



HISTORIC
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SCOTLAND

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ALBA

By email to: chief.planner@gov.scot

Chief Planner – Scottish Government

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Our case ID: 300019278

14 February 2020

Dear Mr McNairney,

Consultation on Planning Performance and Fees – 2019

Thank you for seeking our views on new proposals for measuring the performance of planning authorities alongside proposals for restructuring the fee regime for planning services. The following comments are offered on behalf of Historic Environment Scotland which is the lead public body set up to investigate, care for and promote Scotland's historic environment.

We are responsible for leading and enabling the delivery of Scotland's historic environment strategy, [Our Place in Time](#) (2014) and our priorities are set out in our corporate plan, [Heritage for All](#) (2019).

Historic Environment Scotland's role in planning

We provide advice on the effects of plans, policies and development proposals on Scotland's historic environment. This includes Scotland's six World Heritage Sites, nationally important marine and terrestrial archaeology, historic buildings, gardens and designed landscapes and battlefields.

As a [Key Agency](#) we support our local authority partners in the preparation and delivery of Local Development Plans. Here, we provide guidance on policy approaches for the historic environment and the allocation of land for development.

We are also a statutory consultee for some planning applications and all projects accompanied by an environmental impact assessment. We are also consulted on certain applications for listed building consent and conservation area consent. Our role in the planning system is to advise decision makers, particularly planning authorities, Scottish Ministers and other regulators. We do not determine planning applications. The advice we provide is a material consideration and it is for the relevant decision maker to consider its relative weight against planning policy and a range of other factors.

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH

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HES also produces national level policy and guidance on the management of the historic environment.

General Comments

We believe that a critical function of the planning system in Scotland is the on-going care and enjoyment of our historic environment. This is reflected in the Scottish Government's [National Performance Framework](#) National Outcomes for Culture and the Environment and, consequently, the recently adopted 'Purpose of Planning' included in the Planning (Scotland) Act 2019. We therefore welcome proposals to measure the performance of planning and heritage services against their contribution to the National Outcomes, recognising our shared responsibility to sustain the value of our historic environment and the contribution it makes to our well-being and economic prosperity.

The [Historic Environment Policy for Scotland](#) (HEPS, 2019) makes clear that the allocation of resources should be approached in a way that protects and promotes the historic environment. We therefore support additional resourcing of local authority planning and heritage services through increases to the planning fee structure. In our view skilled local authority planning officers and heritage specialists perform a crucial role in the management of our historic environment. They ensure that planning decisions take into account the impacts and opportunities for new development on historic assets, including those of local importance which may not be formally recognised through a heritage designation. They also play a key role in facilitating community engagement with their heritage and can be instrumental in bringing forward projects for the regeneration and re-use of historic buildings and places.

Additional revenue from planning fees would begin to address the current shortfall in local authority planning services. We know that revenue from planning fees is used to cross-fund local authority heritage services and we therefore have an expectation that any additional revenue should also be apportioned in this way. This would create additional capacity for local authorities to plan for and re-invest in their historic buildings and places. We also consider that there would be more capacity for enforcement against unauthorised development which negatively affects the quality of our historic environment as well as heritage crime including metal theft, vandalism and graffiti.

We understand the arguments that resourcing planning and heritage services may also involve the introduction of a fee for the handling and consideration of Listed Building Consent (LBC) applications. We are pleased this consultation is seeking feedback on the appropriateness of introducing fees in this context. It is important to recognise that buildings are listed in the long-term public interest for their special architectural and historic qualities and consent for works to these buildings has never incurred a fee. We believe it is important to gather further evidence before deciding whether to take this step. Should any such fee be introduced, we would expect it to be set at an appropriate level, potentially commensurate with the degree of intervention, and be supported by detailed guidance on its implementation. This is so that effects on the attractiveness and viability of owning and maintaining listed buildings are mitigated as much as possible.



We would also expect that any additional revenue should be clearly linked to the provision of local authority heritage advice and have a demonstrable effect on the quality of outcomes for the historic environment. This should be reported on within local authority Planning Performance Framework (PPF) Reports and, also, kept under review by the new National Planning Improvement Co-ordinator.

