

**Local Review Body**

**4 February 2015**

**Planning Application for Review**

**The Co-proprietors, 19 Esplanade and 78 Eldon Street, Greenock  
Painting of property in yellow with gold surrounds and banding (in retrospect):  
19 Esplanade and 78 Eldon Street, Greenock (14/0352/IC)**

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# **PLANNING APPLICATION, PLAN AND DESIGN STATEMENT**



Regeneration and Planning  
Development Control & Conservation  
**Inverclyde**  
council

Head of Regeneration and Planning  
Municipal Buildings  
Clyde Square  
Greenock PA15 1LY

FOR OFFICIAL USE ONLY

Reference No. 14/0352/2c  
Date of Receipt .....  
Fee Paid .....  
Date Fee Received .....  
Date Valid .....  
Receipt No. ....

## PLANNING APPLICATION

Town & Country Planning (Scotland) Acts

The undersigned applicant hereby makes application for Planning Permission for the development described on this form and the accompanying plans.

see note 1

1. Particulars of Applicant	Particulars of Agent (if any) acting on applicants behalf:
Name <u>THE CO-PROPRIETORS</u> Address <u>19 ESPLANADE &amp; 78 ELDON STREET,</u> <u>GREENOCK</u> Postcode <u>PA16 7RX</u> Telephone Number .....	Name <u>CANATA &amp; SEGGIE</u> Address <u>7 UNION STREET,</u> <u>GREENOCK</u> Postcode <u>PA16 8TH.</u> Telephone Number <u>01475 784517</u> Profession <u>CHARTERED ARCHITECTS</u>

see note 2

2. Description of Development	
<u>REPAINTING OF FLATTED PROPERTY</u>	
Site Location <u>19 ESPLANADE &amp; 78 ELDON STREET, GREENOCK</u>	
Site Area (hectares) <u>N/A</u>	Number of dwellinghouses proposed <u>N/A</u>
New gross floorspace (sq. metres) <u>N/A</u>	

see note 3

3. Application Type (Tick appropriate box/es)	
(a) Permission in Principle <input type="checkbox"/>	(c) Detailed Permission <input checked="" type="checkbox"/>
(b) Approval of Matters specified by conditions <input type="checkbox"/>	(d) Change of Use of land/buildings <input type="checkbox"/>
(e) Other (please specify) .....	

see note 4

4. Applicants interest in site (Tick appropriate box)	
(a) Owner <input checked="" type="checkbox"/>	(c) Tenant <input type="checkbox"/>
(b) Lessee <input type="checkbox"/>	(d) Prospective Purchaser <input type="checkbox"/>
(e) Other (please specify) .....	

see note 5

**5. Existing Uses**

- (a) Please state the existing use(s) of the land/buildings: DWELLING HOUSE
- (b) Was the original building erected before 1st July 1948? Yes / ~~No~~
- Has the original building been altered or extended ~~Yes~~ / No
- If yes, please indicate nature of alteration / extension and if possible approximate dates.....
- If the land / buildings are vacant, please state last known use.....

see note 6

**6. Access Arrangements and Parking** (Tick appropriate box/es)

- |                                                        |                                     |                                               |                          |
|--------------------------------------------------------|-------------------------------------|-----------------------------------------------|--------------------------|
| (a) Not Applicable                                     | <input checked="" type="checkbox"/> | (e) Number of existing on site parking places | <input type="checkbox"/> |
| (b) New vehicular access proposed                      | <input type="checkbox"/>            | (f) Number of proposed on site parking places | <input type="checkbox"/> |
| (c) Existing vehicular access to be altered / improved | <input type="checkbox"/>            | (g) Detail of any available off site parking  | <input type="checkbox"/> |
| (d) Separate pedestrian access proposed                | <input type="checkbox"/>            |                                               |                          |

see note 7

**7. Drainage Arrangements** (Tick appropriate box/es)

- |                    |                                     |                                         |                          |
|--------------------|-------------------------------------|-----------------------------------------|--------------------------|
| (a) Not Applicable | <input checked="" type="checkbox"/> | (c) Connection to existing public sewer | <input type="checkbox"/> |
| (b) Public Sewer   | <input type="checkbox"/>            | (d) Septic Tank                         | <input type="checkbox"/> |
- If (d), indicate method of disposal of effluent (e.g. soakaway, watercourse etc).....

see note 8

**8. Water Supply** (Tick appropriate box/es)

- |                    |                                     |                             |                          |
|--------------------|-------------------------------------|-----------------------------|--------------------------|
| (a) Not Applicable | <input checked="" type="checkbox"/> | (c) Existing private supply | <input type="checkbox"/> |
| (b) Public Main    | <input type="checkbox"/>            | (d) Proposed private supply | <input type="checkbox"/> |
- If (c) or (d), please specify nature of supply source and proposed storage arrangements.....

see note 9

**9. Building Materials** (Complete as appropriate)

- |                        |                                     |                              |
|------------------------|-------------------------------------|------------------------------|
| (a) Not Applicable     | <input checked="" type="checkbox"/> |                              |
| (b) Outside Walls      |                                     | Material.....<br>Colour..... |
| (c) Roof Covering      |                                     | Material.....<br>Colour..... |
| (d) Windows            |                                     | Material.....<br>Colour..... |
| (e) Boundary Treatment |                                     | Material.....<br>Colour..... |

see note 10

#### 10. Landscaping

Is a landscaping/tree planting scheme proposed?

Yes ☐

No ☒

Are any trees/shrubs to be cleared on site?

Yes ☐

No ☒

If yes, please show details of scheme on a SITE PLAN

see note 11

#### 11. Costings

What is the estimated costs of any works to be carried out?

£3,000.00

see note 12

#### 12. Confirmation

Signature of applicant/agent...

(CANATA & SEGGIE)

on behalf of THE CO-PROPRIETORS

Date 22/09/2014

see note 13

### CERTIFICATES UNDER ARTICLE 15 OF THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008

Either certificate A, B or C must be completed together with certificate D

**CERTIFICATE A** (To be completed where the applicant is owner of the whole application site including any access visibility splays and land required for drainage systems or water connections)

I hereby certify that:

No person other than \* myself/the applicant was an owner (refer to note (a)) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application

**CERTIFICATE B** (To be completed where the applicant does not own the whole application site including any access visibility splays and land required for drainage systems or water connections)

I further certify that:

\* I have/the applicant has given the requisite notice (Notice No.1) to all persons other than \* myself / the applicant who at the beginning of the period of 21 days ending with the date of the accompanying application were (refer to note (a)) owners of any part of the land to which the application relates.

Name(s) of Owner

Address(es)

Date of Service  
of Notice(s)

\* Delete whichever is inappropriate

NOTE (a) Any person who in respect of any part of the land is the proprietor of the dominium utile or is the lessee under a lease thereof of which not less than 7 years remains unexpired.

**CERTIFICATE C (To be completed in EVERY CASE)**

I further certify that:

\* (1) None of the land to which the application relates constitutes or forms part of an agricultural holding

\* (2) I have/the applicant has given the requisite notice to every person other than myself/himself who at the beginning of the period of 21 days ending with the date of the application was a tenant of any agricultural holding any part of which was comprised in the land to which the application relates

These persons are:

Name(s)

Address(es)

Date of Service  
of Notice(s)

.....	.....	.....
.....	.....	.....
.....	.....	.....

**CERTIFICATE D**

I confirm that I have been unable to notify all parties under Certificates A, B and C

\* Delete whichever is inappropriate

Signature of Applicant/Agent .....

(CANATA &amp; SECURE)

On behalf of THE CO-PROPRIETORS

Date 22ND SEPTEMBER 2014

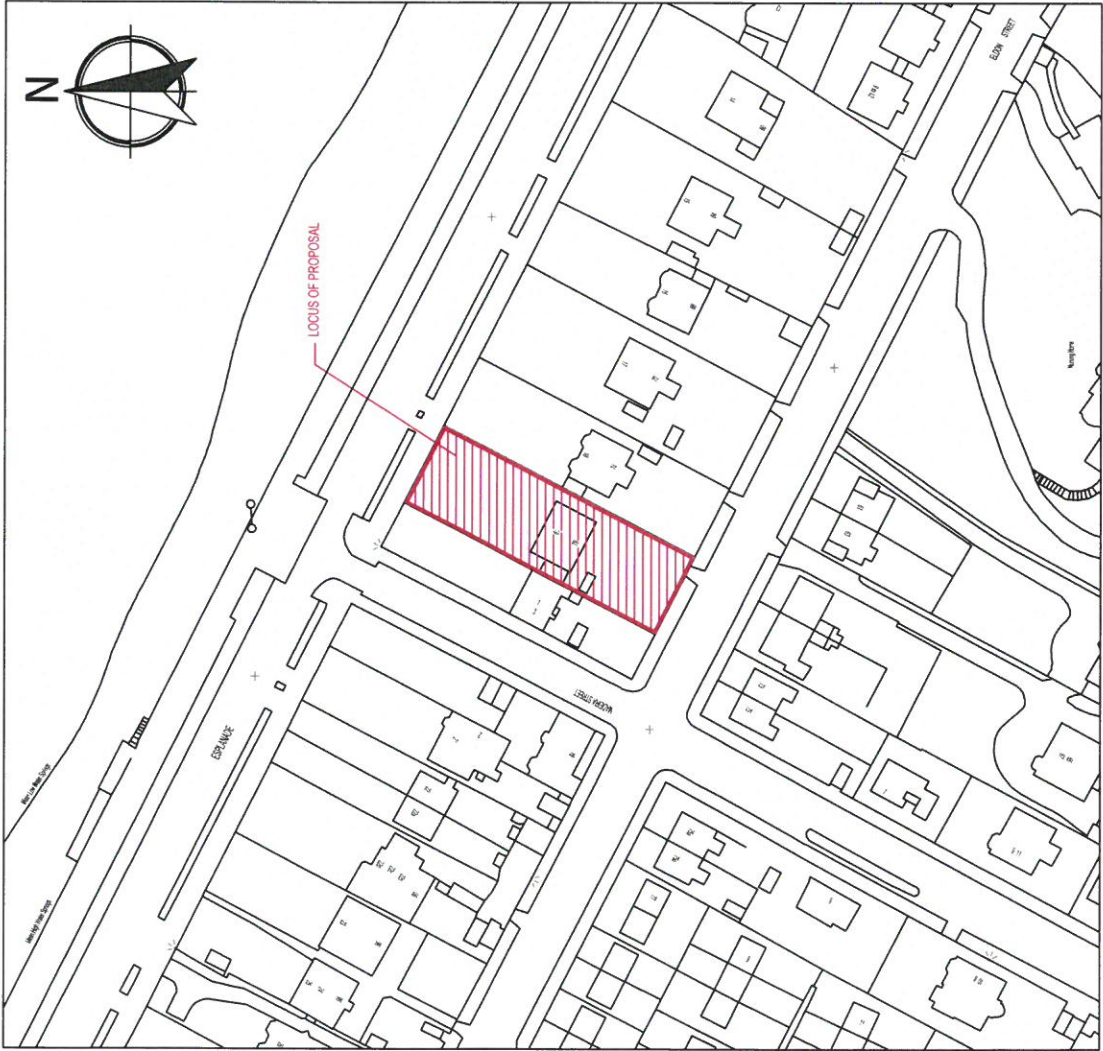
**see note 15****CHECKLIST - The following documentation should be submitted:**

please tick all boxes

☒ TWO APPLICATION FORMS☐ TWO SETS OF PLANS☒ FEE (Where appropriate)☒ DESIGN & ACCESS STATEMENT  
(National and Major applications only)☒ PRE-APPLICATION CONSULTATION REPORT  
(National and Major applications only)**WARNING**

If any person issues a certificate which purports to comply with the requirements of Section 35 of The Town and Country Planning (Scotland) Acts, and contains a statement which he knows to be false or misleading in a material particular or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Revision 'A' - November 2008  
Revision 'B' - December 2008  
Revision 'C' - July 2009  
Revision 'D' - October 2009  
Revision 'E' - October 2011



OS REPRODUCED UNDER LICENSE NO. AR 100007288

REVISION	DESCRIPTION	DATE



PROJECT TITLE	REPAINTING OF FLATED PROPERTY		
PROJECT ADDRESS	19 ESPLANADE & 78 ELDON STREET, GREENOCK, PA16 7RX		
CLIENT	THE CO-PROPRIETORS		
DRAWING TITLE	LOCATION PLAN		
DRAWING STATUS	PLANNING		
DRAWING NUMBER	2426_LP	REVISION	/
SCALE	1:1250 @ A3	DATE	September 2014
		DRAWN BY	JSS
		CHECKED BY	DN



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**Repainting of Flatted Property forming no. 19 Esplanade and no. 78 Eldon Street, Greenock  
For Mr. A. Varese and Mr. V. Varese**

**Design Statement**

The property forming no. 19 Esplanade and no. 78 Eldon Street, Greenock, has recently been repainted with the colour changing to yellow with gold coloured door and window surrounds, stone bands and metalwork. The property was formerly painted in a cream colour with white door and window surrounds, stone bands and metalwork but has, in the time that the applicants have owned the property, been painted in a variety of colours including white, cream, blue, pink and turquoise.

By dint of the property being located in Greenock West End Conservation Area, Planning Permission is required for any alteration which changes the appearance of the building. We note that the requirement to apply for permission for repainting applies only in Conservation Areas.

The property is visible principally from the Esplanade to the north, Eldon Street to the south and Madeira Street to the west.



View from Madeira Street



View from Esplanade

The property is bounded to the east and west by dwellings of a similar scale. That to the west is painted with a cream coloured finish including maroon painted window and door surrounds. That to the east has a sandstone ashlar finish.

The wider locale is characterised by a mix of sandstone ashlar, painted stone, wet and dry dash render and, in several newer buildings, facing brick and cast stone finishes. These have different colours and textures of finish lending a variety to the streetscape although a loose homogeneity is maintained by the high proportion of traditional ashlar finishes.



Elevation to Esplanade



Elevation to Eldon Street

The colours of paint chosen reflect the applicants' Mediterranean heritage and the seaside setting whilst maintaining the property in outstanding condition.

Although brightly coloured painted buildings are not particularly common in the Conservation Area, there are several which punctuate and add variety to the townscape. Examples are illustrated overleaf. The applicants consider that the colours chosen are in sympathy with the character of this vibrant and varied Conservation



Area thus according with the requirements of the Local Development Plan and the Planning Application Advice Notes.



Painted property, Ardgowan St



Shop unit, Finnart Street

In addition there are many properties in the Conservation Area which are unsightly because of poor maintenance. The applicant believes that these have a greater negative effect on townscape than a well maintained painted finish of any colour.





## **SITE PHOTOGRAPHS**







## **REPORT OF HANDLING DATED 30 OCTOBER 2014**



## REPORT OF HANDLING

**Report By:** James McColl

**Report No:** 14/0352/IC

**Local Application  
Development**

**Contact  
Officer:** 01475 712462

**Date:** 30th October 2014

**Subject:** Painting of property in yellow with gold surrounds and banding (in retrospect) at  
19 Esplanade and 78 Eldon Street, Greenock

## SITE DESCRIPTION

The application relates to a two and a half storey sub-divided Georgian villa located on the Esplanade with the rear of the property adjoining Eldon Street. A variety of dwellings lie adjacent and the site lies within the Greenock West End Conservation Area.

## PROPOSAL

The front and rear elevations of the building have been painted bright yellow with gold surrounds, banding and detailing. As the work has already been undertaken, the application is considered in retrospect.

## PROPOSED LOCAL DEVELOPMENT PLAN POLICIES

**Policy HER1 - Development which Affects the Character of Conservation Areas**

Development proposals which affect conservation areas will be acceptable where they are sympathetic to the character, pattern of development and appearance of the area. Such proposals will be assessed having regard to Historic Scotland's SHEP and 'Managing Change in the Historic Environment' guidance note series.

**Policy RES1 - Safeguarding the Character and Amenity of Residential Areas**

The character and amenity of residential areas, identified on the Proposals Map, will be safeguarded and where practicable, enhanced. Proposals for new residential development will be assessed against and have to satisfy the following criteria:

- (a) compatibility with the character and amenity of the area;
- (b) details of proposals for landscaping;
- (c) proposals for the retention of existing landscape or townscape features of value on the site;
- (d) accordance with the Council's adopted roads guidance and Designing Streets, the Scottish Government's policy statement;
- (e) provision of adequate services; and
- (f) having regard to Supplementary Guidance on Planning Application Advice Notes.

## **Policy RES5 - Proposals for Changes to Properties for Residential Use**

Proposals for the change of use, sub-division or conversion to properties to create new additional dwelling units, and for the alteration or extension to residential properties, will be assessed against and have to satisfy where appropriate, the following criteria:

- (a) the character and amenity of neighbouring properties;
- (b) impact on the streetscape;
- (c) impact on the character of the existing property;
- (d) accordance with the Council's adopted roads guidance; and  
having regard to Supplementary Guidance on Planning Application Advice Notes.

### **CONSULTATIONS**

None required.

### **PUBLICITY**

The application was advertised in the Greenock Telegraph on 3rd October 2014 as a development affecting a conservation area.

### **SITE NOTICES**

A site notice was posted on 3rd October 2014 for development affecting a conservation area.

### **PUBLIC PARTICIPATION**

Five objections and thirty one comments in support of the application were received.

The concerns raised in the objections received can be summarised as follows:

- The colour is incompatible with the rest of the houses on the Esplanade.
- The houses are designed as elegant mansions and look good in stone or white.
- Colours 'reflecting the Mediterranean' are not appropriate for this Conservation Area location.
- Painting such a prominently located house in the current shade of yellow is inappropriate and wholly out of keeping with the remainder of the conservation area.
- The bright colour is intrusive to neighbours.
- This application must not given special treatment because of the media publicity.
- The works have been undertaken without planning permission.

The points in support of the application can be summarised as follows:

- The bright shade is a charming colour and a welcome enhancement to the appearance of the Esplanade.
- Only 17 of the 85 individual units on the Esplanade are already painted, all but one in drab variations of cream and magnolia. Owners should be encouraged to add brightness.
- The spacing of the painted buildings would not result in a 'Tobermory' effect.
- The house reflects the beautifully painted houses on the Mediterranean and similarly Tobermory on the Isle of Mull.
- Owners of houses should not be prevented from painting them any colour.
- The colourful shade brightens the Esplanade.
- The house serves as a meeting point for those utilising the Esplanade
- Painting the house cream would stand out as much as a yellow - light colours will always look light.

- A happy atmosphere is created.
- It is inappropriate that the Council should be pursuing this matter.
- The house has become a tourist attraction.

I will consider these points in my assessment.

## **ASSESSMENT**

The material considerations in the assessment of this application are the Inverclyde Local Development Plan, Scottish Government Planning Advice Note (PAN) 71 (Conservation Area Management), the Scottish Historic Environment Policy (SHEP), Historic Scotland's Managing Change in the Historic Environment Guidance Notes, the impact on the streetscape and wider Conservation Area and the representations received.

The determining factor is whether or not the new colours are appropriate for the period style of the house and the Conservation Area. Policy HER1 of the Local Development Plan advises on development proposals in conservation areas. It is noted that such proposals should be assessed having regard to Historic Scotland's SHEP and 'Managing Change in the Historic Environment' Guidance Note Series. Policy RES5 advises on alterations to existing residential properties. PAN 71 also provides advice and guidance for planning authorities determining applications affecting conservation areas and requires development to be carefully managed to ensure the character and appearance is safeguarded and enhanced.

Both the Esplanade and Eldon Street are characterised by a wide variety of designs and styles of dwellings. These designs are reflective of the architectural styles of the time in which they were built and vary in terms of height, design, appearance, type and finishing materials. The primary finishing material within the Esplanade is sandstone however the inclusion of rendered and painted finishes to buildings is an established feature within the streetscape, particularly towards the eastern end of the Esplanade. Eldon Street also features a variety of external finishes. Coloured finishes within the locality are primarily of white and cream tones.

In support of the application, the applicant advises that, over time, the building has been painted in a variety of colours including white, cream, blue, pink and turquoise. Nothing has been advanced in support of this statement and no records have been found as to the exact colours prior to 2006 when the property was finished in white with blue banding. Additionally, the gables were not painted at this time. Evidence indicates that the building was subsequently painted cream around 2007. This also included painting the gables for the first time. No planning permission exists for this for this work, however, I note that it was undertaken in excess of four years ago and therefore not subject to planning control.

Historically, where an external coating was applied to buildings constructed within the 18<sup>th</sup> or early 19<sup>th</sup> century, this would comprise a traditional limewash which is a sacrificial coat that would weather away and need to be regularly renewed. Pigments were incorporated into limewash to provide a coloured finish, serving decorative as well as functional purposes. Traditional colours were based on natural earth pigments and limewash colours from earth pigments are characteristically soft, pastel hues. Later buildings finished in dressed stone were not traditionally limewashed.

Whilst it is not desirable to paint traditional buildings with modern paints as the traditional masonry relies on permeability to ensure that airborne moisture which is inevitably absorbed can evaporate, this building has previously been finished in modern paint and the application considers the colour change to the front and rear elevations. The bright yellow and gold tones of the dwelling are not colours which would traditionally have been found within this part of the Greenock West End Conservation Area. The supporting statement advises that the colours are chosen to reflect the applicant's Mediterranean heritage. The applicant's desire to maintain the property in outstanding condition is also highlighted and this is to be commended. The high impact colours are considered

at odds with the established character of the Conservation Area and period of the house, and form an intrusive feature within the streetscape. The works undertaken are therefore not appropriate in terms policies HER1 and RES5 of the Local Development Plan together with the SHEP and Historic Scotland's Guidance which seek to preserve the historic environment, and PAN71.

The applicant highlights an example of a coloured house in Ardgowan Street and a brightly coloured shopfront in Finnart Street in support of the proposal. Commercial premises and shops have a long tradition of having their facades brightly painted to draw attention to themselves, to advertise what they sold and to delineate the premises within a larger building. The brightly coloured shopfront continues this tradition which forms part of the character of the Conservation Area and does not justify the use of an inappropriately bright colour on a dwellinghouse. The coloured house on Ardgowan Street is also acknowledged but this is some distance from the application site in what is a large and varied Conservation Area. This does not justify a departure from the Local Development Plan. Concern regarding properties which are perceived to be poorly maintained is a separate matter which I do not consider has any bearing on the determination of this application.

Regarding procedural matters, altering the external appearance of the dwellinghouse within a conservation area requires planning permission by virtue of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order, 2011. The Council's Enforcement Charter ensures a consistent and reasoned approach to dealing with development undertaken without planning permission.

Considering the outstanding points received in support of the application, there is no objection to the use of colour on the Esplanade to add variety to the appearance. However, the shades would require to be derived from the soft, pastel hues found in traditional limewashing which are appropriate to the period of the buildings. Whether or not the house acts as a meeting point is not a material consideration. There is no evidence that the property has become a tourist attraction.

With regard to the remaining points raised in the objections, whilst I share concern that the works have been undertaken in the absence of planning permission and note the media coverage relating to an application, both these matters can have no bearing on the determination of the application.

In conclusion, bright yellow and gold are not colours which would traditionally have been used on a house of this period style or have been found within this part of the Greenock West End Conservation Area. The colours form an intrusive feature within the streetscape and are therefore not appropriate in terms of policies HER1 and RES5 of the Local Development Plan together with the SHEP and Historic Scotland's Guidance which seek to preserve the historic environment, and PAN71. I note the objections which have been received in connection to the application and whilst also being mindful of the comments of support, there are no material planning considerations which suggest that planning permission should be granted. The application should therefore be refused.


## **RECOMMENDATION**

That the application be refused for the following reason:

1. The bright yellow and gold tones of the dwelling are not colours which would traditionally have been used on a house of this period style or have been found within this part of the Greenock West End Conservation Area. The colours form an intrusive feature within the streetscape and are therefore not appropriate in terms policies HER1 and RES5 of the Local Development Plan together with the SHEP and Historic Scotland's Guidance which seek to preserve the historic environment, and PAN71.



Signed:

A black rectangular redaction box covering the signature of the Case Officer.

Case Officer: James McColl

A black rectangular redaction box covering the signature of Stuart Jamieson.

Stuart Jamieson  
Head of Regeneration and Planning

## **REPRESENTATIONS**

14/035211C.

3 Madeira Street  
GREENOCK PA16 7RF

Phone: [REDACTED]

E-mail: [REDACTED]

10 October 2014

1916.

14/0152/14

Inverclyde Council  
Regeneration and Planning  
Municipal Buildings  
GREENOCK  
PA15 1LY

Dear Sirs,

Many thanks for providing us with a Neighbour Notification concerning the retrospective application for planning permission for the external painting of 19 Esplanade, Greenock.

This building is in a Conservation Area, which is "an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance". It is accepted that planning permission is required to change the outward appearance of buildings anywhere in the Greenock West End Conservation Area, but we feel that the Esplanade is worthy of consideration distinct from the Area as a whole.

The exteriors of 17 of the 85 individual units on the Esplanade (20%) are already painted, all but one in drab variations of cream and magnolia. The owners of the other 80% would be very unlikely to contemplate exterior painting, their properties being of fine red or blond sandstone, or of brick finish.

Hundreds of people use the Esplanade every day for exercise and relaxation, while river traffic including cruise liners is increasing year by year. For visitors and residents alike, it is important that the architecture of the Esplanade has character which is worth preserving and which can be enjoyed from the river and onshore.

The painting of the facade of 19 Esplanade in the Lemon Zest shade of yellow is a welcome enhancement to the appearance of the Esplanade and adds character to our river front. Indeed, this should not be the only building on the street with colour to attract the eye, and other owners of already painted buildings should be encouraged to add a bit of brightness when the time comes to repaint them.

While Tobermory might provide these owners with a useful colour chart, the spacing between paintable properties on the Esplanade could not result in the concentration of hues found on the sea front there.

We would encourage the Planning Committee to look broadly and to grant permission for the painting of 19 Esplanade as is.

Yours faithfully,

[REDACTED]  
Judy Leslie-Carter

[REDACTED]  
Simon Leslie-Carter

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr Carlo Cultrera

Address: 43 Anderson Road Bishopton - Renfrewshire

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Hello, to whom it may concern...I would like to express my opinion on the house coloured yellow on the Esplanade.

I walk the Esplanade every weekend as the location & views are truly out of this world. I would just like to say that it is so delightful to see a yellow house on the Esplanade...

It is a charming colour, in line with the river views that the Esplanade has...I wish other people would do the same as it would seriously improve the location...

Character is everything...This yellow house has it in abundance.

Thank you.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr Joseph McGinn

Address: 25 Cardross Road Dumbarton Wes Dunbartonshire

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I live in Dumbarton & I walk the Esplanade every weekend with my wife and kids. I also play football every week at the Battery Park so pass this yellow house regularly. I am delighted to see such a beautiful shade of yellow in front of the water. This gives the Esplanade a true sense of occasion and I would like to see other homes in the same area paint their homes in the same manner. More homes painted in this colour (or any other colour for that matter) would enhance the area. It really is such a beautiful colour - this makes the Esplanade & West End even more beautiful. Thank you.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr michael broadley

Address: 18 esplanade greenock inverclyde

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Please leave the family alone. This a honest, hard working family who do not deserve the stress being brought to them by this whole ordeal. None of the neighbours have a problem with the colour of this house and I for one could find plenty to moan about in Inverclyde BUT this house is not one of them. Who cares what colour his house is.....no one had a problem when it was blue??? Also have been reading Inverclyde now which so far has over has 233 comment, the vast majority being in support of the beautiful yellow house. How about the planning department look at the mess they have left the beautiful listed buildings in Inverclyde instead of persecuting a retired old man who has ill health.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mrs Olga Darroch

Address: Flat 1/1 24 Bank Street Greenock

## Comment Details

Commenter Type: Community Council

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: This house is yellow brought the life to the run down face of Esplanade, I do support this house to stay the way it is..it's now a point of meeting with my kids when we go cycle and enjoy the bright view of the house...I wish other houses would be brighten up as well...as it looks grim and awful, but it's such a great place for walk...seems to me residents do prefer to keep it low and not have anyone walking along..keep it unattractive as much as possible...love the yellow house...!!!

# **Comments for Planning Application 14/0352/IC**

## **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## **Customer Details**

Name: Miss Jennifer Boag

Address: 11 Madeira Street Greenock

## **Comment Details**

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I wish to object to the painting of this property. My front windows (three rooms) overlook this property (Eldon Street side) and the extremely bright colour draws your eyes as soon as you look out of any of the windows. The colour is too bright and inappropriate for a conservation area where most of the properties are blond sandstone (including my own) or, in a few cases, white or cream. I would wish to see the colour returned to its previous version.

I would be happy to provide photographic evidence or to receive a visit from a Planning Official to view the intrusive nature of the painting of this property as seen from my property.



## **Comments for Planning Application 14/0352/IC**

### **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### **Customer Details**

Name: Mr Ricardo DiMurro

Address: 56 Fox Street Greenock

### **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I don't see a reason why someone who owns their own house cannot paint it any colour they would like to. When I pass the house I do actually like the look of the house and it is far from an eyesore. I feel that the esplanade requires a bit of colour to liven it up a bit. therefore I fully support this

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mrs Ann Murro

Address: 56 fox street Greenock

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: When I am out walking and pass the property at 19 Esplanade, it brings a smile to my face. To me the area needs a bit of colour and this does it for me. In a climate of greyness, having a Yellow & Gold property has to be good for your heart & soul. There should be like it. This property is very well cared for and the owner is proud.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr Jamie Black

Address: 2-2 29 Cardwell Road Gourock

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Dear Sir,

I am contacting you to register my support of this application.

The house was previously painted and was looking 'tired'. I think it is beyond doubt that the house did indeed require a repaint. I can see no obvious reason why the planning department would refuse to allow a house to be repainted. Removal of paint would very likely damage the sandstone and have a negative appearance on the facade.

The colour chosen is attractive - it is indeed bright, however what house that has been painted a light colour would not appear bright when the previous scheme was stained, dull and dirty? I would also add that should planning determine a cream colour, it will stand out as much as a yellow - light colours will always look light.

This is an enhancement to the area and one that should be welcomed. There is no detriment to the area from this chance and I would strongly urge this to be accepted.

## **Comments for Planning Application 14/0352/IC**

### **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### **Customer Details**

Name: Mr Peter O'Donnell

Address: 74 Eldon Street Greenock

### **Comment Details**

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: We live directly next door to this property and we have no objection to the application. In fact, we think that the new paintwork is bright and cheerful. It adds colour and a happy atmosphere to the area.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Ms Frances Gault

Address: wren road Greenock

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I would strongly hope that this application is granted. As stated elsewhere these properties have, over the years, been various colours with no out cry. Please look beyond detrimental comments, are they really objecting for the in "keeping with a conservation area" or simply "not in our backyard".

# **Comments for Planning Application 14/0352/IC**

## **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## **Customer Details**

Name: Miss Ana McKnight

Address: 2 Lyle Road Greenock

## **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Living within the area I regularly pass this house whilst out running, it is a gorgeous property and a wonderful addition to the Esplanade. Why anyone would condemn this property and complain is beyond me. I hope the right decision is made and the homeowner and his family are left in peace. The complainants should be ashamed of themselves for causing upset and stress over something so trivial which is also quite frankly absolutely none of their business.

# **Comments for Planning Application 14/0352/IC**

## **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## **Customer Details**

Name: Mr Dean Marner

Address: 11 Mauchline Terrace Greenock

## **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I am absolutely disgusted that this has even come to this its an absolute joke! This house has always been well maintained and looked after. The fact that it has been painted a colour which some do not like is nonsense.

I regularly walk my dog across the esplanade and think it looks fantastic. It brightens the whole area up and in my opinion it looks lovely. Perhaps more attention should be paid to other houses on the esplanade and surrounding area which are run down, not looked after, and to be honest an absolute eye sore. To be hassling someone who is clearly proud of their property and always has it looking nice is disgusting!

## **Comments for Planning Application 14/0352/IC**

### **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### **Customer Details**

Name: Ms FOTINI PETROULA

Address: FLAT 2/R 49 BROUGHAM STREET GREENOCK

### **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I expect the council to focus on properties which are not maintained rather than spending time and effort on a property which gives a multicultural flair in the area. Also there are other properties in the area with different colours and there is no issue. Why is there in the specific property.



# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Lord Gary Bradley

Address: 30 Kylemore terrace Greenock

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: As a upstanding member of the community and regular sightseer of Greenock and its famous sights i would like to show my support to the wonderful sight at the property with the amazing bright and cheery yellow and gold display on show, i regularly walk my 2 children by the house as they love to see it and makes their day, also ive noticed a lot of tourists who have been taking photos of the house and a few have even asked about it, i think this town needs more of this and anyone paying out their own pocket to brighten up the area is a asset to the community, i hope more people take note and support this wonderful looking property.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr Andrew Burke

Address: 3/4 Smithfield Street Edinburgh

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:Hi,

I would like to show my support. I have recently moved to Edinburgh from Greenock and whenever I come home for a few days the one thing my other half and myself look forward to is seeing this beautiful artwork on a house down the esplanade. I enjoy it as it brightens up a dull town and shows the owner has creativity, expresses his personality and supports his inheritance. I like how the owner has expressed their personality on a building that they own. The other houses and buildings around the area have faded artwork and make the area dull. I personally have no objective to anyone that has their house a certain colour as they have it to express themselves and their personality. If they chose to not do so then that is their own choice (which is absolutely fine and does not bother anyone) however I do think it is pitiful and thoughtless that there are people who disagree with this and feel that in a free country they can object to someone's creativity and personality.

## **Comments for Planning Application 14/0352/IC**

### **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### **Customer Details**

Name: Mr Christopher Gallagher

Address: 28 School Road Port Glasgow

### **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I live in the Inverclyde area and I am often down the esplanade I think the house that has been recently painted yellow brightens up the area and makes the place look more welcoming.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr Christopher Mcaughey

Address: 21 Cuillins Avenue Port Glasgow

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: find this house appealing and my kids think it is very nice and bright. Me and my girlfriend also feel this house makes the area look very nice and appealing compared to other run down properties on the esplanade.

## **Comments for Planning Application 14/0352/IC**

### **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### **Customer Details**

Name: Mr Martin McAteer

Address: 30 Moray Roadv Port Glasgow

### **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:the gentleman is we'll within his rights to paint his house any colour he wishes. I fully support his decision and I feel it brightens the area and makes it more welcoming!

## **Comments for Planning Application 14/0352/IC**

### **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### **Customer Details**

Name: Mr Ryan Mason

Address: 35 Mallaig Road Port Glasgow

### **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Me my girlfriend and young son aged 6 often go walks across the esplanade with ice cream from the café. Both me and my girlfriend agree this house is beautiful and fair makes the area look appealing. My son LOVES it he gets excited as we approach it.

## Comments for Planning Application 14/0352/IC

### Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### Customer Details

Name: Mrs Carloline Marner

Address: 11 Mauchline Terrace Greenock

### Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I feel the application for this is a complete waste of time. Me and my husband often walk our dog across the esplanade at least 3 times per week. Both of us agree that this house is lovely, to be honest I don't know why anyone has any objections. The house makes the whole esplanade look beautiful and brightens the area up. I love this house and feel if the owner is made to change the colour or do anything to the house in objection of this it is a disgrace. Other houses on the esplanade run the place down with their run down looks.

## **Comments for Planning Application 14/0352/IC**

### **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### **Customer Details**

Name: Ms Sharlene Hutchison

Address: 35 Mallaig Road Port Glasgow

### **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I regularly walk along the esplanade and the house is very bright and lovely to look at



## Comments for Planning Application 14/0352/IC

### Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### Customer Details

Name: Miss Lisa Patton

Address: 49 shore street Port glasgow

### Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Drive by everyday going to work and feel like it brightens up my day wish every1 would brighten up the place

## **Comments for Planning Application 14/0352/IC**

### **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### **Customer Details**

Name: Mr Brian McClure

Address: 22 angus road Greenock

### **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Looks nice and clean there houses down there not well looked after. Think other people should do the same ...my kids love it and I know there was a page on inverclyde now where over 100 people loved it I don't see what the big deal is.....

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr Colin Telfer

Address: 53 Devon road Greenock

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: My reason for supporting this is it looks fantastic and my children love stopping at the house when out on bikes and looking at it. The owner of the house should be awarded a medal I think for doing this in our town and brightening things up a bit some other people should take a leaf out these people book and get off there case

## **Comments for Planning Application 14/0352/IC**

### **Application Summary**

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

### **Customer Details**

Name: Mrs Denise Houten

Address: 29 Auchmead Road Greenock

### **Comment Details**

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I feel as long as the property is well maintained there shouldn't be an issue with the colour.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr Ewen Macluskie

Address: 12 Hawthorn Avenue Erskine

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Passed the esplanade in Greenock the other afternoon and was taken back by this stunning house situated on the waterfront. The bright yellow colour shows what lengths the householder has gone to to put smiles on the publics faces. I am in full support of this paint job as it certainly brightens up the area and offers an aesthetically pleasing look from the road as you pass it. I am infuriated that this innocent homeowner has received complaints for a selfless act that shows his view on the local area and he is only trying to further better the surroundings as it is a sea of bland/grey scenery and this yellow house offers change. Well Done !

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Ms Yvonne Christie

Address: 0/2 Campbell Street Greenock

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Council's website says: -

An Outstanding Conservation Area like Greenock West End - is recognised for its special architectural and historic interest. The aim of granting its status is to protect the areas character and appearance and ensure that any new development or alterations are appropriate for the area.

Painting such a prominently located house in the current shade of yellow is inappropriate and wholly out of keeping with the remainder of the conservation area. Consequently this detracts from the surrounding area.

The Council must act, and must be seen to be acting, even-handedly with all residents and ensure that this matter is not given special treatment because of the media publicity otherwise the council will open the floodgates and no one will see the need to bother with the rules and regs of the conservation area and it will deteriorate.

No one needs to buy a house in a conservation area if they don't want to abide by the regulations of a conservation area.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Ms Carolyn Kerr

Address: 48 Caithness road Greenock

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: The yellow and gold house on the eplanade is very cheerful look at in Contrast to nearby properties. The paint work has been completed to a good standard. Overall the colour is quite agreeable.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr Hugh Currie

Address: "Newark" 13 The Esplanade Greenock

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This is not the Mediterranean but a Conservation Area and it is inappropriate to paint the property bright yellow.

Had the applicant contacted the Planning Department BEFORE commencing work, as he should have done, this would have been made clear to him.

