



WORKING ON OR NEAR SCHEDULED MONUMENTS

GUIDANCE ON THE SCHEDULED
MONUMENT CONSENT PROCESS

JANUARY 2024



HISTORIC
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WORKING ON OR NEAR SCHEDULED MONUMENTS

This guidance note is about scheduled monuments – a type of historic site protected by law. It contains advice for anyone who owns, manages or arranges work at or near a scheduled monument. It will help you plan the work in a way that keeps the site safe. It has detailed advice on what to do and what permissions you need.

WHAT ARE SCHEDULED MONUMENTS?

Scheduled monuments are historic sites that have been given protection using an Act of Parliament, [The Ancient Monuments and Archaeological Areas Act 1979](#). We call this ‘the 1979 Act’.

Historic Environment Scotland (HES) decides which monuments to protect using this law. We call this ‘scheduling’. We choose monuments that are nationally important. How we do this is explained in our [Designations Policy and Selection Guidance](#).

Over 8000 monuments in Scotland are scheduled. They range from concentrations of artefacts left by the earliest peoples to medieval churches

and castles to more recent sites such as the remains of 20th-century wartime defences.

There is a [series of leaflets](#) on the different types of scheduled monuments available from our website.

Each scheduled monument has its own legal document, created when it was scheduled. It describes what is protected and includes a map showing the protected area. The legal documents usually contain some text describing the area of land that is protected, and a map that shows the location of the monument. The text describing a monument often includes measurements, for example the dimensions of the protected area. Many monuments are completely hidden below land or water. Even when parts of them are visible they usually include below-ground remains around them.

We normally register the boundaries of scheduled monuments with The Land Register of Scotland or Sasines, depending which part of the country it is in. Scheduled monuments can be noted as a burden on title deeds for land or property when ownership changes.

You can find a list of all scheduled monuments and their legal documents on our [online Decisions Portal](#). We can send copies of these legal documents by post or email if you ask us to.

Further information and photographs are held in the [National Record of the Historic Environment](#).

Front Page: A mechanical excavator working near to Maeshowe chambered cairn, Orkney.

Left: Two HES staff looking at details of a scheduled monument - we are happy to meet on site and provide advice on any work you are planning on or near a scheduled monument.



A selection of Scotland's scheduled monuments

1. WW2 remains on Inchkeith Island
2. The Standing Stones of Lundin, Fife
3. Mousa Broch, Shetland
4. Neptune's Staircase, Caladonian Canal
5. Horsburgh Castle, Scottish Borders
6. Multiperiod settlement visible as cropmarks, Leuchars, Fife

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HOW ARE SCHEDULED MONUMENTS PROTECTED?

Once a site is scheduled it is protected in a number of different ways:

- Protection under the 1979 Act**
 There are strict controls on the types of works or activities which can take place within the protected area. Most works need our permission. Carrying out work without our permission is against the law.
- Protection within the planning system**
 Scheduled monuments are also protected within the planning system through the national spatial strategy for Scotland - [National Planning Framework 4](#). Our role in the planning system is explained in more detail in [Our Regulatory Framework](#).
- Protection within forestry**
 Protecting and managing scheduled monuments and their setting is a key part of the [UK Forestry Standard \(UKFS 5\)](#). This recommends consulting HES when operations are planned near a scheduled monument and highlights the need to take precautions to

avoid damage. It also suggests areas of open space should be left around scheduled monuments and should be managed to prevent scrub growth where appropriate.

- Protection within agriculture**
 Scheduled monuments are also protected by the standards set out in the [Good Agricultural and Environmental Conditions \(GAEC 7\)](#) of the Scottish Government's Rural Payments and Services. If monuments are altered or damaged without our consent penalties can be applied to payments.

HOW CAN I FIND OUT IF THERE ARE ANY SCHEDULED MONUMENTS WHERE I WILL BE WORKING?

The easiest way for you to check if there are any scheduled monuments on or near where you are planning work is to use our Pastmap website or our Designations Map Search. Both of these are online maps that show the boundaries of scheduled monuments in red. They let you zoom in and out so you can explore the maps at different scales and levels of detail. Once you have found the area of land you are interested in, make sure the scheduled monument layer is selected to check for protected sites. If there is a scheduled monument on or near to land where you are planning work, you can click on it to find out more about it. You should look at the legal document for the scheduled monument for details of what is protected.

If you need help, please contact us with details of where you are planning work and we will let you know if there are any scheduled monuments nearby.

Our Planning, Consents and Advice Service provide expert advice on the protection of scheduled monuments.

IDENTIFYING THE BOUNDARY OF A SCHEDULED MONUMENT

Identifying the protected area of a scheduled monument on the ground can be challenging - some scheduled monuments are depicted on Ordnance Survey maps but the extent of the protected area is not. Scheduled monuments are not always visible. The protected area can include below-ground features and some surface features may be concealed by vegetation and trees. These are particularly vulnerable to accidental damage. If you are in doubt, we are always happy to help. We can provide further information or visit to show you where the protected area is.

Identifying a scheduled monument using a map

We recommend you use a map provided by us. To identify the protected area of a scheduled monument on the ground you will need to use a map which includes:

- SCALE:** The scale of the map will depend on the size of the scheduled monument and surrounding area. The size of the scheduled area must be clear on the map. The map should contain a scale bar or grid lines to allow you to measure distance
- SCHEDULED MONUMENT:** The map should show the extent of the scheduled monument clearly
- FIXED POINTS:** The map will need fixed points that you can find on the ground to measure the position of the monument from

Our publicly available spatial data can be used alongside survey equipment to mark out the extent of a scheduled monument.