Our detailed comments on the questions included in the consultation paper are included in the attached Annex.

I hope this is helpful. Should you wish to discuss our comments in more detail, please feel welcome to contact Alison Baisden on 0131 668 8575 or at Alison.Baisden@hes.scot.

Yours sincerely,

Barbara Cummins
Director of Heritage

Historic Environment Scotland



Annex: Consultation Questions

We have provided the following comments in relation to some of the questions included in the consultation paper and would be happy to provide further information in support of these, or other related matters, should this be helpful.

Planning Performance

1. *Should we set out a vision for the Planning Service in Scotland?*

1a *Should we set out a vision for the Planning Service in Scotland?*

Yes – We agree that setting a vision for the planning service in Scotland would promote a shared understanding of key elements that contribute to the overall good performance of the system. In our view it is important that any vision should also be shared by stakeholders across the system including statutory consultees such as ourselves, applicants and their agents. We consider that positive, transparent and effective working amongst all stakeholders is likely to result in improved outcomes for our historic environment.

1b *Do you have any comments about the proposed vision?*

Yes – In our view an essential measure of the performance of the planning system in Scotland is its overall effect on the quality of our places, environment and collective wellbeing. We therefore consider that any shared vision should focus planning services towards the delivery of the National Outcomes identified in the [National Performance Framework](#). These include National Outcomes for Culture and Environment which recognise the requirement to protect, cherish and enhance our heritage.

2. *Is the proposed approach to the content correct?*

Yes – As above, we consider that an essential measure of the performance of the planning system in Scotland is its overall effect on the quality of our places, environment and collective wellbeing. We therefore welcome proposals to measure the performance of planning services against the National Outcomes identified in the [National Performance Framework](#). We note that National Outcomes for Culture and Environment recognise the requirement to protect, cherish and enhance our heritage. We therefore also agree that the content Planning Performance Framework (PPF) Reports must clearly demonstrate the contribution made by planning services towards these wider outcomes.

3. *Do you have any comments on the Proposed content of Planning Performance Reports?*

Yes – We agree that the content in PPF Reports must clearly demonstrate the contribution made by planning services towards the National Outcomes. A key expectation for our interests is that reports should demonstrate improved outcomes for our historic environment in meeting the National Outcomes for Culture and Environment. Reports should therefore include information on local



authority access to heritage expertise, as well as the development of skills and capacity on this topic. Additionally, we expect local authority reports to include statistical information on the quality of planning outcomes for the historic environment in their area, as well as case study analysis of projects for the upkeep, care and enjoyment of the historic environment.

3a Do you have any comments or suggestions as to how reports should be prepared?

We are a member of the [Key Agencies Group](#) (KAG) and, together with other public bodies engaged in Scotland's planning system, have made a commitment to prepare an annual PPF report. These reports demonstrate where stakeholders like us make a significant contribution to the overall functioning of the planning process. We therefore recommend that any new reporting structure should take into account the experiences and roles played by different stakeholder groups in the system. This should include the Key Agencies Group as well as interest groups such as Homes for Scotland. In line with this, we support collaborative approaches to the preparation of PPF reports.

During the preparation of our PPF reports, for example, we undertake a peer review exercise with other agencies in the Key Agencies Group. Peer review allows us to benchmark our performance, share best practice and discuss our shared experiences of the planning system as a whole. This has allowed us to provide detailed feedback to the High-Level Group on Planning Performance on our collective experience of the performance of the planning system. Our peer review exercises have also benefitted from the support of the Improvement Service and the participation of local authority planners, and we consider that this has provided us with a greater understanding of expectations and requirements across the system.

3b What statistical information would be useful/valuable to include and monitor?