Ignorance of planning conditions is no excuse.

If this retrospective application is permitted then it would appear that anything goes and those of us who have taken care to comply in the past need not bother in the future.

Colours used in the past are not relevant since they may have been used before the area became a Conservation Area and perhaps were not used as the main colour.

Do we wish The Esplanade to end up looking like Balamory?



# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mr Alessandro Cultrera

Address: 43 Anderson Road Bishopton

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: While driving by the Esplanade I took note and marveled at the spectacular house that was painted in yellow, as a local on the West coast I was very pleased to see someone actually taking action and brightening the area up, I was then shocked to read the article about the complaints made against the house. I simply can't get my head around this, if anything they should be encouraging local residents to do the same as I personally think it makes the area much more welcoming, as well as being a lovely sight for those passing by, be it by car or on one of the many cruise ships docking nearby. It puts me in mind of the beautifully painted houses on the Mediterranean and similarly Tobermory on the Isle of Mull, I would like to think that neighbor's would carry out similar actions considering a lot of the houses are in a sorry state letting down the look and history of the street.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mrs Christine Cultrera

Address: 43 Anderson Road Bishopton RENFREWSHIRE

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I think this brings character to the area the same as it does on looking across the Clyde where are brightly painted houses as well as Isle of Mull.

# Comments for Planning Application 14/0352/IC

## Application Summary

Application Number: 14/0352/IC

Address: 19 Esplanade And 78 Eldon Street Greenock PA16 7RX

Proposal: Painting of property in yellow with gold surrounds and banding (in retrospect)

Case Officer: James McColl

## Customer Details

Name: Mrs M Black

Address: 35 Ardgowan St Greenock

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Pass this property regularly on walks along the Esplanade and really makes me smile.

Such a warm, bright and cheery site.

M

5A Margaret Street  
Greenock  
PA16 8AS  
4/10/14

REF: 14/0352/IC

Dear Sir

I wish to make my views on the colour that the house at 19 Esplanade is painted. While the colour might be suitable in a place like Palermo in Italy it is totally incompatible with the rest of the houses on the Esplanade.

These houses are designed as elegant mansions and look good in stone and white.

Yours sincerely

George J McNulty

(Transcribed from Original letter)

73 Eldon Street  
Greenock  
PA16 7RD  
9<sup>th</sup> Oct 2014

Inverclyde Council                      14/0352/IC  
Regeneration & Planning  
Municipal Buildings  
Greenock PA15 1LY

Dear Sirs

Re the painting of property at 19 Esplanade and 78 Eldon Street

Thank you for your recent reply explaining the situation regarding the above,  
in response to my letter which expressed my grave concern.

Having now received the "Neighbour Notification" I wish to say I have not  
changed my opinion that the new paintwork is totally incongruous and should  
the retrospective planning permission be granted it would cause me to  
question the validity of the "Conservation Area" designation.

Yours faithfully

(Mrs) Olive E Kerr  
(Transcribed from original letter)

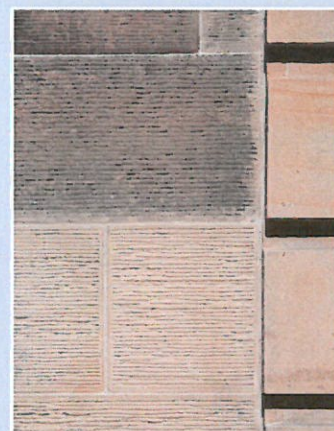
# **HISTORIC SCOTLAND'S MANAGING CHANGE IN THE HISTORIC ENVIRONMENT GUIDANCE NOTES ON EXTERNAL WALLS**



**Managing  
Change  
in the Historic  
Environment**



# External Walls



October 2010



# Key Issues

1. The external walls of a historic building are an important element in defining its character. Listed building consent is required for any works affecting the character of a listed building and planning permission may be required in a conservation area.
2. The design, materials, method of construction, colour, texture, detailing and finish typically contribute to the character of a historic wall.
3. Maintenance and appropriate repair are the best means of safeguarding the historic character of a wall. This also reduces the requirement for new raw materials and energy.
4. Physical or documentary evidence must inform the reinstatement or reconstruction of walls. New work to a historic wall must seek to maintain its character.
5. If evidence of blocked openings or earlier phases of work is revealed, this should be documented, and where possible retained.
6. Traditional walls contribute to energy efficiency through their thermal mass, which allows for natural warming and cooling.
7. Planning authorities give advice on the requirement for listed building consent, planning and other permissions.



## 1. INTRODUCTION

- 1.1 This is one of a series of guidance notes on managing change in the historic environment for use by planning authorities and other interested parties. The series explains how to apply the policies contained in the *Scottish Historic Environment Policy* (2009) ([SHEP](#), PDF 312K) and *The Scottish Planning Policy* (2010) ([SPP](#), PDF 299K).
- 1.2 This note sets out the principles that apply to altering the external walls of historic buildings. It should inform planning policies and the determination of applications relating to the historic environment, and replaces the equivalent guidance in *The Memorandum of Guidance on Listed Buildings & Conservation Areas* (1998).
- 1.3 Monuments scheduled under the Ancient Monuments & Archaeological Areas Act 1979 require scheduled monument consent for any works. Where a structure is both scheduled and listed, the scheduling controls have precedence. Separate advice is available from Historic Scotland's website: [Scheduled Monuments: Guidance for Owners, Occupiers & Land Managers](#) (PDF 718K). Local authorities' archaeological advisers are a source of advice about potential archaeological sensitivity.

## 2. WHY ARE HISTORIC EXTERNAL WALLS IMPORTANT?

- 2.1 External walls are usually the defining feature of a historic building or monument. They not only incorporate the bulk of the historic fabric and perform structural or weather-protection tasks, but through their design they can also express some of the cultural and intellectual context in which the building was created.

### Design qualities

- 2.2 Many of the formal qualities of a historic building, such as scale, proportion, colour, texture or style, are largely derived from the design and construction of its walls. The dimensions, types of materials and finishes, and the position and size of openings within the wall may all be important indicators of the building's age, purpose, status, or development through time.

### Material qualities

- 2.3 Often design considerations were determined by the technological capabilities of the period, local building materials and traditions, topography and climate, stylistic intent, and social or economic circumstances.

### Structural qualities

- 2.4 External walls generally have a structural function in supporting floors and roofs as well as providing a protective envelope



*Neolithic house, Skara Brae, Orkney. From the earliest times walls were designed to provide shelter and security, to contain warmth, and to meet the functional requirements of domestic and ritual life. Local materials and skill traditions established different patterns of wall construction and building design in different parts of the country, and adapted to new types of building and usage over time.*



*Central block of the former Fife Arms Hotel, Banff, 1843–5. The classical design places emphasis on the symmetry, proportions and detailing of the walls and reflects the functional hierarchy of the interior. Corniced windows indicate the principal rooms on the first floor; smaller windows relate to private or subsidiary rooms. The design maximises the architectural impact of the walls by hiding the shallow pitched roof behind a parapet.*

© N. Haynes.

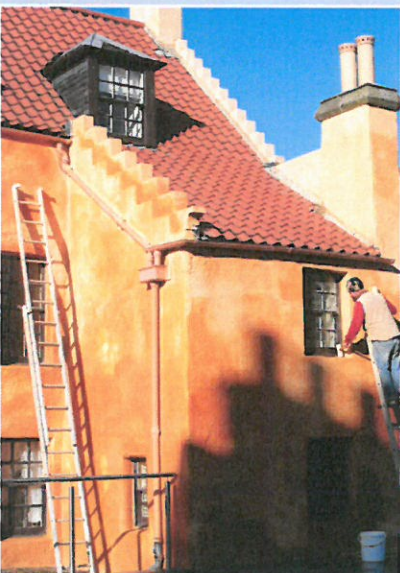




*The mid-18th-century Old Schoolhouse at Cottown, Perth & Kinross. The uneven character of the wall surface is derived from the local materials used in its straw-bonded mudwalls. The colour reflects the use of local clay as a pigment in the modern coating of lime harl and limewash applied during repairs by the National Trust for Scotland. The different window sizes reflect the internal hierarchy of rooms.*  
© N. Haynes.



*High Street, Arbroath. Rich pink-red sandstone, typical of parts of Angus. Here the stone is laid in regular courses.* © N. Haynes.



*Harling being carried out at Dymock's, Bo'ness.* © N. Haynes.

around the internal spaces. Other external walls act primarily as a weatherproof skin, with structural support provided by a framework of timber, iron, steel, or reinforced concrete (depending on the age of the building). Whether structural or non-loadbearing, external walls are critical to the long-term stability and technical performance of the building.

### 3. IDENTIFYING THE INTEREST OF HISTORIC WALLS

- 3.1 The walls of historic buildings have a wide variety of forms and materials, ranging from relatively simple local vernacular to highly crafted opulence, reflecting their ownership, location, purpose, and the period(s) of their construction.

#### Earth and clay

- 3.2 From early times, walls were constructed from local natural materials such as clay, timber and stone. While stone rubble walls remain the most obvious legacy from the past, buildings were constructed into the 19th century from walls of clay mixed with straw or from clay and bool (uncut stone), often with a sacrificial layer of lime or clay render to provide further protection. Double-skinned stone rubble walls with earth packed between were a common form of construction until the 19th century.

#### Stone

- 3.3 Stone is the predominant building material in Scotland's historic buildings and often reflects the local geology: e.g. red sandstone in the South-West, paler sandstone in the East, granite in Aberdeenshire. Advances in technology in the 19th century freed stone from being the main structural element of building, although it continued to be used in wall construction and cladding to protect the structural frame. The size of the stones, their position and the style of jointing contribute significantly to the character of a wall and can demonstrate distinctive local traditions. The finish of stone ranges from roughly shaped or simply squared rubble to tooled and finely polished ashlar. Jointing can vary from broad 'slaister' pointing in lime mortar to wafer-thin joints filled with lime putty. Decorative carved stone details were employed on walls from the medieval period into the 20th century.

#### Harling

- 3.4 Harl or render was extensively used as a surface coating to protect friable construction materials or to provide the illusion of a fine masonry finish. Traditionally lime harling was used. This was mixed with local aggregates, from which it gained its pigmentation.

#### Brick

- 3.5 Brick began to be manufactured in Scotland in the 17th century but did not gain significant production and use until the 18th century. Garden walls, farm offices and farmhouses saw the



early adoption of brick. In the 19th century, improvements in production quality and volume led to a widespread use of brick for industrial purposes and housing, particularly in mining areas. Brick was also widely used for housing between the wars, and was put to good use by 20th century modernist architects.

### Concrete

- 3.6 From the 1850s, mass concrete was used for building sheds and houses, often using similar construction techniques to clay walling. Reinforced concrete was used extensively in the 20th century, initially for its structural properties but in the post-war period for the aesthetic value of its finishes. The aggregate employed could result in a very coarse surface, and the imprint of rough wooden shuttering resulted in a highly textured surface.

### Other materials

- 3.7 From the mid 19th-century, many firms produced catalogues of prefabricated buildings ranging from cottages, barns, meeting halls and churches to whole factories made of timber frames clad with corrugated iron. The profile, pitch and gauge of the metal and the choice of finish establish the distinctive character of these walls. Technological advances have resulted in cladding in a variety of metals in the 20th century as well as materials such as ceramic tiles, terracotta, faience, vitrolite and glass.

## 4. GENERAL PRINCIPLES FOR ALTERATIONS AND REPAIRS

- 4.1 The following should be read in conjunction with Historic Scotland's Technical Advice notes. Details are given at the end of this guidance note.

### Character and interest of the building

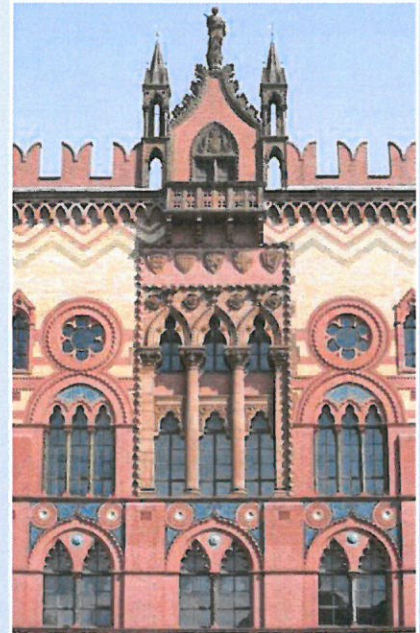
- 4.2 Every effort should be made to repair the external walls of a historic building and alterations or repairs should protect its character. Walls are valuable in their own right as major elements in the design of a historic building and for their practical performance and appearance. Documentary research and fabric analysis is useful in understanding the design and material properties of historic walls before undertaking alterations or repairs.

### Maintenance

- 4.3 Regular inspection, maintenance and appropriate repair are essential to maintaining the structural and visual integrity of historic walls.

### Alterations

- 4.4 All alteration proposals should take into account the design and material characteristics of the historic wall. Most buildings have one or more principal elevation, which is usually particularly



*Former Templeton's Carpet Factory, City of Glasgow (1889). The decorative brick alludes to the pattern of an Axminster carpet and to the form of the Doge's Palace, Venice. © Crown copyright: RCAHMS. Licensor [www.rcahms.gov.uk](http://www.rcahms.gov.uk).*



*Mass concrete tenements in Dundee, cast insitu in 1874–5 by the Concrete Building Company for the Working Men's House Building Association. The buildings were renovated and a buff render applied in 1982–4. © Crown copyright: RCAHMS. Licensor [www.rcahms.gov.uk](http://www.rcahms.gov.uk).*





*Structural instability requires the rebuilding of this wall in Peterhead. The granite stones have been numbered ready for reinstatement.*



*Dymock's Buildings (late 17th century), Bo'ness, were restored by the National Trust for Scotland in 2004. A cement render was removed, the archaeology of the wall recorded, and then a lime harl and limewash were applied. Evidence of former openings remains visible.*  
© N. Haynes.

sensitive to alteration. There are often ways of accommodating alterations, perhaps in alternative locations, without detriment to the character of a principal elevation. The design, materials and construction of alterations should seek to complement the original.

### New openings

- 4.5 The formation of a new opening in a wall needs to be considered in light of the overall composition of the wall and assessed as to whether or not it would be consistent with the existing design. Care should be taken to ensure that the cumulative effect of new openings does not harm the special interest of the building. Where the formation of a new opening is found to be consistent with the design of the wall, the minimum historic fabric should be removed and the opening should be detailed to match the existing openings. Where there is no obvious precedent, a clearly modern intervention of high-quality design may be appropriate. Service ducts and vents should be located on secondary elevations. Separate guidance on extending buildings is provided in this series.

### Rebuilding

- 4.6 There may be occasions when a wall needs to be rebuilt for structural reasons. In most cases it is possible to rebuild the wall reusing the bulk of the dismantled original material. Dressed stone in particular should be rebuilt in its original position. It is important to maintain the proportions, depth and irregularities arising from historic methods of construction in the rebuilt wall. New materials should normally match the characteristics of the existing in all respects. The opportunity should be taken to restore any details of the wall that have previously been altered. Proposals to rebuild should normally be accompanied by a structural report and detailed survey drawings to enable a faithful reconstruction.

### Reinstatement

- 4.7 Where walls have been altered inappropriately in the past, reinstatement should be based on documentary or physical evidence of missing features or materials.

### Harling

- 4.8 New lime or clay harl, render or limewash should be based on evidence of previous use of the material on the building. Properly specified traditional materials allow the wall to absorb and evaporate moisture effectively. Historic cement renders should only be removed if found to be causing damage. The application of limewash should likewise be backed by evidence.

### Repointing

- 4.9 Repointing should use traditional materials compatible with the wall's original construction and detailed in a manner appropriate to the character of the building. Inappropriate materials can be damaging to the surrounding stone. It is advisable to seek



professional guidance in specifying and using traditional materials.

### Paint

- 4.10 The application of paint to unpainted historic walls can cause considerable damage in the long term by preventing the evaporation of moisture from the underlying fabric. Where paint has been applied in the past and is harming the performance of a wall, careful removal is recommended, guided by expert advice.

### Indenting and plastic repairs to masonry

- 4.11 Stones only need to be replaced when they have decayed to such a degree that they affect the structural stability of the surrounding stonework. Indent repairs should be carried out in stone that best matches the existing stonework in mineralogical composition and carried out to the highest technical standards. Eroded stonework does not necessarily require repair. Cladding or plastic repairs in synthetic materials are likely to exacerbate decay as well as being visually detrimental. Planning authorities may ask for evidence to show that repairs are necessary and that the repair methods are appropriate.

### Sculpture

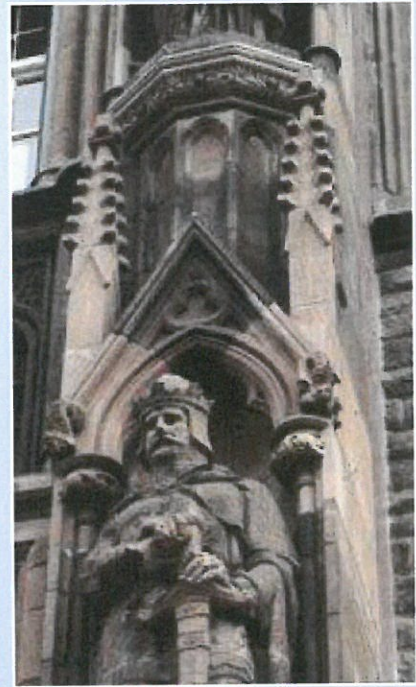
- 4.12 Replacing sculptural stonework on a wall must be considered against its significance and that of the building as a whole. Erosion is a naturally occurring phenomenon and can be part of the attractive aging process of a historic building. If decorative stonework is a significant architectural feature then the replacement of sculptural details to maintain its significance may be appropriate.

### Cleaning

- 4.13 The patina that materials acquire through age and weathering can be an important part of the character and appearance of a wall. The weathering of building materials often enhances their attractive qualities. Weathering layers can form natural barriers that protect the material from erosion, and attempts to remove them can cause considerable damage and accelerate decay. Cleaning should normally only be considered where the structural integrity of the wall is threatened by surface growths. To ensure that the cleaning method will not damage the stone or brickwork, applications for listed building consent should be supported by a technical analysis and sample test cleaning of small unobtrusive areas.

### Archaeology

- 4.14 Work to historic walls can often reveal features such as blocked openings or a change in material that can provide significant information about the development history and fabric of the building. Photographic or measured recording may be appropriate if the evidence will be covered over in the course of the works. Where there is a high likelihood of uncovering

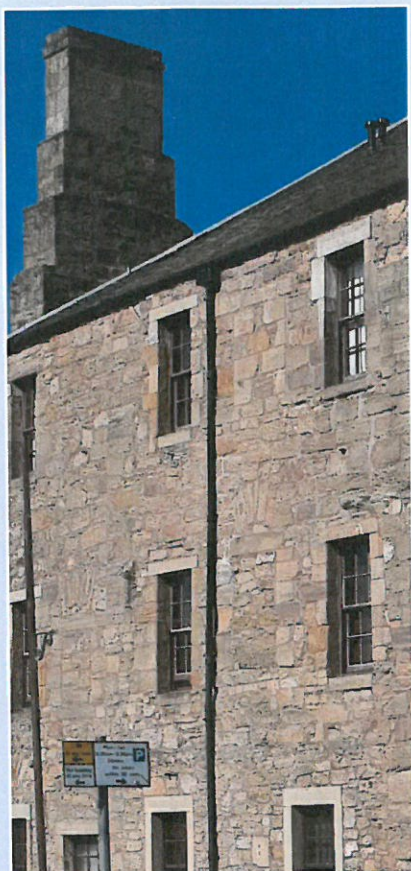


*Scottish National Portrait Gallery, City of Edinburgh, 1890. Decisions about whether to re-carve stonework are a matter of values. Here the artistic value of a sculpture calls for it to be conserved mostly as found, whereas the architectural elements (finials and hoodmoulds) that also function in shedding rainwater have been completely replaced where required. © Copyright: RCAHMS (William McKelvie Collection). Licensors [www.rcahms.gov.uk](http://www.rcahms.gov.uk).*



*Graffiti: The removal of graffiti requires prompt action before the paint or ink dries into the wall surface. Cleaning methods should be tested on a small unobtrusive area to determine the least aggressive treatment for effective removal of the graffiti. In extreme cases of repeated vandalism, a sacrificial wax coating might be considered for vulnerable surfaces.*





The exposed wall of this 17th-century house in Cupar, Fife, reveals archaeological evidence of a number of blocked openings. The previous mixture of window sizes and levels has been regularised in the current arrangement. © N. Haynes.



Modern lime mortar pointing, Scottish Lime Centre, Charlestown, Fife. The use of lime allows the wall to 'breathe'. Traditionally, most rubble walls had lime slaistered, or buttered, over the joint to achieve a fairly smooth finish that would erode with time. Where pointing does not alter the character of a listed building it would not normally require consent.

archaeological evidence in a major building, adequate provision should be made for recording as works progress.

## 5. ENERGY EFFICIENCY

- 5.1 Energy conservation is necessary in addressing climate change. In many cases cost-effective and sustainable improvements to the energy efficiency of traditional buildings can be achieved without damage to their character. Heat loss typically occurs in various parts of a building. It is important to take an overall view of energy efficiency measures.
- 5.2 Proper maintenance of traditional masonry walls will help to maximise their thermal efficiency. This is usually achieved through mass and their performance is dependent on their ability to retain heat and 'breathe' out moisture. Preventing the build-up of excess water in external walls will help to optimise their weatherproofing and thermal performance. Measures to consider include:
  - prompt repair of roofs, gutters, downpipes, wallheads, and missing pointing or harling;
  - appropriate above and below ground drainage;
  - appropriate repairs in traditional materials to maintain the breathable qualities of joints, stonework and internal painted surfaces.
  - investigation of appropriate insulation.
- 5.3 Additional energy conservation measures are best considered in the context of all component parts of a building. Further information is available in Historic Scotland's *Inform Guide: Energy Efficiency in Traditional Homes*.

## 6. CONSENTS

- 6.1 Listed building consent is required for any work to a listed building that affects its character. The local authority determines the need for consent.
- 6.2 Where listed building consent is required, an application is made to the local authority. This should include accurate scale drawings showing both the existing situation and the proposed works in context. It is normally helpful to provide detailed technical information and photographs.



## FURTHER INFORMATION AND ADVICE

Details of all individual scheduled monuments, listed buildings, designated gardens and designed landscapes, and designated wrecks can be obtained from Historic Scotland (see contact details below) or at: [www.pastmap.org.uk](http://www.pastmap.org.uk). Details of listed buildings can also be obtained from the relevant local authority for the area.

Advice on the requirement for listed building consent, conservation area consent, building warrants, and other permissions/consents should be sought from local authorities.

Historic Scotland  
Longmore House  
Salisbury Place  
EDINBURGH  
EH9 1SH

Tel: 0131 668 8981 or 8717

Fax: 0131 668 8765

E-mail: [hs.inspectorate@scotland.gsi.gov.uk](mailto:hs.inspectorate@scotland.gsi.gov.uk)

Web: [www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk)

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[www.historicscotlandimages.gov.uk](http://www.historicscotlandimages.gov.uk)

### Cover images

*Charles Rennie Mackintosh's Daily Record Building (1900–04), Renfrew Lane, Glasgow. The tall frontage to the narrow lane is faced in white glazed brick at the lower levels to reflect and maximise light. © N. Haynes.*

*Decorative brickwork at the former Templeton's Carpet Factory (by William Leiper, 1888), Glasgow. The colours are paler after acid cleaning in the 1980s. © Crown copyright: RCAHMS. Licensor [www.rcahms.gov.uk](http://www.rcahms.gov.uk).*

*George Square, Edinburgh. The replacement stone (at the bottom of the photograph) is carefully matched with the original 1890s stone for type, colour and tooling. Natural weathering will reduce the contrast between the new and old work. © N. Haynes.*

### Other selected Historic Scotland publications and links

[Maintaining your Home – A Short Guide for Homeowners](#) (2007) (PDF 1.4MB)

*Inform Guide: Energy Efficiency in Traditional Homes* (2008)

*Inform Guide: Damp Causes & Solutions* (2007)

*Inform Guide: Masonry Decay* (2005)

*Inform Guide: Repointing Ashlar Masonry* (2008)

*Inform Guide: Indent Repairs to Sandstone Masonry* (2007)

*Inform Guide: Structural Cracks* (2008)

*Inform Guide: The Use of Lime & Cement in Traditional Buildings* (2007)

*Inform Guide: Repairing Brickwork* (2007)

*Inform Guide: Care & Maintenance of Corrugated Iron* (2008)

*Inform Guide: Cleaning Sandstone: Risks and Consequences* (2007)

*Inform Guide: Graffiti and its Safe Removal* (2005)

For the full range of Inform Guides, Practitioner Guides, Technical Advice Notes and Research Reports please see the [Publications](#) section of the Historic Scotland website.

# **PLANNING ADVICE NOTE 71 – CONSERVATION AREA MANAGEMENT**



PAN  
71



SCOTTISH EXECUTIVE  
Development Department

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appraisal

manage



Planning Advice Note

# conservation

Area Management

Designation alone will not secure the protection and enhancement of **conservation areas**. Active management is vital to ensure that change can be accommodated for the better.





# protection and enhancement

## Planning series:

- › **Scottish Planning Policies (SPPs)** provide statements of Scottish Executive policy on nationally important land use and other planning matters, supported where appropriate by a locational framework.
- › **Circulars**, which also provide statements of Scottish Executive policy, contain guidance on policy implementation through legislative or procedural change.
- › **Planning Advice Notes (PANs)** provide advice on good practice and other relevant information.

Statements of Scottish Executive policy contained in SPPs and Circulars may be material considerations to be taken into account in development plan preparation and development control.

Existing National Planning Policy Guidelines (NPPGs) have continued relevance to decision making, until such time as they are replaced by a SPP. The term SPP should be interpreted as including NPPGs.

Statements of Scottish Executive location-specific planning policy, for example the West Edinburgh Planning Framework, have the same status in decision making as SPPs.

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Planning Advice Note

# conservation

Area Management



December 2004  
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ISBN: 0-7559-4206-X  
ISSN: 0141-514X





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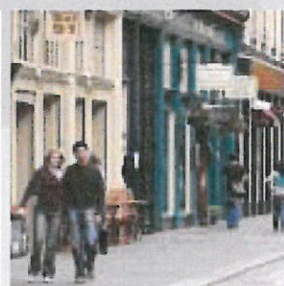
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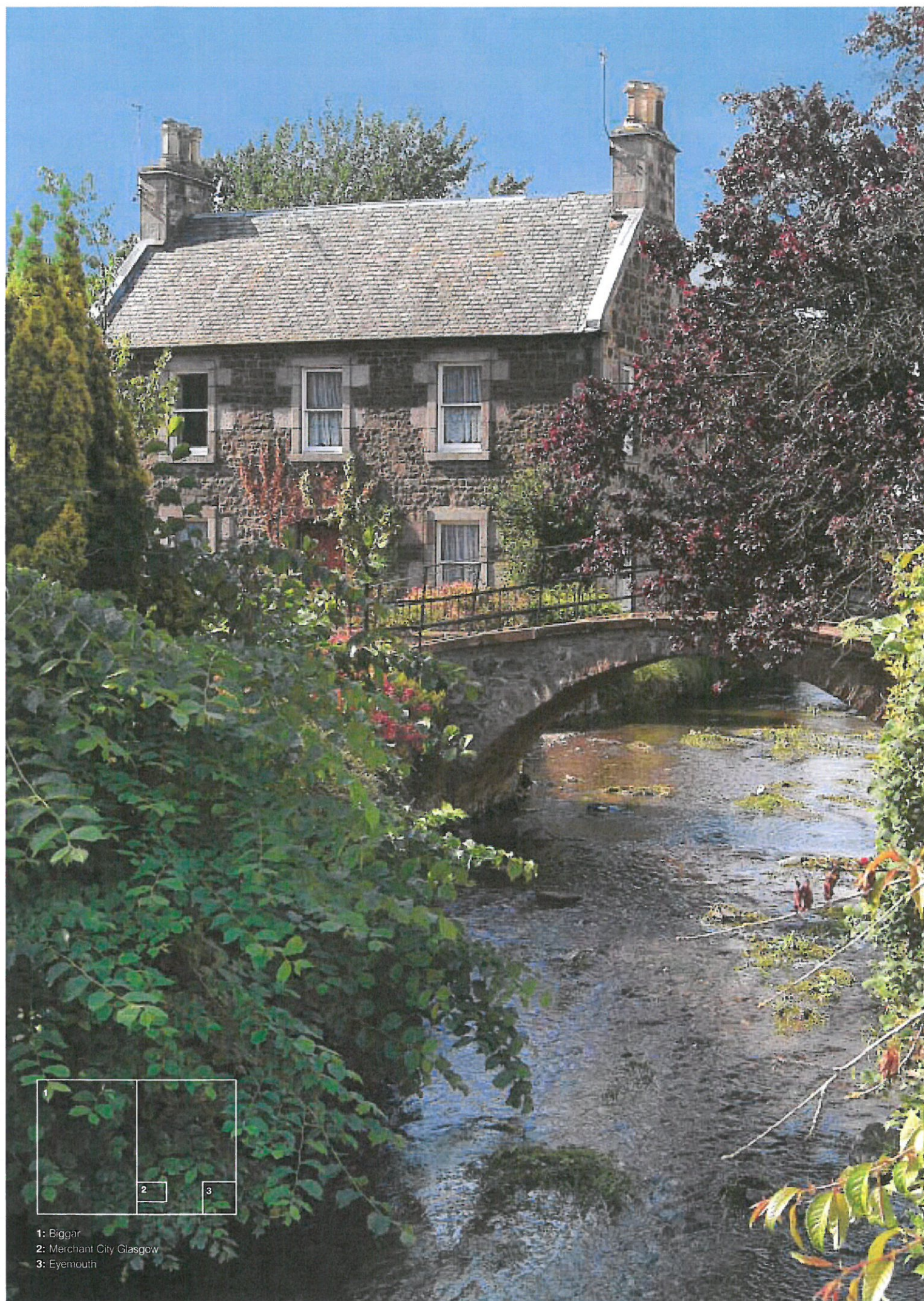


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- 1: Biggar  
2: Merchant City Glasgow  
3: Eyemouth



## Introduction

**Designing Places, published in November 2001, sets out the Scottish Executive's expectations of the planning system to deliver high standards of design and quality. This Planning Advice Note (PAN) fits with Designing Places and forms part of the design series of Advice Notes, which together strive to provide the foundations for tomorrow's conservation areas.**

There are over 600 conservation areas in Scotland. They can be found in our cities, towns, villages and in some rural settings, and can play an important role in economic and community regeneration and environmental enhancement. The designation of a conservation area is a means to safeguard and enhance the sense of place, character and appearance of our most valued historic places. Buildings of character, listed buildings, scheduled monuments, trees, historic street patterns, open spaces and designed gardens and landscapes are important components of these areas. The overall layout and pattern of development may be just as important to the character as individual buildings. The activities that go on inside conservation areas are also important. Conservation areas are living environments that despite their history, will continue to adapt and develop. Designating a conservation area does not mean a prohibition on development. It does mean carefully managing change to ensure that the character and appearance of these areas are safeguarded and enhanced for the enjoyment and benefit of future generations.

This PAN complements existing national policy and provides further advice on the management of conservation areas. It identifies good practice for managing change, sets out a checklist for appraising conservation areas and provides advice on funding and implementation.

This PAN should be read in conjunction with other national policy and advice. Of particular relevance are: The Memorandum of Guidance on Listed Buildings and Conservation Areas, NPPG 18 Planning and the Historic Environment, Designing Places: A Policy Statement for Scotland, PAN 52 Planning in Small Towns, and PAN 68 Design Statements.

The advice in this PAN will be of particular relevance to planning authorities, but effective management of conservation areas requires support and input from other stakeholders. This advice is also intended as a guide for other local authority interests, developers, heritage trusts, utility companies, public sector agencies, residents, property owners, community organisations and amenity bodies. Effective co-ordination of the knowledge, enthusiasm, commitment and resources of these interests can contribute significantly to the effective conservation and enhancement of Scotland's historic environment and the quality of life of those who live in, use and enjoy these places.







# enhance

Designation of a conservation area should not be regarded principally as a means of increasing control but rather as a commitment to take positive action to safeguard and enhance the character and appearance of the conservation area. Memorandum of Guidance, sect 4.21.



## Designation and Review

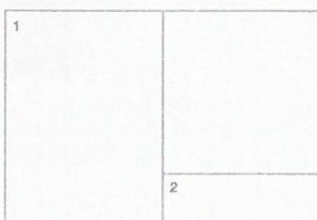
The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that conservation areas “are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance”. Local authorities have a statutory duty to identify and designate such areas.

Special architectural interest can be interpreted broadly. As well as the settings of architectural set pieces and the spaces between buildings, designation can give recognition to groups of individual buildings or characteristic forms of urban development and evolution. Equally, conservation area designation provides scope for special recognition of the best examples of town planning and urban design. Special historic interest relates to areas with a connection to events or themes of historic or cultural significance.

The statutory procedures for designation are well established. Proposals for designation, variation or cancellation must be publicised. The Scottish Ministers also need to be notified. Owners and occupiers of property within a proposed conservation area do not have to be specifically notified and there is no right of appeal against a designation, variation or cancellation. Wherever possible, proposals to designate, cancel or redefine the boundaries of conservation areas should first be subject to public consultation through the local plan process, thus providing opportunity for the views of stakeholders to be taken into account.

Whilst designation is a valuable tool in the protection of important areas, authorities should be careful not to assume that designation alone will secure protection and enhancement. Review of existing areas is required and provides an opportunity to assess the justification for designation, consider the validation of boundaries, identify opportunities for enhancement and set management priorities.

3



1: West Wemyss  
2: Inverness

enhance

appraisal





## Managing Change

When effectively managed, conservation areas can anchor thriving communities, sustain cultural heritage, generate wealth and prosperity and add to quality of life. To realise this potential many of them need to continue to adapt and develop in response to the modern-day needs and aspirations of living and working communities. This means accommodating physical, social and economic change for the better.

Physical change in conservation areas does not necessarily need to replicate its surroundings. The challenge is to ensure that all new development respects, enhances and has a positive impact on the area. Physical and land use change in conservation areas should always be founded on a detailed understanding of the historic and urban design context.

Whilst the scope for new development may be limited in many conservation areas, all will present some opportunities for enhancement. Most will contain buildings, vacant sites or inappropriate street furniture that have a negative impact on the character and appearance of the area. These represent opportunities for improvement and when managed effectively, can act as a catalyst for economic, community and environmental regeneration.



appraisal

manage





## Understanding and Evaluating

Past approaches to conservation area management have too often been based on a limited understanding of the heritage resource involved. In some cases there has also been an overemphasis on regulation and a lack of clarity over priorities for improvement. 'Facelift' schemes which offer short term visual gain rather than more enduring, sustainable conservation, are common. Opportunities for positive planning and enhancement may be missed as a result. A pro-active approach is required.

An overall strategy or vision for each conservation area will help to determine priorities. Townscape audits and conservation area appraisals are useful tools for developing and implementing a management strategy.

Townscape audits do not just apply to the historic environment but provide an analysis of the physical characteristics of the entire settlement. An understanding of the wider area is vital in the management of conservation areas. Townscape audits will identify the context, use and function of a conservation area and its relationship and importance to the surrounding settlement. Further information regarding townscape audits can be found in NPPG 18 and PAN 52.

Conservation area appraisals focus on areas which lie within existing or proposed conservation area boundaries. They analyse what makes a place special and assist managers in: defining and reviewing boundaries; identifying opportunities and priorities for enhancement; assisting policy formulation; ensuring consistent decision making and supporting funding bids. An appraisal is a vital tool to enable the active management of conservation areas. Authorities should prepare one for each conservation area to assist the management process. Further guidance on conservation area appraisals can be found in NPPG 18 and an appraisal checklist is set out in the annex to this PAN.

The management strategy for each conservation area should have shared ownership, involving all the stakeholders in an open and inclusive way. There should also be an understanding of what is achievable and what can be delivered in the short, medium and long term.

5



- 1: Beith: 1950's to present
- 2: Beith: 1950's to present
- 3: Glasgow





## Policy Framework

Once an understanding of the special characteristics, pressures and priorities of a conservation area has been established, it is vital that they are fed into the development plan or supplementary guidance.

NPPG 18 sets out the requirements for structure and local plans. In the past, authorities have tended to rely on general local plan policies for the protection of conservation areas. Whilst these are important, NPPG 18 also requires that local plans go a step further and set out opportunities and priorities for enhancement. These need not be overly prescriptive but should identify sites of opportunity and areas where the Council and other stakeholders will be taking action. The detail of this, which will be informed by a conservation area appraisal, should be set out in action plans or supplementary guidance. Such detailed guidance will provide more certainty to the decision making process. Local plan policies should promote positive development.

Whilst NPPG 18 states that development which would have a neutral effect upon the conservation area should be treated as one which preserves the area's character or appearance, this should be considered as the minimum standard. Local plan policies and supplementary guidance should promote and reflect this commitment to quality.

Supplementary planning guidance also plays a fundamental role in the protection and enhancement of conservation areas. Appraisals are likely to be the main form of conservation guidance and will identify issues which require further supplementary guidance.

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preserve

enhance





## Development Control

Development control has a fundamental role in the management of conservation areas. It is vital that decision makers have the knowledge, skills and confidence to ensure high design quality in conservation areas. Clear information and guidance is essential for planners, politicians and local communities to come to a quick and considered view on the merits of proposals for change. A clear policy framework and supporting guidance will encourage the submission of quality proposals and promote consistent decision making.

Design statements are a way to explain how specific proposals will enhance the quality of an area. For significant applications within conservation areas, local authorities should encourage applicants to submit design statements based on conservation area appraisals.

Planning applications in outline will rarely provide the level of detail required to assess whether the proposal will harm the character of a conservation area or not. It is important to avoid outline consents for large residential or commercial developments without any understanding or realistic assessment of whether they can be accommodated sensitively within the setting of the area. The submission of a design statement will aid the assessment and consideration of proposals in outline and can be used to inform the preparation of planning conditions. Appropriate conditions and effective enforcement should provide confidence that the desired level of quality can be secured.

Conservation area consent for demolition will not normally be granted in the absence of a detailed application, approved in parallel, for the replacement development. This is to avoid the formation of gap sites and to ascertain that the development will enhance or preserve the character of the area, as defined in the conservation area appraisal.