Our Publicly available spatial data for scheduled monuments

We publish a range of spatial data for scheduled monuments on our [Decisions Portal](#). These include shape files, web services and atom feeds for use with geographic information systems, survey and GPS equipment.

If you are planning works on your land which require a survey, your survey team can use this information to mark out the extent of the protected area of a scheduled monument.



I AM WORKING CLOSE TO A SCHEDULED MONUMENT BUT NOT ON IT - WHAT PRECAUTIONS SHOULD I TAKE?

Remains can extend beyond the legally protected area of a scheduled monument. When remains lie outside a scheduled monument we call them 'undesigned'. They often lie beneath the ground and you may not be able to see them. Your local authority archaeologist will be able to provide advice on undesigned remains.

When you are working close to a scheduled monument, it is important to make sure you have correctly identified the edge of the protected area – this often extends further than visible features. Site compounds, storage areas and vehicle access routes should avoid the scheduled area. We recommend that you mark out the edge of the protected area using markers or temporary fencing placed outside the protected area. Depending on the work you are doing, it can be useful to include an additional 'buffer' area to make sure there is no accidental damage.

We can provide free signage suitable for marking the boundary of a scheduled monument. It is your responsibility to make sure everyone working on the site knows about the scheduled monument, the size of the protected area, and that it is protected by law. Make sure the protected area of the scheduled monument is clearly marked on any work plans. Use signs to explain why the marking out has been done.

If something does go wrong the best thing you can do is get in touch with us straight away. We will work with you to make sure the situation doesn't get any worse and, if possible, to undo any damage.

Ancient Monuments and Archaeological Areas Act 1979

PROTECTED PLACE



It is a crime to damage this historic site.
No fires, metal detecting or ground disturbance allowed.

Report suspicious behaviour to
Police Scotland on 101 or
email report@HES.scot



We have a range of free signage for use at scheduled monuments

I AM GOING TO BE WORKING ON A SCHEDULED MONUMENT, DO I NEED PERMISSION?

The short answer is usually 'yes'. Most works to a scheduled monument need permission from Historic Environment Scotland. We call this permission scheduled monument consent (SMC).

'Works' that need SMC are defined in the 1979 Act, and the definition is very broad:

- anything resulting in the demolition or destruction of or any damage to a scheduled monument
- any works for the purpose of removing or repairing a scheduled monument or any part of it
- making any alterations or additions, or any flooding or tipping operations on land in, on or under which there is a scheduled monument

WORKS THAT NORMALLY REQUIRE SCHEDULED MONUMENT CONSENT

Here are some examples of common activities that need consent. This is intended to illustrate the range of work that needs consent and is not a complete list. You should always check with us if you are in any doubt about whether you need consent.

Routine maintenance will normally need consent. This might include:

- Digging to make or repair drains
- Replacing or inserting new fence posts and strainers
- Repairing stonework or masonry

Putting anything on or into the scheduled monument will normally need consent. This might include:

- Laying new paths or tracks
- Laying services or upgrading utilities
- Putting up polytunnels
- Planting trees or shrubs
- Storing or dumping any material
- Flooding to create a pond

Removing anything from the scheduled monument will normally need consent. This might include:

- Collecting finds or artefacts from the ground, including through fieldwalking and other archaeological research
- Cropping mature trees
- Digging out any foundations or supports
- Removing any soil or rubble

Common activities that do not need permission, as long as they are done in a way that does not damage or alter the scheduled monument, include things like grass cutting, grazing livestock or driving over a scheduled monument in dry conditions. However, you must be careful not to cause damage.



Polytunnels and their associated water and drainage can damage archaeological deposits. They must not be erected without SMC.

EXCLUSIONS

Sometimes not all the things within a scheduled monument contribute to its cultural significance. When this is the case, we might exclude these in the wording of the legal documents. Consent will not be required for works that only affect those things – as long as the rest of the scheduled area is not affected.

Exclusions are unique to each scheduled monument and you need to carefully read the legal text in each case. If you are unsure, please contact us.

CLASS CONSENT

Some types, or ‘classes’, of works to scheduled monuments have pre-agreed consent. This is because they were given consent by law. This law is called the [Ancient Monuments \(Class Consents\) \(Scotland\) Order 1996](#). We normally call this ‘the Class Consents Order’, and we call permissions like these ‘class consents’. There is no need to make an individual application for scheduled monument consent for works that are covered by a class consent.

The most commonly used class consent is for ploughing. It only applies in specific circumstances, which are set out in the Order:

Ploughing, where it has been undertaken lawfully in the preceding 10 years, providing that the depth of ploughing does not exceed previous depths.

This means that if ploughing has been a regular part of the regime over a scheduled monument it is likely to have consent. This does not include ploughing any deeper than previously or ploughing if it has not been done within the last ten years. Other agricultural work like de-stoning, sub-soiling or drainage is not covered by the Order. You have to apply for scheduled monument consent for these works.

Another frequently used class consent is for work that is urgently necessary for health or safety. Again, this is specifically defined in the Order:

Works which are urgently necessary in the interests of health or safety, provided that:

- The works are limited to the minimum measures immediately necessary; and
- Notice in writing justifying in detail the need for the works is given to Historic Environment Scotland as soon as practicable

An example of this could be fencing an area around an unstable wall and putting up warning signs to keep people at a safe distance. If you are not sure what this might mean in your situation then we can discuss it by phone or email.

