

RESPONSE BY SCOTTISH BORDERS COUNCIL

CONSULTATION OF THE IMPLEMENTATION OF THE REMOVAL OF THE DUTY OF PLANNING AUTHORITIES TO NOTIFY HISTORIC SCOTLAND ON CERTAIN TYPES OF LISTED BUILDING CONSENT APPLICATION

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)?
Scottish Borders Council is the Local Planning Authority for the Scottish Borders
ENTRY CRITERIA
2 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?
As a planning authority we already currently employ specialist heritage and design staff (1x Principal Officer (Heritage & Design) and 1x Heritage and Design Officer). These specialists provide detailed advice to Development Management Officers and also act as a liaison between the planning department and the Inspectorate both at pre-application stages and also during determination. These staff have built up a positive relationship with the Historic Scotland Inspectorate over many years.
The capacity of specialist staff to continue to provide this support is essential.
3 Do you agree with the criteria proposed following the pilot?
A key aspect of the adoption of the scheme is the need for a signed Joint Working Agreement between the council and Historic Scotland. We have already agreed in principle to sign up to the JWA and believe that it is essential that specialist advice is available to the DM Officers and that monitoring processes are in place.
4 It is Scottish Minister's 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.
We agree that the planning authorities' policies should be aligned with those of national policy and as far as we know this is currently the case with Scottish Borders Council.
SCOPE OF APPLICATIONS INCLUDED
5 Do you think the scope of the applications identified in Schedule 1 is appropriate? Please explain your answer. It would be helpful if you could consider whether:
<ul style="list-style-type: none">• Anything else be included / omitted?• Schedule 1 be extended to include Category A-listed buildings?• Schedule 1 be determined by exception rather than inclusion?
The scope of applications in Schedule 1, appears to cover a significant proportion of works for which currently Historic Scotland are formally consulted and for which generally Historic Scotland do not add value to the final decision.
We would prefer to see external decoration added to Schedule 1, as this category of work

often is associated with other works, for example alterations to shop fronts which are a significant percentage of the listed building stock and normally will also require a parallel planning application as many lie within conservation areas. It may be that it is considered that “alterations” is taken to mean decoration? In addition, there may be a benefit in aligning the need for notification of alterations to residential property, including extensions (“householder” applications) to align with the proposed revisions to “permitted development” rights proposed.

We are content that Category A buildings are currently excluded from the proposed scheme – but suggest that this may be subject of review for certain minor works at a later date once the Category B scheme has been in operation for a period of time.

It is important that there is a clear schedule of what work is removed from the duty to notify and that it should not be necessary to have (varying) degrees of local interpretation. There is an advantage is detailing this as “exception” rather than “inclusion”, paralleling, for example, parts of the GDPO – where works are permitted without reference unless specifically excluded.

MONITORING THE SCHEME

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

The method of monitoring, in detail, all planning authorities’ decisions is probably not sustainable if most planning authorities’ sign up to the scheme as there will be no real saving of Inspectorate time if each application is scrutinised in detail. As expanded at “8”, it may be better to undertake random sampling of decisions whilst still recording which applications were no longer required to be notified and the outcome of decisions affecting these applications.

7 Do you think that planning authorities’ decisions should be monitored as part of any future scheme? Please explain why / why not.

Planning authorities’ decisions should be monitored, in order to ensure that there is a consistent approach to the management of change in listed buildings being delivered across Scotland. Regular monitoring also allows for intervention by Historic Scotland, if necessary, if inappropriate planning decisions are being made.

Monitoring also allows a degree on benchmarking and periodic reviews.

8 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?**

The monitoring should be carried out by Historic Scotland in order to ensure a consistent approach.

Whilst it may be desirable to monitor in detail each authority for the first three months of adoption of the scheme on all applications, (as the approach used for the pilot), subject to

a satisfactory outcome and a review, it appears to be more realistic to thereafter revert to a sample for detailed monitoring.

Initially for the first three months, weekly monitoring information can be submitted – simply recording which applications are being processed under the scheme and the outcome of decisions – this should be possible technically by running a report from “Uniform”. It is suggested thereafter that a monthly monitoring report is submitted, perhaps with a three monthly summary.

A simple random sampling process should be used to select cases for a detailed review, to ensure that a true sample is selected – this can be done by simply selecting a sequence of case reference numbers.

Ideally the measure of success should be a combination of quality v quantity – an indication in the improved determination time performance of the planning authority can be submitted (showing the average determination time of referred and non-referred cases, but there should be a method of also reviewing the quality of the outcomes. This may in practical terms therefore be a combination of an average “time” return from the planning authority and a “quality” return assessed by Historic Scotland as part of the sample monitoring.

9 Do you think that monitoring information for planning authority decisions should also be included?

Please explain why / why not?

The key return from planning authorities is probably numeric as detailed at “8”, which in particular would show the improvement in determination time.

REVIEW

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

This should be linked into other reviews of the planning authorities’ performance, for example “Best Value”, but should certainly not be more than once a year.

11 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?

If there were to be sustained inappropriate decisions being made by a planning authority then the ultimate sanction of removal of this ability would need to be in place.

The loss of specialist staff would also impact on the capacity and ability of a planning authority to determine applications.

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, we support the principle.

There are essentially two (linked) reasons for giving this support:

Currently for most, if not all of these straightforward applications, the recommended decision from the planning authority is supported by Historic Scotland without any further

comment. We also currently have a poor record in time taken to determine planning applications (in the last quartile); the fact that we have to refer many straightforward applications to Historic Scotland means that we will often (just) miss our eight week target, the removal of this referral for many applications should enable our performance to be improved measured against determination time.

In addition we consider that the time of the Historic Scotland Inspectorate could add value in other areas of work in connection with our built heritage; for example assisting with tackling more complex and demanding applications and also being more proactive in seeking solutions for buildings at risk.

A programme of awareness raising / peer group training, based perhaps on the Area Team areas within Historic Scotland. A degree of “mentoring” could also be provided.

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