Conditions attached to a planning permission can assist the effective regulation of development. They should meet the tests set out in Circular 4/1998 The Use of Conditions in Planning Permissions. Use of standard conditions may not be sufficient to maintain and enhance the special character of the conservation area.

## Enforcement

Enforcement has a key role to play in the protection of conservation areas. Local authority enforcement strategies are generally reactive, resulting in investigation only when a formal complaint is made. For conservation areas, local authorities should consider a more proactive approach including monitoring development activity and ensuring compliance with the terms of planning permissions. A positive and active approach to enforcement will help to reduce the number of contraventions and secure sustained improvements in environmental quality.

7



1: Inverness  
2: Dunkeld





## Case Study

**Burgh Yard, Dollar**, is a quality development on a key site within an outstanding conservation area. The success of the development is attributable to Clackmannanshire Council's active management process, which was recognised in 1997 with a Scottish Award for Quality in Planning.

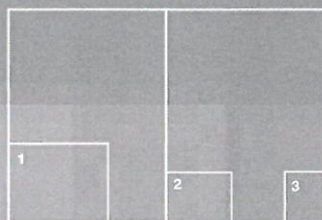
The brownfield site provided a rare opportunity for new build within the conservation area. Clackmannanshire Council recognised that wider benefits could be achieved by collectively considering the site along with two neighbouring sites which were considered to have a negative impact on the conservation area.

A detailed development brief was prepared and a design competition launched. A panel of conservation experts (including the Royal Fine Art Commission for Scotland, The Scottish Civic Trust, the Architectural Heritage Society and the Dollar Civic Trust) acted as judges and unanimously chose the winning scheme.

The Council's management strategy also had a number of safeguards to ensure that a quality development was achieved. This included tying detailed drawings into feuing conditions for the site and using the Builder's Licence Scheme.

Clackmannanshire Council displayed excellent management skills by considering not just the opportunity site but the interests of the conservation area as a whole. The brief set out the detailed requirements for the area and the Council were committed to ensuring that a high quality development was secured.

8



1: Burgh Yard, Dollar

2: Beith

3: Beith





## Protecting Vulnerable Areas

### Article 4 Directions

The objectives of conservation area management can for the most part be met through an effective policy framework and the positive use of existing development control and enforcement powers.

There will, however, also be a place for further regulation to ensure that the character and appearance of the conservation area is not eroded through incremental change.

Proposals for Article 4 Directions to remove or reduce permitted development rights should be advertised or progressed through local plans. Local authorities should be clear about the classes of development they want to bring within planning control and provide appropriate justification. They should not resort to blanket restrictions of regulation but should relate to the character defined in the specific conservation area appraisal. Further policy guidance on the use of Article 4 Directions is set out in NPPG 18.

### Buildings at Risk

Where appraisals identify listed or significant properties which are at risk from neglect, authorities should alert the Scottish Civic Trust, which maintains the Buildings at Risk Register on behalf of Historic Scotland. The register aims to unite owners of neglected properties with those who have the resources to restore them. Further information regarding buildings at risk can be found in NPPG 18, the Memorandum of Guidance on Listed Buildings and Conservation Areas and from the Scottish Civic Trust. A dedicated website which provides information on many of the properties on the Register can be accessed at [www.buildingsatrisk.org.uk](http://www.buildingsatrisk.org.uk)

### Urgent Works Notices

Urgent works notices allow local authorities to carry out works which they feel are necessary to preserve a historic building suffering from neglect. The notice may be used to deal with listed and unlisted buildings in conservation areas. Notices should, however, only be served on unlisted buildings that make a positive contribution to the character or appearance of the conservation area. Any costs incurred in carrying out the works can be recovered from the owners. Urgent works notices are confined to those parts of a building which are unoccupied.

The scope of the works covered by the notice should be restricted to the minimum necessary to secure the building rather than comprehensive repair and restoration. For example, it may be adequate to install a temporary roof covering over a building rather than undertake the full repair of the roof.

The use of urgent works notices should not be reserved solely for buildings in an advanced state of disrepair. They can also target relatively inexpensive works where a building is at an early stage of decline. Addressing relatively minor issues such as blocked gutters or rhones can halt deterioration to a more serious and expensive condition. Further advice on the procedures for urgent works notices can be found in the Memorandum of Guidance on Listed Buildings and Conservation Areas.

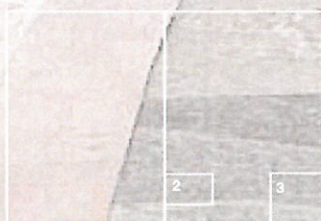






# effective

Effective management of the public realm is not just an issue of funding, it is equally about the skills deployed, the way in which regulations are used and the way in which the design process is managed



- 1: Dundee
- 2: Bigger
- 3: Eyemouth



## Enhancing the Public Realm

Many of the challenges for local authorities lie with changes to the public realm. The focus in conservation areas must be on the careful maintenance of public space, and the use of appropriate signage and materials for traffic management and street furniture. Conflicts between the interests of residents, local businesses and visitors must be sensitively managed, with solutions tailored to the specific circumstances of the place. Good working relationships between council departments and with relevant external agencies, especially public utility companies, are vital.

### Traffic and Movement

Traffic dominates the character of many conservation areas and often poses the biggest challenge for conservation area management. Standardised transport engineering solutions rarely relate to the special character of the area and present a major challenge to local authorities in their duty to protect and enhance conservation areas.

In certain cases, the solution may be to reduce or divert traffic away from particular conservation areas thereby lessening the need for traffic calming measures, extensive parking or loading arrangements. Caution should, however, be exercised if considering

such an approach as the area may have been characterised historically by the movement of people and goods. Reducing such movement may have a detrimental effect on the special character of the area and may impact upon its vitality and viability. In order to manage traffic in the conservation area, it is important to gain an understanding, through the appraisal process, about how the area works and what aspects sustain activity and movement. Seasonal variation should also be taken into account. Conflicts may arise between the needs of residents, businesses, pedestrians and motorists. Multi-disciplinary teams will be required to consider how best to manage traffic within conservation areas. These teams must work together to provide a solution which meets the operational needs of the conservation area whilst protecting and enhancing its character.

Parking can also pose problems in conservation areas. New parking areas may have implications for visual amenity and traffic flow. Lack of parking can lead to other problems, such as illegal parking on pavements or the removal of gates, fences and walls to provide off street parking. Consideration should be given to the most appropriate location, design and materials for parking areas which will minimise the impact on the conservation area.

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appraisal

enhance





## Utilities

Another common problem for local authorities can be managing the impact of work undertaken by utility companies who benefit from 'permitted development rights' for various works, including the laying of underground pipes or other apparatus. This can have significant effects on the character of the conservation area, for example, a traditional cobbled street may be reinstated with tarmac. It is essential for planning authorities, roads authorities and utility companies to work together to identify sensitive areas and agree a commitment to sensitive reinstatement.

The Scottish Road Works Register system is used by utility companies to notify road authorities of their intention to carry out works. If the conservation area is identified on the system as an area of 'special designation', the local authority may, in certain cases, be able to prescribe the specification for reinstatement. This should be based on an agreed maintenance schedule. Local authorities should ensure that the Register contains up to date and accurate information.

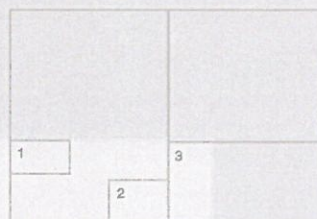
## Street Furniture and Signage

Inappropriate street furniture and a proliferation of signs and general clutter detract from the character of a conservation area.

The provision of new or replacement street furniture represents an opportunity for local authorities to define and enhance the historic character of the conservation area. However, standard, off-the-shelf designs are usually inappropriate to the historic environment and authorities should consider the need for high quality, custom-designed solutions. In certain conservation areas, well designed modern street furniture may be the most appropriate solution.

The problem of street clutter can easily be tackled by establishing the extent of the problem through the appraisal process, removing any unnecessary objects and then ensuring that a regular monitoring programme is in place.

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- 1: reinstatement
- 2: Milngavie
- 3: Wigtown

preserve

enhance





## Open Spaces

PAN 65 Planning and Open Space recognises the important role of open space in setting the landscape and townscape structure of urban areas and in contributing to the character of the historic environment. Areas of open space can be a defining element in a conservation area. Appraisals should consider the different types, functions and benefits of open space and identify opportunities to extend and enhance open space networks.

## Trees

Trees contribute greatly to the character and quality of many conservation areas. As woodlands, planted avenues, or individual specimens, they can enhance the landscape setting of conservation areas, soften streetscapes and bring life and colour to gardens. Trees may also have historic or cultural significance.

Trees in conservation areas are protected through the Town and Country Planning (Scotland) Act 1997. Before carrying out any work on a tree in a conservation area, owners are required to notify the local authority giving details of the intended works. Councils can serve a Tree Preservation Order if they consider a tree to be under threat, but they can also protect and promote tree planting through conditions in planning consents.

Individuals, organisations and local authorities should take responsibility for ensuring that trees and woodlands in conservation areas remain healthy through good management. Management plans and appraisals will help to determine when and where new planting is appropriate, what form it should take and the species to be planted.

## Maintenance of the Public Realm

Capacity and responsibility for short, medium and long term maintenance, involving such services as street cleaning and landscaping as well as highways and public utilities, should be programmed and regularly reviewed. A range of advice on maintenance is available from Historic Scotland.





## Funding and Resources

The Scottish Executive provides around £14.5 million each year to help offset the cost of the care, repair and conservation of the historic environment. This is administered through Historic Scotland and a significant proportion is targeted to conservation area enhancement. Grants are awarded for the comprehensive repair of key buildings. Town schemes also operate in a number of outstanding conservation areas and provide grants for small scale repairs to property.

Significant parts of Scotland's urban areas are covered by City Heritage Trusts, which benefit from a combined annual grant from Historic Scotland of around £2.6 million. Additional funding is provided from local authorities and a range of other sources. Active Heritage Trusts also exist in Perth and Kinross, New Lanark and Dumfries and Galloway. These can operate local grant schemes and co-ordinate a range of other activity to promote, safeguard and enhance the character and appearance of conservation areas. Their staff are an important source of advice on funding for conservation.

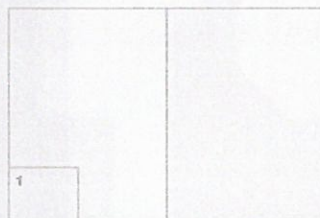
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The Heritage Lottery Fund also contributes significant amounts of money to area conservation projects, particularly through its Townscape Heritage Initiative which focuses on the regeneration of conservation areas that face economic or social problems. The Heritage Lottery Fund generally meets up to 50% of a comprehensive and concentrated programme of building repairs, reinstatement of architectural detail, re-use of vacant floorspace, appropriate filling of key gap sites and conservation and enhancement of the public realm, all based on a conservation area appraisal and action plan. Match funding is generally provided by a combination of grants from Historic Scotland, the local authority, local enterprise company, European Regional Development Fund and Communities Scotland.

Building Preservation Trusts also play a significant role in overcoming the challenges presented by buildings at risk and adding value to wider management strategies. Building Preservation Trusts can access loans and grants to tackle development projects on a 'revolving fund' basis where a market solution is not possible. Through developing a relationship with a Building Preservation Trust, a local authority can manage the financial risks associated with urgent works notices, repair notices and compulsory purchase orders. The work of Building Preservation Trusts can also be a catalyst for wider regeneration.

enhance

manage



1: Beith



The recently published "Sources of Financial Help for Scotland's Historic Buildings", published by the Scottish Civic Trust on behalf of Historic Scotland, provides advice on a range of other funding possibilities. The Architectural Heritage Fund sponsored website [www.fundsforhistoricbuildings.org.uk](http://www.fundsforhistoricbuildings.org.uk) is another useful source of information.

Although in recent years resources have become fairly limited, local authorities have powers to make grants and loans for the improvement of conservation areas. Good examples of initiatives which have won external validation include Lesmahagow (1985) and Biggar (with Scottish Civic Trust) (1975) for European Architectural Year and more recently with the Scottish Awards for Quality in Planning for West Wemyss, Fife and Crichton Campus, Dumfries.

Where no dedicated funds exist for conservation area enhancement, it is still possible to achieve outcomes and deliver conservation policies through influencing and aligning the spend of other agencies and organisations with a clearly communicated vision for the area.

Increasing numbers of Development Trusts are being established and can play a useful role in conservation area management. Development Trusts are community-led enterprises which seek to bring about social, economic and environmental change for the better. They can, for example, be set up to acquire and manage a historic building or historic community asset. Further information about Development Trusts can be found at [www.dta.org.uk](http://www.dta.org.uk)

Given that there are over 600 conservation areas, competition will be high in securing financial assistance. Applications for funding which are accompanied by supporting documents such as townscape audits and conservation area appraisals will strengthen the basis of any grant application.

**The following table lists some of the sources of funding available:**

Funding Sources	Grant Programme	Further Information
Local Authority Grants	Local Authority Discretionary Grants including Improvement/Repairs Grant schemes.	Relevant local planning authority.
Historic Scotland	Various	<a href="http://www.historic-scotland.gov.uk">www.historic-scotland.gov.uk</a>
Heritage Lottery Fund	Townscape Heritage Initiative Public Parks Initiative Heritage Grants Programme Places of Worship Grant (jointly with Historic Scotland)	<a href="http://www.hlf.org.uk">www.hlf.org.uk</a>
Architectural Heritage Fund	Heritage Grants and Loans Feasibility Study Grants Refundable Project Development Grants Organiser Grants Annual report of the Architectural Heritage Fund	<a href="http://www.ahfund.org.uk">www.ahfund.org.uk</a>
European Union	Structural Funds Community Initiative Funding—Interrig III B, Leader+, Equal, Urban 11 Programme Culture 2000	<a href="http://www.scotland.gov.uk/esf">www.scotland.gov.uk/esf</a> <a href="http://www.dti.gov.uk/europe/structural.html">www.dti.gov.uk/europe/structural.html</a> <a href="http://www.culture2000.info">www.culture2000.info</a>
Others	The Scottish Arts Council The Pilgrim Trust National Trust of Scotland The Scottish Museums Council The Scottish Enterprise Network Communities Scotland Development Trusts Association	<a href="http://www.sac.org.uk">www.sac.org.uk</a> <a href="http://www.thepilgrimtrust.org.uk">www.thepilgrimtrust.org.uk</a> <a href="http://www.nts.org.uk">www.nts.org.uk</a> <a href="http://www.scottishmuseums.org.uk">www.scottishmuseums.org.uk</a> <a href="http://www.scottish-enterprise.com">www.scottish-enterprise.com</a> <a href="http://www.communitiesscotland.gov.uk">www.communitiesscotland.gov.uk</a> <a href="http://www.dta.org.uk">www.dta.org.uk</a>



## Knowledge and Skills

Conservation officers, or their equivalents, are critical to the success and quality of conservation area management and often have responsibility for a range of statutory and project work. Where specialist expertise is lacking, pooling resources with neighbouring authorities or employing consultants is encouraged. The benefits of having specialist input to decision making, local planning and project work is invaluable. Once an appraisal has been compiled, monitoring and review should be less demanding on staff resources, but will still require the input of a specialist.

Community organisations and amenity bodies often take a strong interest in conservation area issues. Their involvement in the planning process is strongly encouraged as a way of capturing local knowledge and expertise and helping local authorities in their efforts to enhance environmental quality. In particular, they have an important role to play in the appraisal process. Historic Scotland, in the form of the Area Inspector of Historic Buildings, is another source of stakeholder advice on the creation and monitoring of conservation area appraisals and conservation area management generally.

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appraisal

manage



1: East Dunbartonshire Council  
2: Dollar





## Monitoring and Review

Monitoring and review is essential in validating the continuing relevance of designations, their boundaries and the success of management strategies. Useful indicators of the impact of a management strategy might include the:

- extent of repair needs of buildings and the public realm, the progress made towards addressing them, and the quality of repairs undertaken;
- design quality of new buildings, alterations and extensions;
- cumulative effect of erosive small-scale changes and the use of planning tools, such as Article 4 Directions, to combat them;
- vitality and viability of any commercial areas; and
- the level of investment and progress in the implementation of particular schemes of enhancement, such as shopfronts or streetscape enhancement.

Monitoring indicators should be set out in the conservation management strategy. As most of the indicators are qualitative and hard to measure, it may be necessary to develop assessment methods using external audits or community juries. There are, of course, other indicators of management performance that go beyond conservation, such as litter, graffiti, vandalism, community safety and maintenance standards.

It is necessary to establish a review cycle in order to give continuing support to conservation area management. The local community should be actively involved in the monitoring and review process.





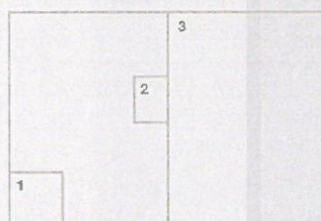
## Conclusion

Designation alone does not fulfil a local authority's responsibilities for conservation areas. An active culture of management can deliver quality if it is based on the character and needs of individual areas.

When local authorities have evaluated and understood the issues, it is vital that action is taken to manage change effectively. This may require new policies in local plans, the publication of supplementary guidance, improvements to the public realm or design and conservation training. Management objectives need to be realistic, taking into account: available staff resources and funding; the feasibility of enhancement opportunities; the development plan review timetable and methods to involve the community and other stakeholders.

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A robust and active management strategy combined with an effective monitoring and review mechanism will ensure that valuable aspects of our heritage resource are protected and that opportunities to enhance them are delivered.



- 1: Glasgow
- 2: Dunkeld
- 3: Dundee



appraisal

manage









## Annex: Conservation Area Appraisal

### What is a conservation area appraisal and why is it useful?

A conservation area appraisal is a management tool which helps to identify the special interest and changing needs of an area. An appraisal provides the basis for the development of a programme of action that is compatible with the sensitivities of the historic area and enables local authorities to fulfil their statutory duties to protect and enhance conservation areas. Appraisals also inform policy and assist development control. They provide an opportunity to educate residents about the special needs and characteristics of the area and help developers identify and formulate development proposals.

A conservation area appraisal should not be included in a local plan. It is more appropriate as supplementary planning guidance.

### Who should prepare a conservation area appraisal?

Local authorities are encouraged to prepare appraisals for all their conservation areas on a priority basis and in consultation with the local community.

In cases where an appraisal is required to assist the consideration and determination of a major development proposal, the developer may wish to carry out the appraisal or may be willing to pay for its independent production in order to improve the decision making process.

### How do you prepare a conservation area appraisal?

Conservation areas are unique. It is therefore not practical to prescribe a method of appraisal that will be applicable to all. The following checklist, however, provides a starting point for local authorities. The list is not exhaustive but can be adapted to meet the specifics of individual conservation areas and can be updated over time. The left hand column outlines elements which will be likely to form an essential part of the appraisal. Consideration of the significance and importance of each element to the conservation area is vital. The right hand column provides further suggested issues for assessment.

Before commencing the appraisal, authorities should consider the format in which it is going to be presented. Findings should be set out clearly and concisely and seek to analyse and draw conclusions rather than simply describe an area. Publication of appraisals on the internet will give further accessibility and allow for simple updating.

Many of the themes and issues addressed in an appraisal are best communicated through pictures, maps and diagrams.

## Appraisal Checklist

<b>Introduction, Purpose and Justification</b>	<ul style="list-style-type: none"> <li>› Date of appraisal</li> <li>› Purpose of appraisal</li> <li>› Date and reason for designation</li> <li>› Location map showing area in context with the surrounding area (including any adjacent conservation areas)</li> <li>› Boundary map</li> </ul>
<b>Location, History and Development</b>	<ul style="list-style-type: none"> <li>› Reasons for location - natural landforms, strategic defence, river crossing, religious foundations etc</li> <li>› Regional context</li> <li>› Geology</li> <li>› Topography</li> <li>› Historic pattern of land use</li> <li>› Settlement development</li> <li>› Planned landscapes</li> </ul>
<b>Character and Appearance</b>  Setting  Activity and Movement  Street Pattern and Topography  Buildings and Townscape  Spaces  Trees and Landscaping  Character Areas	<ul style="list-style-type: none"> <li>› Assessment of the landscape and surroundings</li> <li>› The area in relation to its form and function</li> <li>› Significance of views into, across and from the conservation area</li> </ul> <ul style="list-style-type: none"> <li>› Direction, mode, volume, circulation and levels of activity</li> <li>› Day &amp; night variations</li> <li>› Seasonal variations</li> </ul> <ul style="list-style-type: none"> <li>› Changes to previous street patterns and surfaces</li> <li>› Way in which streets and buildings relate to ancient man-made and landscape features</li> </ul> <ul style="list-style-type: none"> <li>› Scheduled monuments</li> <li>› Key listed and unlisted buildings</li> <li>› Buildings considered to be of townscape merit (including modern examples)</li> <li>› Parks, historic gardens and designed landscapes</li> <li>› Distinctive architectural style and detailing</li> <li>› Building types</li> <li>› Materials</li> <li>› Past and current uses</li> <li>› Orientation and density – possibly reflecting past uses</li> </ul> <ul style="list-style-type: none"> <li>› Types of public and private open space (advice available in PAN 65 Planning and Open Space)</li> <li>› Characteristics of each area of open space – changes in level, surface materials, planting, degree of enclosure, feature or focal points</li> </ul> <ul style="list-style-type: none"> <li>› Tree Preservation Orders</li> <li>› Extent of tree and hedge cover</li> <li>› Nature of any dominant species</li> <li>› Landmark trees</li> <li>› Parks, gardens and designed landscapes.</li> </ul> <ul style="list-style-type: none"> <li>› Record and explain any different character areas – Individual policies and action plans may be required for different character areas.</li> </ul>



<b>Negative Factors</b>	<ul style="list-style-type: none"> <li>▶ Identify any negative factors</li> </ul>
<b>Building by Building Analysis</b>	<ul style="list-style-type: none"> <li>▶ Record (in written and photographic format) details, condition and alterations at a particular point in time – this can inform decision making and provide a valuable monitoring indicator and enforcement tool</li> </ul>
<b>Buildings at Risk Survey</b>	<ul style="list-style-type: none"> <li>▶ Note vulnerable buildings that contribute to the character of the area</li> <li>▶ Advise the Scottish Civic Trust to add to the Buildings at Risk Register</li> <li>▶ Survival of traditional surfaces</li> </ul>
<b>Public Realm Audit</b>	<ul style="list-style-type: none"> <li>▶ Appropriateness of street furniture and signage e.g. should reflect the character of the area, be practical, be well maintained, define the area etc.</li> <li>▶ Effect of traffic and utilities engineering – inappropriate replacement surfaces, signage clutter, visually intrusive cabling etc.</li> </ul>
<b>Surveys of Specific Issues</b>	<ul style="list-style-type: none"> <li>▶ Record aspects of distinctiveness e.g. typical shopfronts, boundary treatments, building details, materials etc.</li> </ul>
<b>Sensitivity Analysis</b>	<ul style="list-style-type: none"> <li>▶ Highlight vulnerable areas, buildings or issues</li> </ul>
<b>Assessment of Significance</b>	<ul style="list-style-type: none"> <li>▶ Compare significance of the conservation area in the local, national and international context – this can be a useful tool when sourcing funding and considering development applications</li> </ul>
<b>Opportunities for Development</b>	<ul style="list-style-type: none"> <li>▶ Identify sites where development could enhance the special qualities of the area</li> <li>▶ Reflect opportunities in the development plan</li> <li>▶ Prepare briefs or design statements for particularly sensitive sites</li> </ul>
<b>Opportunities for Planning Action</b>	<ul style="list-style-type: none"> <li>▶ Assess the need for boundary refinement</li> <li>▶ Assess the effects of permitted development</li> <li>▶ Identify the need for the implementation or review of Article 4 Directions</li> <li>▶ Identify need for urgent works, building repair or amenity notices</li> </ul>
<b>Opportunities for Enhancement</b>	<ul style="list-style-type: none"> <li>▶ Bring forward proposals for enhancement identified earlier in the appraisal e.g. new or restored surfaces, street furniture, planting, underground wires, traffic management changes etc.</li> </ul>
<b>Conservation Strategy</b>	<ul style="list-style-type: none"> <li>▶ A strategy may include: guidance on many aspects of managing change, details of any changes required to development plan policies, funding sources and opportunities; staffing resources, briefing for specific developments or sites, links with other strategic aspirations, and details of a monitoring and review mechanism</li> </ul>
<b>Monitoring and Review</b>	<ul style="list-style-type: none"> <li>▶ Consider and put in place appropriate monitoring indicators and agree a mechanism for review. Photographic surveys are an excellent means of recording change – they can also be a useful development control and enforcement tool</li> </ul>

### Information Sources

For historical information, the lists of buildings of special historic or architectural interest, the inventories published by the Royal Commission on the Ancient and Historical Monuments of Scotland, books in the Buildings of Scotland series, the RIAS guides, Burgh Survey and other local histories are a useful starting point. Local Authority Sites and Monuments Records provide information, particularly on archaeology, and references to further material. The National Monuments Record, held by the Royal Commission on the Ancient and Historical Monuments of Scotland, includes drawings, historical photographs and aerial photographs as well as historical accounts. For some specific places there may be archives or transactions of historical societies, which are usually held in the local history section of public libraries. The National Library of Scotland Map Library has a vast collection of historical maps.



### **Acknowledgements**

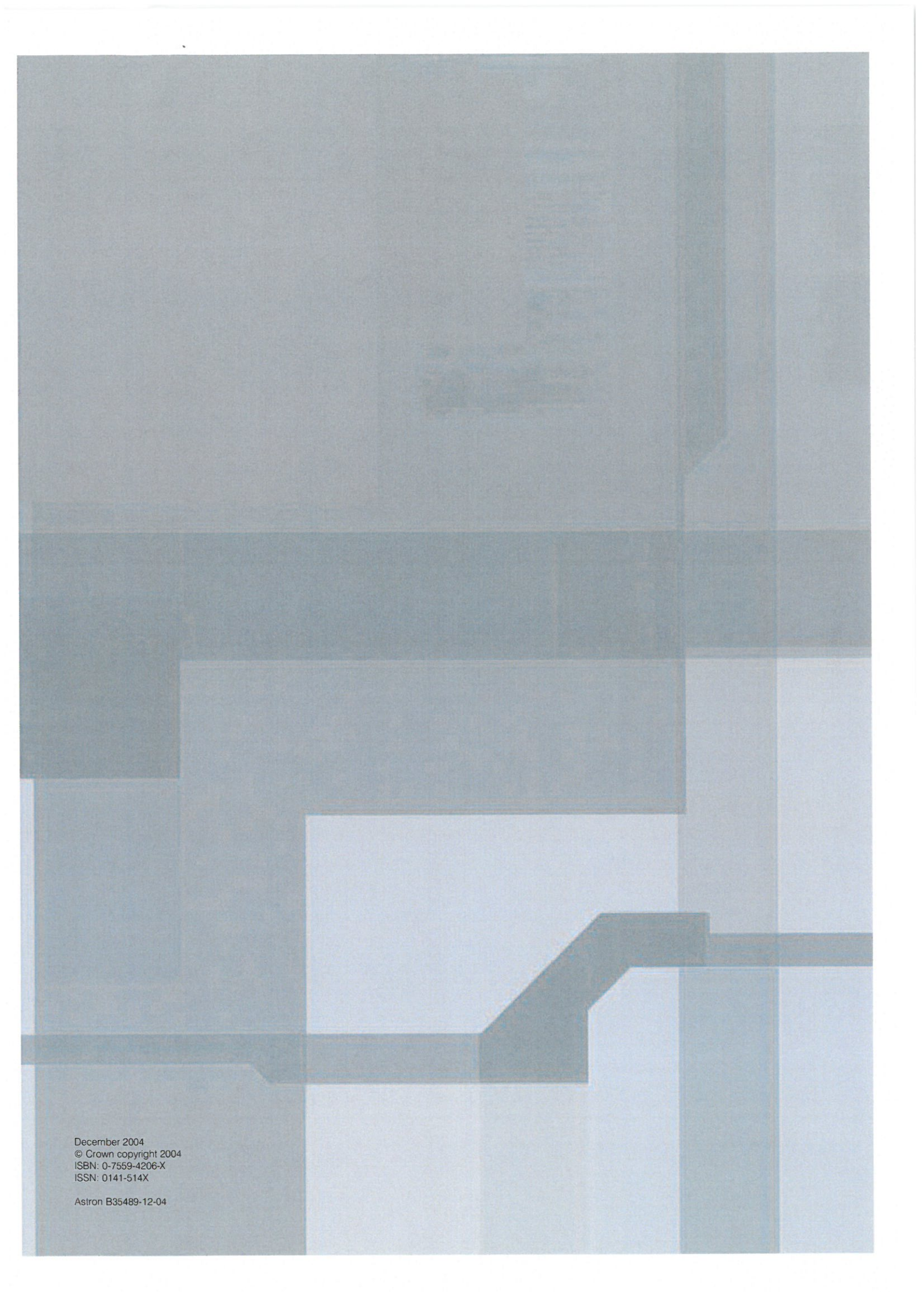
Clackmannanshire Council  
Fife Historic Buildings Trust  
Glasgow City Council  
Historic Scotland  
Institute of Historic Building Conservation  
Royal Town Planning Institute  
Scottish Borders Council  
The Conservation Studio  
The Scottish Civic Trust

### **Enquiries**

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[www.scotland.gov.uk/planning](http://www.scotland.gov.uk/planning)





December 2004  
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ISBN: 0-7559-4206-X  
ISSN: 0141-514X

Astron B35489-12-04

# **SCOTTISH HISTORIC ENVIRONMENT POLICY**



HISTORIC  
SCOTLAND



ALBA  
AOSMHOR

# SCOTTISH HISTORIC ENVIRONMENT POLICY

December 2011





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## INTRODUCTION

1. Scotland's historic environment contributes to the Scottish Government's strategic objectives and to the National Performance Framework. The *Scottish Historic Environment Policy* (SHEP) document sets out Scottish Ministers' policies for the historic environment, provides greater policy direction for Historic Scotland and provides a framework that informs the day-to-day work of a range of organisations that have a role and interest in managing the historic environment. These include the Scottish Government, local authorities and the range of bodies that is accountable to Scottish Ministers, including Historic Scotland. The SHEP complements and has the same authority as the Scottish Planning Policy and other relevant Ministerial policy documents. The SHEP is a relevant document in the statutory planning, Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) processes.
2. The original SHEP series was a response to the review of Historic Scotland in 2003–04 which recommended that an 'Executive endorsed policy statement for the historic environment in Scotland should be developed in consultation with stakeholders...'. Historic Scotland is an executive agency of the Scottish Government and its Framework Document sets out the roles and responsibilities of Scottish Ministers and the Chief Executive, who is accountable to Ministers for the operation of the agency (see Note 0.1). Everything that Historic Scotland does is done on behalf of Scottish Ministers, and a specific reference to the organisation in this document usually means that the agency has an operational role in handling applications or other matters.
3. The SHEP series was originally developed as individual free-standing documents. The single, combined SHEP was first published in October 2008 and revised in July 2009.
4. This revision of SHEP takes account of policy and legislative changes that have been introduced since the document was last updated in 2009. These are:
  - the Historic Environment (Amendment) (Scotland) Act 2011 ("the 2011 Act");
  - the Marine (Scotland) Act 2010 ("the 2010 Act");
  - the adoption of a UK Marine Policy Statement; and,
  - Scottish Ministers' policies for the designation and management of Historic Marine Protected Areas.

This revision represents a tightly focused matter-of-fact update that will ensure that SHEP reflects the new legal context which underpins Scottish Ministers' strategic policies for the historic environment. We have also updated figures and historic environment data within the SHEP.



5. The 2011 Act (The Bill for which received Royal Assent on 23 February 2011) amended the following 3 principal Acts:
  - the Historic Buildings and Ancient Monuments Act 1953 (“the 1953 Act”);
  - the Ancient Monuments and Archaeological Areas Act 1979 (“the 1979 Act”); and
  - the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (“the 1997 Act”).

**All references to the above principal Acts in this revision of SHEP are to be read as having been amended by the Historic Environment (Amendment) (Scotland) Act 2011.**

6. The *Memorandum of Guidance on Listed Buildings and Conservation Areas* which was last published in August 1998 is now fully superseded by the SHEP and Historic Scotland’s *Managing Change* leaflets.
7. The *Scottish Historic Environment Policy*, the combined *Scottish Planning Policy* and Historic Scotland’s *Managing Change in the Historic Environment* guidance note series (as confirmed in Planning Circular 9 2009) are the documents to which planning authorities are directed in their consideration of applications for conservation area consent, listed building consent for buildings of all three categories (see Note 2.19), and their consideration of planning applications affecting the historic environment and the setting of individual elements of the historic environment. Planning authorities are also directed to these documents to assist them in development planning. Historic Scotland will notify planning authorities in writing when new guidance notes in their *Managing Change in the Historic Environment* series are issued.
8. A UK Marine Policy Statement adopted by all the UK administrations provides a framework for considering the historic environment in the preparation of Marine Plans, which in turn guide decisions affecting the marine environment around Scotland (see Note 0.2).

## CHAPTER 1: SCOTLAND'S HISTORIC ENVIRONMENT

- 1.1. Scotland's distinctive character has been shaped by over 10,000 years of human activity. Past generations have left their mark in the form of monuments, buildings and sites, in our towns and cities and in the countryside around us, even in the patterns of our streets and fields. This rich historic tapestry is our **historic environment**. The historic environment is part of our everyday lives. It helps give us a sense of place, well-being and cultural identity. It enhances regional and local distinctiveness. It forges connections between people and the places where they live and visit. It helps make Scotland a great place to live and work. It is important that everyone in Scotland takes care of this inheritance now, so that future generations will also be able to enjoy it.
- 1.2. The historic character of our environment is important to our quality of life and sense of identity. Many of its elements are precious, some are not well understood; if it is lost or damaged, it cannot be replaced. The historic environment requires careful and active management to ensure its survival.

### The Historic Environment

Our whole environment, whether rural or urban, on land or under water, has a historic dimension that contributes to its quality and character. It has been shaped by human and natural processes over thousands of years. This is most obvious in our built heritage: ancient monuments; archaeological sites and landscapes; historic buildings; townscapes; parks; gardens and designed landscapes; and our marine heritage, for example in the form of historic shipwrecks or underwater landscapes once dry land.

We can see it in the patterns in our landscape – the layout of fields and roads, and the remains of a wide range of past human activities.

Importantly, it also includes our buildings erected before 1919 (see Note 1.1). Although the majority of older buildings are not listed, most provide flexible and often spacious domestic and non-domestic accommodation. A huge investment of money, energy and materials went into these buildings – it would be poor stewardship of this inheritance to neglect it.

The context or setting in which specific historic features sit and the patterns of past use are part of our historic environment. The historical, artistic, literary, linguistic, and scenic associations of places and landscapes are some of the less tangible elements of the historic environment. These elements make a fundamental contribution to our sense of place and cultural identity.

- 1.3. The sense of place and the strong cultural identity provided by the historic environment plays a large part in the maintenance and regeneration of communities and in promoting a positive image of Scotland across the world. Scotland is also custodian of a number of World Heritage Sites, which have 'outstanding universal value' (see Note 1.2).



- 1.4. Interest in and efforts to conserve aspects of the historic environment were first given legal form in the UK in 1882. Now a web of international treaties and conventions underpins European and national law and regulation to ensure that Scotland's historic environment is protected, and that change in the historic environment is undertaken on the basis of sound evidence. Ministers are committed to ensuring that Scotland delivers on its international obligations and that we are seen as an international exemplar of how a small country can care for its historic environment.
- 1.5. Everything changes, matures and decays. Natural processes, such as climate change and erosion, and human interventions through land management, urban and rural development, transport and pollution, constantly erode or change our historic environment. The sustainable management of the historic environment is an integral part of the wider management of resources.
- 1.6. The historic environment has been adapted over time to meet changing needs. Our view of what is important develops and changes. New buildings, sites and environments are created, and over time, become historic. The challenge for sustainable management of the historic environment and how it contributes to the vitality of modern life, is to identify its key characteristics and to establish the boundaries within which change can continue so that it enhances rather than diminishes historic character.
- 1.7. The remains of the past can act as a powerful catalyst and a stimulus to high-quality new design and development, leading to successful regeneration and community-building. We believe that the historic environment should be valued as an asset, rather than thought of as a barrier to development. It reinforces the identity of communities, and can add value, provided that value is recognised at the outset and it becomes an integral part of any development or regeneration project.
- 1.8. **The protection of the historic environment is not about preventing change.** Ministers believe that change in this dynamic environment should be **managed intelligently and with understanding**, to achieve the best outcome for the historic environment and for the people of Scotland. Such decisions often have to recognise economic realities.
- 1.9. The historic environment faces many challenges:
  - a. poor understanding of the positive role it can play in the maintenance, development and regeneration of communities, their culture and their economy;
  - b. short-term visions for the development of places;
  - c. changing land-management practices and restructuring in the farming industry;
  - d. lack of knowledge and understanding of how older buildings were constructed and perform and their maintenance needs;
  - e. loss of sites to coastal and plough erosion;
  - f. inappropriate change that reduces the cultural significance, or detracts from the appearance or quality of conservation areas;
  - g. the needs of renewable energy generation;

- h. achieving a good carbon footprint for older buildings while maintaining their cultural significance;
- i. the lack of traditional skills, suitably-qualified craftsmen and locally-available materials for the maintenance and repair of the historic environment.