You must notify us in writing as soon as you can after completing any work under this class consent. You can do this online using our class consents notification form which is available on the [class consents page of our website](#).

Other class consents cover more specialised areas of work. The [Class Consents Order](#) gives the full list. If what you are planning is not mentioned above it is unlikely to be covered by a class consent. If you are in any doubt, please contact us to check.

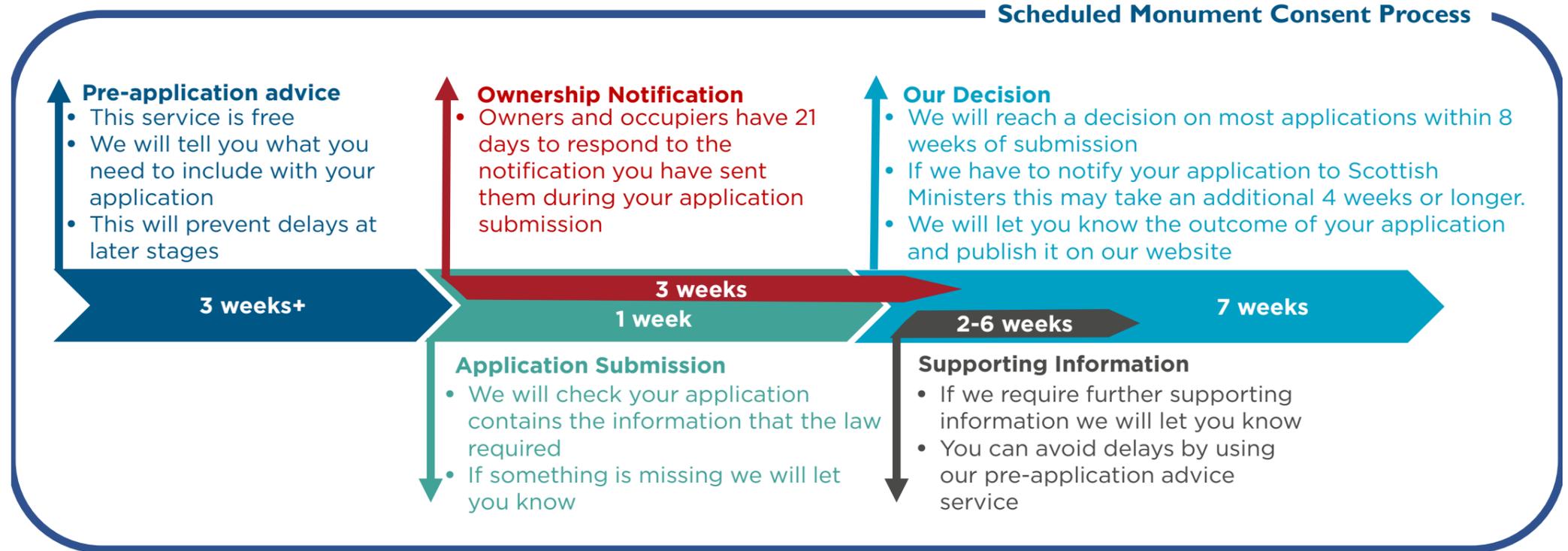
Cultivation and ploughing can take place on a scheduled monument without SMC only where it has been lawfully undertaken within the last 10 years, providing the depth of ploughing does not exceed previous depths. Destoning, subsoiling and drainage works will always need SMC.



MAKING AN APPLICATION FOR SCHEDULED MONUMENT CONSENT

If you want to carry out works to a scheduled monument, you must apply to us for scheduled monument consent. We do not charge for applications – or for pre-application advice. We normally reach a decision on an application within eight weeks. If you are not happy with our decision you can appeal against it. You can find all of the [forms and guidance for scheduled monument consent](#) you might need on our website.

All ground-breaking works within the protected area of a scheduled monument need SMC.



Steps to apply for scheduled monument consent. It can take 8-12 weeks to decide your application

GETTING STARTED WITH YOUR APPLICATION

We have a free pre-application service for scheduled monument consent. It will often save you time and effort if you discuss a proposal with us before applying. We might advise you to make some changes to your plans, so that you are more likely to get consent. This can result in a better outcome for the scheduled monument and your project.

We can also tell you exactly what information we will need from you. This might make the process easier for you and avoid delays that might happen if we need to ask for more details after you have submitted your application. You will need to leave enough time for the application process between contacting us and the date you are planning to start your work. More information on time scales is given in the 'Our decisions' section of this guidance.

If you have not contacted us before it is usually best to email us a brief summary of your situation and questions using the contact details given at the end of this guidance note. A case officer will look at your enquiry and will normally get back to you within 21 days.

If you are not sure how to fill out our forms, or of anything else, we would be happy to review your application as a draft and let you know if anything is not right.



SCHEDULED MONUMENT CONSENT APPLICATION FORMS

You can [download application forms from our website](#) or request copies by post or email using the contact details at the end of this guidance note. We operate a paper-free system, so we will use email unless you ask us not to.

There are three parts to the forms – A, B and C. There is also a guidance note to help you fill them in.

Part A is the main form – you must complete this part. It asks you to identify yourself, the scheduled monument in question and the details of your project.

Part B is for you to notify all owners, occupiers and agricultural tenants of the scheduled monument. You must send this form to them and include a copy with your application. If you are the sole owner you do not need to include this part.

