA's to not seek to employ conservation qualified staff.

4. Paragraph 42 of the finalised JWA at line 2, within the section on Development Management, implies that Historic Scotland will only intervene on a notification by a LA if an issue of national significance is involved. However, the situation for notifications of Category B LBC applications- where these are continuing, and also of notification of Category C LBC demolition applications, also needs to be addressed.

5. Appendix 2 of the finalised JWA in its final paragraph states that "it is recommended that authorities have access to an up to date historic environment record" and this is strongly supported by the IHBC.

6. Appendix 7 of the finalised JWA sets out the Process for handling applications made by LA's. The IHBS strongly welcomes the inclusion here of the following statement:

"when considering works to a building, LA departments are encouraged to:

- Seek early confirmation of the need for consent
- Involve the Conservation Officer as early as possible
- Involve HS as early as possible for complex or significant works"

7. Appendix 10 proposes 4 tests which a LA must be able to demonstrate in order to deal with more LBC casework without notifying HS. The IHBC would request two amendments as noted below in blue italics to these requirements:

- signed up to this JWA;
- access to *adequate* specialist conservation advice;
- appropriate policies; and
- supporting *robust* processes to operate effectively.

We also wish to record again our disappointment at the weak threat in this Appendix that states: "should an authority be unable to operate effectively without notifying Scottish Ministers, then Scottish Ministers could require notification to resume."

Responses to Consultation Questions in Section 4 of Current Consultation

The responses of the Institute on the specific consultation questions are attached, and I am also attaching a completed Respondent Questionnaire form.

Conclusion

We are pleased to have the opportunity of responding to this consultation and hope that our views will be taken into consideration. If you wish for clarification or further discussion on any matter raised by us, please contact myself initially

Yours sincerely,

Richard Cartwright
Scottish Consultations Secretary, Institute of Historic Building Conservation

Section 4: Consultation Questions

Background

1. 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)?

IHBC members are involved as Planners, Applicants and Consultees.

Entry criteria

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

Access to adequate levels of qualified staff or advice;

Suitable policies in place;

Suitable procedures in place;

Adequate monitoring system in place.

3. Do you agree with the criteria proposed following the pilot?

Mostly- see small amendments suggested below, from Section 7 para 30 criteria:

Signed-up to the Joint Working Agreement;

Access to adequate levels of specialist conservation advice;

Appropriate policies; and

Supporting robust processes and monitoring to operate effectively.

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

Yes, but we are concerned that under the proposed review of SPP as set out in the current draft, that there will be a weakening in the national policy basis on built heritage matters.

Scope of application types included

5. Do you think the scope of applications identified in Schedule 1 is appropriate?

Yes

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? No – national importance requires national assessment

schedule 1 be determined by exception rather than inclusion? Yes

Monitoring the scheme

6. Do you think the method of monitoring planning authorities' decisions during the pilot was effective?

Yes

7. Do you think that planning authorities' decisions should be monitored as part of any future scheme?

Please explain why/why not.

Yes, this is vital, to ensure that legislation and national policy is followed and that the historic environment is being adequately protected.

8. Do you think there are other ways which the monitoring could be done?

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

who should carry out the monitoring? Initial monitoring by a Local Authority report to Historic Scotland, but this must be a public and published report so that it is open to independent scrutiny.

should all cases be monitored or just a sample? All cases.

how frequently should monitoring information be submitted?

Annually

if a sample of cases are monitored how should the samples be selected? N/A- all cases required

what would be good measures of success, i.e. what kind of information should be submitted for monitoring? Examples

of measures would be:

1. was the decision in agreement with the Planning Officer recommendation?
2. was the decision contrary to any specialist historic environment consultee responses (internal or external)
3. the loss of Listed Buildings or of features of interest.

9. Do you think monitoring information for planning authority decisions on C(S)-listed buildings should also be included?

Please explain why/why not?

Any demolitions of Category C Listed buildings should be included.

This is because (a) it is already a requirement; and (b) to assist maintenance of an accurate HER/ database.

Review

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

Annually. As suggested above, an initial public report could be submitted by each Local Authority to Historic Scotland, with this being subject to independent scrutiny and review.

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

Yes, if Listed Buildings were being lost or damaged, contrary to legislation, national and local policy, as a result.

On this point, the wording in the finalised model Joint Working Agreement document must be made stronger, as it presently contains only a very weak threat. We pointed this out in our response to the consultation JWA document, and are very disappointed this wording has not been made stronger.

General

12. 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, provided:

1. Adequate measures are in place (see our answers to Qns 2 and 3 above);
2. Everything is done in a transparent manner (see our answers to Qns 8 and 10 above); and
3. There is a built-in mechanism for review.