## SCOTTISH MINISTERS' VISION AND KEY PRINCIPLES

### *Vision*

- 1.10. We can see Scotland's history through its historic environment, which reflects the strength and diversity of different regions, and the contribution of many cultures and peoples. Scottish Ministers want everyone who lives in Scotland to have the opportunity to understand and connect with the historic environment. Scottish Ministers have made large areas of Scotland's historic landscapes freely accessible through new rights of access to land and inland waters. There is a real and growing interest in the historic environment and the crucial part it plays in Scotland's cultural identity. Scottish Ministers believe that the people of Scotland are entitled to expect the historic environment to be protected, cared for and used sustainably so that it can be passed on to benefit future generations.
- 1.11. The protection and enhancement of the historic environment contributes to the Scottish Government's central purpose, which is 'to focus government and public services on creating a more sustainable country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth' (see Note 1.3). To support that, the Scottish Government has identified as a national outcome that 'We value and enjoy our built and natural environment and protect and enhance it for future generations'. Scottish Ministers will therefore take account of the wider sustainability agenda in all their decisions on matters relating to the historic environment. In particular, they will look to Historic Scotland to practise sustainable management of the properties in their care, to promote green tourism, and to advise other bodies on the sustainable management of the historic environment. Sustainable management practices recognise that the protection and management of the historic environment is best carried out in balance with the surrounding environment, not in isolation from it. Scottish Planning Policy and the UK Marine Policy Statement set out how this will be managed in terrestrial and marine planning systems respectively.
- 1.12. Scottish Ministers want to:
  - a. realise the full potential of the historic environment as a resource – cultural, educational, economic and social – across every part of Scotland and for all the people;
  - b. make the best use of the historic environment to achieve their wider aims of economic and social regeneration;
  - c. identify the many aspects of our environment and protect and manage them in a sustainable way to secure their long-term survival and preserve their embodied energy;
  - d. understand fully all aspects of the historic environment, and their condition and inter-relationships;
  - e. broaden access to the historic environment and break down intellectual, physical and economic barriers;
  - f. ensure that effective systems underpinned by appropriate legislation and information are in place to conserve and manage the historic environment.



**Key outcomes**

- 1.13. Scottish Ministers are determined to achieve three key outcomes for Scotland's historic environment by putting in place a strategic policy framework for the historic environment, investing in its delivery and working in partnership with others:

**Key Outcome 1:** that the historic environment is cared for, protected and enhanced for the benefit of our own and future generations.

**Key Outcome 2:** to secure greater economic benefits from the historic environment.

**Key Outcome 3:** the people of Scotland and visitors to our country value, understand and enjoy the historic environment.

The historic environment can make a valuable contribution to Scottish Ministers' wider agenda to create an aspiring, confident country with sustainable economic growth, confident communities, a vibrant and dynamic cultural life, and offering unparalleled tourism opportunities. Progress towards these outcomes will be measured by Scotland's Historic Environment Audit (see para 1.48) and by other targeted research.

**Key principles**

- 1.14. The policy of Scottish Ministers is that:
- a. actions taken in respect of Scotland's historic environment should secure its conservation and management for the benefit and enjoyment of present and future generations;
  - b. there should be a presumption in favour of preservation of individual historic assets and also the pattern of the wider historic environment; no historic asset should be lost or radically changed without adequate consideration of its significance and of all the means available to manage and conserve it;
  - c. Scotland's historic environment should be managed in a sustainable way, recognising that it is a social, cultural, economic and environmental resource of great value;
  - d. all of the people of Scotland should be able to enjoy, appreciate, learn from and understand Scotland's historic environment, and be assisted in that through access, research, knowledge, information and education and proactive conservation investment, without compromise to cultural significance.
- 1.15. The conservation of any part of Scotland's historic environment should:
- a. be based upon sound knowledge and understanding of the particular site, building, monument or landscape, and of its wider context;
  - b. be founded on full awareness and consideration of its cultural significance and all phases of its development;
  - c. be carried out in accordance with a conservation plan, which brings together all of the information and research necessary to guide the proposed action;

- d. ensure that what is to be conserved is properly recorded before and, if necessary, during and after work;
  - e. make provision for recording where continued preservation is no longer possible or where loss is taking place through change or ongoing decay, and ensure that all records are retained in readily accessible archives;
  - f. incur only the minimum degree of intervention considered appropriate by the relevant authority for the type of site, building, monument or landscape;
  - g. use appropriate technical knowledge, materials, skills and methods of working;
  - h. have regard to retaining, or where appropriate enhancing, the setting of the site, monument, building or landscape;
  - i. ensure that, where change is proposed, it is appropriate, carefully considered, authoritatively based, properly planned and executed, and (if appropriate) reversible;
  - j. include effective arrangements for monitoring the condition and safety of the historic asset and for delivery of routine maintenance and good housekeeping;
  - k. take account of the rich biodiversity of many historic sites, buildings and landscapes.
- 1.16. The relevant bodies with responsibilities for any aspect of the historic environment should ensure, as appropriate, that:
- a. the regimes affording protection to the historic environment are fit for purpose;
  - b. effective use is made of the statutory provisions available to protect the historic environment;
  - c. the historic environment is afforded due respect in all their activities;
  - d. the highest standards are set for, and applied to, the broad range of conservation practices;
  - e. appropriate and effective systems are established for monitoring and recording the condition of the historic environment;
  - f. suitable knowledge, skills, materials and technologies are available to enable conservation and management to be carried out in ways that safeguard the intrinsic archaeological, architectural, historical, physical and cultural significance of the heritage;
  - g. support, advice, encouragement, and clear and comprehensive guidance are readily available to all whose activities have an impact upon the repair, maintenance, management, protection and conservation of the historic environment;
  - h. training and education to enhance the quality of conservation practice and actions are widely available;
  - i. they work in partnership where there are shared interests.



***Cross-cutting policies***

- 1.17. Scottish Ministers' policies for the historic environment are closely related to other important cross-cutting policy areas:
- a. access to historic sites and the wider historic environment supports education, lifelong learning, internal and external tourism, and provides opportunities for exercise that promotes healthy bodies and minds;
  - b. the care, repair and maintenance of the historic environment provides employment in town and country, provides a major contribution to the turnover of the Scottish construction industry and supports the survival and expansion of traditional skills;
  - c. attractive and richly textured townscapes and rural landscapes promote Scotland as a good place to live and work;
  - d. the maintenance and regeneration of the historic environment helps support strong, safer communities;
  - e. the care, repair and maintenance of the historic environment has a significant part to play in wider sustainability policies;
  - f. so much of our environment is 'historic' that there are major links to policy on architecture, land management, planning and building standards;
  - g. there are close links between the historic environment and wider land-use and nature conservation policies that sustain a healthy landscape, diverse ecosystems and vigorous rural communities.

**PARTNERS IN THE VISION**

- 1.18 Scottish Ministers' vision for the historic environment can only be achieved by working in partnership with others in the historic environment community and beyond it. Some partnerships are statutory; most are voluntary. Much of this partnership working will be led on Scottish Ministers' behalf by Historic Scotland.
- 1.19 Scottish Ministers look to Historic Scotland to work in an open, inclusive and transparent way, to engage with stakeholders and to work in partnership in taking forward the visions and ambitions set out in this paper. In particular, Scottish Ministers look to Historic Scotland to work with:
- a. local authorities, which are key agents in protecting the historic environment and in harnessing the potential of the historic environment to contribute to Scotland's economic and social success. Scottish Ministers expect local authorities to play a full role in achieving their objectives for the historic environment (see Note 1.4);
  - b. the Royal Commission on the Ancient and Historical Monuments of Scotland (see Note 1.5);
  - c. Scottish Natural Heritage (SNH), with which Historic Scotland has a concordat. SNH has a significant role in the conservation of Scotland's landscapes, all of which have a historic element;
  - d. commercial, charitable and private owners and tenants of historic environment assets, who have a crucial role to play in conserving the fabric of the historic environment and, where appropriate, allowing and promoting public access and enjoyment;

- e. the voluntary sector, which makes a recognised and valued contribution: engaging local communities and individuals; undertaking important initiatives such as coastal archaeology surveys; acting as representative bodies for special interest groups; taking active roles in conserving individual sites or whole townscapes;
  - f. Scottish and UK government departments, executive agencies, non-departmental bodies and other bodies with direct responsibilities for parts of the historic environment, whether managing individual assets or areas of landscape or with key policy responsibilities, and whose policies impact on the historic environment. There are more details about the responsibilities placed upon the government sector in Chapter 5 and paragraphs 1.40 and 1.41 below;
  - g. sources of expertise, whether individuals or organisations, which can enhance the policy-making process and strategic decision-making for the historic environment;
  - h. the National Park Authorities, which have a statutory aim to conserve and enhance the cultural heritage;
  - i. the wider cultural heritage sector, including national and local museums, galleries, theatres, libraries and archives, because the historic environment plays a major role in Scottish culture;
  - j. educational and training institutions, which have an important role to play in research, formal and informal education and training of people of all ages;
  - k. the wider public sector, working with organisations with important and varied roles to play such as: Architecture+Design Scotland; the Heritage Lottery Fund; The Lighthouse, Scotland's Centre for Design and Architecture; Scottish Enterprise; Highlands and Islands Enterprise; and the Enterprise Network;
  - l. bodies working in other areas, such as social issues like citizenship, young people's needs and the needs of ethnic minorities, where the historic environment can have a beneficial impact;
  - m. the building industry;
  - n. professional bodies active in maintaining standards, skills and regulation in the historic environment sector.
- 1.20. The sustainable management of the historic environment has an impact on the broader environment, as well as economic and social implications. Working in partnership not only enables us to take on board competing priorities and weigh up conflicting concerns, it also opens up positive opportunities to enhance our environment. To this end, Historic Scotland has entered into, or is in discussion about, formal agreements with partner organisations to clarify their respective roles and how they will engage. The Agency keeps the need for such agreements under review on a case by case basis.
- 1.21. Individuals, business and organisations working together to a common purpose can ensure that a shared vision for the historic environment is delivered as a reality.



- 1.22. All responsible public organisations, non-governmental organisations or large businesses whose activities have a significant effect on the way the historic environment is conserved or managed should have in place robust strategic and operational policies to set out their engagement with the historic environment and the bodies which take the lead in caring for it.
- 1.23. Scottish Ministers will ensure that the historic environment is, where appropriate, taken account of from the earliest stage of developing Scottish Government policy and that of other public bodies.

## **IDENTIFICATION, DEFINITION AND DESIGNATION**

- 1.24. Scotland, like all countries in the developed world, has in place legislation and systems to identify and record its historic environment, and legislation and regulation to protect important monuments, buildings, landscapes and areas and to control what happens to them. Scottish Ministers are committed to protecting Scotland's historic environment and to ensuring that effective legal and administrative systems are in place and maintained, to identify, record, conserve and enhance it in the national interest for present and future generations.
- 1.25. It is vital that we understand the many different forms the historic environment can take and the historical and cultural significance of all its different elements. This will allow us to develop clear criteria for protecting Scotland's historic environment. The most significant historic assets are protected through national systems of designation; others are protected or managed through other mechanisms such as the planning system or the system of government payments to farmers.
- 1.26. Identifying and designating heritage assets is a continuous process as each generation assesses and re-evaluates the inheritance it wishes to pass on to succeeding generations. That process also takes account of improvements in our understanding of the historic environment, brought about by continuing academic research and by developments in technology, such as geographic information systems and new techniques for recording and investigation. Scottish Ministers are committed to continuing this process and will look to Historic Scotland, the Royal Commission on the Ancient and Historical Monuments of Scotland and other key bodies to play complementary roles and to share knowledge and expertise.
- 1.27. The desire to protect and the identification of what to protect must flow from values that are shared across Scotland. Scottish Ministers are committed to ensuring, in part through this SHEP, that the principles and processes behind identification and designation are open and well-understood; that appropriate review mechanisms are in place and that owners and occupiers of assets proposed for designation have the opportunity to be consulted.

## **PROTECTION AND MANAGEMENT OF THE HISTORIC ENVIRONMENT**

- 1.28. Scottish Ministers are committed to protecting and managing Scotland's rich and diverse historic environment in a sustainable way so that current and future generations can understand appreciate and benefit from it. Scottish Ministers have put in place, and will continue to support, a range of actions to achieve this.
- 1.29. Scottish Ministers want to recognise the value of the wider historic environment: so that people have attractive, varied and interesting places to live; so that the wider history of Scotland continues to be reflected in its landscapes and townscape; so people can feel connected to where they, and perhaps their ancestors, lived.

- 1.30. Understanding the development of our environment through time helps inform decision-making about its management. It offers a longer-term perspective on important topics such as the nature and impact of past climate change and past management of the land, soil degradation, loss of woodland, building decay processes and the results of past economic and industrial development. Good stewardship of the historic environment can make a contribution towards addressing wider issues like energy conservation (maintaining and using existing resources and embodied energy) and reuse of buildings and building materials (including recycling). The use of local resources, traditional materials and skills can help reduce the impact of transportation.
- 1.31. Scottish Ministers want to emphasise the contribution made to a sustainable Scotland by the repair, maintenance, preservation and reuse of our older buildings, particularly the half million traditionally-constructed domestic buildings built before 1919. It is their policy that the waste caused by unnecessary demolition and replacement, with consequent loss of embodied energy, the need for landfill and the sourcing and transport of new materials, should be avoided wherever possible. Ministers will develop policy aimed at minimising the carbon footprint of older buildings on the basis of sound research that takes account of the characteristics and materials of traditional construction and respects the value of the diverse historic character of these buildings, and the contribution they make to the identity and quality of townscapes and rural landscapes.
- 1.32. The principles of good stewardship are set out immediately below. The philosophy underlying good stewardship is that it is essential to manage the historic environment carefully for both present and future generations. This clearly resonates with the concept of sustainability and the wise use of resources.
- 1.33. Maintaining quality is a key aim of good stewardship and involves the following considerations:
  - a. proper repair and maintenance of the historic environment is generally the most sustainable course of action;
  - b. management, and any proposed alteration or change of use, should be appropriate and follow best conservation practice;
  - c. to retain historic character and future performance of older buildings it is important to use appropriate and compatible materials and construction techniques;
  - d. it is important that new developments are sensitive to historic character and attain high standards in design and construction, while recognising the portfolio of original building materials;
  - e. provisions for access should be appropriate to the character of the historic environment and should be adequately monitored.
- 1.34. It is recognised that some conflict can arise between the sustainable management of the historic environment and actions that are considered sustainable in other respects. It is also possible that the impact of proposed actions on the historic environment will be uncertain. In these cases the risk of potentially damaging actions should be minimised by following these key principles:
  - a. ensure that existing and intended management or use is appropriate and based on best available knowledge;
  - b. ensure that any proposed change of use is necessary;



- c. use appropriate assessment methodologies to determine the full impact of any proposed management, use or development;
  - d. avoid change wherever its effects cannot be adequately assessed;
  - e. where change is to proceed, adopt strategies to mitigate its impact and keep any interventions to a minimum;
  - f. ensure that management or alteration, including remedial work, is sympathetic to historic character, using compatible materials and construction techniques.
- 1.35. The protection and sustainable management of the historic environment also depends on understanding the techniques used in the original construction and on the availability of the appropriate indigenous traditional building skills and materials. Scottish Ministers are committed to establishing a proper understanding and awareness of what is needed.
- 1.36. There is a range of mechanisms in place to protect and manage the historic environment. For example, once an important monument, building or shipwreck has been identified and appropriately designated, specific consents may need to be sought or special consideration be given within the planning system. Where Scottish Ministers have a direct role to play in these processes they are committed to having clear policies that ensure consistency, transparency and fairness. They look to Historic Scotland to provide clear and consistent advice and to promote good practice in considering and managing change to the historic environment.
- 1.37. Scottish Ministers expect Historic Scotland and planning authorities to work together to try to improve mutual understanding, to find ways of increasing efficiency in administrative processes, and to remove impediments to the fuller use of the powers available both to designate and protect historic assets.
- 1.38. Scottish Ministers also look to the planning authorities to undertake their responsibilities for the historic environment in a pro-active and committed way. They should develop appropriate policy frameworks and procedures, and use all local mechanisms available to them for designation, management and control. They should also ensure that they have access to sufficient information and suitably qualified and experienced staff to meet their needs.
- 1.39. Scottish Ministers have direct responsibility for the management of over 340 monuments in their care and recognise that they hold these monuments in trust for future generations. Ministers are committed to conserving the monuments in a way that exemplifies the principles of sustainable management, and to making them accessible to the public. Further information is provided in Chapter 4.

### ***Responsibilities of government departments***

- 1.40. It is long-established policy that all government departments should discharge properly their duty of care for heritage assets they own or lease. This means that, for example, the Ministry of Defence has robust policies and procedures in place for the management of historic buildings and archaeological sites and landscapes on its bases and training areas.
- 1.41. Scottish Ministers expect all departments and agencies of the Scottish Government, all UK government departments and agencies operating in Scotland, and all non-departmental public bodies to adopt and adhere to current policy and guidance set out in Chapter 5.

## INVESTMENT IN THE HISTORIC ENVIRONMENT

- 1.42. Scottish Ministers recognise that investment in the fabric and management of Scotland's historic environment is needed to meet the objectives they have set for its care, protection and enhancement, and for increasing public appreciation and enjoyment. Investment will also ensure that the historic environment is maintained as an irreplaceable asset that makes a major contribution to Scotland's economic, social and cultural well-being. Ministers are committed to promoting high-quality standards of repair, maintenance, and conservation and the sympathetic re-use of heritage assets where this is appropriate.
- 1.43. Most of Scotland's historic environment assets are owned by individuals, businesses, charities or public bodies. It is their responsibility to maintain and care for their properties. Scottish Ministers will make every effort to encourage good stewardship and proper standards of regular maintenance and repair, and to help owners make informed choices about changes to their properties. Historic Scotland will provide information and advice to enable owners to make informed decisions about the well-being of their property and will support and encourage other bodies outside government in providing such information. Owners can also look to the Scottish Government Rural and Rural Payments and Inspections Directorates and the Royal Commission on the Ancient and Historic Monuments of Scotland to provide appropriate information.
- 1.44. Scottish Ministers recognise that there can sometimes be additional costs associated with repairing and conserving historic buildings, sites and monuments that may on occasion require public support. For example, support may be justified where the private benefit is low or where the effort to rescue or adapt a building may be beyond ordinary market forces. Scottish Ministers are therefore committed to providing appropriate investment through grant schemes operated on their behalf by Historic Scotland and by other public bodies. Through this Ministers aim to:
  - a. meet the repair and conservation needs of the most important elements of the historic environment;
  - b. deliver benefits to communities by helping to regenerate and promote the active use and ongoing care, repair and maintenance of the historic environment, broadening access to it, promoting sustainable economic and rural development and reinforcing local identity and sense of place;
  - c. champion quality and develop skills and knowledge by promoting high standards of repair and maintenance, training in traditional craft skills, the continued access to and use of indigenous building materials and the educational value of the historic environment;
  - d. build capacity for local heritage management by enabling voluntary heritage organisations, network bodies and local authorities to deliver successful outcomes for the historic environment.
- 1.45. Scottish Ministers are committed to investing in the conservation of monuments and properties that are in their own care or are their responsibility as part of the Government Estate, which includes buildings, wild and farmed land, forests, bridges and harbours. They are committed to ensuring that their investment meets the conservation needs of these monuments and buildings and sets the benchmark of good practice with the appropriate knowledge, skills and materials.



## ACCESSIBILITY AND UNDERSTANDING

- 1.46. The historic environment is all around us. Specific places, buildings and sites are generally widely accessible and provide immense opportunities for enjoyment. These range from the pleasures of the views of the World Heritage Site afforded from the battlements of Edinburgh Castle, to a visit to Kilmartin Glen, with its evocative remains of Scotland's prehistoric peoples. Throughout Scotland places of historic or architectural interest, in cities, towns, villages and the countryside, are readily accessible, very often on our doorstep. Scottish Ministers are committed to assisting the owners of such places across Scotland to promote and enable access to them.
- 1.47. Scottish Ministers believe that there needs to be greater awareness, knowledge and understanding of the historic environment. This needs to address lay, vocational, technical, professional, scientific and academic needs. Better understanding should inform interpretation, enabling people to understand the development of the historic environment and the significance of key monuments in Scottish history. A fuller evidence base will inform policy making and investment decisions.

### *Scotland's Historic Environment Audit*

- 1.48. Scottish Ministers have established an ongoing, audit of Scotland's historic environment (see Note 1.6). Historic Scotland leads the audit process, which draws on current data and research about the historic environment. SHEA provides, in one place, basic facts and figures that are of practical use for the sector in managing the historic environment. The data can also be used by anyone with an interest in the historic environment. Scottish Ministers expect Scotland's Historic Environment Audit to play an important role in building the evidence base for policy-making.
- 1.49. Scottish Ministers want the Government and its agencies to participate in the audit and would encourage all other members of the sector, particularly local government, to take part, in particular through the provision of data.

### *Technical, professional and academic knowledge*

- 1.50. The historic environment cannot be managed or cared for without a basic understanding of its nature and how it is changing. Scottish Ministers are committed to increasing and sharing knowledge more widely about the historic environment. They will undertake and promote research:
  - a. on individual sites, buildings and landscapes through survey of various kinds, excavation and documentary research;
  - b. into older buildings to inform policies and strategies for maintenance and the supply of skills and materials;
  - c. into the economic value and impact of the historic environment, including its vital role in Scotland's tourist industry.
- 1.51. To support this, Ministers expect Historic Scotland to continue to extend and update their series of publications, both for expert and for more general audiences, and to continue to work in partnership with other bodies to develop accessible sources of information, knowledge and training about the historic environment. Examples of where this has already been successful include PASTMAP (see Note 1.7), the Historic Landuse Assessment Project, Technical Advice Notes and Practitioners Guides.

***Access and educational initiatives***

- 1.52. The Scottish Ministers recognise the value of the historic environment as a significant learning resource and look to Historic Scotland and other relevant bodies to encourage initiatives which support statutory formal education, further education and lifelong learning. Historic Scotland is at the forefront in promoting understanding of the historic environment to learners of all ages, welcoming some 100,000 learners each year as they take part in free educational visits to properties in the care of Scottish Ministers, and in promoting the historic environment as a resource to help deliver the Scottish schools' curriculum for pupils aged 3 to 18.
- 1.53. Scottish Ministers are committed to promoting access and enjoyment of the historic environment. They will continue to support a broad range of initiatives and projects such as:
- a. working with local authorities to promote access to and understanding of the historic environment, to facilitate the integration of the historic environment with wider social justice, lifelong learning and capacity-building initiatives;
  - b. supporting Historic Scotland's aim of promoting intellectual and physical access for the nearly three million visitors a year to its properties in care by carefully balancing the requirements of the various Equality duties with the sensitivities and practical constraints of these culturally significant sites;
  - c. promoting access to information on the historic environment through the work of the Royal Commission on the Ancient and Historical Monuments of Scotland, and through developing and extending the PASTMAP website;
  - d. supporting the National Trust for Scotland in caring for some of Scotland's most important historic buildings and landscapes and working with the Historic Houses Association in Scotland and other bodies to promote the positive stewardship of the historic environment that is in private ownership;
  - e. working with The Lighthouse, Scotland's Centre for Design and Architecture, to explore the productive relationship between the historic and contemporary in architecture and environment;
  - f. supporting the voluntary heritage sector, which in turn supports local people in caring for and becoming involved in their historic environment.
- 1.54. Scottish Ministers will also seek out new ways of promoting and enabling access and understanding, for example by exploring opportunities for greater community involvement and the development of cultural tourism routes.

***Interpretation***

- 1.55. Scottish Ministers want to increase awareness and understanding of the historic environment and of Scotland's history. They recognise the value of a wider understanding of the significance of the historic environment, of connecting people to tangible evidence of their past, and its role in developing a confident national identity. Ministers have asked Historic Scotland to continue to develop new and innovative ways of presenting and interpreting the historic environment for a diverse range of visitors. Scottish Ministers expect Historic Scotland to continue to



develop good practice in interpretation in partnership with other interpretation providers in Scotland, supporting excellence in the heritage tourism portfolio.

## **RELEASING THE FULL POTENTIAL**

- 1.56. Scottish Ministers recognise that the historic environment is one of Scotland's greatest assets – economic, cultural and social. It provides the setting for Scotland as an attractive place to invest in, visit, work and live. It is a generator of wealth in both urban and rural areas, capable of attracting millions of visitors to Scotland each year.
- 1.57. Scottish Ministers wish to stress the importance they place on the intrinsic value of the historic environment, as part of the embodiment of the nation's identity, and on the value of the historic environment for Scotland's social and cultural success.
- 1.58. Economic, social and cultural values come together in the important role the historic environment has in building, maintaining and regenerating communities.
- 1.59. Scottish Ministers see the historic environment as a vibrant and crucial asset in three key areas of economic activity.

### ***Tourism***

- 1.60. Tourism is one of the world's biggest and most resilient business sectors. It is also one of Scotland's largest industries and Ministers have endorsed challenging targets for growth over the next 10 years. Historic Scotland is a key player in the Scottish tourism industry, both as a provider of heritage visitor attractions and as an employer in rural and urban settings throughout the country. Research shows quite clearly that visitors to Scotland, particularly those from overseas, want to visit castles and other heritage attractions, and the important role played by tourist visits by Scots within Scotland must not be forgotten. Scottish Ministers expect Historic Scotland to work in partnership with the private and public sectors to maximise opportunities in the promotion of Scotland – both within and beyond the border – as a tourist destination. Ministers expect Historic Scotland, as the operator of some of Scotland's most popular visitor attractions, to continue to invest in improving what is offered to the visitor.

### ***Building, supporting and regenerating communities***

- 1.61. The historic environment has a key role to play in regeneration. Scottish Ministers want to build on past success and to see more regeneration projects that have a clear understanding of the cultural value of the historic environment, how it has developed over time, and how it can be used creatively to meet contemporary needs. Historic Scotland's Conservation Area Regeneration Scheme will be able to contribute to this process as will the City Heritage Trusts that are now established in all of Scotland's cities and supported by Scottish Ministers through Historic Scotland.

### ***Construction industry***

- 1.62. Scottish Ministers are committed to the support of the construction industry in its role in maintaining the historic environment. The care and maintenance of the historic environment is an important factor in the economic security of Scotland's construction industry. 33% of the industry's annual £9.6 billion turnover comes from the repair and maintenance of existing building stock, with an estimated £0.6 billion spent on pre-1919 buildings each year. Scottish Ministers have invested

£145 million in historic building repair grants since 1999, leveraging in a further £543 million from private, commercial and other public sources. This investment and expenditure supports employment across Scotland and has been important in retaining at least a base in the traditional skills required to repair and maintain the historic environment. Scottish Ministers believe that this investment is well-targeted and look to Historic Scotland to play a key role in helping to educate, train and inform owners, the professions, business and industry how they can best invest in the maintenance, repair and enhancement of their property.

### ***Skills and materials***

- 1.63. The sustainable management of the historic environment has an impact on the broader environment, as well as economic and social implications. For example, the use of locally-produced traditional building materials and skilled craftsmen, which are essential for maintaining the quality and diversity of the historic environment, brings benefits to the local economy. At the same time, repairing and using traditionally-constructed buildings using appropriate materials and labour from local sources reduces carbon emissions, the costs of transport and its harmful impact on the environment.
- 1.64. Scottish Ministers share the widespread concern about the maintenance and repair of older buildings:
  - a. traditional building construction and performance is not as well-understood as it should be, and the inappropriate use of modern materials and techniques have frequently been shown to be damaging, counter-productive or a waste of money;
  - b. traditional skills necessary for ensuring appropriate repair and maintenance – masonry, carpentry, roofing – are in decline, meaning that many repairs are carried out by tradesmen who do not have the necessary understanding of traditional construction techniques, or the required knowledge and experience;
  - c. materials necessary for appropriate repairs – such as slate and building stone – may be available locally but may be inaccessible. Inappropriate alternatives often have to be transported, unsustainably, from great distances.
- 1.65. Ministers will look to Historic Scotland to take the lead in addressing these issues, working in partnership with others in other parts of the Scottish Government and the wider public, industry, commercial, professional and voluntary sectors.
- 1.66. The management of the historic environment requires the use of natural resources, through, for example, conservation actions, such as access to and supplies of the materials used in the repair of structures; and through visitor activities, particularly the means of transport used. It is important that we try to understand and minimise the impact of such actions.
- 1.67. Scottish Ministers will work with partners – particularly local authorities and professional and industry lead-bodies – to address these issues, and will ensure that the Scottish Government takes a 'joined-up' approach to dealing with the problems and developing solutions.
- 1.68. There are other skills that Scotland must cultivate: the 'people' and organisational skills to promote Scotland's historic visitor attractions; the land management skills necessary to maintain the historic environment; the professional skills needed to investigate, understand and protect the historic environment.

## CHAPTER 2: DESIGNATION

### INTRODUCTION

- 2.1. This chapter sets out Scottish Ministers' policies on the designation of sites and structures which are particularly important features of the historic environment. It covers six statutory designations:
- **Ancient Monuments**, which are designated through *scheduling*;
  - **Buildings and other structures** which are designated through *listing*;
  - **Conservation Areas**
  - **Historic Marine Protected Areas**
  - **Gardens and Designed Landscapes**
  - **Historic Battlefields**
- 2.2. Historic Scotland is part of the Scottish Government and acts for Scottish Ministers. This chapter makes specific references to Historic Scotland where the agency has operational responsibility or where, in particular circumstances, contact should be made directly with Historic Scotland.

### *Scottish Ministers' general policies on designation*

- 2.3. There are some policies that apply to all forms of designation relating to decision-making, transparency and communication. These are: that decisions on designation and removing a designation will be made on the basis of the best evidence available; that information on designated sites, structures and places and on the processes involved with designation will be made widely and easily available; and that all decisions relating to designation will be explained in clear language.

### *Scheduling*

#### LEGAL AND ADMINISTRATIVE CONTEXT OF SCHEDULING

- 2.4. This section sets out Scottish Ministers' policy for the identification and designation of nationally important ancient monuments. This process plays an important part in the conservation of evidence for Scotland's past.
- 2.5. Ancient monuments offer a tangible, physical link with the past. They are a finite and non-renewable resource containing unique information and have the potential to contribute to increasing our knowledge of our past. Such remains are part of Scotland's identity and are valuable both for their own sake and as a resource for research, education, regeneration, leisure and tourism. The remains are often very fragile and vulnerable to damage or destruction and care must be taken to ensure that they are not needlessly damaged or destroyed.



- 2.6. The United Kingdom government is party to the European Convention on the Protection of the Archaeological Heritage (the 'Valletta Convention'; see Note 2.1), which places an obligation on States, under Article 2, to institute a legal system for the protection of the archaeological heritage, on land and under water.
- 2.7. The United Kingdom has had legislation in place to protect ancient monuments since 1882. Currently, nationally important monuments in Scotland are protected under the provisions of the Ancient Monuments and Archaeological Areas Act 1979 (see Note 2.2). The 1979 Act places a duty on the Scottish Ministers to compile, maintain and publish a Schedule (a list) of monuments. Once included in the Schedule, monuments have legal protection. Up-to-date information on monuments contained in the Schedule is available from Historic Scotland at [www.historic-scotland.gov.uk/index/heritage/searchmonuments.htm](http://www.historic-scotland.gov.uk/index/heritage/searchmonuments.htm) or through visiting [www.pastmap.org.uk](http://www.pastmap.org.uk)
- 2.8. 'Monuments' are defined in the 1979 Act as (see Note 2.3):
- a. any building, structure or work, whether above or below the surface of the land, and any cave or excavation;
  - b. any site comprising the remains of any such building, structure or work or of any cave or excavation; and
  - c. any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other moveable structure or part thereof which neither constitutes nor forms part of any work which is a monument as defined within paragraph (a) above.
  - d. Any machinery attached to a monument shall be regarded as part of the monument if it could not be detached without being dismantled.
  - e. any site (other than one falling within paragraph (b) or (c) above) comprising any thing, or group of things, that evidences previous human activity [see Annex 10].
- The definition of 'remains' includes any trace or sign of the previous existence of the thing in question (see Note 2.4).
- 2.9. To be scheduled, a monument must meet the Act's definition. A structure in use as a dwelling house cannot be scheduled as an ancient monument, nor can buildings in ecclesiastical use.
- 2.10. The process of scheduling under the terms of the 1979 Act is entirely separate from the process of listing under the terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (see Note 2.5).
- 2.11. The process of scheduling, 'descheduling' (removing a monument from the Schedule) and scheduled monument consent (the control of works affecting scheduled monuments) is undertaken on behalf of Scottish Ministers by Historic Scotland.
- 2.12. The sole legal criterion in the 1979 Act for inclusion in the Schedule is that a monument is of 'national importance' (see Note 2.6). After consultation, Scottish Ministers have determined what constitutes national importance and how it should be determined. The Criteria and Guidance they have developed are set out in Annex 1 (see Note 2.7).

- 2.13. Once a monument is scheduled, it becomes an offence to carry out, without the prior written consent of the Scottish Ministers (scheduled monument consent), any works which would have the effect of demolishing, destroying, damaging, removing, repairing, altering, adding to, flooding or covering up the monument (see Chapter 3 and Note 2.8).
- 2.14. The scheduling process and the need for scheduled monument consent run in parallel with the statutory planning process, where planning permission is also necessary for any planned work. The protection of ancient monuments is a material consideration in the determination of planning applications.

#### **SCOTTISH MINISTERS' POLICY ON SCHEDULING**

- 2.15. The following principles, additional to those set out in paragraph 2.3 above, will underpin the scheduling process:
  - a. the past of all parts of Scotland is worthy of study and should be considered for conservation;
  - b. no part of Scotland's past and no part of Scotland's land is inherently more or less likely to produce monuments of national importance than another;
  - c. scheduling will be based on an appreciation of the regional character of Scotland's past, as reflected in its ancient monuments, and on the basis of an up-to-date set of criteria and guidance;
  - d. scheduling will be applied to monuments across Scotland in a consistent way;
  - e. monuments that no longer meet the criteria for national importance will be removed from the Schedule (descheduled);
  - f. owners and occupiers of land on which monuments lie, and the local authorities in which they are situated, will be consulted on proposals to add a monument to the Schedule, other than in exceptional circumstances;
  - g. scheduling will be an ongoing process that recognises that every generation will have its own view of what comprises its heritage;
  - h. scheduling is applied to secure the legal protection of monuments in the national interest. It is the intrinsic value of the monument to the nation's heritage that is the primary consideration in deciding whether or not a site shall be scheduled and in determining applications for scheduled monument consent.

#### **IMPLEMENTATION OF POLICY ON SCHEDULING**

- 2.16. Historic Scotland plays the lead role on behalf of Scottish Ministers in implementing policy on scheduling. In carrying out this work Historic Scotland will:
  - a. publish its operational policies on scheduling on its web site;
  - b. maintain the Schedule through a programme of review including, where necessary, updating scheduling documentation and maps, focusing on pre-1979 schedulings in the first instance;
  - c. add monuments to the Schedule in response to requests and as resources permit, especially types of monument or in areas of Scotland under-represented in the existing Schedule;

- d. ensure that information on scheduled monuments is made as widely available as possible, both to specialist users and to the general public; and
- e. keep the strategic and operational policies on scheduled monuments under review.

## ***Listing***

### **LEGAL AND ADMINISTRATIVE CONTEXT FOR LISTING**

- 2.17. This section sets out Scottish Ministers' policy on listing: the process that identifies, designates and provides statutory protection for buildings of 'special architectural or historic interest'.
- 2.18. Historic buildings and structures are a highly visible and accessible element of Scotland's rich heritage. They cover a wide range of uses and periods, which together chart a great part of the history of Scotland. They affect all aspects of life, from education to recreation, to defence, industry, homes and worship. Much of Scotland's social and economic past and its present is expressed in these exceptional buildings. Listing recognises their historic importance. This in turn helps ensure that their potential for the study of history and for wider issues such as sustainability, community identity, local distinctiveness, and social and economic regeneration are all fully explored.
- 2.19. The listing process under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 set out here is entirely separate from that for scheduling under the terms of the Ancient Monuments and Archaeological Areas Act 1979 (see above and Note 2.5).
- 2.20. Most European countries have systems to protect and to control change on important historic buildings. The system in Scotland operates under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (see Note 2.9). Listing ensures that a building's special character and interest are taken into account where changes are proposed (see Note 2.10). The Scottish Ministers' lists are compiled for the purposes of the 1997 Act and for the guidance of planning authorities in the performance of their duties set out in the 1997 Act. The Act places a duty on Scottish Ministers to compile or approve lists of buildings of special architectural or historic interest (see Note 2.11). Up-to-date information on buildings on the list is available at <http://www.historic-scotland.gov.uk/index/heritage/historicandlistedbuildings.htm> Listing is the statutory process by which buildings are added to these lists. Once included on the lists the building – both exterior and interior – has statutory protection under the provisions of the 1997 Act. Listing is intended to safeguard the character of Scotland's built heritage and to guard against unnecessary loss or damage.
- 2.21. Any building or man-made structure may be considered for listing. In order to be listed under Section 1 of the 1997 Act any such building or structure must be of special architectural or historic interest. Other factors, such as condition, implications for future use or financial issues are not relevant in considering whether a building should be listed.
- 2.22. Any individual or organisation can propose buildings to Historic Scotland for listing. Buildings can be listed both routinely and in response to new development proposals which appear to threaten as yet unlisted buildings that could be of interest.



- 2.23. Consultation with appropriate persons or bodies with a special knowledge of, or interest in, buildings of special architectural or historic interest will be carried out before a building is listed (see Note 2.12). Consultation with owners is not a requirement under the Act although as a matter of courtesy Historic Scotland will normally consult owners on a proposed listing.
- 2.24. Historic Scotland, is required to inform the planning authority when a building is listed and the local authority is required to notify the owner, lessee and occupier. This will be done as soon as possible after listing takes effect (see Note 2.13).
- 2.25. Once Historic Scotland has decided to list a building or buildings it sends the revised List to the local planning authority (see Note 2.14).
- 2.26. A listing applies to any building within the curtilage of the subject of listing which was erected on or before 1 July 1948 (see Note 2.15). This could include many ancillary structures such as boundary walls, garages or estate buildings.
- 2.27. Any work which affects the character of a listed building or structure will require listed building consent (see Note 2.16). Applications for listed building consent are, in normal circumstances, dealt with by the planning authority (see Note 2.17). Any work carried out to a listed building without consent and which affects its character as a building of special architectural or historic interest, is an offence punishable by a fine or imprisonment.
- 2.28. There is no right of appeal against listing, but Historic Scotland may reconsider a subject's case for designation if a building has lost its special architectural or historic interest, for example through alteration. This may be because the building in question has been demolished or altered in such a way as to reduce its special architectural interest, or because an interested party or the owner, has demonstrated to the satisfaction of Scottish Ministers that the building is not of sufficient architectural or historical interest to merit listing.
- 2.29. Prior to, or at the same time as, formal notification by the local authority, the owners of newly listed or re-categorised buildings are supplied with key documentation and supporting material by Historic Scotland (see Note 2.18).