Part C is a ‘certificate of ownership’ and tells us who the legal owner of the scheduled monument is. You must complete this form – even if you are not the owner of the scheduled monument.

Owners, occupiers and agricultural tenants of the scheduled monument have the right to make representations to us about an application.

Anyone notified has 21 days to make a representation. Instructions on how to make a representation are on the notification form.

ACKNOWLEDGING YOUR APPLICATION

The first thing we do when we receive an application is check that it has all the information in it that the law requires. This includes:

- a written description of the proposed works
- the name or location of the scheduled monument to which the works relate, or a description of the location of the land
- the name and address of the applicant and, if appropriate, the name and address of the agent acting for the applicant
- a plan or drawing sufficient to identify the area of land to which the works relate
- any other plans and drawings necessary to describe the works in full
- appropriate ownership certificates and notices

We will write to acknowledge your application if it contains all of this information. If something is missing we will let you know.

On rare occasions, we may not consider an application. This could happen if a similar application has been refused in the previous 2 years.

SUPPORTING INFORMATION

Even if your application is acknowledged, we may still need to ask for more information before we can give consent. The amount of supporting information we need will depend on a number of factors. This will include the size and complexity of the works you are proposing. It will also reflect how much impact the works would have on the scheduled monument.

If we do not have enough information to understand the impact on a scheduled monument’s cultural significance, we may refuse consent. If this happens, you can apply again, as long as you provide additional information that would affect our decision.

In simple cases, like a straightforward repair of an existing feature, a brief written description on Part A of our application form and a plan will normally be enough for us to make a decision.

A more complicated case would need much more supporting information. This might include:

- an overview of the project or works which sets out how any impacts will be controlled and reduced
- a justification for the work explaining what benefits it would bring
- an assessment of potential impacts on any structures and archaeological remains
- detailed technical drawings
- method statements from a variety of specialist contractors
- an assessment of the scheduled monument’s cultural significance and condition – this might require a preliminary stage of historical research, survey and archaeological investigation, which could require a separate application for scheduled monument consent

HOW WE MAKE OUR DECISIONS

Our principles, aims and policies are set out in the [Scheduled Monument Consents Policy](#) which stands alongside the [Historic Environment Policy for Scotland](#).

We also take other relevant laws and policies into account, such as those relating to carved stones, natural heritage and to human remains. We call these policies and laws ‘material considerations’ and links to the most common are included at the end of this note.

We schedule a monument to secure its long-term protection in the national interest. We will only set this principle aside where on balance there are wider benefits of greater importance to the national interest.

The more important features of a scheduled monument are to its cultural significance, the harder it is to justify proposals that would change those features.

Works required to preserve a scheduled monument should be carefully designed with expert advice. We will weigh up the benefits of conservation work against any harm. Conservation should always be aimed at the lowest level of intervention that is consistent with achieving a scheduled monument’s preservation.

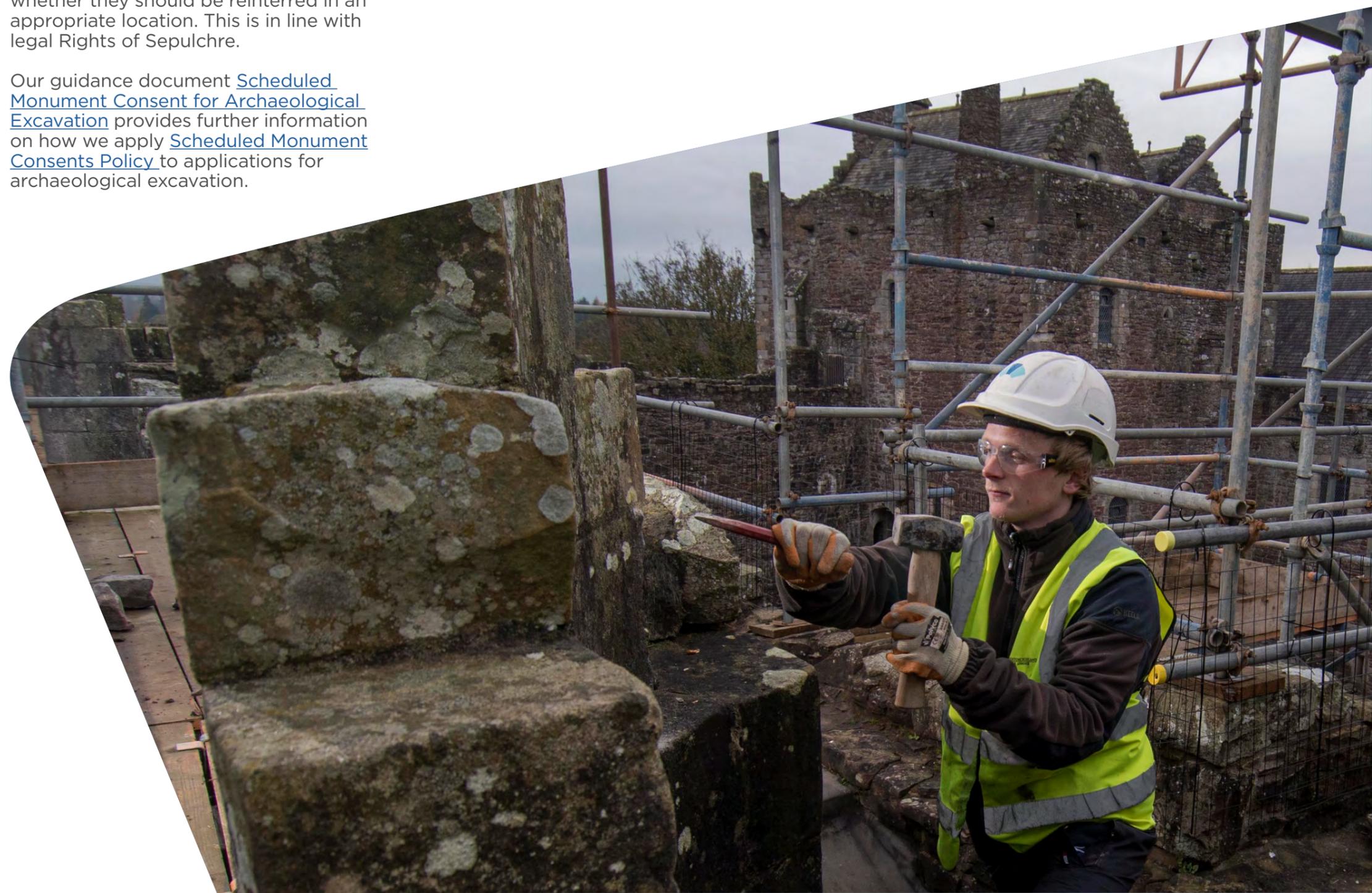
We will not normally grant consent for extensive intervention.