We would expect that local authority PPF reports should include some statistical information to monitor overall outcomes, themes and pressures for the historic environment in their area. Information from the [Buildings at Risk Register](#) (BARR), the [Scottish House Condition Survey](#) and HES data on the condition of Scheduled Monuments may be particularly helpful in this. We also suggest that information generated from evaluation tools such as the [Place Standard Tool](#), as well as projects undertaken by [Scotland's Towns Partnership](#) and the [Vacant and Derelict Land Task Force](#) may be useful in developing a picture of the historic environment in an area. It should also be noted that the Our Place in Time (OPIT) Built Heritage Investment Group are currently developing a tool for the sustainable prioritisation of built heritage assets and it might be helpful to



monitor the use and outcome of this within local authority planning services in due course.

3c What are the key indicators which you think the performance of the system and authorities should be measured against?

As above, we would expect local authority PPF reports to include some statistical information to monitor overall outcomes, themes and pressures for the historic environment in their area. Information from the [Buildings at Risk Register](#) (BARR), the [Scottish House Condition Survey](#) and HES data on the condition of Scheduled Monuments may be particularly helpful in this. We also suggest that information generated from evaluation tools such as the [Place Standard Tool](#), as well as projects undertaken by [Scotland's Towns Partnership](#) and the [Vacant and Derelict Land Task Force](#) may be useful in developing a picture of the historic environment in an area. As noted in response to question 3b, the sustainable prioritisation tool under development by the OPIT Built Heritage Investment Group are currently developing includes a number of measures and indicators that could be incorporated or aligned with local authority planning service performance indicators in due course.

3d Do you have any other comments to make with regards to how the Performance of the Planning System and Authorities is measured and reported?

Yes – We consider that the reporting system should also seek to highlight and disseminate best practice in planning for our historic buildings and places. Information and Case Study analysis generated through the Reporting system should ideally contribute to a shared learning and training resource.

3e Do you have any suggestions about how we could measure the outcomes from planning such as:

- *Placemaking*

We would suggest the use of evaluation tools such as the [Place Standard Tool](#) in order to measure placemaking outcomes in the planning system. It also may be beneficial for local authority PPF reports to include evidence demonstrating their commitment to place-based working and adoption of the Place Principle.

- *Sustainable Development*

We consider that information about the care and upkeep of the historic environment should form an important element within any measure of sustainable development occurring within PPF reports. It



should be noted that our historic environment is a finite and irreplaceable resource which contributes to our well-being. Our historic buildings and places also form a key element of our existing infrastructure which, as highlighted in the recent report from the Infrastructure Commission for Scotland, should be maintained and adapted to meet the challenges of climate change. It therefore may be helpful for local authority PPF reports to provide information on the demolition and loss occurring to the historic environment.

- *Quality of decisions*

The recently adopted [Historic Environment Policy for Scotland](#) (HEPS, 2019) includes a framework for good decision-making for plans and projects affecting the historic environment. This makes clear that decisions affecting any part of the historic environment should be informed by an inclusive understanding of its breadth and cultural significance. We would therefore expect that planning decisions affecting the historic environment are informed by an appropriate level of heritage expertise. In our view, a critical measure of good decision-making should involve information about provision of heritage advice within the decision-making process in PPF reports.

HEPS also makes clear that decisions affecting the historic environment should be informed by an inclusive understanding of the potential consequences for people and communities. We therefore also consider that decisions should be measured in terms of their transparency and openness to public participation.

3f Do you have any suggestions about how planning's contribution to the National Outcomes contained in the National Performance Framework should be measured and presented?

A key expectation for our interests is that any performance reporting process should measure the impacts of planning on our historic environment in meeting the National Outcomes for Culture and Environment. We would therefore expect some analysis of this to form part of any national overview on the performance of the planning system.

4. Do you agree with the proposed responsibilities of the planning improvement co-ordinator?

We welcome proposals to introduce a National Planning Improvement Co-ordinator and consider that they should play an important role in supporting the overall health of the planning system in Scotland. In our view, their work should focus on 'issues or themes' rather than specific 'incidents'. In line with this, we would expect a National Planning Improvement Co-ordinator to monitor the level of access local authority planning services have to heritage expertise and skills



development – as well as other skills that a well-functioning and effective planning system depend upon.