*Certificates of intention not to list*

- 2.30. Scottish Ministers may, on the application of any person, issue a certificate stating that they do not intend to list a building for a period of 5 years from the date of the issue of the certificate. This is known as a certificate of intention not to list. When such a certificate has been issued a planning authority may not for that period serve a building preservation notice in relation to the building, or affix such a notice to the building. A person submitting an application to Scottish Ministers for a certificate must at the same time give notice of the application to the planning authority within whose district the building is situated. Additional information about Scottish Ministers' policy in relation to certificates of intention not to list and the certificate of intention not to list process can be found in Annex 11.

**SCOTTISH MINISTERS' POLICY ON LISTING**

- 2.31. Listing is applied to afford protection, where possible, to buildings of special architectural or historic interest for future generations. The lists are compiled to give guidance to planning authorities in the course of their work by identifying buildings of special architectural or historic interest (see Note 2.19). They inform development, provide awareness of value and character and support the planning process.
- 2.32. Many buildings are of interest, architecturally or historically, but for the purposes of listing this interest must be 'special'. Listing is therefore assessed against a set of clear criteria which are set out in Annex 2.
- 2.33. The following principles, additional to those set out in section 2.3 above, underpin listing policy:
- a. the selection process is informed by a wide range of factors (see Annex 2) which help determine the level of special architectural or historic interest which the subject of listing may possess;
  - b. listing will follow the consistent application of clear criteria, as set out in Annex 2;
  - c. all aspects of Scotland's past are worthy of study and should be considered for listing;
  - d. listing will be based on an understanding of regional differences as expressed in Scotland's architectural and built heritage;
  - e. listing will be an ongoing process that recognises our changing level of knowledge and that every generation will have its own view of what comprises its heritage;
  - f. buildings less than 30 years old will normally only be considered for listing if found to be of outstanding merit and/or facing immediate threat.
- 2.34. Historic Scotland will consult the relevant local authority about a listing proposal or an amendment to the list. Historic Scotland will normally also consult with such other persons or bodies as appear as having specialist knowledge of or interest in buildings of architectural or historical interest. In addition, they will normally consult with the owner of the property.
- 2.35. Where anyone is making or is aware of proposals that might make changes to or lead to the demolition of a building that is not listed but may be of special architectural or historic interest, Scottish Ministers encourage them to contact Historic Scotland as early in the process as possible. This is to enable an assessment of the special interest of a building to ensure that resources are not wasted on abortive schemes.

**IMPLEMENTATION OF POLICY ON LISTING**

- 2.36. Historic Scotland implements Scottish Ministers' policy on listing. In fulfilling that duty the agency will:
- a. add to, re-categorise or remove subjects from the List through ongoing list maintenance, revision of topographic areas and through thematic surveys;

- b. use a range of techniques and mechanisms such as the Welcome Pack to make relevant information available as widely as possible and pursue a programme to tell people about the process and operational programmes of listing;
- c. publish and regularly update guidance on listing, particularly for the owners and occupiers of listed property;
- d. review operational programmes of work regularly in consultation with stakeholders;
- e. make its decision-making process transparent; and
- f. keep policy and process for listing under review.

### ***Conservation Areas***

#### **LEGAL AND ADMINISTRATIVE CONTEXT**

- 2.37. Conservation areas are defined as ‘areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance’. All planning authorities are required from time to time to determine which areas meet this definition and to designate them as conservation areas. Conservation areas embrace the urban and rural: from the historic cores of our cities to isolated rural settlements or landscapes there is a wide range of historic places which might be designated as a conservation area.
- 2.38. Scottish Ministers have the power to determine, after consultation with the planning authority, that an area should be a conservation area and to designate accordingly. This is a reserve power which will be used only exceptionally.
- 2.39. Once a planning authority has decided to designate a conservation area, notice of the designation must be published in the Edinburgh Gazette and at least one local newspaper (see Note 2.20).
- 2.40. Scottish Ministers, at the same time as the designation is advertised, must be notified formally of the designation of conservation areas and provided with a copy of the published notice, together with a copy of the designation map and a list of the street names (see Note 2.21).
- 2.41. Planning authorities may also vary or cancel conservation areas already designated (see Note 2.22).
- 2.42. Every planning authority is required to compile and keep available for public inspection a list containing appropriate information about any area in its district which has been designated as a conservation area.
- 2.43. Planning authorities have a duty to submit their proposals for the preservation and enhancement of conservation areas for consideration to a local public meeting and should, when preparing schemes of preservation and enhancement, seek the advice and views of local residents and amenity groups.



- 2.44. Once an area has been designated, it becomes the duty (see Note 2.23) of the planning authority and any other authority concerned, including Scottish Ministers, to pay special attention to the desirability of preserving or enhancing the character and appearance of the area when exercising their powers under the planning legislation and under Part I of the Historic Buildings and Ancient Monuments Act 1953.
- 2.45. Planning authorities can extend planning controls in conservation areas through the use of an Article 4 Direction. An Article 4 Direction normally requires the approval of Scottish Ministers but this is not the case where it relates to a listed building, to a building notified to the authority by Scottish Ministers as a building of special architectural or historic interest, or to development within the curtilage of a listed building.
- 2.46. A wide Direction restricting development over a whole conservation area, covering both listed and unlisted buildings, would, however, require Scottish Ministers' approval.

#### **SCOTTISH MINISTERS' POLICY ON THE DESIGNATION OF CONSERVATION AREAS**

- 2.47. Scottish Ministers expect local authorities to designate only those areas which they consider to be of special architectural or historic interest as conservation areas. As part of this process they encourage them to undertake a thorough appraisal of any area before designation, to ensure that its character and appearance are properly understood. The criteria to be taken account of in designation are set out in Annex 3.
- 2.48. Scottish Ministers consider it important that before designation all planning authorities should give the public ample opportunity to comment, either through responses to local plans or, where no local plans are in preparation, through another convenient consultation process (see Note 2.24).

#### ***Historic Marine Protected Areas***

#### **LEGAL AND ADMINISTRATIVE CONTEXT**

- 2.49. This section sets out Scottish Ministers' policy for designating Historic Marine Protected Areas (Historic MPAs) to protect marine historic assets of national importance in the seas around Scotland.
- 2.50. State party commitments under Article 2 of the Valletta Convention (Note 2.1) include a legal system for the protection of the archaeological heritage, on land and under water. Scottish Ministers have devolved powers to help them discharge these and other commitments within the seaward limits of Scottish inshore waters (12 nautical miles or 22.2km).

- 2.51. Monuments on the foreshore and under water can be scheduled under the Ancient Monuments and Archaeological Areas Act 1979. The scope of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 stops at the low water mark but buildings such as harbours and lighthouses which are sometimes or partly below the sea can be listed. Provisions under the Marine (Scotland) Act 2010 replace the use of section 1 of the Protection of Wrecks Act 1993 in Scotland. Responsibility for related functions such as administration of the Protection of Military Remains Act 1986 (Note 2.27) and the disposal of 'wreck' under the Merchant Shipping Act 1995 (Note 2.28) rests with the UK Government.
- 2.52. Part 5 of the Marine (Scotland) Act 2010 allows Scottish Ministers to designate three types of Marine Protected Area (MPA): Nature Conservation MPAs to deliver national priorities on biodiversity and geodiversity; Demonstration and Research MPAs to demonstrate or develop research into sustainable management approaches; and Historic MPAs.
- 2.53. The Scottish Ministers can designate an area within the Scottish Marine protection area (Note 2.25) as a Historic MPA if they consider it desirable to do so for the purpose of preserving a marine historic asset of national importance which is, or which they are satisfied may be, located in the area. A marine historic asset is defined as any of the following:
  - a. a vessel, vehicle or aircraft (or part of a vessel, vehicle or aircraft);
  - b. the remains of a vessel, vehicle or aircraft (or a part of such remains);
  - c. an object contained in or formerly contained in, a vessel, vehicle or aircraft;
  - d. a building or other structure (or a part of a building or structure);
  - e. a cave or excavation; and,
  - f. a deposit or artefact (whether or not formerly part of a cargo of a ship) or any other thing which evidences, or groups of things which evidence, previous human activity.
- 2.54. Except in cases where the Scottish Ministers consider there is an urgent need to protect a marine historic asset, prior notification and consultation is required. Urgent designations are time-limited and full consultation is required to make urgent designations permanent.
- 2.55. Historic MPA designation places duties on public authorities and introduces offences relating to marine historic assets, Scottish Ministers can also make Marine Conservation Orders (MCOs) to support stated preservation objectives for Historic MPAs. Further information on management of MPAs is provided in Chapter 3.
- 2.56. Scottish Ministers also have powers to develop plans and issue marine licenses for certain works and activities in Scottish inshore waters and, by virtue of devolved functions arising from UK marine legislation, Scottish offshore waters (12-200 nautical miles adjacent to Scotland). Adoption of a UK Marine Policy Statement (Note 2.29) by all UK administrations provides a consistent policy framework for consideration of the historic environment in developing marine plans and taking decisions across the UK seas.

## **SCOTTISH MINISTERS' POLICY ON THE DESIGNATION OF HISTORIC MARINE PROTECTED AREAS**

- 2.57. Scotland's coasts and seas comprise a rich marine natural and cultural heritage, Scottish Ministers consider it desirable to designate Historic MPAs in order to help preserve our most important marine historic assets and to celebrate and communicate their heritage value so that everyone can appreciate these assets and act responsibly.
- 2.58. The following principles, additional to those set out in paragraph 2.3 above, underpin the designation of Historic MPAs:
- a. marine historic assets from all parts of the Scottish marine protection area are equally worthy of study and consideration for statutory protection. Historic MPAs are normally the preferred mechanism for protection of marine historic assets under water, with scheduling and listing normally preferred for monuments and buildings at the foreshore and coast edge. This policy will be subject to periodic review;
  - b. designation will be an ongoing process that recognises our changing state of knowledge and that every generation will have its own view of what comprises its heritage;
  - c. decisions on designation and de-designation will be made according to the criterion of national importance, following consistent application of guidance set out in Annex 4; and,
  - d. designation of a Historic MPA will involve consultation with owners and stakeholders with an interest in the marine historic asset or role in the adjacent marine area.
- 2.59. Marine historic assets and the seabed that surrounds them can sometimes also be of value from the perspective of biodiversity and geodiversity. Scottish Ministers consider that such areas have the potential to contribute to biodiversity or geodiversity policy aims.
- 2.60. In administering marine planning and licensing powers Scottish Ministers will seek to recognise the protection and management needs of marine historic assets according to their significance, whether or not they are afforded statutory protection by heritage designation, while allowing for change to be managed intelligently and with understanding as set out in the UK Marine Policy Statement and marine plans.

## **IMPLEMENTATION OF POLICY ON DESIGNATION OF HISTORIC MARINE PROTECTED AREAS**

- 2.61. Historic Scotland plays the lead role on behalf of Scottish Ministers in implementing policy on Historic MPAs. In carrying out this work Historic Scotland will:
- a. work collaboratively with Marine Scotland, Scottish Natural Heritage and other stakeholders towards the protection and where appropriate, the enhancement of the Scottish Marine Area;
  - b. identify which of Scotland's marine historic assets merit designation as a Historic MPA and maintain a register of their condition;



- c. make readily available information about Historic MPAs, operational strategy, and guidelines about the process for selecting, designating and promoting these;
  - d. work with Marine Scotland and Scottish Natural Heritage where appropriate so that they can make a scientific assessment of the biodiversity or geodiversity value of the seabed comprising a Historic MPA, including the extent to which these areas have the potential to contribute to the network.
- 2.62. Historic Scotland will also work with Marine Scotland, public authorities and marine planning partnerships in order to help advance due consideration for marine cultural heritage within the marine planning and licensing system for Scottish inshore waters and, where appropriate, for Scottish offshore waters.

### ***Gardens & Designed Landscapes***

#### **LEGAL AND ADMINISTRATIVE CONTEXT**

- 2.63. This section sets out Scottish Ministers' policy for designating gardens and designed landscapes of national importance.
- 2.64. Section 32A(1) of the 1979 Act created a new statutory duty for Scottish Ministers to compile and maintain an inventory of gardens and designed landscapes as appear to Scottish Ministers to be of national importance. This change places the previous non-statutory designation on a statutory footing. The inventory currently includes 389 sites. Inclusion of a site on the inventory means that it receives recognition and a degree of protection through the planning system.
- 2.65. Section 32A(2) of the 1979 Act defines gardens and designed landscapes as grounds which have been laid out for artistic affect and, in appropriate cases, include references to any buildings, land, or water on, adjacent, or contiguous to such grounds (see Note 2.30). Gardens and designed landscapes are often the setting of important buildings and, in addition to parkland, woodland, water and formal garden elements, can often have significant archaeological and scientific interest.
- 2.66. Under the terms of Section 32A of the 1979 Act, Scottish Ministers shall:
- a. compile and maintain (in such form as they think fit) an inventory of such gardens and designed landscapes as appear to them to be of national importance;
  - b. notify owners, occupiers and any local authority, in whose area the grounds are situated, of the inclusion or modification of a garden and designed landscape in the inventory; and,
  - c. publish, in such manner as they think fit, a list of all the gardens and designed landscapes included in the inventory.

This work will be undertaken by Historic Scotland acting for Scottish Ministers. All references to Scottish Ministers should be read in this way.

- 2.67. Fashions in gardens and designed landscapes changed over time, through formal, informal, picturesque and modern styles, and many designed landscapes show these layers of change today. They are important tourist attractions, rich wildlife havens, major parts of the Scottish scenery, and are living examples of unique artistic talent. They are a living cultural record reflecting centuries of social and economic change and are widely enjoyed by people of all ages, backgrounds and cultures.

- 2.68. For more than 20 years government has recognised the need to identify the nation's most important gardens and designed landscapes. Such recognition resulted in the production of an inventory of sites: the Inventory of Gardens and Designed Landscapes in Scotland (the 'Inventory'), published in five volumes in 1987–88 and covering 275 sites. In 1993 a programme to extend the Inventory was begun and supplementary volumes were published for the Lothians, Highlands and Islands and Fife. In March 2007 further sites were added and the entire Inventory became available electronically via the Historic Scotland website.
- 2.69. There is no primary legislation that gives protection to gardens and designed landscapes. National planning policy, however, confirms that maintaining and enhancing the quality of the historic environment and preserving the country's heritage are important functions of the planning system. Designed landscapes are part of that heritage. Thus at the strategic planning level development plans routinely include policies which identify the designed landscapes in their area and outline the policy criteria which will apply to their appropriate protection, conservation and management within the planning system in accordance with national policy.
- 2.70. Where relevant, such policies will inform planning authorities' consideration of individual planning applications within development management. Some additional statutory provisions also apply at this stage. Regulation 25 and paragraph 5(4)(a) of Schedule 5 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 requires planning authorities to consult Scottish Ministers on 'development which may affect a historic garden or designed landscape'. Historic Scotland's views on such applications will be a material consideration in the planning authority's determination of the case.
- 2.71. The new statutory duty on Scottish Ministers to compile an inventory of nationally important gardens and designed landscapes does not change the level of protection for sites included in the inventory.

#### **SCOTTISH MINISTERS' POLICY ON GARDENS AND DESIGNED LANDSCAPES**

- 2.72. The following principles, additional to those set out in section 2.3 above, underpin the process of including sites in the Inventory:
- a. the selection process is informed by a wide range of factors (Annex 5). These help determine the level of interest which the site may possess;
  - b. selection will follow the consistent application of clear criteria, set out in Annex 4; other factors, such as implications for future use or financial issues are not relevant in considering whether a garden or designed landscape should be added to or removed from the Inventory;
  - c. gardens and designed landscapes in all parts of Scotland are worthy of study and should be considered for inclusion in the Inventory; and,
  - d. adding sites to and removing sites from the Inventory will be an ongoing process that recognises our changing level of knowledge and that every generation will have its own view on what comprises its heritage.

- 2.73. Owners and occupiers of gardens and designed landscapes, and planning authorities, will be consulted on proposed additions to the Inventory other than in exceptional circumstances.
- 2.74. To be deemed as being of national importance, and therefore to be included in the Inventory, a site will usually have to meet a majority of the criteria set out in Annex 5. In particular it would have to be demonstrated that it had sufficient integrity in its design to merit inclusion.

#### **IMPLEMENTATION OF POLICY ON DESIGNATING GARDENS AND DESIGNED LANDSCAPES**

- 2.75. Historic Scotland works closely with planning authorities on consent for development proposals affecting Inventory sites. In fulfilling that duty Scottish Ministers expect the agency to:
  - a. make its decision-making process transparent;
  - b. provide advice and support in aid of the protection, management, and interpretation of gardens and designed landscapes, including the development of a grant scheme to support the planning and management of gardens and designed landscapes; and,
  - c. keep policy and process for gardens and designed landscapes under review.

#### ***Historic Battlefields***

#### **LEGAL AND ADMINISTRATIVE CONTEXT**

- 2.76. This section sets out Scottish Ministers' policy for designating historic battlefields.
- 2.77. Section 32B(1) of the 1979 Act created a new statutory duty for Scottish Ministers to compile and maintain an inventory of battlefields as appear to them to be of national importance. Under the new legislation a battlefield is defined as an area of land over which a battle was fought; or an area of land on which any significant activities relating to a battle occurred (whether or not the battle was fought over that area). (See Note 2.30) A battle is an engagement involving wholly or largely military forces that had the aim of inflicting lethal force against an opposing army.
- 2.78. Under the terms of Section 32B of the 1979 Act, Scottish Ministers shall:
  - a. compile and maintain (in such form as they think fit) an inventory of such battlefields as appear to them to be of national importance;
  - b. notify owners, occupiers and any local authority, in whose area the grounds are situated, of the inclusion or modification of a battlefields in the inventory; and,
  - c. publish, in such manner as they think fit, a list of all battlefields included in the inventory.

This work will be undertaken by Historic Scotland acting for Scottish Ministers. All references to Scottish Ministers should be read in this way.

- 2.79. Battlefields are valued for a variety of reasons: marking the sites of significant events containing physical or archaeological remains associated with battles, or the remains of fallen combatants. Battles hold a significant place in our national consciousness and have a strong resonance in Scottish culture. The landscape of the battlefield may help to explain exactly why events unfolded as they did.



- 2.80. This policy provides specific measures for the protection through an inventory of battlefields, which identifies nationally important battlefields and provides information to aid their understanding, protection and sustainable management through the planning system, and in other relevant contexts, such as landscape and land-use management. Parts of some battlefields may have additional protection through other measures such as scheduling or listing of physical features, or designation as a conservation area or area of landscape value.
- 2.81. Local development plans and, where appropriate, supplementary planning guidance, should set out policies and criteria that apply to the protection, conservation and management of historic battlefields. Such policies should inform planning authorities' consideration of individual planning applications within development management.
- 2.82. The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 will be amended in due course to define the requirements for planning authorities to consult with Scottish Ministers and take their views into account as a material consideration in the planning authority's determination of a case.

#### **SCOTTISH MINISTERS' POLICY ON BATTLEFIELDS**

- 2.83. The Inventory identifies nationally important battlefields and provides information on them as a basis for the sustainable management of change through the planning system and in other relevant policy contexts.
- 2.84. The following principles, additional to those set out in section 2.3 above, underpin the process of including sites in the Inventory:
  - a. selection will follow the consistent application of clear criteria (set out in Annex 6); other factors, such as implications for future use or financial issues, are not relevant in considering whether a battlefield should be added to or removed from the Inventory;
  - b. battlefields in all parts of Scotland are worthy of study and should be considered for inclusion in the Inventory; and,
  - c. adding sites to and removing them from the Inventory will be an ongoing process that recognises our changing level of knowledge and that every generation will have its own view on what comprises its heritage.
- 2.85. Historic Scotland will normally consult planning authorities and other key stakeholders as appropriate on proposals for including sites on the Inventory and for subsequent amendments.
- 2.86. To be included in the Inventory, a site must be capable of definition on a modern map (see Annex 6).
- 2.87. Planning authorities are encouraged to identify battlefield sites in their areas that do not meet the Inventory criteria, but which nevertheless may make an important contribution to the local historic environment, landscape character and sense of place, and to develop policies for their future management.

**IMPLEMENTATION OF POLICY ON BATTLEFIELDS**

- 2.88. Historic Scotland will work closely with planning authorities on consent for development proposals affecting Inventory sites, and with other public bodies.
- 2.89. In fulfilling this duty Historic Scotland will:
- a. make its decision-making processes transparent;
  - b. provide advice and support in aid of the protection, management and interpretation of battlefields; and
  - c. keep policy and process for battlefields under review.

## CHAPTER 3: CONSENTS

### INTRODUCTION

- 3.1. This chapter sets out Scottish Ministers' policies on scheduled monument consent, listed building consent and conservation area consent, and the management of Historic MPAs. It provides guidance to planning authorities on the consideration of planning applications affecting sites on the Inventory of Gardens and Designed Landscapes and the Inventory of Battlefields. Historic Scotland, as an agency of the Scottish Government, acts for Scottish Ministers, and all references to the handling of casework by Historic Scotland should be interpreted as meaning Historic Scotland on behalf of Scottish Ministers.

### *Scheduled Monument Consent*

#### LEGAL AND ADMINISTRATIVE CONTEXT

- 3.2. This section sets out Scottish Ministers' policy for the control of works affecting scheduled monuments of national importance that are legally protected under the Ancient Monuments and Archaeological Areas Act 1979. A scheduled monument is included in 'the Schedule' compiled under the 1979 Act (see Chapter 2 of this SHEP and Notes 3.1 and 3.2). Works to a scheduled monument require the prior written consent of Scottish Ministers: this is known as scheduled monument consent; there were about 8000 scheduled monuments in 2008.
- 3.3. Scheduled monuments range from 10,000-year-old sites created by the first settlers in Scotland to 20th-century military defences, and from abbeys and castles to the slight traces of prehistoric and medieval farms. They are a non-renewable resource, which provides us with valuable information about Scotland's past. Scheduled monuments are part of Scotland's identity and are important both for their own sake and as a resource for research, education, regeneration, leisure and tourism, as well as creating a sense of local identity and community. They are often very fragile and vulnerable to damage or destruction.
- 3.4. Scheduled monument consent is required for any works that would demolish, destroy, damage, remove, repair, alter or add to the monument or to carry out any flooding or tipping on the monument (see Note 3.2). A consent under section 42 of the 1979 Act is also required to use a metal detector within a scheduled monument (see Note 3.3). It is a criminal offence to carry out any of these works without consent.
- 3.5. Some types of works do not require scheduled monument consent as they are deemed to have consent, under the terms of the Ancient Monuments (Class Consents) (Scotland) Order 1996 ('the Class Consents Order') (see Note 3.4).
- 3.6. The 1979 Act and the scheduled monument consent process also provide for the proper evaluation and investigation of scheduled monuments if damage or destruction is unavoidable.



- 3.7. Some monuments are both scheduled and listed. Where this is the case only scheduled monument consent is required for any works and the relevant parts of the listed buildings legislation are disappplied (see Note 3.5).
- 3.8. Every application for scheduled monument consent is considered on its merits and attention is drawn to the fact that in the 15 years 1995–2010, out of 3,431 applications received, only 18 were refused. In 2010–11 no applications were refused from a total of 200.

#### THE SCHEDULED MONUMENT CONSENT PROCESS

- 3.9. Historic Scotland administers the scheduled monument consent process on behalf of Scottish Ministers. Applicants (who may be the owner, tenant or any other party) are encouraged to contact Historic Scotland as early as possible to discuss their proposals. Applications must be made on a form obtained from Scottish Ministers (in practice Historic Scotland). (See note 3.6). If further information is required, Historic Scotland will ask the applicant to submit this before reaching a view.
- 3.10. If Historic Scotland is minded to either grant consent with conditions or to refuse consent the Agency will issue a provisional view to the applicant and other interested parties. The applicant can either accept this provisional view within 28 days or make further representations to Scottish Ministers through Historic Scotland. If agreement cannot be reached, Scottish Ministers will decide the most suitable means of determining each application, through written submissions, a hearing or an inquiry, or any combination of these (see Note 3.7). The final decision on the Inquiry Reporter's recommendations is taken by Scottish Ministers. If Historic Scotland is minded to grant consent without conditions no provisional view will be issued.
- 3.11. Scheduled monument consent is separate from the statutory planning process (see Annex 7 and Note 3.8). It may run in parallel in cases where planning permission is also required, and such cases are normally dealt with most effectively if applications for planning permission and scheduled monument consent are prepared at the same time.
- 3.12. The protection of scheduled monuments is taken account of in policies and procedures across a wide range of Scottish Ministers' responsibilities, for example in agriculture and forestry. Work on scheduled monuments also has to take account of other requirements, for example those covering health & safety, access and the general biodiversity duty under the Nature Conservation (Scotland) Act 2004. It is the responsibility of the applicant to satisfy these and any other legal requirements. In every case, except where covered by the Class Consents Order (see Note 3.9), scheduled monument consent must be obtained, no matter what other consents have been granted or what other legal requirements are being followed (for more information about class consents see Note 3.4).
- 3.13. Development affecting the setting of a scheduled monument is dealt with under the planning system and does not require scheduled monument consent.

### SCOTTISH MINISTERS' POLICY ON SCHEDULED MONUMENT CONSENT

- 3.14. Scottish Ministers include a monument in the Schedule to secure the long-term legal protection of the monument in the national interest, in situ and as far as possible in the state it has come down to us. Scheduled monuments have an intrinsic value as monuments, not related to any concept of active use. It is the value of the monument to the nation's heritage, in terms set out in the section on Scheduling in Chapter 2 of this SHEP, that is the primary consideration in determining applications for scheduled monument consent.
- 3.15. Monuments are subject to decay and the threat of destruction, from natural and human causes. Conservation work is normally needed to prolong the life of a monument, but there is a risk that this can be so invasive that it irreversibly modifies the monument's character and affects the special interest or features that made the monument important in the first place.
- 3.16. Works on scheduled monuments should therefore **normally** be the minimum level of intervention that is consistent with conserving what is culturally significant in a monument. (Annex 1 sets out guidance as to how cultural significance and national importance should be determined.)
- 3.17. As each monument will require treatment specific to its individual nature, characteristics, significance and needs, any proposed change to it must be fully and explicitly justified.
- 3.18. Scheduled monument consent applications must be considered in terms of the cultural significance of the monument and the impact that the proposals would have upon this cultural significance. The more important particular features of the monument are to its cultural significance, the greater will be the case against interventions which modify these features.
- 3.19. Extensive intervention will only be allowed where it is clearly necessary to secure the longer-term preservation of the monument, or where it will clearly generate public benefits of national importance which outweigh the impact on the national cultural significance of the monument. Such public benefits could come from, for example, interventions which make public access to scheduled monuments easier, or assist public understanding, or will produce economic benefits once the works are completed.
- 3.20. Where change is proposed, it should be carefully considered, based on good authority, sensitively designed, properly planned and executed, and where appropriate in the context of an individual monument, reversible.
- 3.21. Where unavoidable circumstances, such as coastal erosion, threaten the survival of a scheduled monument, it should, where possible, be excavated and/or recorded in detail before its destruction.
- 3.22. Where consent for the range of works set out in paragraph 3.4 is granted, conditions are normally applied to ensure the works are undertaken in an appropriate manner. Common requirements are:
  - a. the use of appropriate assessment methodologies to determine the full impact of any proposed management, use or development;

- b. the avoidance of irreversible change particularly wherever its effects cannot be adequately assessed;
- c. that where change is necessary, strategies should be adopted to mitigate its impact and limit intervention;
- d. that the management and execution of alteration, including remedial work, is sympathetic to the historic character;
- e. that appropriate skills and techniques, materials and construction techniques are specified where appropriate;
- f. that an appropriate level of record is made before, during and after any work and deposited in local and national archives, and, where appropriate, published;
- g. that it is possible, on close inspection, to differentiate new work from old particularly on masonry structures;
- h. that any archaeological excavation or other intrusive investigation should be based upon a detailed research strategy, with adequate resources, using appropriately skilled and experienced archaeologists with a satisfactory record of the completion and publication of projects (see Note 3.10); and,
- i. that the design, planning and execution of works on scheduled monuments are undertaken by people with appropriate professional and craft qualifications, skills and experience.

#### IMPLEMENTATION OF POLICY ON SCHEDULED MONUMENT CONSENT

- 3.23. In carrying out this work for Scottish Ministers Historic Scotland will:
  - a. undertake scheduled monument consent casework timeously and publish in its Corporate Plan the targets set for dealing with scheduled monument consent casework;
  - b. keep scheduled monument consent policies and processes under review;
  - c. clearly communicate decisions and information on scheduled monuments and scheduled monument consents;
  - d. make information on scheduled monuments and on the application procedure for scheduled monument consent readily available;
  - e. make its decision-making process transparent.
- 3.24. It is the responsibility of the applicant to ensure that applications for scheduled monument consent include all the necessary information to allow the proposals and their impact to be assessed fully.
- 3.25. For departments and agencies of the UK and Scottish Governments undertaking works to monuments in Scotland there is a parallel system known as scheduled monument clearance. This is governed by the same principles and procedures as the scheduled monument consent processes and in all cases proposals are assessed by the Heritage Management Directorate within Historic Scotland.



- 3.26. Most properties in the care of Scottish Ministers are also scheduled monuments. In the case of these properties Historic Scotland must go through the same clearance process as set out in 3.25.
- 3.27. Third-party applicants for works on Properties in Care of Scottish Ministers will require scheduled monument consent; the impact of works proposed in the application will be subject to the same scrutiny as for other scheduled monuments. Policies on considering works proposed by third parties at Properties in Care are set out in Chapter 4 of this SHEP.
- 3.28. Policies for the use of or the provision of activities at Properties in Care are set out in Chapter 4 of this SHEP.

### ***Listed Building Consent***

#### **LEGAL AND ADMINISTRATIVE CONTEXT**

- 3.29. This section sets out Scottish Ministers' policy for the control of works affecting listed buildings.
- 3.30. Historic buildings and structures are a highly visible and accessible element of Scotland's rich heritage. They cover a wide range of uses and periods, which together chart a great part of the history of Scotland. They affect all aspects of life, from education to recreation, to defence, industry, homes and worship. Much of Scotland's social and economic past and its present is expressed in these exceptional buildings. Listing recognises their historic importance. This in turn helps ensure that their potential for the study of history and for wider issues such as sustainability, community identity, local distinctiveness, and social and economic regeneration are all fully explored.
- 3.31. Listed buildings are protected under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. This establishes that any work which affects the character of a listed building will require listed building consent. It is a criminal offence to carry out such work without listed building consent. Annex 7 provides more information on what aspects of a listed building are covered by the listed building consent provisions, those works which are exempt from the requirement for listed building consent as well as the processes to be followed by applicants and by planning authorities in dealing with applications.
- 3.32. In assessing an application for listed building consent, the planning authority is required to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.
- 3.33. Works of like-for-like repair or other works which do not affect a building's character, would not normally require listed building consent. Such works could include repointing a wall or altering part of a building which does not contribute to the overall special interest.

- 3.34. Listed building consent is separate from the statutory planning process (see Annex 8) but there is a close relationship between them and this policy should therefore be read in conjunction with current Scottish Government planning policy for the historic environment (see Note 3.11). The two systems may run in parallel in cases where planning permission is also required, and such cases are normally dealt with most effectively if applications for planning permission and listed building consent are submitted at the same time. It is not possible to seek or to be given outline listed building consent.
- 3.35. The majority of listed buildings are adaptable and have met the needs of successive generations while retaining their character. Change should therefore be managed to protect a building's special interest while enabling it to remain in active use. Each case must be judged on its own merits but in general terms listing rarely prevents adaptation to modern requirements but ensures that work is done in a sensitive and informed manner.

#### **THE LISTED BUILDING CONSENT PROCESS**

- 3.36. Local authorities administer the listed building consent process, except where the local authority is itself the applicant, in which case Scottish Ministers will determine the application. Applications must be made on the appropriate form and should be supported by sufficient information to allow the proposed works and their impact upon the building's character to be understood. The amount of information required will depend on the nature of the building and the proposals.
- 3.37. On receiving an application the local authority will undertake the appropriate consultation before reaching a view. Where the local authority is minded to grant listed building consent, they must notify Historic Scotland. Historic Scotland will consider the notification within 28 days and either clear it back to the local authority or request further time to consider the proposal. Exceptionally, where a proposal raises issues of national significance Scottish Ministers may require that the application be referred to them for a decision.
- 3.38. Work to listed buildings has to take account of other requirements, for example those covering health & safety, equalities duties, access and the general biodiversity duty under the Nature Conservation (Scotland) Act 2004. It is the responsibility of the applicant to satisfy these and any other legal requirements.

#### **SCOTTISH MINISTERS' POLICY ON LISTED BUILDING CONSENT**

- 3.39. In the context of listed buildings the sustainable use and management of the historic environment means recognising the advantages to be gained from retaining existing buildings and ensuring that their special interest is protected (see Chapter 2). How 'special interest' is established is set out in Annex 2.
- 3.40. Once lost listed buildings cannot be replaced. They can be robbed of their special interest either by inappropriate alteration or by demolition. There is, therefore, a presumption against demolition or other works that adversely affect the special interest of a listed building or its setting.
- 3.41. Listed buildings will however, like other buildings, require alteration and adaptation from time to time if they are to remain in beneficial use, and will be at risk if such alteration and adaptation is unduly constrained. In most cases such change, if approached carefully, can be managed without adversely affecting the special interest of the building.

***Applications***

- 3.42. Knowing what is important about a building is central to an understanding of how to protect its special interest. Applications should demonstrate that in arriving at a strategy for intervention, the importance of the building has been clearly understood and those features which contribute to its special interest have been identified.
- 3.43. In general the more extensive the intervention which is proposed, the more supporting information applications should provide. Where proposals involve significant intervention, evidence that less intrusive options have been considered should be provided. Where the application would have a significantly adverse effect on the building's special interest, but is believed to offer significant benefits to economic growth or the wider community, applicants should prepare a statement which justifies the intervention in relation to these benefits. This statement should demonstrate that the benefits could not be realised without the intervention proposed.
- 3.44. Where the application proposes the demolition of a listed building applicants will be expected to provide evidence to show that:
- a. the building is not of special interest; or
  - b. the building is incapable of repair; or
  - c. the demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
  - d. the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.
- 3.45. Potential applicants are encouraged to have pre-application discussion with planning authorities and Scottish Ministers expect planning authorities to provide pre-application advice. A key aspect of that advice, to avoid delays at a later stage, should be to clarify what supporting information will be required when an application is submitted. Where proposals involve significant intervention to, or the demolition of a listed building the planning authority should involve Historic Scotland in the pre-application discussions.
- 3.46. Planning authorities should satisfy themselves, as soon as applications are received, that they include an appropriate level of supporting information.

***Determination of Applications***

- 3.47. Where a proposal protects or enhances the special interest of the building, for example through the like-for-like replacement of a window or door which is beyond repair or the reinstatement of important detailing, consent should normally be granted.
- 3.48. Where a proposal involves alteration or adaptation which will sustain or enhance the beneficial use of the building and does not adversely affect the special interest of the building, consent should normally be granted.
- 3.49. Where a proposal involves alteration or adaptation which will have an adverse or significantly adverse impact on the special interest of the building, planning authorities, in reaching decisions should consider carefully:



- a. the relative importance of the special interest of the building; and
  - b. the scale of the impact of the proposals on that special interest; and
  - c. whether there are other options which would ensure a continuing beneficial use for the building with less impact on its special interest; and
  - d. whether there are significant benefits for economic growth or the wider community which justify a departure from the presumption set out in paragraph 3.40 above.
- 3.50. In the case of applications for the demolition of listed buildings it is Scottish Ministers' policy that no listed building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Planning authorities should therefore only approve such applications where they are satisfied that:
- a. the building is not of special interest; or
  - b. the building is incapable of repair; or
  - c. the demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
  - d. the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.

#### IMPLEMENTATION OF POLICY ON LISTED BUILDING CONSENT

- 3.51. Historic Scotland, acting on behalf of Scottish Ministers and working closely with planning authorities, will:
- a. undertake listed building consent casework timeously and publish in its Corporate Plan the targets set for dealing with listed building consent casework;
  - b. keep listed building consent policies and process under review;
  - c. communicate information on Scottish Ministers' role in listed building consent in clear language;
  - d. make information on listed buildings readily available; and,
  - e. make its decision-making process transparent.
- 3.52. Ministers expect that the information provided with applications for listed building consent should be sufficient to enable planning authorities and Scottish Ministers to form a judgement, not only on the intended development of the listed building itself, but also any associated development of which the listed building forms a part. This requirement is in addition to those in place to notify Scottish Ministers of proposals involving the alteration or extension of listed buildings. The responsibility lies with the applicant to ensure that applications contain all the necessary information. Where significant change is considered necessary on economic grounds, Scottish Ministers expect applicants to provide supporting information to demonstrate this.

- 3.53. When considering a developer's proposals to integrate listed buildings into an overall development, Ministers expect planning authorities to take into account not only the desirability of preserving the building's historic fabric but the need to maintain it in an appropriate setting. Planning authorities involved in discussions about work to Category A and B listed buildings that is novel, contentious or large scale should consult with Historic Scotland at an early stage.

### ***Conservation Area Consent***

#### **LEGAL AND ADMINISTRATIVE CONTEXT**

- 3.54. Applications for conservation area consent are dealt with by planning authorities and policy is set out in Scottish Planning Policy. Advice on the management of Conservation Areas is contained in Planning Advice Note 71 (see <http://www.scotland.gov.uk/Publications/2004/12/20450/49054>) and further guidance will be promulgated by Historic Scotland.
- 3.55. Scottish Ministers have directed that conservation area consent required for demolition of unlisted building in conservation area shall not apply to certain specified buildings and structures (see Annex IV of SDD Circular 17/87 dated 25.9.87): the term 'conservation area consent' is used for applications to demolish unlisted buildings in conservation areas. Anyone wishing to demolish a building within a conservation area must first apply for conservation area consent.
- 3.56. Planning authorities who are themselves seeking consent to demolish an unlisted building in a conservation area must, as for listed building consent, apply direct to Scottish Ministers.
- 3.57. The demolition of unlisted buildings in conservation areas is brought under control by applying, with modifications, listed building controls. In particular, the provisions relating to the advertisement of applications and to the notification of applications to Scottish Ministers and to the Royal Commission on the Ancient and Historical Monuments of Scotland apply (see Note 3.12).