We make decisions in line with this policy on a case-by-case basis. We will first want to establish whether there are any reasonable alternatives to the proposals.

There is a presumption against disturbing human remains on scheduled monuments unless there is a good reason, such as important public benefits or an imminent, unavoidable threat of disturbance. Proposals that might affect human remains should normally consider the views of the local community and consider what will happen to any remains after they are recorded and in particular whether they should be reinterred in an appropriate location. This is in line with legal Rights of Sepulchre.

Our guidance document [Scheduled Monument Consent for Archaeological Excavation](#) provides further information on how we apply [Scheduled Monument Consents Policy](#) to applications for archaeological excavation.

Conservation works are essential to the long-term preservation of scheduled monuments, but must be carefully planned to ensure works are appropriate. They require scheduled monument consent.



NATURE

The Nature Conservation (Scotland) Act 2004 placed a statutory duty on all public sector bodies in Scotland to further the conservation of biodiversity. To meet this duty, we will check to see if an application would affect a protected species or place or have an impact on biodiversity. You can find out more about protected places and species on [NatureScot's website](#).

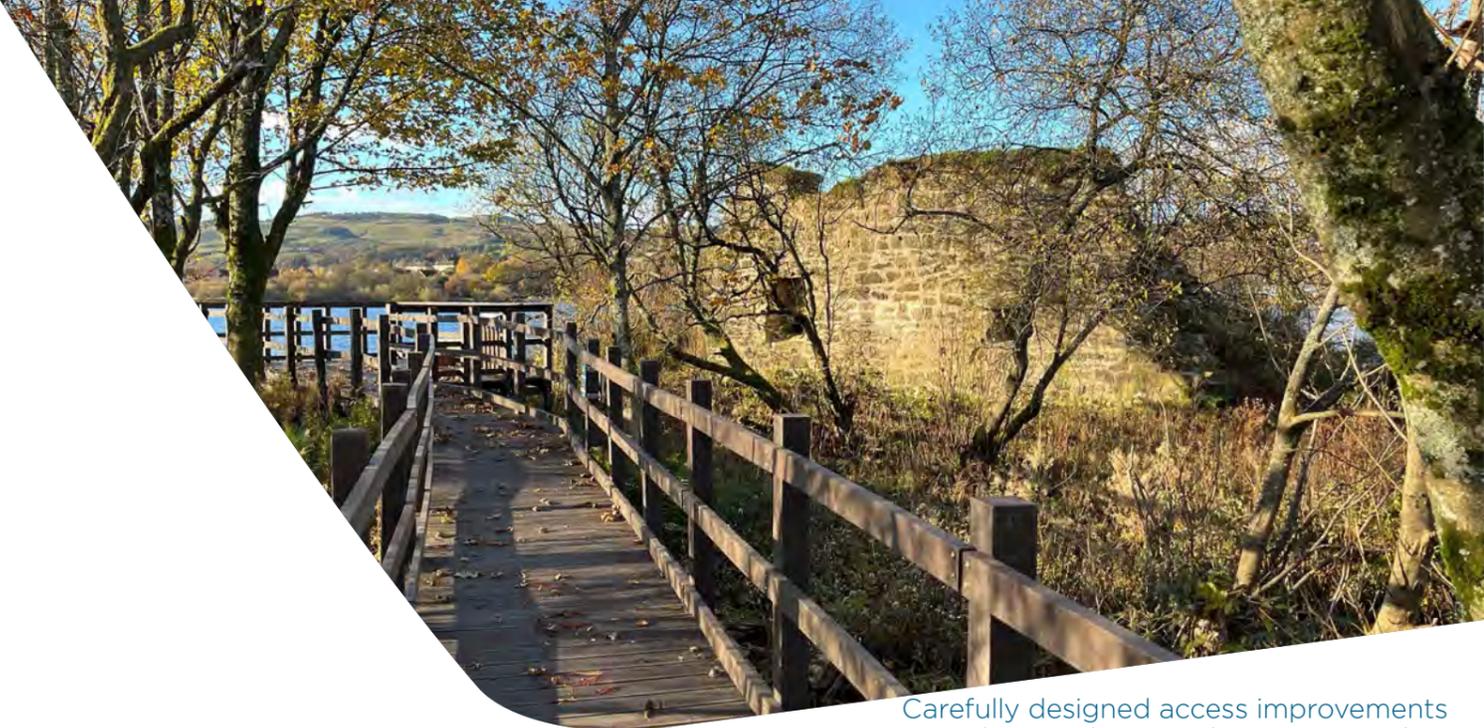
If the works are in a protected area, we will ask for advice from NatureScot. This can take up to 28 days. We will follow their advice. Where works are within a Site of Special Scientific Interest (SSSI), you may require SSSI consent from NatureScot in addition to scheduled monument consent. With your permission, we will pass your personal details, along with the details of your application to them. A separate application for SSSI consent will not normally be required. If you do not

