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Received 30/9/2009  
V. Murray  
Victoria Murray  
Consultation on Removal of Duty to Notify  
Historic Scotland  
Longmore House (G55D)  
Salisbury Place  
EDINBURGH  
EH9 1SH

21 September 2009

Dear Sirs

### Consultation on Pilot scheme

Thank you for the opportunity to comment on this consultation. As you will know, the Trust has already made its unease with regard to the removal of notification procedures for Category B-list buildings known to the Agency.

The outcome of this pilot scheme does little to settle our unease.

The Trust's main interest with this issue is the effective and qualitative decision-making affecting Scotland's architectural heritage.

The current process for ascribing heritage value to a building is to list it under the provisions of the *Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997*. This List is compiled by Scottish Ministers on behalf of the state, and although we acknowledge the current hierarchy of listing categories, the simple fact is that the Act makes no distinction in terms of the statutory duties when considering alterations to a listed building. Therefore, listed buildings are by definition national assets, established by an Act of Parliament, regardless of whether they are listed for national, regional or local importance. It is the Trust's view that the state must continue to play a formal part in their management.

As such, we disagree with the implication, in the Executive Summary, that this Pilot Scheme will result in an improvement in the way that Scotland's historic environment is managed and that it will deliver a better service to all its customers. At best, the case has not been proven by this study.

The current provisions for Category C(S) listed buildings are not generally viewed as a great success. As a starting point, Historic Scotland should undertake a study of decisions affecting C(S) buildings before embarking on a further removal of notification procedures.

The Trust remains concerned that the wider management relationship with Local Planning Authorities remains outside the scope of this consultation. The implications of Appendix 5 of the Joint Working Agreement Between Historic

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Scotland and Planning Authorities in Relation to Statutory Casework and Consultation needs to be addressed, notably the scope and content of the Annual Review; the issue of whether individual decisions can be reviewed; and the criteria for which any delegation scheme would be withdrawn.

Turning to the results of the Pilot Study, we note that in the analysis of the scheme, Perth & Kinross Council was excluded from the study due to the relatively small sample population of LBC decisions that they made. This means that the assessment of the study covers the two largest city planning authorities only. This cannot be an acceptable grouping from which to make any proper evaluation of the success or otherwise of the pilot.

The Trust also notes that the handling procedures of the Pilot local authorities have had a significant impact on processing times. In Edinburgh, where conservation teams handle applications from start to finish, there appeared to be a reasonable time saving (36%) compared to Glasgow, where conservation staff advise development management officers, who then process the application – this resulted in a 19% saving. The clear lesson here is not the influence on processing times as a result of notification, but due to internal procedures of the planning authority. This has not been properly addressed in the report.

The Trust believes that no firm conclusions can be reached from this study. At the very best, it can be noted that there has been some improvement in processing times in the 2 planning authorities with the largest numbers of listed buildings.

There has been no apparent attempt to assess the quality of the decisions made, only the speed. It would have been helpful to have had an analysis of the variance between the decisions made by the planning authority and what Historic Scotland might have advised.

In terms of the specific types of cases that would be “devolved” to planning authorities, we find the outline in Schedule One confusing and lacking in clarity as to what would, and would not, be included within the scheme should it go ahead. The process can only be determined at the point of application, adding a further layer of decision-making, whereby the LPA would need to assess if it were required to notify Scottish Ministers or not, on a case-by-case basis. No thought seems to have been given to this issue in the Pilot Study. This would need to be made public, so that people interested in or affected by an application would know who may, ultimately, be the decision-taker. Whether Scottish Ministers are to be notified needs to be very clear at the point of application. Therefore, consideration might be given to the separation of the B-listed buildings into two types – similar to Grade II and Grade II\* in England and Wales. Whilst we do not advocate this, it might provide a more coherent basis for these purposes.

The Trust acknowledges that the Parliament have made statutory provisions for this removal of notification. However, it does not follow that it is the wish of Parliament to lose its ability to consider changes to our historic buildings without adequate scrutiny.

We do not believe that the justification for the removal of notification is supported by this study. Furthermore, we suggest that the attempt to define what types of applications need to be notified or not needs much greater clarity.

Yours sincerely

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