#### **SCOTTISH MINISTERS' POLICY ON CONSERVATION AREA CONSENT**

- 3.58. The demolition of even a single building and the construction of a new building or buildings in its place could result in harm to the character or appearance of a conservation area, or part of it. In deciding whether conservation area consent should be granted, planning authorities should therefore take account of the importance of the building to the character or appearance of any part of the conservation area, and of proposals for the future of the cleared site. If the building is considered to be of any value, either in itself or as part of a group, a positive attempt should always be made by the planning authority to achieve its retention, restoration and sympathetic conversion to some other compatible use before proposals to demolish are seriously investigated. In some cases, demolition may be thought appropriate, for example, if the building is of little townscape value, if its structural condition rules out its retention at reasonable cost, or if its form or location makes its re-use extremely difficult.
- 3.59. In instances where demolition is to be followed by re-development of the site, consent to demolish should in general be given only where there are acceptable proposals for the new building.

- 3.60. Both Scottish Ministers and the planning authority are required to have regard to the desirability of preserving or enhancing the appearance of the conservation area in exercising their responsibilities under the planning legislation, and this statutory duty should always be borne in mind when considering demolition applications.

### ***Historic Marine Protected Areas***

#### **LEGAL AND ADMINISTRATIVE CONTEXT**

- 3.61. This section sets out Scottish Ministers' policy for the management of Historic Marine Protected Areas (Historic MPAs). Chapter 2 provides information on designation policies.
- 3.62. Public authorities with functions that are capable of adversely affecting marine historic assets, must carry out those functions in a way that best furthers or, where this is not possible, least hinders stated preservation objectives. Public authorities must have regard to the advice given by Scottish Ministers on Historic MPAs under section 81 of the 2010 Act.
- 3.63. Under section 96 of the 2010 Act, it is an offence to intentionally or recklessly carrying out a prohibited act that significantly hinders or may significantly hinder the achievement of the stated preservation objectives for a Historic MPA. Prohibited acts are (a) works or activities which (or which are likely to) damage or interfere with a marine historic asset or have a significant impact on the protected area, (b) acts to remove, alter or disturb a marine historic asset. It is not an offence if the act was an incidental result of a lawful operation, and reasonable precautions were taken or the outcome could not reasonably have been foreseen.
- 3.64. In addition to the protection afforded by designation, Scottish Ministers can make Marine Conservation Orders (MCO) to further preservation objectives for Historic MPAs. An MCO can include provision prohibiting, restricting or regulating certain activities within the boundaries of an Historic MPA, or in some instances, a specified area outside. An MCO can provide for regulated activities to be authorised by a permit or direction. Except in urgent cases, the making of an MCO must be publicised in advance, but the longevity of urgent MCOs is time-limited. Contravening an MCO is an offence.
- 3.65. Exceptions to offences (both in relation to Historic MPA designation and any MCOs in place) are if the act was authorised by a public authority or exercised by it in accordance with the duties on it; if the act was taken in emergency, or was necessary for reasons relating to the national interest. A sea fishing defence also exists if the effect of that act on the marine historic asset could not have reasonably been avoided.
- 3.66. Common enforcement powers exercised by Marine Enforcement Officers (MEOs) apply in relation to Historic MPAs. The powers include boarding vessels and marine installations, entering and inspecting premises and vehicles, powers of search and seizure, forcing vessels to port, and requiring production of certain information.



**THE MANAGEMENT PROCESS FOR HISTORIC MARINE PROTECTED AREAS**

- 3.67. Acting on behalf of Scottish Ministers Historic Scotland advises public authorities to ensure that the functions they exercise take account of Historic MPAs. These functions might include preparing marine plans and strategies, administering regulatory or enforcement regimes, or more practical tasks such as maintaining coastal defences, harbour infrastructure or navigation channels. Where a public authority performs functions that it believes might hinder preservation objectives, it must notify Historic Scotland. The Agency has 28 days to respond.
- 3.68. A wide range of works and activities in the marine environment require some form of authorisation, for example, planning permission (administered by local authorities) or marine licensing (administered by Marine Scotland). Public authorities responsible for issuing authorisations must notify Historic Scotland, acting on behalf of Scottish Ministers, if they believe that there is a risk of an act hindering preservation objectives for a Historic MPA. Historic Scotland has 28 days to respond. In instances where the benefit to the public of proceeding with the act outweighs the risk of damage to a marine historic asset, the public authority must make it a condition of the authorisation that a detailed archaeological investigation is carried out.
- 3.69. Some activities capable of affecting marine historic assets do not require any form of authorisation. Where such activities do pose a threat, MCOs offer a useful management tool to support the preservation objectives of a Historic MPA that can be applied on a case by case basis.

**SCOTTISH MINISTERS' POLICY ON THE MANAGEMENT OF HISTORIC MARINE PROTECTED AREAS**

- 3.70. Marine cultural heritage is a finite and often vulnerable resource subject to decay and the threat of destruction from natural and human causes. Through beneficial stewardship, where practicable Scottish Ministers will seek to preserve a marine-historic asset *in situ* as the first option and to ensure that the national importance of the asset is not put at risk, either by inadvertent or deliberate damage or destruction, or by degradation or complete loss due to natural factors.
- 3.71. Scottish Ministers will issue guidelines for the management of Historic MPAs and advice to further the preservation objectives of Historic MPAs. Beyond this, Marine Conservation Orders (MCOs) are considered likely to be necessary on Historic MPAs in certain circumstances primarily to allow for the satisfactory management of activities directed at marine historic assets (e.g. survey, surface recovery of artefacts, and excavation). On occasion, for example following the discovery of a historic shipwreck that is considered particularly vulnerable, they may also need to be used to manage access.
- 3.72. The following principles underpin the making of an MCO for Historic MPAs:
- a. an MCO will be made on the basis of an evidence-based assessment and will be subject to periodic review;
  - b. the making of an MCO will normally be preceded by consultation with owners and stakeholders with an interest in the marine historic asset or role in the adjacent marine area; and,

- c. information on MCOs and on the processes involved will be made widely and easily available and explained in clear language.
- 3.73. The rules laid out in the Annex to the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage (see Note 2.26) provide an accepted model of best practice for all activities regulated by statute devolved to Scottish Ministers and which are directed at marine historic assets within the Scottish inshore waters.
- 3.74. Where Scottish Ministers consider that the area of seabed comprising a Historic MPA contributes to biodiversity or geodiversity policy aims, consideration would be given to the impacts of activities directed at marine historic assets and whether it would be possible to mitigate any such impacts.

#### **IMPLEMENTATION OF POLICY ON MANAGEMENT OF HISTORIC MARINE PROTECTED AREAS**

- 3.75. In carrying out its work for Scottish Ministers on Historic MPAs, Historic Scotland will:
  - a. pursue beneficial stewardship for marine historic assets in-situ where practicable, including where these are threatened by degradation or complete loss. Where such assets cannot be saved, where at all possible Historic Scotland will pursue schemes whereby data may be recovered to mitigate loss and the results of this work widely disseminated;
  - b. make widely available guidelines and advice on the management of Historic MPAs so that preservation objectives of Historic MPAs can be respected by all whose decisions and actions might significantly affect a marine historic asset;
  - c. take the lead on the making and periodic review of MCOs;
  - d. issue permits or authorisations for MCOs where required, applying the principles set down in the Annex to the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage to ensure best practice is adhered to in respect of activities directed at marine historic assets;
  - e. where the area of seabed comprising a Historic MPA contributes to Scottish Ministers' biodiversity or geodiversity policy aims, seek advice from Scottish Natural Heritage as to whether it would be possible to minimise impacts that may result from activities directed at marine historic assets; and,
  - f. work collaboratively with Marine Scotland on compliance monitoring and enforcement and on reporting to the Scottish Parliament for matters relating to Historic MPAs.
- 3.76. Historic Scotland will also work with Marine Scotland, public authorities and marine planning partnerships on marine planning or licensing matters as appropriate including in respect of developments and activities that might affect a Historic MPA in accordance with the UK Marine Policy Statement and relevant marine plans.

## ***Gardens and Designed Landscapes***

### **SCOTTISH MINISTERS' POLICY ON THE TREATMENT OF GARDENS AND DESIGNED LANDSCAPES IN THE PLANNING PROCESS**

- 3.77. The effect of proposed development on a garden or designed landscape is a material consideration in the determination of a planning application.
- 3.78. Scottish Ministers expect planning authorities to have careful regard for the specific qualities, character and integrity of gardens and designed landscapes. Planning authorities should therefore continue to extend protection to designed landscapes through the inclusion of appropriate policies in their development plans.
- 3.79. The Inventory identifies gardens and designed landscapes of national importance. There are however many sites across Scotland which do not meet the criteria set for national importance but nevertheless make an important contribution to the local historic environment and landscape character of the area. Planning authorities are therefore encouraged also to develop policies within their development plans for the identification and future management of such non-Inventory sites in their areas.
- 3.80. Planning authorities should use appropriate conditions to protect and enhance sites on the Inventory. Planning authorities are also encouraged to obtain management plans for gardens and designed landscapes from owners both to identify conservation needs and direct how change can be best accommodated.
- 3.81. Informed change should be managed carefully with the aim of ensuring that the significant elements justifying designation are protected or enhanced.

## ***Historic Battlefields***

- 3.82. The effect of proposed development on Inventory battlefields is a material consideration in the determination of a planning application.
- 3.83. Scottish Ministers expect planning authorities to have careful regard for the landscape characteristics and specific qualities of battlefields. Planning authorities should therefore extend protection to battlefields through the inclusion of appropriate policies in their development plans. They should also consider battlefields within their strategies and policies for landscape and land-use.
- 3.84. Planning authorities should use appropriate conditions and agreements to protect and enhance sites on the Inventory. Planning authorities are encouraged to promote the development of management plans for battlefields as a useful way of engaging stakeholders, particularly owners and local communities, and of identifying management needs and how change can be best accommodated.
- 3.85. Change should be managed carefully in an informed and sympathetic way that respects the value of battlefields and protects, conserves or enhances their key landscape characteristics and specific qualities.
- 3.86. Planning authorities are encouraged to develop appropriate policies and conditions for the protection and management of any non-inventory sites they identify of importance in their areas (see 2.87).
- 3.87. Other public bodies should ensure that nationally important battlefields are given consideration within relevant strategies, plans and programmes.



## CHAPTER 4: PROPERTIES IN THE CARE OF SCOTTISH MINISTERS

### INTRODUCTION

- 4.1. This chapter sets out Scottish Ministers' policy on the conservation of and access to the properties in their care that are looked after by Historic Scotland on their behalf.

### LEGAL AND ADMINISTRATIVE CONTEXT

- 4.2. The United Kingdom Government is party to the European Convention on the Protection of the Archaeological Heritage (the 'Valletta Convention') (see Note 2.1). Under this convention states recognise, in Article 2, that they must have a legal system for the protection of the archaeological heritage, on land and under water. Article 4 requires provision for 'the conservation and maintenance of the archaeological heritage preferably in situ'. Article 5 ensures that 'the opening of archaeological sites to the public...does not adversely affect the archaeological and scientific character of such sites and their surroundings'. Article 9 provides an obligation to develop public awareness.

#### *The Law*

- 4.3. The United Kingdom has had legislation in place to protect ancient monuments since 1882. One part of that protection was the power of the Commissioners of Works to acquire ancient monuments for their protection and maintenance, by gift, purchase or agreement. It also provided powers for owners to retain nominal ownership of a monument, while passing the control and maintenance to the state by means of a deed of guardianship. Obligations and duties under the ancient monuments legislation have been extended over time.
- 4.4. Scottish Ministers' powers relating to the estate of Properties in Care are enshrined in the Ancient Monuments and Archaeological Areas Act 1979 (see Note 4.1). The Act places a duty on Scottish Ministers to maintain the monuments in their care and provides the powers to do 'all such things as may be necessary for the maintenance of the monument and for the exercise by them of proper control and management with respect to the monument'. Up-to-date information on the properties in state care is available from Historic Scotland either by writing or by visiting <http://www.historic-scotland.gov.uk/>
- 4.5. Access to Properties in Care is regulated under section 19 of the 1979 Act and the same section empowers Scottish Ministers to control and regulate that access.
- 4.6. Artefacts associated with the Properties in Care are not normally specifically scheduled under the 1979 Act but are protected by property law (see Note 4.2).

- 4.7. Historic Scotland is required to take full account of the requirements of all current health and safety legislation. It will also implement its equalities duties in relation to race, gender, disability, sexual orientation, age and religion through an operational policy. It will shortly produce a Gaelic language plan for its operations.
- 4.8. Historic Scotland has statutory duties to promote biodiversity under section 1 of the Nature Conservation (Scotland) Act 2004. The Act sets out to develop an integrated and sustainable approach by the Scottish Government to the conservation and management of Scotland's diverse natural heritage. Historic Scotland will implement its statutory functions in accordance with its duties under the Act to ensure that the conservation of biological diversity is encouraged and advanced.

### ***The Estate of Properties in Care***

- 4.9. Historic Scotland cares for 345 ancient monuments on behalf of Scottish Ministers. While no collection of properties can cover all aspects of the historic environment, the national portfolio of Properties in Care is representative of the sites and buildings that successive generations have seen as being worthy of the investment and special protection offered by state care. The estate covers a wide geographical and period spread, from Muness Castle in Shetland to New Abbey Corn Mill in Dumfries, and from Calanais Standing Stones in the west to Tantallon Castle in the east. It extends from early prehistory through to the industrial age. The properties cared for by Historic Scotland complement what is held by other bodies and individuals.
- 4.10. The purpose of the state taking properties into its care is for the long-term preservation, for the public benefit, of a collection of monuments which define significant aspects of Scotland's past. Much of that benefit lies in the properties being accessible to the people of Scotland and visitors to the country, now and for the future. In promoting these policies Ministers seek to ensure that the Properties in Care are a showcase for Scotland, demonstrating exemplary practice in conservation, enhancing their understanding and improving the provision of access and interpretation in a way which can stand comparison with the best in the world.
- 4.11. The Properties in Care have great cultural significance. They illustrate the history and development of Scotland and its people, and help to define its identity. They are a source of wonder, enjoyment and learning both for Scots and visitors, many of whom see Scotland's long history and rich culture as their principal reason for coming to this country. The properties and their associated collections of artefacts are unique and irreplaceable, which makes their preservation vital to our understanding of each monument's past and to its part in Scotland's history.
- 4.12. Properties in the care of Scottish Ministers are held either by guardianship (by far the majority), ownership (around a fifth of the estate), or a small number by leasehold. Most monuments are in guardianship, which means that each is held under an individual deed of guardianship. This requires Historic Scotland to comply with a range of obligations, rights and constraints arising principally from the legislation or from the terms of the specific deed of guardianship or leasehold. All have been taken into care for their preservation in perpetuity (see para 4.19 below).

- 4.13. The principles that underpin Historic Scotland's work at the properties have developed over time. Initially, the simple preservation of the monument was all that was expected of the state. The provision of public access was added as a responsibility in 1900: since then the public perception of access and the requirements of international conservation charters have continued to broaden. Historic Scotland has to meet these expectations by investing in the wider public benefits that come from understanding and interpreting monuments for a wide range of visitors.
- 4.14. The Properties in Care currently attract around three million visitors a year to the staffed monuments, where numbers are recorded, with many more visiting the non-staffed sites. This supports Scottish Ministers' important role in the promotion of tourism in Scotland. Entrance to more than 250 of these monuments is free. For properties where an entrance fee is charged, prices are set in line with similar properties operated by others in the sector. Visitors expect high standards of care, interpretation and visitor facilities that reflect the character of each property and do not detract from its qualities. They expect that so far as possible, the properties will be accessible to all. Many of the properties are on occasion used for private or public events, for international gatherings, or as film locations. These various demands can make the management of often fragile sites a considerable challenge and such activities can only be encouraged where they do not conflict with Ministers' principal duties of care in relation to the properties.
- 4.15. Works at Properties in Care undertaken by Historic Scotland are currently covered by Crown immunity. This means that Historic Scotland's works at properties which are scheduled monuments do not require scheduled monument consent (see Chapter 3 on Consents). Ministers, however, have put in place a parallel system of 'scheduled monument clearance' for works at Properties in Care. This will apply to all Properties in Care and applies the same standards and tests to works (see para 3.26). Works proposed by other parties, however, require formal scheduled monument consent. Depending on the terms under which the monument is held in care, such works could also require the permission of Historic Scotland as guardian, owner or leaseholder. Developments of visitor facilities at Properties in Care are not exempt from the requirement to obtain planning permission from the local authority.

## **SCOTTISH MINISTERS' POLICY ON PROPERTIES IN THEIR CARE**

### ***Composition of the Estate***

- 4.16. Scottish Ministers will maintain an estate of properties with their associated collections in state care to preserve and make available a representative collection of the archaeological and architectural past, both for the enjoyment and understanding of the nation and visitors to Scotland, and to ensure that it is preserved for future generations.



- 4.17. The legislation envisages monuments and sites being taken into care in perpetuity. Proposals to add to the estate, therefore, must be very carefully considered. In addition to assessing their merit in terms of their cultural significance, the implications for the balance of the types of property within the estate, and present risks to the monument, Historic Scotland will also consider what alternative options for care there might be and assesses the public benefit that would flow from the new investment. The costs of caring for the existing estate have tended to rise in real terms, so that a realistic approach needs to be taken to targeting public funds where they will best achieve the primary aims of Scottish Ministers in relation to their Properties in Care. Few properties proposed for care are likely to meet these criteria.
- 4.18. Because of the importance of the Properties in Care as a collection, and because of the level of state investment involved, it is currently expected that monuments will be held in perpetuity by the state. Only in exceptional circumstances is a monument likely to go back out of care. In coming to a view on disposals, Scottish Ministers will also take account of the implications for the balance of the remainder of the estate and any possible loss of public access or understanding of the monument. Each case will require the approval of Scottish Ministers, who will consult as appropriate. This policy will not prevent Historic Scotland delegating by agreement to local bodies responsibilities for managing the visitor facilities at particular properties, as happens at present.

### ***Conservation of Properties***

- 4.19. The primary purpose of monuments coming into care is for their long-term preservation. Scottish Ministers therefore see the long-term preservation of the monument as their principal consideration. Procedures are in place to support this aim.
- 4.20. Scottish Ministers ensure that all conservation decisions at Properties in Care are based on an evaluation of significance, informed by a thorough knowledge and understanding of their monuments. Scottish Ministers will ensure that an assessment of significance is provided for all Properties in Care, measured against internationally-recognised criteria and a broad understanding of Scotland's past. They will seek to promote conservation and an understanding of Scotland's past through appropriate evaluation, survey, research, investigation, study and interpretation of the Properties in Care.
- 4.21. In order to secure the maintenance of conservation standards Scottish Ministers will ensure that Historic Scotland, on their behalf, maintains an appropriate record of the buildings, sites and monuments in their care, and the work carried out upon them. It is recognised that improvements in knowledge, understanding, international conservation practice and techniques of analysis may lead to reassessment of conservation needs.

- 4.22. Scottish Ministers are committed to the proper management and implementation of conservation at their Properties in Care, each of which has its own particular requirements. They therefore expect Historic Scotland to run an effective programme of inspection, consolidation, maintenance and repair at Properties in Care, employing the best available techniques and the most suitable materials. Scottish Ministers also expect this work to be implemented by staff with the appropriate knowledge, expertise, craft skills, training and resources. The quality of conservation work at Properties in Care is reviewed by Historic Scotland regularly through property condition surveys to ensure it meets the best contemporary standards of conservation; Historic Scotland benchmarks its work against other operators.
- 4.23. Scottish Ministers recognise that Properties in Care are more than the sum of their constituent parts. They have important historical, cultural or emotional associations that give them a particular significance to the life of the nation, as well as to the local communities within which they are set. Many have outstanding landscape or picturesque values and settings. Scottish Ministers will conserve the Properties in Care in a way that preserves these qualities within an appropriate setting, and will work with others to protect and enhance their wider setting.

### *Managing Activity and Change*

- 4.24. Any proposals, whether by Historic Scotland or another party, to use, to provide activities at, or to undertake works at Properties in Care, require careful consideration. They may have implications either for the operation of the monument as a place opened to the public and interpreted for them, or for the preservation of the monument (see Note 4.3), or both. More detail on how such proposals will be assessed is provided in the following paragraphs.
- 4.25. Proposals by Historic Scotland to use or provide activities at Properties in Care which do not involve works are the subject of careful internal scrutiny, which considers their implications for the maintenance of the monument, public access to the monument and the proper control and management of the monument.
- 4.26. Proposals for works by Historic Scotland at Properties in Care will be subject to rigorous assessment by the Historic Scotland Heritage Management Directorate against Scottish Ministers' policies on scheduled monument consent (see Chapter 3 and particularly para 3.26).
- 4.27. Proposals by other parties to use or provide activities at Properties in Care which do not involve works will be the subject of careful scrutiny by Historic Scotland, which considers their implications for the maintenance of the monument, public access to the monument and the proper control and management of the monument.
- 4.28. Proposals for works by other parties at Properties in Care are likely to require scheduled monument consent. In that case they will be rigorously assessed by the Historic Scotland Heritage Management Directorate against Scottish Ministers' policies on scheduled monument consent.
- 4.29. Those proposing to use properties or to undertake works, or both, are encouraged to discuss their proposals with Historic Scotland at an early stage, and certainly before submitting a formal request or scheduled monument consent application. The Commercial and Tourism Group of Historic Scotland should be the first point of contact, and they will involve the Heritage Management Directorate where applicants need pre-application advice about scheduled monument consent.

- 4.30. A very few Properties in Care are not scheduled monuments, but are listed buildings. In such cases Historic Scotland will assess proposals to use properties or to undertake works using the same criteria as for scheduled Properties in Care. Separate applications for listed building consent and, where necessary, planning permission, would, however, have to be made to the planning authority.

### ***Access to Properties***

- 4.31. The provision of access to Properties in Care is one of the principal responsibilities of Scottish Ministers undertaken by Historic Scotland. The control and management of sites requires the provision of visitor facilities and information to support this. Access, and the associated understanding and promotion of the sites, lies at the heart of the sustainable management of Properties in Care.
- 4.32. Subject to the overriding objective of conservation and to the careful consideration of the safety of visitors and staff, Scottish Ministers are committed to improving, enhancing and encouraging all forms of access and understanding at their properties and their collections, and to setting the highest standards.
- 4.33. The process of planning for access put in place by Scottish Ministers seeks to optimise access. It will not, however, always be possible to provide full physical and intellectual access to the same degree at all sites. Some of the properties were designed to be difficult to access, and providing full access to these, or to parts of others, would require interventions that would be physically damaging or visually intrusive to an extent which is inconsistent with the primary duty of Scottish Ministers to conserve the properties in their care. Where full access is not possible they expect Historic Scotland to make efforts to provide other forms of access, particularly at popular sites.
- 4.34. Scottish Ministers are committed to developing the highest standards of practice in the presentation and interpretation of the properties, both on and off site. Where local or national interest groups, including equality and disability groups, exist, Scottish Ministers expect Historic Scotland to involve user groups and local communities in planning and developing site facilities and in monitoring the effectiveness of the new provision.
- 4.35. A small number of Properties in Care is not currently accessible to the public on a regular basis, and occasionally parts of other properties may be closed for safety, security or other operational reasons. Scottish Ministers expect Historic Scotland to manage effectively such closures and to advertise changes to opening times. A clear explanation should be provided for the closure in each case.
- 4.36. Scottish Ministers are committed to promoting the use, understanding and enjoyment of Scotland's historic environment as a valuable resource for learning and teaching. They expect the properties to provide a focus to inspire, motivate and nurture learners of all ages and backgrounds across Scotland, through both formal education and lifelong learning. There is a commitment to continuing free educational access to Properties in Care.
- 4.37. The cost of caring effectively for the estate of Properties in Care is high. Scottish Ministers are conscious of the wider economic benefits which arise from visits to the properties and do not expect the estate to generate sufficient revenue to cover these costs. They do however consider that, as in most other countries, visitors should meet part of the costs of operating the estate. They expect Historic Scotland to set admission and other charges which are broadly comparable with those at attractions operated by others and to take into account the facilities provided at each site in setting these charges. For a range of reasons, well over 250 of the properties are likely to remain free for the foreseeable future.



## IMPLEMENTATION OF POLICY ON PROPERTIES IN CARE

- 4.38. Implementation of the principles laid out in this policy paper will be embedded in business planning, processes and procedures across Historic Scotland. Where there are particular requirements, operational policy or guidance will be put in place after appropriate consultation. These will include operational policy or guidance on conservation, equality duties, admissions charging, acquisitions and disposals, and the natural environment at Properties in Care. An early outcome will be the publication of an Access Guide to Properties in Care.
- 4.39. In order to improve knowledge, increase understanding and prioritise resources Historic Scotland will maintain a programme of research on different aspects of work on Properties in Care, and where appropriate publish or archive the results.
- 4.40. Historic Scotland will continue an active programme of conservation at Properties in Care. This is planned and documented in Historic Scotland's annual works programme.
- 4.41. Historic Scotland will continue an active programme of interpretation, education and lifelong learning through the Properties in Care.
- 4.42. Historic Scotland will implement its health and safety policy for Properties in Care.
- 4.43. Historic Scotland will include equality and disability awareness training in its training programmes.

## CHAPTER 5: THE CONSERVATION OF THE HISTORIC ENVIRONMENT BY GOVERNMENT BODIES IN SCOTLAND

### INTRODUCTION

- 5.1. It is a long-accepted principle that government departments (and other government-funded bodies) should each be responsible for the care of assets in their ownership or care, including historic assets on land and under the sea. Parts of government own or manage key elements of Scotland's patrimony and it is the duty and privilege of individual government bodies and their staff to ensure that these historic assets – buildings (both in use and ruined), archaeology and historic landscapes – are properly managed and are handed on to future generations in good condition.
- 5.2. Ministers wish the Scottish Government and its associated bodies to set a good example in the care of their historic estate. Individual departments, directorates, agencies and other bodies which are accountable to Scottish Ministers are expected to adopt and implement the policies set out in the SHEP and to build the protection, management, maintenance or repair of historic assets into their operational and budgetary plans. Scottish Ministers expect UK departments operating in Scotland to manage any historic assets under their control according to the principles set out in the SHEP (see paras 5.6 and 5.8).
- 5.3. The responsibilities exercised by government departments in developing and implementing Ministers' policies in their individual areas of responsibility are set out in Chapter 1 of the SHEP. The most important historic assets in government care are those in the care of Scottish Ministers, managed by Historic Scotland. Ministers' policies for the properties in their care are set out in Chapter 4.

### POLICY CONTEXT

- 5.4. Government has an extensive historic estate encompassing buildings (both in use and ruined), archaeology and historic landscapes. Some of these assets have statutory protection as listed buildings, scheduled monuments or because they lie within Conservation Areas. Others may be included on the Inventories of Gardens and Designed Landscapes or Battlefields, or are in World Heritage Sites, National Parks, National Nature Reserves and National Scenic Areas. Public bodies need to have a consistent and co-ordinated approach to protecting these historic assets in the course of their estate management, disposal and procurement activities.
- 5.5. Some assets are best maintained in whatever state they have come down to us (for example archaeological sites); others are best maintained in a viable and appropriate use.

- 5.6. This policy sets out what Scottish Ministers expect of:
  - a. all Scottish Government Directorates, Executive Agencies and NDPBs;
  - b. National Health Service, Scotland;
  - c. UK Government Departments operating in Scotland (whose duties in this area have until now been set out in the 2003 DCMS 'Protocol' (para 5.8 below).
- 5.7. The policy applies to property owned, managed, rented or leased out (where the terms of the lease allow the organisation to have a direct responsibility or effect) by these organisations. Where responsibility for maintaining archaeological sites and monuments, buildings or land is permanently transferred to the private sector, the requirements of this policy may need to be incorporated in the terms of any contract.
- 5.8. This chapter of the SHEP supersedes for Scotland the 2003 Protocol published for the UK by the Department of Culture, Media and Sport. The 1993 document *The Care of Historic Buildings and Ancient Monuments by Government Departments in Scotland* is also superseded by subject-specific pieces of general guidance published by Historic Scotland. This revision significantly reduces the administrative burden placed on public organisations by the 2003 document, and makes more explicit some areas of work that would have been necessary to implement fully the previous versions. The Department of Culture, Media and Sport are content that UK Government departments operating in Scotland follow the principles and practices set out in this document, in place of those set out in the 2003 Protocol.
- 5.9. It is an important principle that the responsibilities set out in this document and in any guidance and advice issued by Historic Scotland are exercised **in a proportionate way** appropriate to the actual needs of, and what is practicable for, the assets being managed, and to any over-riding operational or legal requirements (such as the security of listed prison buildings or other installations).
- 5.10. Some historic assets will comprise or form part of sites designated also for their national or international biodiversity, natural environment or landscape interest. In such cases an appropriate balance will have to be found between any different management requirements.

## IMPLEMENTATION

The bodies set out in para 5.6 will:

### *Know what assets they have*

- 5.11. Organisations must be aware of the designated historic assets in their estate and should either establish and maintain an inventory of assets, or ensure that their existing property/asset management systems take account of historic aspects. Such assets might include: a building or group of buildings; part of a building (e.g. a retained façade); an individual archaeological site or monument or a group of them. Priority in all activities should be given to designated assets (scheduled monuments; listed buildings; conservation areas; gardens and designed landscapes or battlefields on non-statutory Inventories (see Chapter 2)). This record should where possible incorporate a statement of the asset's significance based on available information.



- 5.12. Historic assets that are not scheduled, listed or on the Inventories – particularly archaeological features – may be material considerations in the planning system or require mitigation in advance of development and bodies should normally also record the location and, if known, the extent of such assets. These basic data are available from RCAHMS and from local Historic Environment Records.

### *Identify a responsible officer*

- 5.13. Someone within each organisation should take responsibility for ensuring that policies and procedures for the historic environment are in place. This person will ensure that a record of historic assets is maintained (see 5.1 above), including any **significant** interventions in the historic environment such as management, repair, maintenance and adaptations. The officer should ensure that individual property managers are aware of their responsibilities under the relevant heritage legislation and the SHEP and ensure that the body complies with the reporting requirements included in this document. Where a building is in shared occupation, one organisation should be identified as taking the lead. The officer should be a person at an appropriate level in the conservation or property management structure of the organisation. Where a body has significant holdings of historic assets a director or senior manager should have oversight of their conservation.

### *Use consultants and contractors with appropriate qualifications and expertise*

- 5.14. It is strongly recommended that specialist conservation consultants and practitioners appropriate to the nature and significance of the asset and the scale of the works are used to prepare condition surveys and to advise on any works of alteration or repair. This also applies to works of research, evaluation and investigation.

### *Commission condition surveys, inspections and research where appropriate*

- 5.15. A fundamental requirement of the SHEP is to maintain a system of regular condition surveys for designated assets (no more than 5 years apart), appropriate to the sort of historic asset – buildings will require a very different approach from, for instance, archaeological earthworks. Such a survey cycle should not replace any more intensive programme of inspection, for example for health and safety reasons such as to ensure that stonework is stable. These reports should identify and prioritise necessary repair and major maintenance requirements. For major infrastructure projects reports should set out the measures carried out to locate, assess significance, avoid, mitigate and record/investigate historic environment assets. If buildings in intensive use are the subject of continuous surveillance and maintenance periodic formal inspections may not be necessary.
- 5.16. Where there are existing monitoring or management arrangements (for example, Historic Scotland has management agreements with Forestry Commission Scotland and Historic Scotland's Heritage Management Field Officers record the state of scheduled monuments) practical arrangements will be made to avoid duplication.

### *Develop site-specific management guidance*

- 5.17. Where appropriate, in addition to regular condition reports, further site-specific guidance can usefully be prepared such as conservation management plans and incident response plans. Such guidance, which should be based upon a thorough understanding of the significance of the asset, will enable sound judgements to be made about repairs, alterations, management, reuse or disposal.

- 5.18. In order to understand fully the building or site, it may be necessary to commission additional research, analysis, survey or investigation. This may be necessary in advance of carrying out works, or in the course of preparing conservation management plans, management guidelines or conservation manuals. A repair and maintenance programme on its own may be insufficient to address complex conservation problems and inherent defects.
- 5.19. Management provisions may include risk assessment, disaster planning (see Note 5.1), access guidance, preventive conservation and environmental assessment particularly where there are inherent defects, vulnerable interiors and any potential conflict between conservation and building use.

***Draw up and implement a prioritised maintenance schedule, and planned programme of repairs, maintenance and preventative conservation***

- 5.20. Where it is appropriate, planned maintenance registers and forward repair plans are recommended as a means of converting the information provided by the inspections and investigative work into prioritised and costed forward programmes of work. This can vary from cutting vegetation to previously planned maintenance on a major building.
- 5.21. Future repairs identified in the condition reports and surveys, with their estimated costs, and day-to-day maintenance requirements identified in the conservation manual should be included on the register, so that targets can be set for each historic asset over the years.

***Ensure a high standard of design in any new work and in the alteration of the historic environment***

- 5.22. New work, including alterations and extensions to historic buildings as well as new buildings in historic areas, should enhance its surroundings. Recent guidance relevant at both the planning and building control application stages has introduced the concept of Access Statements as a way of demonstrating that design, refurbishment and product selection decisions have, or will, address the obligations of reasonableness introduced by the Disability Discrimination Act 1995 (DDA). New work should also take into account the principles of sustainable development as set out in the SHEP and other Scottish Government policies.

***Ensure that appropriate materials and management regimes are used***

- 5.23. Particularly before 1919 most buildings were erected using locally-sourced materials by a labour force with traditional construction skills. Repairs to historic buildings are best carried out using similar materials and an appropriately skilled workforce.
- 5.24. The inappropriate use of modern materials, such as cement renders, can cause major damage to historic structures. Older buildings also need appropriate heating and ventilation. It is always better to work with rather than against the needs of an historic structure. Historic Scotland publishes advice on the maintenance of traditional buildings on its website.

***Protect buildings at risk***

- 5.25. The Buildings at Risk Register for Scotland is currently maintained by the Royal Commission on the Ancient and Historical Monuments of Scotland on behalf of Historic Scotland, and provides information on properties of architectural or historic merit throughout the country that are considered to be at risk. A Building at Risk is usually a listed building, or an unlisted building within a conservation area, that meets one or more of the following criteria:
- a. vacant with no identified new use (unless a suitable maintenance regime is in place);
  - b. suffering from neglect and/or poor maintenance;
  - c. suffering from structural problems;
  - d. fire damaged;
  - e. unsecured;
  - f. open to the elements;
  - g. threatened with demolition.

To be at risk, a building does not necessarily need to be in poor condition, it may simply be standing empty with no clear future use. Many buildings at risk are in this latter category. The buildings at risk register (BARR) is available online at [www.buildingsatrisk.org.uk](http://www.buildingsatrisk.org.uk)

- 5.26. The National Performance Framework (NPF) measure for the historic environment is currently based on the percentage of Category A listed buildings on the Buildings at Risk Register.

The NPF is available at [www.scotlandperforms.com](http://www.scotlandperforms.com)

Every endeavour should therefore be made by organisations reporting to Scottish Ministers and other agencies of government to ensure that their buildings should not be in such a state as to be on this Register. If buildings are on the Register organisations are urged to work with the statutory authorities to agree a strategy for resolving each case.

***Work to keep buildings in active use***

- 5.27. Wherever possible, bodies should work imaginatively with others in the private, public and charitable sectors to find new uses or identify appropriate management regimes for redundant buildings.
- 5.28. Departments and agencies should observe the government guidance on the disposal of historic buildings (see Note 5.2).

***Prepare quinquennial stewardship reports***

- 5.29. Bodies covered by the policy should prepare a report to Historic Scotland on their stewardship of all the historic assets in their care every five years. This is intended to be a high-level report describing, under the headings of this policy, the operational policies and arrangements that are in place and noting the main actions to achieve their aims. This replaces the requirement to make detailed biennial returns on individual assets, under the 2003 Protocol.



***Ensure that the historic environment is included in climate change actions plans and policies***

- 5.30. The historic environment should be included in all site-specific climate change action plans and policies. It is recommended that they include assessment of climate change impacts, measures to ensure that vulnerable sites can respond to changes in climate, monitoring, control and reduction of site carbon footprint and energy usage. All energy efficiency measures should be effective, appropriate and take into account any special historic or architectural features of buildings and landscapes.

**ROLE OF HISTORIC SCOTLAND**

- 5.31. Historic Scotland acts for and provides advice to Scottish Ministers on all matters relating to the historic environment. The agency has statutory functions, for example in relation to scheduled monuments and listed buildings, Historic MPAs, gardens and designed landscapes and battlefields, and welcomes preliminary discussion of proposals that will affect designated sites and buildings.
- 5.32. As noted above, bodies are expected to make the necessary internal arrangements for the management of public assets in their care. Historic Scotland can provide advice on policies and processes and, where necessary, on individual cases. Historic Scotland will assist in every practical way to ensure that the historic environment in the care of Ministers is treated with sympathy and properly cared for. Ministers' policy is, however, that public funds supplied to HS for grant-aid for building repair and management agreements will not be channelled to other parts of government.

## CONTACTS

Further information on Scheduling, Listing, Conservation Areas, Historic MPAs, the inclusion of Gardens & Designed Landscapes and Historic Battlefields on the Inventories and on the related consents processes can be found on Historic Scotland's website [www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk). Copies of the booklets *Scheduled Monuments: a guide for owners, occupiers and managers* and *Scotland's Listed Buildings* can be obtained from Historic Scotland at the address below. Historic Scotland is constantly improving the information available on the nature, location and, where appropriate, the extent of designated sites on its website. Specific queries on the contents of this paper should be directed, as appropriate, to the following Historic Scotland staff:

- *The SHEP document itself* – The Head of Policy and Legislation  
Tel: 0131 668 8650 [hs.policyandoutreach@scotland.gsi.gov.uk](mailto:hs.policyandoutreach@scotland.gsi.gov.uk)
- *Consents* – Historic Scotland's Heritage Management Directorate  
Tel: 0131 668 8889 [hs.heritagemanagement@scotland.gsi.gov.uk](mailto:hs.heritagemanagement@scotland.gsi.gov.uk)
- *Designations* – Historic Scotland's Policy and Outreach Directorate  
Tel: 0131 668 8728 [hs.policyandoutreach@scotland.gsi.gov.uk](mailto:hs.policyandoutreach@scotland.gsi.gov.uk)
- *Cultural Heritage* – The Head of Cultural Heritage  
Tel: 0131 668 8673 [hs.policyandoutreach@scotland.gsi.gov.uk](mailto:hs.policyandoutreach@scotland.gsi.gov.uk)

All are based at Historic Scotland's headquarters:

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## NOTES

### NOTES TO THE INTRODUCTION

Note 0.1 More information on Historic Scotland can be found on its website [www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk) The 2008 Framework Document can be accessed on Historic Scotland's website: [www.historic-scotland.gov.uk/framework-document.pdf](http://www.historic-scotland.gov.uk/framework-document.pdf)

Note 0.2 The UK Marine Policy Statement can be viewed at: <http://www.scotland.gov.uk/Resource/Doc/295194/0115242.pdf>

### NOTES TO CHAPTER 1

Note 1.1. Until 1919 most houses were built by craftsmen using traditional indigenous building materials.