consent to your details being passed to SNH, you will need to apply directly to them for any SSSI consent required.

Some types of work are likely to affect protected species or wildlife breeding sites. If we think there is a risk that your proposals will, we will ask you to commission an ecologist to do survey work and to offer recommendations. We will expect you to have surveys done at the right time of year, for example when wildlife might be breeding – and before you apply for scheduled monument consent.

There is a useful section on [NatureScot's website which can help you consider possible impacts](#).

When we make a decision on an application, we will take any response from NatureScot, professional recommendations from ecologists, and the results of any surveys into account. Impacts on nature could lead us to refuse applications, to attach conditions or to ask for amendments.



Carefully designed access improvements at Castle Semple Tower have increased accessibility to the monument.

ACCESSIBILITY

Our [Scheduled Monument Consents Policy](#) notes that improving access to scheduled monuments, where appropriate, can provide public benefits. Where this is the case, we will take it into account in our decisions.

While improving public access is a strong justification, proposals still need to be carefully considered against all the other policies set out in Scheduled Monument Consents Policy. It can take thoughtful design to improve access without affecting the cultural significance of scheduled monuments. Any changes to improve accessibility should be the minimum necessary to achieve the required improvements.

PUBLICATION AND REPRESENTATION

Once we have acknowledged your application, we will publish it on our online [Decisions Portal](#). This usually happens within five working days. We will remove personal or sensitive information like signatures, addresses and phone numbers before we do this. We do this in line with our [privacy notice](#).

We publish applications to make our decision-making transparent. We encourage applicants to help this process by talking to the community when they are developing proposals that are likely to be of wider interest. This allows members of the public and organisations to make representations to us if they would like to. We will consider contacting appropriate bodies, such as Community Councils, if we are aware of wider public interest in an application. We will accept representations to applications by letter or email – the contact details for this are given at the end of this guidance note.

We produce a report that explains our decisions, and this will list any representations we have received. The report will explain how we considered any representations that were material to our decision. Once we have made our decision we will contact anyone who made a representation to us to let them know the outcome, this will include a link to our portal where the decision documents are published.



A nest of oystercatcher eggs with Lochleven Castle in the background - nesting birds are protected by law.

OUR DECISION

We reach a decision on most applications within eight weeks. Very rarely we might ask an applicant to agree to a longer period.

For some applications, we have to notify Scottish Ministers of our decision before it is final. This is because we have been directed to inform Scottish Ministers if we intend to grant consent where:

'proposed works would allow a greater level of intervention than the minimum level of intervention that is consistent with conserving what is culturally significant in the monument'.

Types of proposals that we have previously notified to Scottish Ministers include:

- a new bridge over a scheduled canal
- restoring a tower house to use as a dwelling
- building a viewing platform for visitors
- an archaeological excavation

We will let you know if we send your application to Scottish Ministers and this will also be shown on our portal. They will normally review your application within 4 weeks, but it can sometimes take longer. They will either allow us to grant consent, or will call in the application and decide it themselves.

If they decide to call in the application we will let you know. It can take many months for an application to be determined once it is called in.

APPLICATION OUTCOMES

An application for scheduled monument consent can be:

- granted (with or without conditions)
- part granted/part refused (with or without conditions)
- refused

Once we have determined your application, we will let you know. We will send you a letter that includes a decision notice and a report of handling. This sets out some background to the application, relevant policies, how we have applied them and what our decision is. The decision notice will summarise what you have consent for, and any conditions you have to follow. The letter will give you further information and explain how to appeal if you are unhappy with our decision.

The report of handling and decision notice are published on our portal.

CONDITIONS

You must take care to read and act on any conditions included in your decision notice. It is a criminal offence not to follow them.

Some conditions can require you to provide us with further information for approval before work can start. Others require work to be undertaken in certain ways. You need to make sure that your programme allows for dealing with conditions at the right time, and that everyone affected understands the conditions that might affect their work.

We will confirm that you have satisfied a condition when you provide evidence that you have met the requirements.

In some circumstances you may wish to change or delete, also called 'varying' or 'discharging' a condition. You should not carry out any works associated with your proposed change or discharge until you have applied and been granted consent for the change. Application forms to change or delete a condition and guidance on how to fill them out can be [downloaded from our website](#).

APPEALING OUR DECISION

You can appeal to Scottish Ministers if you do not agree with our decision. You can do this where your application for scheduled monument consent/application to vary or discharge conditions is refused, granted with conditions or not determined within a two-month period. You can also appeal if we refuse to approve matters specified by condition. We will include details on how to do this in our covering letter.

