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Comments by the Scottish Property Federation to Historic Scotland on their Implementation of the removal of the Duty of Planning Authorities to Notify Historic Scotland on Certain Types of Listed Building Consent Application

1. The Scottish Property Federation welcomes this opportunity to comment on the removal of the requirement for Planning Authorities to notify Historic Scotland in relation to certain types of 'straightforward' listed building consent applications.
2. The Scottish Property Federation is a representative body for the Scottish commercial property industry and speaks for over 100 corporate members. Included within our membership are commercial property developers, landlords and managers, fund managers, property owners and long term investors in both commercial and residential property. We are an integral part of the UK-wide British Property Federation which represents most of the UK's largest property investors, developers and professional property industry advisers.
3. According to research published at the end of 2007 the commercial property industry in Scotland was worth some 8.5% of gross value added to the Scottish economy, representing some £7.34bn in 2005.¹ Since the onset of the credit crunch in late 2007 the economic output of the sector has been significantly impaired leading to a fall of some 40% in the value of new construction orders by the commercial property industry in Scotland from 2007 to 2008². Commercial property values in Scotland are also estimated to have fallen by over 40% since their peak in mid-2007³.
4. The Scottish Property Federation supports appropriate protection and investment in the historic environment. We are aware and welcome the findings of the HEACS report that the historic environment contributes some £2.3bn⁴ a year to the Scottish economy and our members are keen to continue to play a positive role in this success story. We recognise that it is important that policy protects and safeguards such buildings. By doing so, we preserve the value of not just our heritage but also our built environment.

¹ GVA Grimley: the role and contribution of commercial property in the Scottish economy, commissioned by the Scottish Property Federation (2007)

² Annual Construction statistics, then UK Department for Business, Enterprise & Regulatory Reform (2009)

³ Jones Lang La Salle (December 2008)

⁴ Historic Environment Advisory Council for Scotland (February 2009)

5. SPF views the pilot projects in Glasgow, Edinburgh and Perth & Kinross as welcome and a clear step in the direction of improving the planning system and *Delivering Planning Reform*. The proposal to make planning authorities the sole decision-makers for 'straightforward' forms of listed building consent is in line with wider reforms to the planning system that are intended to achieve speedier decision-making. As you would expect from an organisation such as ours, we welcome such steps. Our key caveat would be the same as our view on speedier decision-taking on planning applications. Yes we welcome quicker decision taking, but it must be *appropriate* decision-making in regard to straightforward listed building consents. The blue section used to make an assessment of the decisions reached in the pilots (the proforma) does indicate a small number of incidents where there was some dispute as to the appropriateness of the decision reached, suggesting that some vigilance would need to be retained in the form of review to ensure the appropriateness of the planning authority decisions that are made under any future scheme.
6. The consultation suggests that the pilot studies have provided excellent suggestions to ensure that a wider roll-out of the removal of the Duty to Notify benefits from lessons learned, for example the need to ensure systems and skills are in place within planning authorities to meet the monitoring requirements and standards of the newly 'decentralised' system of ensuring the appropriate listed building consents are correctly scrutinised. This is welcome, but will require resources and processes to be earmarked in good time before a wider rollout of a future scheme.
7. One note of caution is that while Glasgow City Council and City of Edinburgh Council appeared to find the system beneficial in terms of reducing decision-making times, the statistics appear to show a different picture for Perth & Kinross that could represent the different level of resource challenges that the smaller authorities in Scotland would face. In addition we will repeat the comment that any review process would need to examine what decisions are being taken rather than just their timeliness.
8. The different experiences of the two major metropolitan authorities compared to the smaller authority throws some concern on the potential for a successful wider roll-out of the scheme, particularly in the current context of severely limited local authority resources in the current public sector funding environment. Added to the reduction in planning application fees and building warrant income, we recognise that local planning authority resources are stretched and we retain some concern over the priority that these types of listed building consents will receive.
9. In summary therefore the SPF welcomes the pilots as a positive exercise. We believe the implementation is important in the context of *Delivering Planning Reform* and we look forward to the wider roll out of the exercise across Scotland. Our specific comments in relation to the consultation are provided below.

Background

10. As a representative organisation our members are involved in all aspects of the listed building consent application process from a private sector perspective. This includes the management and care of a significant proportion of the historic environment stock in Scotland.

Entry criteria

11. The main criteria for planning authorities will be to satisfy Historic Scotland that the authority in question has sufficient resources and skills to undertake the role. The pilots demonstrated this clearly in the case of Glasgow and Edinburgh whereas it would appear that the smaller council (Perth & Kinross) struggled more. If the pilots are to be successfully rolled out then this needs to be addressed as a priority.

Monitoring the Scheme

12. An initial period of close monitoring of any future (wider) scheme would appear to be appropriate. Ultimately the public sector will wish to streamline its monitoring requirements. The monitoring of the pilots appeared to be established for a limited purpose and that is to see if there were substantial differences in the time required to obtain a decision on a listed building consent for these specific types of application and to make an analysis of the appropriateness of the decision reached. This is welcome although the nature of such forms can make it difficult to fully examine the case in hand. Our members would want to be assured that the new system was not simply used to issue quick decisions without due regard as to their quality.

13. The Scottish Government through Historic Scotland could ensure a regular exercise to consider the time taken to decide 'de-notified' listed building consent applications. To consider the quality of decisions reached under a future scheme it may be beneficial to obtain more in-depth independent research after a period of time that is sufficient to provide a decent quantity of evidence.

Review

14. We refer to our previous comments on independent review and suggest that while the broad statistics on the time required by a planning authority to make a decision on a listed building consent application might be achieved on an annual basis, the more in-depth form of review should not occur overly frequently. It might be a possibility for Historic Scotland to make more occasional audits of the scheme (not to notify Historic Scotland of certain types of application). We would not wish to recommend an over-regular scheme of review and monitoring upon planning authorities, yet we would want to be assured on an evidence basis that appropriate decisions are being taken and that negative decisions are not being made without full consideration of the applicant's case.

15. If any review, independent or government-led, were to find evidence of applications for listed building consent being rejected on too regular a basis without apparent due merit to the specific application in question, then we feel this would result in a strong case

being made for Scottish Ministers to withdraw or suspend the right of local authorities to determine applications without notifying Ministers.

General

16. We support the principle of giving planning authorities sole responsibility for straightforward listed building consent applications. We would in fact like to see the principle extended should the scheme provide the private sector with confidence that the right to sole determination is being used constructively. We welcome therefore the approach being taken by Historic Scotland and, with limited caveat on the need for adequate resourcing, establishment of due process and a continued need to review the quality of decision-taking rather than merely its speed, we support the general approach adopted by the Scottish Government.
17. We would be pleased to meet at your convenience to discuss our views.

David Melhuish
Director