

Enterprise Resources
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Received 22/9/2009
K. Murray

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Phone: 01698 455939
Date: 17 September 2009

Dear Sir

Consultation on the Removal of the Duty of Planning Authorities to Notify Historic Scotland on Certain Types of Listed Building Consent Applications

I refer to your correspondence in connection with the above consultation and welcome the opportunity to provide this Service's response to the Consultation and to the specific questions referred to in Section 4 of the consultation.

Background

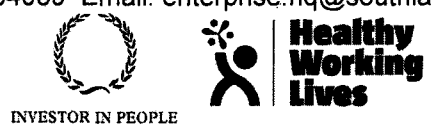
At present, any planning authority that is minded to approve an application relating to a Category A or B listed building, or the demolition of any unlisted building in a conservation area, has to notify their intention to Historic Scotland before issuing the consent. Due to an amendment of Section 13 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, it is now possible for Historic Scotland on behalf of Scottish Ministers, to direct that certain planning authorities can determine listed building consent for specific works without first notifying Historic Scotland. This Service would agree that Historic Scotland should take forward this removal of duty as a means of speeding up decision making, as demonstrated by the previous pilot study.

General Comments

It is recognised in Section 5 of the consultation report that Historic Scotland accepts that many planning authorities have the skills and expertise required to determine listed building consent applications without involving Historic Scotland. This Service would concur with this view and considers that the necessary procedures and expertise are in place within the Service to respond to any decision on the removal of powers. In this way it is considered that decision making would be speeded up without any reduction in the quality of decisions. The previous pilot study indeed demonstrated how appropriate decisions continued to be in line with policy.

It was noted within Section 6 of the consultation report that within the previous pilot study, participating authorities considered that although the list of delegated works in Schedule 1 had been clear and not open to interpretation, it may have been helpful to have the Schedule list exceptions rather than inclusions as the list of inclusions was considered somewhat expansive and could be further extended to include external ramps and curtilage buildings. This Service would concur with this viewpoint and considers that it would be beneficial if a list of exceptions be itemised to include:-

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- Demolition (including partial demolition)
- Façade retentions
- Roof remodelling (including rooftop extension) and
- Large extensions (to be defined in detail)

It is also clear from examining the pilot study that local authorities require to be given clear guidance on the level of information to be forwarded to Historic Scotland for monitoring purposes and that the amount of information should not impose an onerous burden on local authorities which would negate one of the main aims of the exercise in devolving decision making and reducing duplication of effort. It is important that any changes to the present system do not place additional pressure on local authorities' administrative resources.

Section 6 of the consultation report raised some issues regarding the need for a more consistent timescale and format for producing monitoring information. In this respect, this Service considers that the layout of Schedule 1 may require to be more dependent on the scope of application types that each individual planning authority wishes to determine without notifying Historic Scotland and therefore the use of exception rather than inclusion in Schedule 1 would be dependent on the individual authority. In terms of monitoring methods, it may be preferable to carry out random as opposed to continual monitoring particularly if the local authority can demonstrate the required skills and expertise together with a high level of competence. This would further free up local authorities' time for focusing on the more complex applications.

Reponses to Consultation Questions in Section 4 of Current Consultation Document

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

Conclusion

This Service considers that the proposed delegation of power is welcomed and will facilitate improvements in the speed of determination of applications for listed building consent without compromising the quality or consistency of decisions. The Service also considers itself to be adequately set up and resourced to undertake the requirements of any delegated powers.

This Service is pleased to have had the opportunity to respond to this consultation document and hope that the views expressed will be taken into consideration. If you wish clarification or further information on any matter raised, please do not hesitate to contact Angus Clark on the above telephone number.

Yours faithfully



Michael McGlynn
Head of Planning and Building Standards

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Response to Consultation Questions
Respondents Questionnaire Form

Response to Consultation 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 criteria set out in the conclusion of the consultation report, namely:-

- i) signed up to a Joint Working Agreement.
- ii) access to specialist conservation advice.
- iii) appropriate policies and
- iv) supporting processes and monitoring to operate effectively.

It should be noted that there may be resource implications in maintaining access to specialist conservation advice. An up to date development plan containing appropriate conservation policies is also an important element. Monitoring arrangements may also have resource implications.

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

Yes. However a "one size fits all" approach would be unrealistic. The amount of expertise available and the requirement for such will vary from between authorities depending on the numbers and types 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. However it is essential that there is no weakening of national policy on built heritage matters and that the local authority development plan is up to date.

Scope of Applications included

Q5 Schedule 1 is comprehensive in terms of listing the types of application for non-notification. However this Service would agree with the consultation report in that external access ramps and curtilage buildings should also be included within the schedule. It may also be appropriate to consider small 2 storey extensions within the schedule where the existing building is also 2 storeys in height.

This Service considers that it would be beneficial if Schedule 1 categories were determined by exception rather than inclusion on the grounds of easier understanding and clarity. However, it may be that this could be determined by agreement between Historic Scotland and individual planning authorities.

Monitoring of the Scheme

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

Yes. However the amount of information required by Historic Scotland for monitoring purposes appeared unduly onerous and runs counter to the need to avoid over duplication of information.

The evidence from the pilot study was that Historic Scotland's call-in powers were used very rarely and this on its own should give Historic Scotland the confidence to avoid an overly rigorous monitoring regime.

**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 important but it should be proportionate to the risks involved in the decision making process. Historic Scotland should focus in providing added value to the planning system, through its use of freed up resources. This would provide more value to planning authorities than an overly strict monitoring regime which could be viewed as an ineffective use of scarce resources and running counter to the planning reform agenda.

**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, ie what kind of information should be submitted for monitoring?**

Options for monitoring could cover a local authority annual report presented to Historic Scotland and could be a public and published report which was open to independent scrutiny. An annual monitor by Historic Scotland of a sample of cases could be undertaken. The format of monitoring should be determined by Historic Scotland but should take account and not place undue strain on local authority administrative resources.

In general, the Service questions the need for detailed monitoring of decisions on a regular basis. A proportionate method would be for a list of sample cases and decisions to be provided on an annual basis to ensure compliance with national policy guidance.

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

No. Demolitions of Category (C(S) listed buildings are already notified. Any requirement to submit further information to Historic Scotland in respect of Category (C(S) listed buildings would place an unnecessary burden on the Service and give rise to resource implications.

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?

This is a matter for the individual Joint Working Agreements. However this Service would consider initial annual monitoring increasing to a longer period, (possibly every 4 years) if it was demonstrated that the Service was complying with national policy guidance on the built heritage.

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?

Only if the Service was to lose a significant number of experienced officers and/or specialist conservation staff. Exceptionally, there may be the unusual circumstance of applications not being determined in accordance with national or local policy in a routine manner, thus compromising the built heritage resource.

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. This Service would be in agreement with this principle on the basis that very few applications are called in by Historic Scotland for this local authority area. This suggests that the existing decision making process is consistent, sound, and robust. Greater delegation would enable speedier decision making and be in line with the planning reform agenda. It should also free up Historic Scotland to provide a more valuable and productive use of its resources.

There is however still a requirement for Historic Scotland to provide specialist input for particularly complex and contentious proposals and this support should remain in place for local authorities to access when necessary.

Historic Scotland should be encouraged to be more involved at the pre-application stage in large and complex applications affecting the historic environment.