Additionally, we consider that a National Planning Improvement Co-ordinator could play an important role in championing good practice within planning for our historic environment and work with stakeholders across the system to deliver development which meets these outcomes. It would also be beneficial if a National Planning Improvement Co-ordinator could play a role in facilitating or guiding Peer Review sessions and monitor the content of all PPF reports, including those prepared by Key Agencies, so that a broad understanding of any issues in the planning system can be reached.

Planning Fees

- 30.** *Do you agree or disagree with the proposal that where applications are required because permitted development rights for dwellings in conservation areas are restricted, then a reduced fee should be payable?*

Agree – If a fee is required for the handling and consideration of planning applications within Conservation Areas we agree it should be set at reduced level.

- 31.** *Is the introduction of a fee for applying for Listed Building Consent appropriate?*

No – Not at this time. We understand the background to the proposal for the introduction of a fee for Listed Building Consent (LBC) and are sympathetic to existing funding shortfalls within local authority planning and heritage services. We also consider that the ability to generate revenue may elevate the status of heritage expertise within local authorities. We do, however, consider further evidence and a targeted cost-benefit analysis is required to support the introduction of a fee for LBC.

As set out in the consultation paper, there is currently no fee payable when applying for LBC and this has been the case since this consenting regime came into effect nearly 50 years ago. However, it is recognised that local authorities are required to process these applications, typically funded from within planning service budgets and that it is reasonable to consider whether a separate fee should now be payable.

At the outset it is important to recognise that any introduction of fees in this context would represent a major shift in policy and current practice. In our view, this should be based on clear evidence that the additional revenue generated would lead to improved outcomes for the historic environment and that these improved outcomes would outweigh any long-term negative consequences. In light of this, building on the feedback from this current consultation, we believe further targeted analysis is required before any decision is taken. We have outlined below some key issues that we believe should be considered as part of a targeted research exercise into whether fees for LBC should be introduced.



- **Consideration of whether a fee for LBC would lead to better outcomes for the historic environment.** This should also include consideration of how these outcomes would be achieved and monitored.
- **An analysis of the current costs associated with the resourcing of LBC applications.** The consultation paper does not outline the current costs associated with this service, which we assume can vary significantly given the relative concentrations of Listed Buildings across Scotland. It would be helpful if this analysis could also quantify and characterise the nature of works that are typically the subject of LBC applications.
- **Analysis of how a new fee would affect the attractiveness and viability of owning and using listed buildings.** In addition to the perceived regulatory burden, we know that there are already costs associated with the use and ownership of a listed building. These can include increased insurance costs, the potential requirement to invest in the use of traditional materials and a requirement to seek professional advice before the submission of a LBC application or in support of a planning application where Permitted Development Rights have been removed (e.g. development within the curtilage of a Listed Building). Consideration should also be given to whether any fee charged for LBC would disincentivise owners and developers from caring for and maintaining listed buildings, or lead to an increase in the undertaking of unauthorised works.
- **Analysis of the circumstances where LBC is required.** While there has not been any detailed research on this question, we understand that there can be variations between local authorities on the requirement for LBC for certain works. The legal framework included in the *Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997* sets out that consent is required for demolition works, or alterations and extensions to a listed building which would affect its character as a building of special architectural or historic interest. It is therefore at the discretion of the local authority as to whether any works proposed would affect the character of a listed building and would consequently require LBC.

In our view, the introduction of a fee for LBC may necessarily result in the requirement for national guidance on when an application for LBC is required. This topic has been raised in our recent discussions with a number of heritage management stakeholders and we are currently exploring whether this can be addressed as part of our programme of guidance following on from the adoption of the Historic Environment Policy for Scotland last year (HEPS, 2019).

- **Relationship of fees for LBC and Permitted Development rights**
It is important to recognise that applications for LBC alone are mainly submitted by householders carrying out minor works and improvements such



as energy efficiency upgrades. The Scottish Government's proposals to introduce mandatory standards for energy efficiency for homeowners from 2024 onwards is likely to result in a significant rise in LBC applications for energy efficiency improvements. We therefore consider that this should be explored further to ensure that what can be relatively minor works do not incur a disproportionate fee. For example, if fees were introduced, it may be beneficial to consider introducing a sliding scale of costs relevant to the handling of any LBC application to reflect the nature of the works, rather than setting a flat rate.