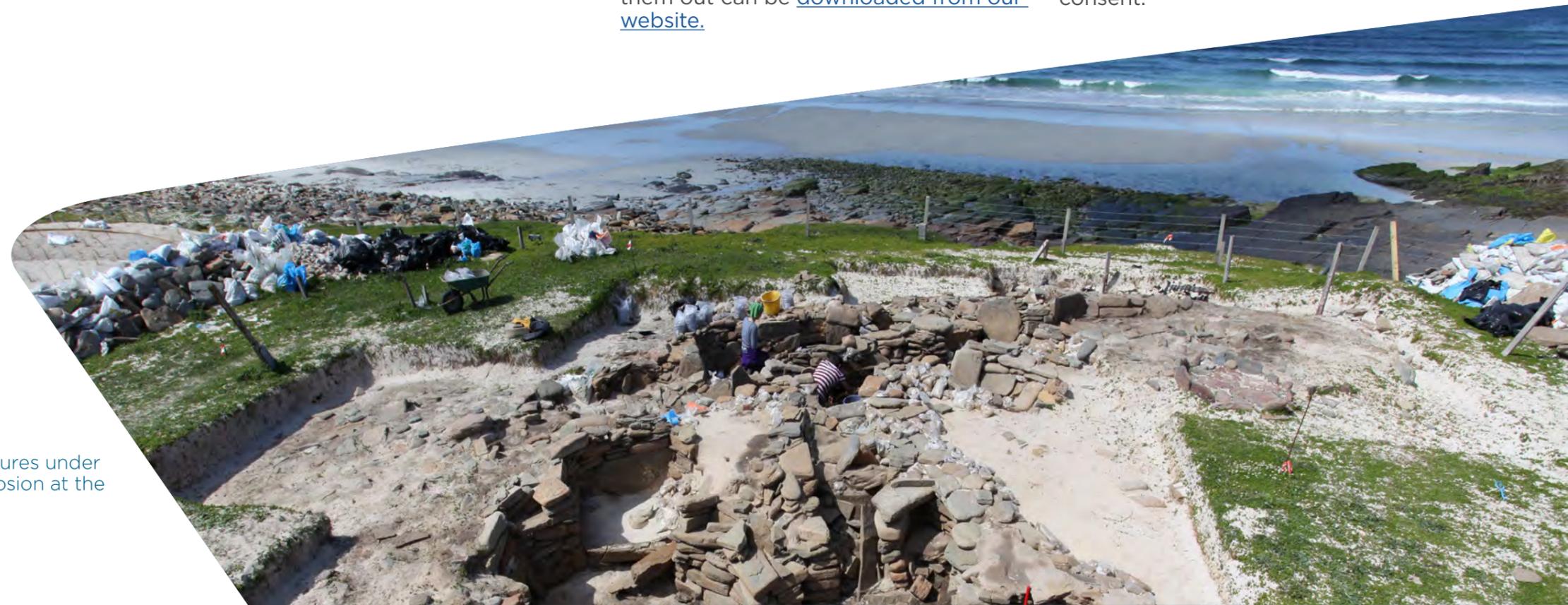
COMPENSATION

In a limited set of circumstances, you might be eligible for compensation if you have been refused consent for

- a development which had planning permission before the site became a scheduled monument
- works necessary for the continuation of use of a monument, provided it was in that use immediately prior to the application being made

Claims for compensation must be made within 6 months of refusal of consent.

Excavation of Neolithic structures under imminent threat of coastal erosion at the Links of Noltland, Westray.



METAL AND MINERAL DETECTING CONSENT

If you want to use equipment that can detect metals or minerals on a protected place then you need to get metal and mineral detecting consent. A 'protected place' is a scheduled monument or monument brought into the care of Scottish Ministers using powers set out in the 1979 Act.

It is a criminal offence use this equipment on a protected place without our consent. This includes magnetometry, gradiometry and ground penetrating radar surveys. It also includes metal detecting. Resistivity survey does not need metal and mineral detecting consent because it does not detect metals or minerals.

You can download an application form from the [metal and mineral detecting pages of our website](#). These pages also include a guide on how to apply, and

advice for people who metal detect as a hobby. A link to this advice is also included at the end of this guidance note.

Archaeological geophysical surveys of scheduled monuments should be designed to gather information that increases our understanding of the cultural significance of the monument. They must not place its preservation, cultural significance or associated artefacts at risk.

We expect archaeological geophysical surveys to be supported by a sound research design, methodology and reporting strategy. They should always be undertaken by appropriately skilled and competent people.

We will normally only grant consent for metal detecting when it is a controlled survey as part of a wider research project.

You will not need to submit a separate application for metal and mineral detecting if you are also applying for scheduled monument consent. Instead, you need to include details about it with your scheduled monument consent application.

All applications for metal and mineral detecting consent are decided in line with our [Scheduled Monument Consents Policy](#). There is no right of appeal against refusal of an application for metal and mineral detecting consent.

Metal and mineral detecting consent is required for the use of a metal detector on a protected place.



RELATIONSHIP TO OTHER CONSENTS

Scheduled monument consent is separate from other consents, for example planning permission and forestry licensing. Often works that require scheduled monument consent also require planning permissions from the local planning authority or other forms of consent from public bodies such as Scottish Forestry. You should make sure you contact all relevant public bodies and understand the separate consents that your work might need.

Scheduled monument consent may run in parallel with planning permission. It is normally best to deal with both applications at the same time.