Note 1.2. Information on World Heritage Sites generally can be found at: <http://whc.unesco.org/en/175/> and on the Scottish sites at: [www.historic-scotland.gov.uk/index/heritage/worldheritage.htm](http://www.historic-scotland.gov.uk/index/heritage/worldheritage.htm)

Note 1.3. The National Performance Framework can be accessed on the Scottish Government website: [www.scotlandperforms.com](http://www.scotlandperforms.com)

Note 1.4. The 32 local authorities have a major contribution to make through their role as planning authorities, as co-ordinators of the community planning process, as owners of historic buildings, ancient monuments and parks, and as education and cultural authorities, operating museums, galleries, libraries and archives. Local authorities, at their own hand or through shared services or associated heritage trusts, undertake a wide range of duties in relation to the historic environment. These can include (although not all local authority or other analogous services provide all of the services listed here):

- a. determining listed building consent applications (in partnership with Historic Scotland);
- b. determining conservation area consent applications (in partnership with Historic Scotland);
- c. maintaining a Sites and Monuments Record or Historic Environment Record;
- d. providing advice to applicants for environmental management funds supplied through the Scottish Government to land managers;
- e. undertaking work to identify and protect important archaeological sites that might be affected by forest and woodland planting and management proposals on both public and privately-owned land.



Note 1.5. RCAHMS is a non-departmental public body sponsored by Historic Scotland. It is a key partner of the Agency whose work in survey and record-keeping underpins a significant proportion of Historic Scotland's work of designation and aids the work of many organisations, businesses and individuals. More information on RCAHMS can be found on its website [www.rcahms.gov.uk](http://www.rcahms.gov.uk)

Note 1.6. Scotland's Historic Environment Audit was set up on the recommendation of the Historic Environment Advisory Council for Scotland: the Audit website is at: [www.heritageaudit.org.uk](http://www.heritageaudit.org.uk)

Note 1.7. PASTMAP is a web-based information resource on the historic environment providing a range of information, free of charge. The website represents a major joint initiative between Historic Scotland, the Royal Commission on the Ancient and Historical Monuments of Scotland and local government. The PASTMAP website ([www.pastmap.org.uk](http://www.pastmap.org.uk)) was launched in 2004 and has been a great and undoubted success.

Against a dynamic map base, users can display the locations and, where appropriate, the extent, of:

- a. all the sites, buildings and places recorded in the national database maintained by the Royal Commission on the Ancient and Historical Monuments of Scotland;
- b. all of Scotland's c. 47,000 listed buildings;
- c. Scotland's c. 8000 scheduled monuments;
- d. Gardens and designed landscapes (389);
- e. Historic Battlefields;
- f. Marine Protected Areas;
- g. (over a growing part of Scotland) sites, buildings, places and find spots recorded by local government historic environment services.

## NOTES TO CHAPTER 2

Note 2.1. The Valletta Convention can be accessed at:  
<http://conventions.coe.int/Treaty/en/Treaties/Html/143.htm>

In addition, information on the development of international conservation charters is available in Historic Scotland Technical Advice Note 8.

Note 2.2. Part II of the 1979 Act, relating to archaeological areas, was not brought into effect in Scotland. The 1979 Act does not apply in Northern Ireland.

Note 2.3. Section 61(7) of the 1979 Act.

Note 2.4. Section 61(13) of the 1979 Act.

Note 2.5. As a selective ('nationally important') sample of the nation's archaeology, the Schedule differs from the more comprehensive List of buildings of 'special architectural or historic interest' compiled under the terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, both in the subject matter and in the procedures which arise from inclusion. While Historic Scotland undertakes casework on scheduled monuments, the first point of contact for listed building consent is the local authority.

Note 2.6. Section 1(3) of the 1979 Act.

Note 2.7. The criteria in force between 1983 and 2005 were published in the Scottish Government's Planning Advice Note 42 Archaeology, the Planning Process and Scheduled Monument Consent Procedures (PAN 42). These were superseded by the publication in 2006 of the criteria and guidance now set here out in

Annex 1. PAN 42 has now been superseded by PAN 2/2011 *Planning and Archaeology* which can be found at:

**<http://www.scotland.gov.uk/Publications/2011/08/04132003/0>**

Note 2.8. Section 2 of the 1979 Act.

Note 2.9. The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 can be accessed at **[www.statutelaw.gov.uk](http://www.statutelaw.gov.uk)**

Note 2.10. The term 'building' is defined in the 1997 Act as amplified below:

- a. a 'building' includes any structure or erection, and any part of a building in a list compiled or approved by the Scottish Ministers. This can include street furniture, cranes, fountains, bridges, bandstands and earthen works such as ha-has;
- b. any object or structure which is fixed to a listed building, or which falls within the curtilage of such a building and, although not fixed to the building, has formed part of the land since before 1 July 1948, will be treated as part of the building. This includes ancillary structures and outbuildings such as stables, mews, garden walls, dovecots and gate lodges;
- c. any plant or machinery within a building is excluded from the definition of 'building' but can be included within the scope of listing if physically attached to the main building and hence falling within the category of a fixed structure or object;
- d. listing covers the interior as well as the exterior of the building: the fact that the list contains no detailed interior description does not alter this rule. As 'any object or structure fixed to a building' is also treated as listed the definition extends to major interior fixtures such as plasterwork or painted ceilings, chimney-pieces and panelling.

Note 2.11. 1997 Act, section 1(1).

Note 2.12. 1997 Act, section 1(3).

Note 2.13. 1997 Act, section 2(2) and 2(2)(a), sets out this requirement. Up-to-date information on the lists can be obtained from the appropriate local planning authority or from Historic Scotland. Every planning authority is required by the Act to keep available for public inspection, free of charge, at reasonable hours and at a convenient place, copies of those lists and the amendments to them which relate to the buildings within its area. The Scottish Ministers are similarly required to keep a copy of the full List available and do so at the headquarters of Historic Scotland at Longmore House, Edinburgh (under the 1997 Act section 2(4) and 2(3) and through the agency's website, [www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk)). The lists are also available through the Royal Commission on the Ancient and Historical Monuments of Scotland, and through PASTMAP ([www.pastmap.org.uk](http://www.pastmap.org.uk)).

Note 2.14. 1997 Act, section 2(2)(a).

Note 2.15. 1997 Act, section 1(4)(b)

Note 2.16. 1997 Act, section 6.

Note 2.17. 1997 Act, section 9. Where a building is both listed and scheduled, the scheduling legislation takes precedence and the other legislation is disappplied.

Note 2.18. Historic Scotland (since January 2006) issues a welcome pack to the owner of any newly listed building, including the findings of consultation and providing supporting information on the designation. Historic Scotland provides advice on what listing means to owners and occupiers in the free publication *Scotland's Listed Buildings*, also available at:

<http://www.historic-scotland.gov.uk/scotlands-listed-buildings.pdf>

Note 2.19. 1997 Act, section 1.

Listed buildings are given categories of listing which distinguish their relative merit. These categories have no statutory weight but are advisory. They inform levels of designation and grant award. There are three categories, defined as follows:

- A buildings of national or international importance, either architectural or historic, or fine little-altered examples of some particular period style or building type;
- B buildings of regional or more than local importance, or major examples of some particular period, style or building type;
- C(S) buildings of local importance; lesser examples of any period, style, or building type, as originally constructed or altered; and simple, traditional buildings which group well with others.

In addition, a system of group categories exists to highlight the contextual relationship which an individual listed building may possess in relation to others. These are A and B Groups. They are in addition to the individual category and likewise have no statutory significance. They serve to flag considerations of setting, function, design, planning and historic combinations where the individual value is enhanced by its association with others.



Note 2.20. Such notices must also give particulars of the effect of designation, especially the controls on demolition. There is no prescribed form of notice, but published notices should describe the area as clearly as possible, such as by reference to street names, with maps available for inspection. The conservation area map should be on a scale of 1:2500 or, exceptionally such as in the case of a large rural area, 1:10,000 and should be accompanied, where appropriate, by a street index complete with house numbers.

Note 2.21. Since this policy was first promulgated, Geographical Information Systems have become common. It is requested that Scottish Ministers also be provided with boundary information in an open GIS format.

Note 2.22. Notice of this must be published and Scottish Ministers informed in the same way as for new designations. When varying a conservation area, a planning authority should preferably cancel the existing boundaries and simultaneously redesignate the new area as a single whole, rather than adding small areas separately designated at the edge of the original area.

Note 2.23. 1997 Act, section 64.

Note 2.24. It might, for example, be sufficient to publish in a local paper and in the Edinburgh Gazette a notice conveying the authority's intentions, informing the public of a convenient place at which maps and background documents can be viewed and inviting comments. A public meeting will often be a useful way both of conveying information and of allaying unfounded fears about the impact of conservation area status on local owners. Consultation with other statutory authorities in the area is also recommended.

Note 2.25 The Scottish marine protection area is the area of sea submerged at mean high water spring tide out to the seaward limit of the territorial sea of the United Kingdom adjacent to Scotland. It excludes any waters upstream of the fresh-water limit of estuarial waters.

Note 2.26 The text of the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage is available at: [http://portal.unesco.org/culture/en/ev.php-URL\\_ID=34472&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=34472&URL_DO=DO_TOPIC&URL_SECTION=201.html)

Note 2.27 The Protection of Military Remains Act 1986 is administered by Ministry of Defence. 'Protected Places' are the remains of any aircraft which crashed in military service, or of any vessel designated (by name, not location) which sunk or stranded in military service after 4 August 1914. 'Controlled Sites' are designated areas comprising the remains of a military aircraft or a vessel sunk or stranded in military service less than 200 years ago. Unlicensed diving is prohibited on Controlled Sites but a licence to dive 'on a look but do not touch' basis is not required for Protected Places.

Note 2.28 Under section 255 of the Merchant Shipping Act 1995, 'wreck' is defined as including 'jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water'. Under section 236, recoveries of 'wreck' must be reported to the Receiver of Wreck (Maritime and Coastguard Agency). Finders who report their finds to the Receiver of Wreck have salvage rights. The Receiver of Wreck acts to settle questions of ownership and salvage.

Note 2.29 A copy of the UK Marine Policy Statement is available at:  
<http://www.scotland.gov.uk/Resource/Doc/295194/0115242.pdf>

Note 2.30 Section 11 of the Historic Environment (Amendment) (Scotland) Act 2011 inserted a new sections 32A and 32B in the 1979 Act which created a new statutory duty for Scottish Ministers to compile and maintain an inventory of gardens and designed landscapes and an inventory of battlefields which are in their view of national importance. The section also provides that when including any grounds or battlefields in, or modifying, the inventories Scottish Ministers must inform the owner, and if the owner is not the occupier, the occupier of the grounds or battlefields in question and the local authority in whose area the grounds or battlefields are situated. The provision also provides that Scottish Ministers must send a copy of the entry to any person or local authority so informed. The new provision also sets out that Scottish Ministers must from time to time, and in a manner they think fit, publish a list of the gardens and designed landscapes and a list of battlefields included in the inventories.

Section 32 A and Section 32B of the 1979 Act define Gardens and Designed Landscapes and Battlefields as follows:

Gardens and Designed Landscapes: “references to gardens and designed landscapes are to grounds which have been laid out for artistic effect and, in appropriate cases, include references to any buildings, land, or water on, adjacent, or contiguous to such grounds” (Section 32A(2) of the 1979 Act).

Battlefields: “Battlefield” means an area of land over which a battle was fought; or and area of land on which any significant activities relating to a battle occurred (whether or not the battle was fought over that area). (Section 32B(2) of the 1979 Act).

## NOTES TO CHAPTER 3

Note 3.1. The text of the Act is available at [www.statutelaw.gov.uk](http://www.statutelaw.gov.uk)

Note 3.2. Section 2 of the 1979 Act.

Note 3.3. Historic Scotland has a leaflet about metal detecting which can be found at  
[www.historic-scotland.gov.uk/metal-detecting-2.pdf](http://www.historic-scotland.gov.uk/metal-detecting-2.pdf)

Note 3.4. The classes of activity that are deemed to have consent are:

Class I certain agricultural, horticultural or forestry works;

Class II works executed more than 10m below ground level by the Coal authority or their licensees;

Class III certain works by the British Waterways Board;

Class IV certain repair or maintenance works to machinery;

Class V certain works urgently necessary for health and safety;

Class VI certain works of archaeological evaluation;

Class VII certain works executed under Agreements under section 17 of the Act (management agreements);

Class VIII certain works grant-aided under section 24 of the Act;

Class IX certain works undertaken by the Royal Commission on the Ancient and Historical Monuments of Scotland.

Note 3.5. Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 section 55: [www.statutelaw.gov.uk](http://www.statutelaw.gov.uk)

Note 3.6. The application process is set out in the Ancient Monuments and Archaeological Areas (Applications for Scheduled Monuments Consent) (Scotland) Regulations 2011. Application forms are available from Historic Scotland and can be downloaded from the agency's website.

Note 3.7. 1979 Act, Schedule 1, Pt I, paragraph 3(2).

Note 3.8. Only around 13% of scheduled monument consent applications are associated with a planning application. The rest relate to processes not covered by the planning system.

Note 3.9. Or where works are urgently necessary in the interests of health and safety (section 2(9) of the Ancient Monuments and Archaeological Areas Act 1979).

Note 3.10. These provisos are made because of experience in the 1960s to 1980s, when a large backlog of unpublished excavations developed; see G J Barclay & O Owen 'Historic Scotland's Backlog Project and the Projects Database', *Proceedings of the Society of Antiquaries of Scotland*, vol 125 (1995), 1–8, which can be accessed at:  
[http://ads.ahds.ac.uk/catalogue/adsdata/arch-352-1/dissemination/pdf/vol\\_125/125\\_001\\_008.pdf](http://ads.ahds.ac.uk/catalogue/adsdata/arch-352-1/dissemination/pdf/vol_125/125_001_008.pdf)

Adequacy of resources will be determined on the basis of the scale and complexity of the project. It would be expected that an applicant for consent to excavate a nationally important monument will have completed and published projects of a comparable scale and complexity, and not have a backlog of unpublished fieldwork. Scheduled monuments are a small, nationally-important, proportion of Scotland's archaeological heritage, and should only be excavated by experienced archaeologists.

Note 3.11. Currently, Scottish Planning Policy (as published on 4 February 2010) deals with listed buildings, conservation areas, World Heritage Sites, historic gardens, designed landscapes and their settings, and sets out the role of the planning system in protecting ancient monuments and archaeological sites and landscapes.

Note 3.12. To assist the Royal Commission in its task of selecting buildings which merit recording, it would be helpful if planning authorities could, when notifying demolition applications, include brief details of the building to include all unlisted buildings except ecclesiastical buildings in use as such, although this exemption may shortly be varied by order, scheduled monuments and buildings excepted by the direction of Scottish Ministers.



## NOTES TO CHAPTER 4

Note 4.1. The legal effect of guardianship is set out in section 13 of the Ancient Monuments and Archaeological Areas Act 1979. The Act can be accessed at: [www.statutelaw.gov.uk](http://www.statutelaw.gov.uk) Section 13 of the 1979 Act details the specific duty to maintain the monuments and to exercise proper control and management.

The legal effect of guardianship of land in the vicinity of an ancient monument is set out in section 15 of the 1979 Act.

Access is regulated under section 19: subject to section 13(2A) and 15(3A) of the 1979 Act the provisions of this section, the public shall have access to any monument under the ownership or guardianship of the Scottish Ministers.

Section 19 empowers Scottish Ministers to control and regulate access by:

- a. setting the times of normal public access (what constitutes 'normal' is not defined by the Act, thereby enabling Scottish Ministers and Historic Scotland on their behalf to take account of a variety of considerations including location, the fragility of the monument and visitor safety);
- b. charging admission;
- c. excluding the public from all or any part of a monument in the interests of safety or of the maintenance or preservation of the monument;
- d. prohibiting or regulating any act or thing which would tend to injure or disfigure a monument or to disturb the public in their enjoyment of it;
- e. refusing admission to anyone where there is reasonable cause to believe they will injure or disfigure a monument or its amenities, or are likely to disturb the public enjoyment of it.

Note 4.2. Historic Scotland's collecting policy is set out in its operational policy paper *Acquisition and Disposal of Collections* (revised 2009). Formally adopted by Historic Scotland's senior management team in December 2009, it regulates the way in which the Agency collects and disposes of items from its extensive collections of historic objects and archaeological artefacts. The adoption and implementation of this policy is a requirement of the Museum Accreditation scheme endorsed by the Department of Culture Media and Sport and operated in Scotland by Museums Galleries Scotland. Historic Scotland was awarded Full Accreditation status in July 2010. Its collecting policy will undergo formal review in 2013.

Note 4.3. For the vast majority of Properties in Care, which are scheduled monuments, under Section 2 of the 1979 Act.

## NOTES TO CHAPTER 5

Note 5.1. For custodians of listed properties, there is an ongoing programme of recording and briefings for the local fire and rescue service running in Scotland. It seeks to ensure that any response to an incident takes into account the layout of the building and peculiarities of the site. This might include voids, structural details and hazards that might be encountered during a response. Although the project does not deal with the sensitive issue of building contents, features of historical significance are identified, such as ornate plasterwork ceilings.

Note 5.2. Government advice on the disposal of historic assets is available at: [www.culture.gov.uk/images/publications/Disposal\\_Historic\\_report.pdf](http://www.culture.gov.uk/images/publications/Disposal_Historic_report.pdf)

## ANNEX 1: CRITERIA FOR AND GUIDANCE ON THE DETERMINATION OF 'NATIONAL IMPORTANCE' FOR SCHEDULING

### PREAMBLE

1. The Ancient Monuments and Archaeological Areas Act 1979 provides for the scheduling of ancient monuments, the sole criterion being that they are of national importance. A definition and operational guidance on how to determine whether or not a monument is of national importance was approved by the (former) Ancient Monuments Board for Scotland in 1983. The criteria and guidance set out here are an updated version that takes account of the development of treaty, charter and practice in the UK and abroad and was also informed by a consultation exercise carried out in 2004. While based on the 1983 text, it also reflects the principles originally published in the Stirling Charter (2000), and now set out in paragraphs 1.14 to 1.16 above. These have been informed by, and build on, the body of international conservation charters already in being. One of the most influential of these is the Burra Charter (current edn 1999), which introduced the now widely accepted concept of 'cultural significance'. While taking into account national and international developments, this revised guidance has been prepared with the welfare of Scotland's archaeological and built heritage in mind. The primary aim of this document is to provide guidance in determining whether monuments are of national importance.

### ROLE OF HISTORIC SCOTLAND

2. The process of scheduling is undertaken on behalf of Scottish Ministers by Historic Scotland. Historic Scotland is an executive agency directly accountable to Scottish Ministers with the remit of protecting Scotland's historic environment. The selection of monuments and the scheduling process is undertaken by professional staff within Historic Scotland applying the policies, criteria and guidance set by Scottish Ministers.

### CULTURAL SIGNIFICANCE

3. The first step in considering whether a monument is of national importance is to identify and understand its cultural significance. The concept of 'cultural significance' will apply widely and to different degrees to all of Scotland's historic environment, and should not be confused with the establishment of 'national importance', which is a separate process. For a monument or a class of monuments to be considered as being of national importance it must, first, have a particular cultural significance – artistic; archaeological; architectural; historic; traditional (factors listed in the 1979 Act); aesthetic; scientific; social – for past, present or future generations. Such significance is inherent in the monument itself, its fabric, setting, use, associations, meanings, records, related monuments and related objects.



4. For most of Britain's and Scotland's past, there are no 'national' prehistories or histories, as reflected in the historic environment. Instead, there is an aggregation of related prehistories and histories of different regions, which may have wider national or international links. It is through these linked regional histories and prehistories that the history of Scotland and the UK can be understood.
5. Cultural significance of any monument, whether of national importance or more local significance, can be characterised by reference to one or more of the following; the characteristics are in three groups:

- Intrinsic** – those inherent in the monument;
- Contextual** – those relating to the monument's place in the landscape or in the body of existing knowledge; and
- Associative** – more subjective assessments of the associations of the monument, including with current or past aesthetic preferences.

#### ***Intrinsic characteristics***

- a. the condition in which the monument has survived. 'Condition' includes the potential survival of archaeological evidence above and below ground, and goes beyond the survival of marked field characteristics;
- b. the archaeological, scientific, technological or other interest or research potential of the monument or any part of it;
- c. the apparent developmental sequence of the monument. Monuments that show a sequence of development can provide insights of importance, as can places occupied for a short time;
- d. the original or subsequent functions of the monument and its parts.

#### ***Contextual characteristics***

- e. The present rarity or representativeness of all or any part of the monument, assessed against knowledge of the archaeology of Scotland and of the region in which the monument occurs;
- f. the relationship of the monument to other monuments of the same or related classes or period, or to features or monuments in the vicinity. This is particularly important where individual monuments, themselves perhaps of limited immediate significance, form an important part of a widespread but varied class. The diversity of the class should be a material consideration in making individual decisions;
- g. the relationship of the monument and its parts with its wider landscape and setting.

#### ***Associative characteristics***

- h. The historical, cultural and social influences that have affected the form and fabric of the monument, and vice versa;
- i. the aesthetic attributes of the monument;
- j. its significance in the national consciousness or to people who use or have used the monument, or descendants of such people; and

- k. the associations the monument has with historical, traditional or artistic characters or events.
6. Understanding of cultural significance may change as a result of the continuing history of the monument, or in the light of new information, or changing ideas and values.

## NATIONAL IMPORTANCE

7. The primary purpose of scheduling under the 1979 Act is the preservation of, and control of works on, monuments, the survival of which is in the national interest. The provisions of the 1979 Act are consistent with the principles of minimal intervention to ensure that the characteristics that make a monument of national importance are preserved as far as possible in the state in which it has come down to us, and is passed on to future generations in as unchanged a state as is practicable, in accord with the principles of sustainable development. In general, those principles will only be set aside in circumstances where wider considerations are deemed, on balance, to be of greater importance to the national interest, rather than to any sectoral or local interest; in individual cases such considerations may include the needs of research into Scotland's past.
8. It should be noted that no period of Scotland's past and no part of Scotland's land is inherently more or less likely to produce monuments of 'national importance' than another.
9. The purpose and implications of scheduling are issues that require to be taken into consideration when assessing monuments for scheduling. Scheduling may not be the only, or the most appropriate, mechanism to secure the future of all sites, even those that may otherwise meet the criteria.
10. The particular significance needed to define the monument as of 'national' importance may be established in terms of one or more of the following:
- a. its inherent capability or potential to make a significant addition to the understanding or appreciation of the past;
  - b. its retention of the structural, decorative or field characteristics of its kind to a marked degree;
  - c. its contribution, or the contribution of its class, to today's landscape and/or the historic landscape;
  - d. the quality and extent of any documentation or association that adds to the understanding of the monument or its context;
  - e. the diminution of the potential of a particular class or classes of monument to contribute to an understanding of the past, should the monument be lost or damaged; and
  - f. its place in the national consciousness is a factor that may be considered in support of other factors.

## ANNEX 2: CRITERIA FOR DETERMINING WHETHER A BUILDING IS OF 'SPECIAL ARCHITECTURAL OR HISTORIC INTEREST' FOR LISTING

1. The criteria can only provide a framework within which professional judgement is exercised in reaching individual decisions.
2. To be listed, a building need not be functioning for the purpose originally intended. For example, a redundant railway viaduct may have continued its life as a walkway or cycle path, even a wildlife sanctuary.
3. The principles of selection for statutory listing are broadly:
  - a. age and rarity;
  - b. architectural or historic interest;
  - c. close historical associations.

### AGE AND RARITY

4. The older a building is and the fewer of its type that survive the more likely it is to present a special interest. Age is a major factor in the evaluation process but its weight differs across the building types. Period definitions are given to facilitate the assessment but these are not intended to be watersheds or cut-off points.
5. All buildings erected before 1840 (pre-Victorian and the arrival of the railways) which are of notable quality and survive predominantly in their original form have a strong case. The year 1840 was selected because of the change which followed, in terms of the greater standardisation of materials and design, improved communications and the birth of the architectural press.
6. Buildings put up between 1840 and 1945 which are of special architectural or historic interest and of definite character either individually or as part of a group may be listed. As the survival rate increases after 1914, greater selectivity will be applied to take account of lesser rarity and relative age.
7. Those erected after 1945 may merit inclusion on the lists if their special architectural or historic interest is of definite architectural quality.
8. The listing of buildings less than 30 years old requires exceptional rigour because those making the judgement do not have the advantage of a long historical perspective. Threats to building types are often a trigger for advance consideration of buildings from this period.



## ARCHITECTURAL OR HISTORIC INTEREST

9. Selection for architectural or historic interest is assessed under a range of broad headings, summarised below.
10. *Interior:* Interior design and fixed decorative schemes of houses or business premises in all their variation can add to the case for listing. Examples include skirting boards, plasterwork, dado rails, chimney-pieces, staircases, doors and over-door panels, ornate radiators, floor grilles, sanitary ware, the existence of box-beds, vaulted basement or wine cellar divisions, slate shelving, servant bell systems, shop or pub fittings and fixed internal machinery.
11. *Plan Form:* The internal planning of buildings is instructive and can be ingenious although it may not be evident on the exterior. For example, the original flatting arrangement in terraced houses and tenements may not be obvious from the street and the plan of a farm steading, hospital or prison may reflect the latest theories in the design of each of these structures and therefore give the property additional significance.
12. *Technological excellence or innovation, material or design quality:* Evidence of structural or material innovation adds weight to a decision. Exceptional structural form can be significant and is found across the wide variety of building types from a cruck-framed barn to an early iron-framed jute mill or steel-framed office block. Exceptional use of materials or use of fine material may be a factor. Style will be considered against relevant conventions particularly for its quality or exceptional interest.
13. *Setting:* The context in which a structure sits can be a critical factor in its evaluation. It invariably accounts for its form and should not be under-rated. A structure whose setting has changed adversely, removing the original contextual character, or which has been removed from its context, has one less factor in support of its case for designation.
14. *Regional Variations:* The best examples of local vernacular buildings will normally be listed because together they illustrate the importance of distinctive local and regional traditions. It is important to ascertain distinctive regional variations in type, material and form.

## CLOSE HISTORICAL ASSOCIATION

15. Close associations with nationally important people, or events whose associations are well-documented, where the physical fabric of the building is also of some quality and interest, can be a significant factor. In consideration of such cases the association must be well authenticated and significant. The fabric should reflect the person or event and not merely be a witness to them. Local traditions are not always trustworthy. In most cases the building in question will have other qualities which combine to give it special interest, such as Walter Scott's house in Castle Street, Edinburgh, which forms part of a fine classical terrace. Where architectural interest is weak the case for listing on historical association must be strong. The building must be well preserved in a form and condition which directly illustrates its historical associations with the person or event in question. The transient association of short term guests, lodgers and tenants, however eminent, will not usually justify listing.

## WORKING WITH THE PRINCIPLES

16. In choosing buildings within the above broad principles:
  - a. particular attention is paid to the special value within building types, either for architectural or planning reasons, or as illustrating social and economic history;
  - b. a building may be listed for its contribution to an architecturally or historically interesting group, such as a planned burgh, town square or model village as well as its intrinsic merit considered in isolation;
  - c. the impact of vernacular buildings in particular is often made not only by individual buildings but by their grouping. At the other end of the spectrum, a major country house may well be enhanced by adjacent buildings such as stables, lodges, gatepiers and bridges in its curtilage, and vice versa;
  - d. authenticity, that is a building's closeness to the original fabric and therefore its ability to convey its significance, and levels of integrity, carries weight. It need not be the case that a building is as originally built, because changes made to it may have added to its significance. What is added or taken away will be considered for the overall benefit or detriment to its character.
17. It is important to stress that when buildings are being considered for listing, no factors other than architectural or historic interest as defined above can be taken into account. The condition of a property, for example, is not a factor in the evaluation unless it detracts significantly from the architectural or historic interest so that it can no longer be defined as special.

## ANNEX 3: CRITERIA FOR THE DESIGNATION OF A CONSERVATION AREA

1. It is the character or historic interest of an area created by individual buildings and open spaces and their relationship one with the other which the legislation covering conservation areas seeks to preserve.
2. The statutory definition is 'areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance' and conservation areas will inevitably be of many different kinds.
3. The principles of selection for designation as a conservation area are broadly as follows:
  - a. areas of significant architectural or historic interest in terms of specific listed buildings and/or ancient monuments;
  - b. areas of significant architectural or historic interest in terms of building groupings, which may or may not include listed buildings and/or ancient monuments, and open spaces which they abut;
  - c. areas with features of architectural or historic interest such as street pattern, planned towns and villages and historic gardens and designed landscapes;
  - d. other areas of distinctive architectural or historic character.
4. In designating a conservation area, thought should also be given to the reasons why it is felt that it should be protected. These may include:
  - a. its special architectural and historic importance;
  - b. its distinct character;
  - c. its value as a good example of local or regional style;
  - d. its value within the wider context of the village or town;
  - e. its present condition and the scope for significant improvement and enhancement.



## ANNEX 4: CRITERIA FOR AND GUIDANCE ON THE DETERMINATION OF 'NATIONAL IMPORTANCE' FOR THE DESIGNATION OF HISTORIC MARINE PROTECTED AREAS

1. These criteria are adapted from those for the scheduling of ancient monuments as being of 'national importance' under the terms of the Ancient Monuments and Archaeological Areas Act 1979. The intention is to keep the two sets of criteria as close together as possible.

### **Cultural Significance**

2. The first step in considering whether an asset is of national importance is to identify and understand its cultural significance. The concept of 'cultural significance' will apply widely and to different degrees to all of Scotland's historic environment, and should not be confused with the establishment of 'national importance', which is a separate process. For an asset to be considered as being of national importance it must, first, have a particular cultural significance – artistic; archaeological; architectural; historic; traditional; aesthetic; scientific; social – for past, present or future generations. Such significance is inherent in the asset itself, its nature, setting, use, associations, meanings, records, related assets and related objects.
3. Cultural significance of any asset, whether of international, national importance or more local significance, can be characterised by reference to one or more of the following; the characteristics are in three groups:

**Intrinsic** – those inherent in the asset;

**Contextual** – those relating to the asset's place in its wider physical environment or in the body of existing knowledge; and

**Associative** – more subjective assessments of the associations of the asset, including with current or past aesthetic preferences.

**Intrinsic characteristics**

- a. The condition in which the asset has survived. 'Condition' includes potential survival of archaeological evidence, and goes beyond the survival of marked field characteristics;
- b. the archaeological, architectural, historic, scientific, technological or other interest or research potential of the asset or any part of it;
- c. the original or subsequent functions of the asset and its parts; and,
- d. the apparent developmental sequence of the asset.

**Contextual characteristics**

- e. The present rarity or representativeness of all or any part of the asset, assessed against knowledge of the history and archaeology of Scotland, its seas, and their place in the wider world;
- f. the relationship of the asset to others of the same or related classes or period, or to features or other assets in the vicinity. This is particularly important where individual assets, themselves perhaps of limited immediate significance, form an important part of a widespread but varied class. The diversity of the class should be a material consideration in making individual decisions;
- g. the relationship of the asset and its parts with its wider physical environment and setting.

**Associative characteristics**

- h. The historical, architectural, cultural and social influences that have affected the form and fabric of the asset and vice versa;
  - i. the aesthetic attributes of the asset;
  - j. its significance in the national or international consciousness or to people who use or have used the asset, or descendants of such people; and
  - k. the associations that asset has with historical, traditional or artistic characters or events.
4. Understanding of cultural significance may change as a result of the continuing history of the asset, or in the light of new information, or changing ideas and values.

**National Importance**

- 5. The relationship of marine historic assets to the adjacent land can be complex and variable. Some elements may have been integral parts of adjacent landmasses, now inundated. In the case of wrecks or material associated with wrecks of vessels or aircraft, some have strong and far reaching connections; others may have a transitory association but little or no original link to the places in which they have come to rest. The determination of national importance is to encompass consideration for such assets which may be important beyond Scotland.

6. The primary objectives of Historic MPA designation are to help preserve marine historic assets of national importance and to celebrate and communicate their heritage value so that everyone can appreciate these assets and act responsibly.
7. The purpose and implications of each designation are issues that require to be taken into consideration when assessing candidates for designation. Designation may not be the only, or the most appropriate, mechanism to secure the future of all assets, even those that may otherwise meet the criteria.
8. The particular significance needed to define the asset as of 'national' importance may be established in terms of one or more of the following:
  - a. its inherent capability or potential to make a significant addition to the understanding or appreciation of the past;
  - b. its retention of the structural, technical, decorative or other characteristics of its kind to a marked degree;
  - c. its contribution, or the contribution of its class to the marine historic environment and/or the wider marine environment;
  - d. the quality and extent of any documentation or association that adds to the understanding of the asset or its context;
  - e. the diminution of the potential of a particular class or classes of asset to contribute to an understanding of the past, should it be lost or damaged; and
  - f. its place in the national or international consciousness is a factor that may be considered in support of other factors.



## ANNEX 5: CRITERIA FOR DETERMINING WHETHER A GARDEN OR DESIGNED LANDSCAPE IS OF 'NATIONAL IMPORTANCE' FOR INCLUSION IN THE INVENTORY

1. Sites are assessed for their:
  - a. value as individual works of art in their own right;
  - b. historic value;
  - c. horticultural, arboricultural or silvicultural value;
  - d. architectural value;
  - e. scenic value;
  - f. nature conservation value; and,
  - g. archaeological value.
2. Their current condition and integrity are also important considerations.
3. The relative importance of a site depends on the extent to which each value is expressed. A site may have outstanding value, high value, some value, little value or no value.
  - a. A site has **outstanding** value as a work of art if, in its present form:
    - (i) it was considered to be have such value in contemporary views etc. at one or more stages of its history or, if it became a significant trendsetter for later works;
    - (ii) it is an important example of the work of a particular designer or designers. It might have rarity value if the designer executed few schemes or it might be particularly representative, intact or a key work.
  - b. A site has outstanding historic value if:
    - (i) there is good contemporary documentary and physical evidence of its development;
    - (ii) it is, as a whole, an **outstanding** representative of a particular period of the historic development of gardens and designed landscapes;
    - (iii) it has one or more components which provide an outstanding example of a particular period or style; and,
    - (iv) it was a trendsetting landscape at some stage in its history;

- (v) it has physical evidence of a particularly early form of designed landscape; and,
    - (vi) it has strong associations with an important historic personality.
  - c. A site has **outstanding** horticultural, arboricultural or silvicultural value if:
    - (i) it has an outstanding collection of plants shrubs or trees with a wide range of species, unusual species or rarities, which are in good condition and being renewed;
    - (ii) it has an **outstanding** scientific collection of plants, shrubs or trees which are in good condition, documented, propagated and made available to others;
    - (iii) it has an important place in the history of horticulture or arboriculture; and,
    - (iv) it demonstrates important pioneering steps in silviculture.
  - d. A site has **outstanding** architectural value if:
    - (i) it provides the setting for a building or buildings of outstanding architectural or historic interest;
    - (ii) it contains architectural features or ornamentation which, together, are of exceptional interest.
  - e. A site has **outstanding** scenic value if:
    - (i) it makes a major contribution to the quality of the surrounding landscape by virtue of its size, location or nature or, because it is particularly prominent because of rarity and contrast with the surrounding landscape.
  - f. A site has **outstanding** nature conservation value if:
    - (i) it contains habitats which are officially designated as, for example, Sites of Special Scientific Interest.
  - g. A site has **outstanding** archaeological value if:
    - (i) it provides the setting for or contains scheduled monuments.
4. Evaluation and grading of sites can be a sensitive issue. Decisions on the relative importance of different sites must be based upon consideration of the ways in which the values noted above are expressed. Generally, the greater the number of outstanding or high values the more important the site. However, exceptionally, sites may be of such significance for one value that they too must be regarded as of national importance.
5. The condition of the site today and its overall integrity are important elements of the selection process. They become significant issues when the condition of site, and therefore its integrity, is such that its interest has become devalued to the degree that it cannot be regarded as of national importance in today's terms.

## ANNEX 6: CRITERIA FOR DETERMINING WHETHER A BATTLEFIELD IS OF 'NATIONAL IMPORTANCE' FOR INCLUSION IN THE INVENTORY

1. The criteria below provide a framework for identifying battlefield sites of national importance.
2. A battlefield is likely to be of national importance if it makes a contribution to the understanding of the archaeology and history of the nation as a whole, or have the potential to do so, or holds a particularly significant place in the national consciousness. In this context the concept of national includes the linked regional histories and pre-histories through which the development of Scotland as a nation can be understood. A site will be of more local significance where its contribution or potential lies in understanding the archaeology and history of a specific area.
3. In considering whether a site merits inclusion in the Inventory, a battlefield must be considered of national importance in relation to one or more of the following factors:
  - a. association with historical events or figures of national significance;
  - b. significant physical remains and/or archaeological potential; and,
  - c. battlefield landscape.

In addition, the following criterion must be met in every case:

- d. capable of definition on a modern map.

### ASSOCIATION WITH HISTORICAL EVENTS OR FIGURES OF NATIONAL SIGNIFICANCE

4. The historical association of battlefields relates to the contribution of the battle to historical developments, including military history, of significance to the nation as a whole. Key considerations will be whether there were significant military innovations or occurrences associated with the battle, in terms of tactics or technology; and the association of the battle with a nationally significant historical figure, event or campaign. Consideration may also be given to the place of the battle in the national consciousness where this appears particularly significant.