Some monuments are also protected as [listed buildings](#). Where both designations apply, only scheduled monument consent is needed because Section 55 of the [Listed Buildings Act 1997](#) says that the scheduled monument consent legislation takes precedence over that set out for listed buildings. If you are in any doubt, you should check with your local planning authority, as they decide on the need or otherwise for listed building consent in any particular case.

Forestry works have the potential to cause damage to sensitive archaeological remains. Scheduled monuments are considered within forestry felling permission. SMC may also be required.



UNAUTHORISED WORKS ON SCHEDULED MONUMENTS

The 1979 Act sets out several criminal offences in relation to scheduled monuments and protected places. We call these 'unauthorised works', and they include:

- damaging a protected monument
- causing, permitting or executing works to a scheduled monument without consent
- not executing works in accordance with the terms of consent and of any conditions attached to it
- using a device capable of detecting metals or minerals in a protected place without our written consent

We investigate, and seek to resolve, any works that happen without our permission. We call this process compliance.

Our [Compliance and Enforcement leaflet](#) explains more about our compliance process and what to expect if you are involved in an investigation of unauthorised works.

A prehistoric cairn was damaged during ground moving works. The responsible party was convicted of offences under the 1979 Act and fined £18,000.

HOW WE RESPOND TO REPORTS OF UNAUTHORISED WORKS

We will investigate reports as quickly as possible. This may involve visiting the scheduled monument, speaking with owners, occupiers, and any witnesses to the incident, as well as examining photographs. When we investigate, we have to follow similar procedures to the police.

We will always try to get all the information we need as quickly as possible. Once we understand what has happened, and how much the scheduled monument has been damaged, we will decide what further action is required and update those involved. You can expect our decisions to be proportionate, consistent and transparent. We will take any relevant circumstances into account.



We work closely with Police Scotland when investigating reports of Heritage Crime.

POSSIBLE OUTCOMES

If unauthorised works have taken place, we take a proportionate approach to what happens next.

Where minor unauthorised works have taken place and no repairs to the monument are necessary, we will send an advisory letter. This letter gives general information on scheduled monuments, our compliance process and SMC.

Where unauthorised works have affected a monument, but can be repaired or mitigated in some way, we will follow our enforcement procedures. This may include:

Informal Resolution: Our preference is to resolve unauthorised works by mutual agreement. We will set out the steps required and ask those responsible to undertake them.

Formal Action: Where we cannot reach a mutual agreement we may take formal action by issuing a temporary stop, stop or enforcement notice. We publish these on our [decisions portal](#).

An enforcement notice can be appealed to the Scottish Government. There is no right of appeal when we serve a stop or temporary stop notice. However, in certain circumstances, individuals may have a right to compensation.

Where works specified in an enforcement notice have not been undertaken within the specified timescale, we can take direct action to undertake the work and recover the costs.

Failure to comply with an enforcement or stop notice is a criminal offence.

Reporting: We are a specialist reporting agency and, in a small number of serious cases, including breach of enforcement and stop notices, we will make a report to the Procurator Fiscal. They will decide whether or not to seek prosecution. Conviction under the 1979 Act can result in an unlimited fine and a prison sentence.

Cross compliance: We can also report cases to the Scottish Government's Rural Payments and Inspections Division. Causing damage to a scheduled monument is against their rules for the protection of landscape features, and they may decide to apply penalties to payments.



FURTHER INFORMATION

FINDING OUT ABOUT SCHEDULED MONUMENTS

There is much more information about the scheduling process, management and advice on our [website](#)

To find out about a particular scheduled monument and our decisions, use our [online portal](#) or search for a scheduled monument using our interactive [pastmap](#).

RELEVANT LAWS AND POLICY

[Ancient Monuments and Archaeological Areas Act 1979](#)

[The Ancient Monuments \(Class Consents\) \(Scotland\) Order 1996](#)

[Historic Environment Policy for Scotland](#)

[Scheduled Monument Consents Policy](#)

[Designations Policy and Selection Guidance](#)

GUIDANCE

Our [Managing Change in the Historic Environment](#) Series

- [Scheduled Monument Consent for Archaeological Excavation](#)
- [Castles and Tower Houses](#)
- [Setting](#)

[Scotland's Scheduled Monuments](#)

[Scheduled Monument Condition Monitoring](#)

[Metal detecting and scheduled monuments](#)

[Compliance and Enforcement at Scheduled Monuments](#)

[The Treatment of Human Remains in Archaeology](#)

[Carved Stones: Scottish Executive Policy and Guidance](#)

USEFUL INFORMATION FROM OTHER ORGANISATIONS

[Association of Local Government Archaeological Officers](#)

[UK Forestry Standard](#)

[NatureScot guidance on protected species and places](#)

[Scottish Government Rural Payments and Services](#)

CONTACTING US

Call our Planning, Consents and Advice Service on:
0131 668 8716

Or Email:
ScheduledMonumentConsent@hes.scot

DATA PROTECTION

All the personal data we collect at Historic Environment Scotland is held in compliance with the Data Protection Act 2018. If the personal data we collect from you is specifically to do with compliance and enforcement at scheduled monuments, then we will hold and process it under Part 3 of the Data Protection Act 2018, which deals with personal data processed by competent authorities for law enforcement purposes. Historic Environment Scotland is a competent authority. Holding personal data under Part 3 of the Act may mean HES has extended rights to hold the personal data. For personal data collected from you that is not directly relevant to a compliance and enforcement case, you can find out more about how we manage your personal data in our [privacy notice](#).



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