## **SIGNIFICANT PHYSICAL REMAINS AND/OR ARCHAEOLOGICAL POTENTIAL**

5. This relates to the specific qualities of a battlefield in the form of surviving physical remains associated with the battle and the archaeological potential of the battlefield. Archaeological evidence can amplify documentary records and provide details about events, weaponry and combatants that are not available through other sources. Evidence may include physical features that were present at the time of the battle, whether natural elements such as hills or ravines, or constructed elements such as field walls or buildings; elements resulting from the battle itself, including earthworks, graves and artefacts such as bullets, arrowheads and personal effects; other buried archaeological deposits, such as the remains of camps or entrenchments. The quality of surviving documentary and historic map evidence relating to the battle may add to the importance of the site by enhancing its potential to contribute to our understanding of historical events.
6. The potential survival and quality of evidence may be affected by a range of factors, including the period within which the battle took place, the scale of the battle, numbers of fallen, the physical properties of any upstanding remains, artefact scatters or buried deposits, the soil conditions and post-battle land-use.

## **BATTLEFIELD LANDSCAPE**

7. The landscape context of the battlefield is important in view of the fact that battles were seldom fought in small clearly-defined areas, but were more often events ranging across a wider landscape. It is important for understanding military tactics strategic planning and the importance of key features such as vantage points and lines of sight, and for explaining why events unfolded as they did. The battlefield landscape includes the area where the armies deployed and fought initially; the wider landscape where significant associated events occurred, including secondary skirmishes, associated earthworks, camps and burials, and lines of advance and retreat; and additional elements such as memorials that may be detached from the main areas of the battle.
8. The association of a landscape with a battle can be very strong and a battlefield can contribute fundamentally to our sense of place even when no physical evidence is present or visible or the character of the landscape context has been affected by post-battle changes.

## DEFINITION ON A MODERN MAP

9. To merit inclusion it is essential to identify the location of the site and map indicative boundaries based on informed interpretation of available knowledge. Sites that cannot be defined in this way will not be included in the Inventory. However, they may be considered for inclusion when sufficient evidence for their accurate location becomes available.
10. The Inventory includes a description and indicative map of the battlefield landscape. This is the overall area of interest within which events of the battle occurred, and include both the main focus of fighting and the wider area within which additional events are likely to have occurred. The initial focus of fighting is the area where the armies initially arrayed and where the most concentrated fighting took place. However, it is not always possible to identify this area accurately, and in some cases there are alternative options which are equally valid on the basis of current knowledge. The wider area includes zones of secondary fighting or skirmishes, lines of advance and retreat, associated earthworks and camps, burials and memorials. In some cases, battle memorials or other features associated with the battle which lie outside the defined battlefield landscape may be highlighted in the Inventory for their relevance to the battlefield and its subsequent history.

## ANNEX 7: RELATIONSHIP OF SCHEDULED MONUMENT CONSENT TO PLANNING CONSENT

1. Scheduled monument consent and planning permission are two quite separate statutory requirements, governed by different laws which serve different purposes. What is material to one decision will not necessarily be material to the other. Both are required where 'works' defined in section 2(2) of the Ancient Monuments and Archaeological Areas Act 1979 are also 'development' defined in section 26 of the Town and Country Planning (Scotland) Act 1997. Consent granted under one regime is without prejudice to the other. Where both are required, the applicant must obtain both consents before work can commence.
2. The purpose and objectives of the planning system are set out in Scottish Planning Policy (SPP) 2010. Paragraph 118 of SPP on scheduled monuments and designated wrecks confirms that the preservation of scheduled monuments, *in situ* and within an appropriate setting, is a material consideration in both the development planning and the development control processes.
3. Scheduled monument consent and planning permission are both required where works/development would have a direct impact on the legally protected area of the monument, as defined in the scheduling documents. However, the provisions of the Ancient Monuments and Archaeological Areas Act 1979 do not extend beyond that. In the case of impact on the setting of the monument, securing the preservation of the monument 'within an appropriate setting' as required by national policy is solely a matter for the planning system. Whether any particular development will have an adverse impact on the setting of a scheduled monument is a matter of professional judgement. It will depend upon such variables as the nature, extent, design of the development proposed, the characteristics of the monument in question, its relationship to other monuments in the vicinity, its current landscape setting and its contribution to our understanding and appreciation of the monument. More detail about how to assess setting is provided in Historic Scotland's guidance note *Managing Change in the Historic Environment: Setting* (October 2010).
4. The role of the planning system in the protection of both the site and the setting of scheduled monuments is reflected in the statutory consultation requirements set out in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, and in the notification requirements of the Town and Country Planning (Notifications of Applications) (Scotland) Direction 1997.



## ANNEX 8: LISTED BUILDING CONSENT PROCESSES

### WHEN IS LISTED BUILDING CONSENT REQUIRED?

1. Where a planning authority considers that proposed works would not affect a listed building's character, it may indicate to an applicant that listed building consent is not required. If a planning authority judges that listed building consent is needed, the applicant must prepare drawings and any other related documents as required. The scope of the information required will vary considerably depending on the circumstances of the case.
2. Listed building consent is also not required in the following circumstances:
  - a. for works to objects or structures erected within the curtilage of a listed building since 1 July 1948 and not physically attached to the building;
  - b. for works of alteration or extension to ecclesiastical buildings in use as such;
  - c. for works to buildings which are scheduled as monuments and protected by the Ancient Monuments legislation, although consent under the terms of that legislation will almost certainly be required (Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, section 55); and,
  - d. for erection of a free-standing building in the curtilage of a listed building. Exceptionally, however, a proposal to build a substantial new structure extremely close to the listed building, but not physically attached, which the planning authority considers would be clearly out of character with the building or its setting could be regarded as constituting an alteration or extension to the listed building. Therefore it may be subject to listed building control. However, when considering a planning application for development within the curtilage of a listed building a planning authority must take into account the impact on its setting. It must also take account of alterations to any buildings within its curtilage (see Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, section 59).
3. Applications for listed building consent are determined by the planning authority, unless the local authority is itself the applicant, in which case Historic Scotland would consider the proposal on behalf of Scottish Ministers. Where any application proceeds to public local inquiry the final decision is taken by Scottish Ministers.
4. Under section 14(2) of the 1997 Act, in the determination of an application for listed building consent, the planning authority is required to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.

5. If a planning authority is minded to grant listed building consent affecting a an A or B listed building, the application is automatically passed to the Scottish Ministers, who have a statutory 28-day period (unless extended) in which to decide whether to call in the application for their own decision. Scottish Ministers are advised by Historic Scotland in such cases. Applications for listed building consent which are refused by a council's planning committee are not referred to the Scottish Ministers. In such cases, and in instances where listed building consent is granted subject to conditions which the applicant considers unreasonable, the applicant may appeal to Scottish Ministers. During the lifetime of this SHEP Historic Scotland will be exploring the selective removal of the need to notify Historic Scotland in certain kinds of listed building consent casework.
6. Section 55(2) (further amendment of the listed buildings Act) of the Planning etc. (Scotland) Act 2006 ("the 2006 Act") amended section 13 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 ("the 1997 Act"). As a result , Scottish Ministers can direct that certain specified descriptions of applications for listed building consent will no longer require to be notified to them under section 12 of the 1997 Act. A number of local authorities are now operating under the Listed Buildings and Conservation Areas (Removal of Duty to Notify) (Scotland) Direction 2008. Under this Direction, decisions on applications for specified works to B-listed buildings are not required to be notified to Scottish Ministers.

## SETTING

7. Under section 59(1) of the 1997 Act the planning authority, in determining any application for planning permission for development that affects a listed building or its setting, is required to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.
8. Planning authorities must consult Scottish Ministers in respect of applications under the Town and Country Planning (Scotland) Act 1997 that affect a category A listed building or its setting (Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008).

## DEMOLITION

9. Listed building consent is required for the demolition of a listed building. Demolition means the destruction, or substantial destruction, of the whole building. Less significant dismantlings are regarded as works of alteration and potentially requiring listed building consent. The question of whether a proposal falls into the category of demolition or alteration is ultimately one of fact and degree, and requires careful consideration by the planning authority.

## EXEMPTIONS

10. Under the terms of section 54 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 any ecclesiastical building which is for the time being used for ecclesiastical purposes in Scotland is exempt from the need to apply for listed building consent. The exemption for ecclesiastical buildings does not cover the demolition of a listed ecclesiastical building, since by definition ecclesiastical use must cease before demolition is carried out. Neither does it apply to any works to a former ecclesiastical building which has passed into secular use or which is disused. Exemption does not apply to a building used or available for use by a minister of religion as a residence. Similarly, listed churchyards taken over by local authorities as graveyards are not exempt from the requirement to obtain listed building consent for works to those graveyards.
11. Notwithstanding the exemption, there is a voluntary arrangement currently in place and agreed by Historic Scotland, the Scottish Churches Committee and COSLA, in consultation with the Scottish Society of Directors of Planning. Under this arrangement it was agreed to apply listed building control to buildings used by certain denominations in respect of works proposed to the exterior of churches in ecclesiastical use. The following denominations only, being members of the Scottish Churches Committee, are included:

Associated Presbyterian Churches

Baptist Union of Scotland

Church of Scotland

Free Church of Scotland

Free Presbyterian Church

Methodist Church in Scotland

Roman Catholic Church in Scotland

Scottish Episcopal Church

United Free Church of Scotland

United Reformed Church Scotland Synod (formerly Scottish Congregational Church)



## MISCELLANEOUS

12. Certain permitted development rights do not apply within the curtilage of listed buildings. This means that planning permission is required for minor forms of development such as erecting fences, walls, gates or small sheds.
13. From 12 June 2006 the Crown has had to obtain listed building consent for works to a listed building.
14. In some cases buildings or structures are both scheduled monuments and listed. In such cases anyone wanting to undertake works which affect or cover the monument need apply only for scheduled monument consent. The application is made to Scottish Ministers, and the relevant parts of the listed buildings legislation do not apply. Where planning permission for development work is sought in respect of a building which is both scheduled and listed the planning authority must still consider whether it will affect the listed building's setting. If it thinks it would, it must advertise the application. The relationship between the scheduled monument consent and planning system is set out in Annex 6.

## ANNEX 9: LISTED BUILDING CONSENT AND PLANNING PERMISSION

1. Listed building consent and planning permission are two quite separate statutory requirements governed by different laws which serve different purposes. Both are required where development defined in section 26 of the Town and Country Planning (Scotland) Act 1997 is to be undertaken. Consent granted under one regime is without prejudice to the other. Where both are required the applicant must obtain both before work can commence.
2. The purpose and objectives of the planning system are set out in SPP. Following from that, paragraph 113 of Scottish Planning Policy confirms that the preservation of listed buildings and their setting is a material consideration in both the development planning and development management processes.

## ANNEX 10: AMENDED MEANING OF 'MONUMENT' UNDER THE 1979 ACT

1. Section 61(7)(d) of the 1979 Act extends the range of monuments that can be designated under the 1979 Act to “any site comprising any thing, or group of things, that evidences previous human activity”.
2. This provision allows for the protection of nationally important archaeological remains which could not be described as a ‘building’, ‘structure’ or ‘work’ and which were therefore not eligible for scheduling under the 1979 Act prior to its amendment by the 2011 Act.
3. In particular this provision will allow for the scheduling of coherent groups of artefacts of national importance, commonly termed ‘artefact scatters’. The amendment is important because such artefact scatters are almost the sole surviving evidence for activity during the first 7,500 or so years of human occupation in Scotland.
4. It is anticipated that an extremely small number of nationally important sites will come under section 61(7)(d) of the 1979 Act. Provisional estimates on the basis of existing archaeological information suggest there are around 10 nationally important sites, which are currently afforded no protection under the 1979 Act, that would be scheduled as a result of this provision.
5. Examples of the possible types of artefact scatter which could be considered for scheduling as a result of the amendment are:
  - scatters of stone and flint tools and the debris from their manufacture, which mark the sites of some of the earliest evidence for human occupation in Scotland;
  - nationally important archaeological deposits not associated with other physical remains of a settlement or structures. An example would be midden material rich in artefactual and palaeoenvironmental evidence, especially shell middens, which again are often the only remains of some of the earliest evidence for human occupation in Scotland;
  - debris from metal working indicative of a significant industrial site of early or later medieval date; or
  - later medieval pottery indicative of a kiln or other significant pottery production site.

*It is important to stress that the remains must form a coherent entity or group to be of national importance.*



6. This would exclude, for example:

- an area which had produced a range of chronologically and functionally diverse artefacts as a result of ploughing or metal detecting, which inhibits characterisation or definition of the importance of the site; or
- palaeoenvironmental deposits within a waterlogged area or peat bog, which may contain information relating to human impact on the landscape but are primarily of natural formation.

## ANNEX 11: THE 'CERTIFICATE OF INTENTION NOT TO LIST' PROCESS

1. Section 5A of the 1997 Act allows Scottish Ministers to issue a certificate stating that they do not intend to list a building.
2. A certificate of intention not to list is a certificate which will guarantee that a building will not be listed during the five years from the date of the issue of the certificate. Anyone can apply for a certificate and there is no fee.
3. If a certificate is issued a planning authority cannot serve a Building Preservation Notice on the property during the five year period from the date of issue of the certificate.
4. Where consideration of a case leads to the conclusion that a building should be listed, a new list entry will be created in the normal way and a certificate will not be issued.

### *The application and assessment process*

5. The certificate of intention not to list process will be handled by Historic Scotland on behalf of Scottish Ministers and processed the same way as an application for listing. Applicants must complete a specific application form (available from Historic Scotland) and all applications for a certificate will be assessed against the listing criteria set out in Annex 2 of the SHEP (criteria for determining whether a building is of special or historic interest for listing).
6. If a building is found to support a case for listing, Historic Scotland will consult the relevant local authority about a listing proposal or an amendment to the list. Historic Scotland will normally also consult with such other persons or bodies as appear as having specialist knowledge of or interest in buildings of architectural or historical interest. In addition, they will normally consult with the owner of the property. However, Historic Scotland will not seek comments on applications for a certificate of intention not to list unless the building in question meets the listing criteria and Historic Scotland is minded to list the property.
7. Local authorities and owners (if not the applicant) shall be notified in writing at the same time a certificate is issued.

### *Timescales*

8. Historic Scotland will seek to reach a decision on applications for a certificate of intention not to list within 8 weeks. Decisions to grant a certificate will be made as quickly as possible where the building concerned clearly does not meet the criteria for listing.

9. Likewise, where it looks likely that a building might well meet the listing criteria the aim is to issue a rejection of an application for a certificate within the same 8 week period. Thereafter, as the process for a building to be entered on the statutory list involves more detailed preparation and consultation, an actual listing entry will take longer to materialise. But the applicant will have been provided with the certainty which is sought.
10. This timescale is an indicator of best practice rather than a requirement due to the possible constraints of a site, notably:
  - the complexity of the site/subject;
  - time needed to get *sufficient* access to the site if more than one owner; and
  - the time taken to get access to specialist material, advice or opinion, as required.

#### **Additional Information**

11. Historic Scotland shall maintain a publicly researchable register of buildings that have been granted a certificate of intention not to list.
12. Historic Scotland will apply the test of reasonableness to any request. Any unduly sizeable request will result in a careful discussion with the owner and will be completed in stages if appropriate.
13. Historic Scotland will not issue expiry notifications for certificates of intention not to list. This provision aims to harmonise with planning legislation in which planning authorities do not issue expiry notifications for planning permission or listed building consent.
14. Certificates do not secure immunity from the designation of a conservation area. Even if a certificate is granted, consent will still be required for the demolition of a building if it is in a conservation area (see Section 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997).
15. For sites comprising of more than one building, some buildings may be listed and others granted a certificate.
16. Where a certificate has already been issued it will be possible to apply for another certificate before the five years of the original certificate has expired. Any such application will be subject to the same assessment procedure as new applications. It cannot be assumed that a certificate will be issued automatically in such cases since the circumstances may have changed since the issue of the original certificate particularly if there is new evidence about the building.







## **DECISION NOTICE DATED 31 OCTOBER 2014**



# DECISION NOTICE

Inverclyde  
council

## *Refusal of Planning Permission*

Issued under Delegated Powers

Regeneration and Planning  
Municipal Buildings  
Clyde Square  
Greenock PA15 1LY

Planning Ref: 14/0352/IC

*TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997*  
*TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)*  
*(SCOTLAND) REGULATIONS 2013*

The Co-Proprietors  
19 Esplanade And 78 Eldon Street  
GREENOCK  
PA16 7RX

Canata And Seggie  
Douglas Nicholson  
Chartered Architects  
7 Union Street  
GREENOCK  
PA16 8JH

With reference to your application dated 23rd September 2014 for planning permission under the above mentioned Act and Regulation for the following development:-

**Painting of property in yellow with gold surrounds and banding (in retrospect) at**

**19 Esplanade And 78 Eldon Street, Greenock**

**Category of Application: Local Application Development**

The INVERCLYDE COUNCIL in exercise of their powers under the abovementioned Act and Regulation hereby refuse planning permission for the said development.

The reason for the Council's decision is:-

1. The bright yellow and gold tones of the dwelling are not colours which would traditionally have been used on a house of this period style or have been found within this part of the Greenock West End Conservation Area. The colours form an intrusive feature within the streetscape and are therefore not appropriate in terms policies HER1 and RES5 of the Local Development Plan together with the SHEP and Historic Scotland's Guidance which seek to preserve the historic environment, and PAN71.

The reason why the Council made this decision is explained in the attached Report of Handling.

**Dated this 31st day of October 2014**

  
**Head of Regeneration and Planning**



- 1 If the applicant is aggrieved by the decision of the Planning Authority to refuse permission for or approval required by condition in respect of the proposed development, or to grant permission or approval subject to conditions, he may seek a review of the decision within three months beginning with the date of this notice. The request for review shall be addressed to The Head of Legal and Administration, Inverclyde Council, Municipal Buildings, Greenock, PA15 1LY.
- 2 If permission to develop land is refused or granted subject to conditions, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the planning authority a purchase notice requiring the purchase of his interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997

**Refused Plans: Can be viewed Online at <http://planning.inverclyde.gov.uk/Online/>**

Drawing No:	Version:	Dated:
STATEMENT		01.09.2014
2426 LP		01.09.2014

**LETTER DATED 24 NOVEMBER 2014 FROM  
CANATA & SEGGIE, CHARTERED ARCHITECTS  
ENCLOSING NOTICE OF REVIEW FORM AND  
STATEMENT TO THE LOCAL REVIEW BODY**

2426/DN

INVERCLYDE COUNCIL LOCAL REVIEW BODY  
PLANNING SERVICES  
DEVELOPMENT CONTROL AND CONSERVATION  
MUNICIPAL BUILDINGS  
GREENOCK  
PA15 1LS



24<sup>th</sup> November 2014

Dear Sirs,

**RE-PAINTING OF PROPERTY AT 19 ESPLANADE AND 78 ELDON STREET, GREENOCK**  
**Notice of Review in connection with Planning Refusal Ref. 14/0352/IC**

We confirm that we acted on behalf the co-proprietors of the above with regard to the above planning application which was refused by Inverclyde Council on 31 October 2014.

Please find attached our Notice of Review in respect of the above refusal for your consideration. The attached documentation is as follows:

- The completed Notice of Review form.
- The Statement of Review to the Local Review Body.

We trust that this is in order and look forward to your confirmation of the receipt of the Notice of Review documentation.

Yours faithfully,

**D. NICHOLSON B.Arch (Hons.) M.Arch. RIBA. ARIAS.**  
**Chartered Architect, Director**

\\\\theserve\\projects\\2400-2449\\2426 - adriano & stefano varese, 19 esplanade, greenock\\letters\\letter with notice of review.doc



# NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN  
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)  
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.  
Failure to supply all the relevant information could invalidate your notice of review.**

Use BLOCK CAPITALS if completing in manuscript

## Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

## Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

Mark this box to confirm all contact should be through this representative: ☒

\* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application

Date of decision (if any)

**Note.** This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

**Nature of application**

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

**Reasons for seeking review**

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

**Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☒
2. One or more hearing sessions ☐
3. Site inspection ☐
4. Assessment of review documents only, with no further procedure ☐

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

The applicant wishes the opportunity to challenge the reasons for refusal set out in the Decision Notice, and wishes to raise issues highlighting the inconsistency and subjectivity of the decision.

**Site inspection**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |                                                                                      | Yes                                 | No                                  |
|--------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Access to the site can be obtained by arrangement with the applicant. The re-painted areas are visible, however, from Esplanade and Eldon Street.

### Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. **Note:** you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Refer to the attached Statement to the Local Review Body.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☐ No ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

Not applicable

### List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

Statement to the Local Review Body

**Note.** The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

### Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:



Full completion of all parts of this form



Statement of your reasons for requiring a review



All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

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### Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

FOR CANATA & SECCIE

Date

24 NOVEMBER 2014.

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**19 Esplanade and 78 Eldon Street, Greenock**  
**Mr. A. Varese and Mr. S. Varese.**

**14/0352/IC; Painting of property in yellow with gold surrounds and banding (in retrospect).**

**Statement to the Local Review Body**



**Introduction**

1. The applicants own the detached villa forming 19 Esplanade and 78 Eldon Street, Greenock.
2. The applicants re-painted the property in yellow with gold bands in August / September 2014, unaware that, by dint of the property being located within Greenock West End Outstanding Conservation Area, permission is required for any work altering the visual appearance of the property.
3. The applicants subsequently received a letter from Inverclyde Council (dated 8<sup>th</sup> September 2014) informing them of their right to apply for Planning Permission in retrospect for the work carried out and giving a 21 day period for response prior to the initiation of enforcement action. As a result, the applicants employed Canata and Seggie Chartered Architects to prepare and lodge an application for Planning Permission on their behalf. This application was submitted to Inverclyde Council on 22<sup>nd</sup> September 2014.
4. The application received 36 comments from members of the public. Of these 31 were in support of the application.

## **Reason for Refusal**

1. This application was refused under delegated powers on 31<sup>st</sup> October 2014. The reason for refusal is as follows: "The bright yellow and gold tones of the dwelling are not colours which would traditionally have been used on a house of this period style or have been found within this part of Greenock's West End Conservation Area. The colours form an intrusive feature within the streetscape and are therefore not appropriate in terms of policies HER1 and RES5 of the Local Development Plan together with the SHEP and Historic Scotland's Guidance which seek to preserve the historic environment, and PAN71".

## **Analysis of Reason for Refusal and Report of Handling**

1. The applicants consider that that the "preservation of the historic environment" is always going to be at odds with progress in terms of building methods, materials and indeed individual taste. No-one, for instance, is arguing that modern street lighting, road surfaces, street signage, road furniture, uPVC windows, cast stone, smooth render finishes and facing brick are detrimental to the streetscapes of Greenock's West End despite these being recent and prolific additions to the historic fabric.
2. The Scottish Government's Planning Guidance document PAN 71 accepts that change within Conservation Areas is inevitable, stating in the introduction to the document (page 1) that "Conservation areas are living environments that despite their history, will continue to adapt and develop". The applicants believe that their development is fully compatible with this statement.
3. The applicants consider that the refusal of their application for Planning Permission limits their individuality and right to freedom of expression in their own property.
4. The assessment of the Planning officers that the re-painting results in an "intrusive feature" in the streetscape is a matter of individual taste which is subjective. The word "intrusive" is defined as "unwelcome" or "unpleasant". The applicants consider that the support for the re-painting of the house displayed in social media and in the comments submitted in respect of the original application indicates that the colour of the property is neither unwelcome nor unpleasant to a very significant proportion of local residents. A supporting petition on the "38 degrees" website (<https://you.38degrees.org.uk/petitions/keep-the-house-yellow>) has, at the time of writing, 2,582 signatures in favour of the proposition "Reverse the decision on the yellow house on the Esplanade front and allow the owners to keep the house yellow". The Facebook page "Save the Greenock Yellow House" (<https://www.facebook.com/SaveTheYellowHouse?fref=ts>) has 643 "likes". The Cambridge dictionary definition of Town Planning is "the planning of the way in which towns and cities are built in order to make them pleasant to live in". The planning officers have singularly failed to demonstrate that the re-painting of the property contradicts this principle in any way.

5. As stated above, the planning officers' assessment of the paint colour used is subjective, so the statement that the re-painting is not in accordance with policies HER1 and RES5 of the adopted Inverclyde Local Development Plan is also subjective.
6. The applicants have, over the 29 years of their ownership, maintained the property in excellent condition and our Statement in support of our application for Planning Permission drew comparisons between the excellent state of repair of this property and the poor states of repair of many properties within the Conservation Area (several within a short distance of the applicants' property). The Report of Handling may seek to deem this fact immaterial but PAN 71 places a duty on Local Authorities to protect buildings at risk within the Conservation Area. The applicants wish to contrast the heavy-handed way in which their case was handled (with an initial letter threatening enforcement action) with the Local Authority's inaction in protecting properties within the Conservation Area which are genuinely at risk due to poor maintenance.
7. The applicants note that a retrospective application for the re-painting of a Victorian dwellinghouse in bright yellow fronting on to the main thoroughfare through Inverkip Conservation Area (10/0249/IC) was approved under delegated powers in 2010. The applicants believe that it is unfair and inconsistent of the local authority to refuse their application given the obvious similarities between this application and their refused application.
8. The applicants are concerned that many of the photographs of the dwelling appearing in the printed and electronic media are manipulated to emphasise the brightness and intensity of the paint colour. A true appreciation of the colour can only be gained by seeing the actual property and the applicants would request that no reliance is placed by the Local Review Body on third party images of the property in their deliberations.

## **FURTHER REPRESENTATIONS**



## Rona McGhee

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**From:** Jamie Black  
**Sent:** 19 December 2014 13:27  
**To:** Rona McGhee  
**Subject:** Re: Review of Decision to Refuse Planning Permission - 19 Esplanade & 78 Eldon Street, Greenock (14/0352/IC)

Dear Rona,

Having read the report into the refusal, I am, struck by one point. The report provides reason for refusal being 'the colours form an intrusive feature within the streetscape'.

- 1) I completely disagree with this reason, as do many others. I do not find it 'intrusive' - see below.
- 2) The definition of 'intrusive' can be given as "causing disruption or annoyance through being unwelcome or uninvited" - Please can the review consider which aspects of this design could be considered any of the above? I will add that personally I have never been disrupted or annoyed by the colour. Where one building or colour can be unattractive (I use that word specifically), others will find the same attractive.
- 3) How did the officer conclude that this delightful, bright, fresh and attractive repaint was 'intrusive' with no guidance on the matter being in existence (that my research could uncover at least)?

I would suggest that this decision has been made based on personal preference rather than any considered rationale based on IC guidelines and that accordingly, this refusal should be overturned.

I would further suggest that IC put in place steps to clarify what is and is not acceptable in the conservation area, something that was previously suggested in a previous case in Inverkip and appears to have been ignored.

Rona - I am happy for the above to be submitted to the review and this sorry matter be brought by a close and the colour approved.

Regards,

Jamie Black

On 8 December 2014 at 09:13, Rona McGhee <[Rona.McGhee@inverclyde.gov.uk](mailto:Rona.McGhee@inverclyde.gov.uk)> wrote:

Inverclyde Council is in receipt of a notice requesting review of the decision to refuse the above planning application and I note that you submitted representations that were considered as part of the assessment process.

The decision is to be reviewed by Inverclyde Council's Local Review Body. I write to advise you that your representations will be considered by the Local Review Body in the review of the decision. Should you wish to make further comment you may do so to me within 14 days of the date of this email. Should you make further representations, these will be copied to the applicant who will be given the chance to respond.

Your representations and any further representations you submit will form part of the agenda papers for the Local Review Body meeting at which the review of the decision to refuse planning permission is considered. The agenda will be published on the Council's website and hard copies will be available at the

Local Review Body meeting. Should you consider that any of the comments contained in your representations, or any further representations you may submit, should be removed prior to publication please notify me within 14 days of the date of this email otherwise I will assume that you have no objection to any of your comments being made publicly available. For your information, I would confirm that signatures will be removed prior to publication.

All information relating to the Review is available for inspection at the office of the Council's Regeneration and Planning Service, Municipal Buildings, Greenock PA15 1LX during advertised opening hours.

The Local Review Body meets in public and I shall write to you shortly with arrangements should you wish to attend.

Regards,

Rona

Rona McGhee

Senior Administration Officer

Legal & Property Services

Inverclyde Council

Municipal Buildings

Greenock

PA15 1LX

Tel: 01475 712113

Fax: 01475 712137

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## Rona McGhee

---

**From:** Jennifer Boag  
**Sent:** 16 December 2014 22:01  
**To:** Rona McGhee  
**Subject:** RE: Review of Decision to Refuse Planning Permission - 19 Esplanade & 78 Eldon Street, Greenock (14/0352/IC)  
**Attachments:** Letter Dec 2014.doc

Dear Ms McGhee,

Thank you for your e-mail. I wish to continue with my objection as I believe the decision to refuse planning consent was the correct one. I have attached a further letter in support of my objection which I would ask you to put before the Local Planning Review Body.

Yours sincerely  
Jennifer Boag

---

**From:** [Rona.McGhee@inverclyde.gov.uk](mailto:Rona.McGhee@inverclyde.gov.uk)  
**To:** [Rona.McGhee@inverclyde.gov.uk](mailto:Rona.McGhee@inverclyde.gov.uk)  
**Date:** Mon, 8 Dec 2014 09:13:43 +0000  
**Subject:** Review of Decision to Refuse Planning Permission - 19 Esplanade & 78 Eldon Street, Greenock (14/0352/IC)

Inverclyde Council is in receipt of a notice requesting review of the decision to refuse the above planning application and I note that you submitted representations that were considered as part of the assessment process.

The decision is to be reviewed by Inverclyde Council's Local Review Body. I write to advise you that your representations will be considered by the Local Review Body in the review of the decision. Should you wish to make further comment you may do so to me within 14 days of the date of this email. Should you make further representations, these will be copied to the applicant who will be given the chance to respond.

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All information relating to the Review is available for inspection at the office of the Council's Regeneration and Planning Service, Municipal Buildings, Greenock PA15 1LX during advertised opening hours.



The Local Review Body meets in public and I shall write to you shortly with arrangements should you wish to attend.

Regards,  
Rona

Rona McGhee  
Senior Administration Officer  
Legal & Property Services  
Inverclyde Council  
Municipal Buildings  
Greenock  
PA15 1LX  
Tel: 01475 712113  
Fax: 01475 712137

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11 Madeira Street  
GREENOCK  
PA16 7UJ

Planning Department  
Inverclyde Council  
Municipal Buildings  
Greenock  
PA15 1LY

16<sup>th</sup> December 2014

Dear Sir,

**Planning Application 14/0352/IC**  
**Painting of property in yellow with gold surrounds and banding**

Further to my original objection to the above planning application, I now wish to reinforce my original objection. I would request that it is put before the Local Review Body and I urge the Local Review Body to uphold the refusal of planning consent which was the decision of the Council's Planning Officers. I believe that this was the correct decision and reflects the intrusive nature of the painting of this property in relation to the generally blond sandstone of the surrounding properties. The colour is completely out of keeping with the Conservation Area

I have re-attached the photographs of the property from my own windows which I believe show the intrusive nature of the painted property and I understand that it can be seen from across the river on the Rosneath peninsula.

I would therefore wish to emphasise my objection to the colour which this property has been painted as being out of keeping with the Conservation Area.

In view of decision of the Planning Officers and their advice on this matter, I would hope that the Local Review Body would uphold the decision to refuse consent made by the Council's Officers. I would also hope that they would take the advice of the Council's Officers and not be influenced by the publicity which has been generated by some of the public in support of the planning application. Most of these people do not have to live with a daily view of the property and such public support should not influence a decision which should be made on purely planning grounds.

Yours sincerely

Jennifer Boag



Photo 1 – view from west most window (next to Madeira Street)



Photo 2 – view from centre window (kitchen)



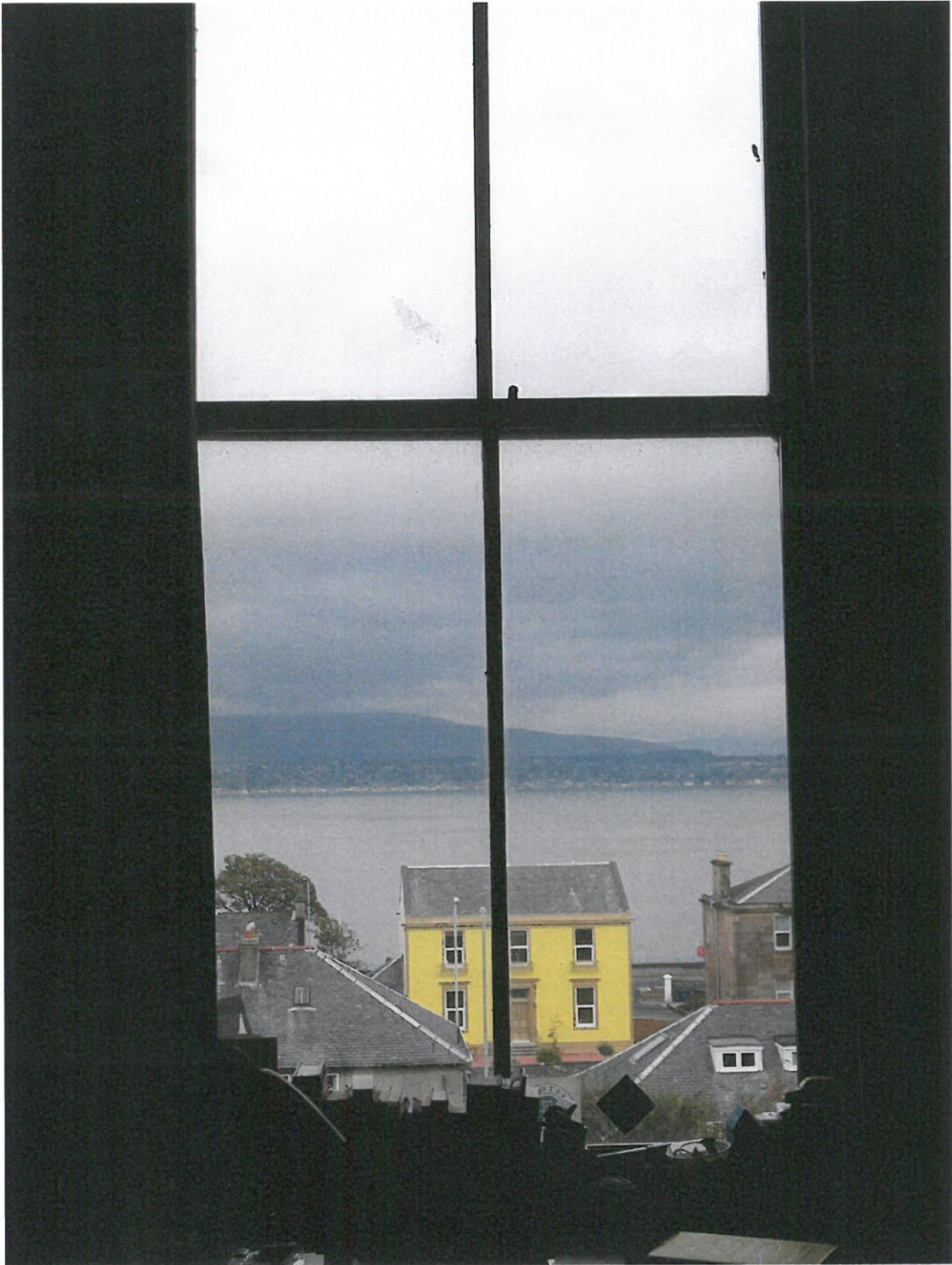


Photo 3 – view from eastern most window

TRANSCRIBED FROM ORIGINAL LETTER

73 Eldon Street  
Greenock PA16 7RD  
10<sup>th</sup> December, 2014

Rona McGhee  
Inverclyde Council  
Environment, Regeneration & Resources  
Municipal Buildings  
Clyde Square  
Greenock PA15 1LY

Dear Madam,

Thank you for your letter of Dec 8<sup>th</sup> concerning the review of the decision to refuse planning permission for the painting of the property at: 19 Esplanade/78 Eldon Street.

Your last letter to me stated that there would be no appeal either way to the Council's decision to REFUSE permission and so I took it that the matter was concluded. However, it now seems that is not so and that a review countermands a final decision which I find rather contrary.

My opinion on the matter still stands and I shall be interested to attend the Local Review Body meeting.

Yours faithfully,  
(Mrs) Olive E Kerr

## Rona McGhee

---

**From:** Hugh Currie  
**Sent:** 08 December 2014 12:02  
**To:** Rona McGhee  
**Subject:** Re: Review of Decision to Refuse Planning Permission - 19 Esplanade & 78 Eldon Street, Greenock (14/0352/IC)

Dear Ms. McGhee,

I note that you have received a notice requesting review of the decision to refuse the above planning application.

The fact that the applicant appears to be oblivious that he is living in a conservation area, despite having lived there for around thirty years, is no excuse; any more so than that he has spent £3,000 on the work so far and a number of people think it is nice. These points are all quite irrelevant and should be ignored in reaching any decision, otherwise everyone else living in a conservation area should be free to flout the planning laws as they please.

I remain opposed to any retrospective planning permission being granted for the above reasons.

Regards,

Hugh M. Currie.

Sent from my iPad

On 8 Dec 2014, at 09:13, Rona McGhee <[Rona.McGhee@inverclyde.gov.uk](mailto:Rona.McGhee@inverclyde.gov.uk)> wrote:

Inverclyde Council is in receipt of a notice requesting review of the decision to refuse the above planning application and I note that you submitted representations that were considered as part of the assessment process.

The decision is to be reviewed by Inverclyde Council's Local Review Body. I write to advise you that your representations will be considered by the Local Review Body in the review of the decision. Should you wish to make further comment you may do so to me within 14 days of the date of this email. Should you make further representations, these will be copied to the applicant who will be given the chance to respond.

Your representations and any further representations you submit will form part of the agenda papers for the Local Review Body meeting at which the review of the decision to refuse planning permission is considered. The agenda will be published on the Council's website and hard copies will be available at the Local Review Body meeting. Should you consider that any of the comments contained in your representations, or any further representations you may submit, should be removed prior to publication please notify me within 14 days of the date of this email otherwise I will assume that you have no objection to any of your comments being made publicly available. For your information, I would confirm that signatures will be removed prior to publication.

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The Local Review Body meets in public and I shall write to you shortly with arrangements should you wish to attend.

Regards,  
Rona

Rona McGhee  
Senior Administration Officer  
Legal & Property Services  
Inverclyde Council  
Municipal Buildings  
Greenock  
PA15 1LX  
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Fax: 01475 712137

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