- **How a fee for LBC would relate to other planning fees.** Building upon any analysis of the costs associated with resourcing the handling of LBC applications, consideration should be given to the financial context for any works undertaken. In our experience, the most substantial and resource intensive developments in terms of their handling that require LBC will often also require an application for planning permission. As above, if fees were introduced, it may be beneficial to consider introducing a sliding scale of costs relevant to the handling of any LBC application to reflect the nature of the works, rather than setting a flat rate.

Finally, we note that no equivalent fee is proposed for applications for Conservation Area Consent (CAC) and would expect further consultation on this if any such fee is proposed.

35. *Do you think we should set out the range of services which an authority is allowed to charge for?*

Yes – We consider that it would be beneficial for there to be a shared understanding of the range of chargeable services available across the planning system. This would be helpful for our own work programming as we note that advice issued by agencies such as ourselves will often inform an integral part of a planning authority's service. We are now routinely engaged by the Highland Council and Edinburgh City Council as part of their enhanced pre-application services for example. We have noticed that requests for advice forming part of an enhanced/chargeable pre-application service can often place pressure on our own staff with an expectation that advice should be provided swiftly or that we should provide a corresponding level of staff input into pre-application processes. It is important to highlight that we are not allocated an equivalent level of resource to support enhanced/chargeable pre-application services and recommend that consideration should be given to this in setting any framework for discretionary charging.

37. *Do you think that there should be an additional charge for entering into a processing agreement to reflect the additional resource required to draft and agree the timescales to be included?*



Yes – We are in general support of processing agreements as a means of clarifying up-front how complex applications should be handled. We consider that the drafting of any processing agreement should involve the consideration of any necessary Key Agency input at the pre-application stage, as well as appropriate timescales for Key Agencies to review and respond to an application for consent and any associated environmental information. Allowing Key Agency input during the drafting of processing agreements would therefore assist us in our allocation of resources. There also may be some scope to agree additional resource for Key Agency participation in any enhanced pre-application process.

42. *Should an authority be able to charge for development within a MCA (building, or changes or use) in order to recoup the costs involved in setting one up?*

Yes – It is likely that the establishment of a Masterplan Consent Area (MCA) will require additional resource at the development planning stage. In particular, we note that heritage expertise may be needed for the granting of Listed Building Consents or Conservation Area Consents which may form part of a MCA – which is essentially a large planning application. There is also a possibility that any development forming part of a MCA would require an Environmental Impact Assessment (EIA). This would also necessitate the input of competent experts as well as requiring a broad level of public engagement. Any fee structure occurring around Masterplan Consent Areas should therefore reflect this resource requirement.

43. *Should the ability to offer and charge for an enhanced project managed service be introduced?*

Yes – We welcome the provision of additional resources for local authority planning services to take a leading role in supporting, managing and considering complex applications for development. In addition to assisting developers, we also consider that it would be beneficial for Key Agencies such as ourselves to have a consistent point of contact and clarity around our own level of engagement and any key issues associated with the development.

In such instances, however, we consider that it is important that the local authority should take the lead in defining key issues and leading the discussion for any pre-application engagement. This is to ensure that appropriate balance is given to given to the level of stakeholder and developer engagement at the pre-application stage.

We have also noticed that charging for enhanced pre-application services can result in a raised expectation that Key Agencies should provide a corresponding level of resource in support of a development project. It should be noted, however, that we are not allocated an equivalent level of resource to support any enhanced service. We therefore recommend that any enhanced project managed service should be supported by a processing agreement, clearly establishing a level of Key Agency input. There may also be some scope to agree additional



resource for Key Agency participation in support of any enhanced pre-application process.

45. *Do you think that, in principle, fees should be charged for appeals to Planning and Environmental Appeals Division (DPEA)?*

Yes – Appeals for planning permission and consents including those under the Electricity Act 1989 can often be resource intensive for stakeholders across the system including Key Agencies such as ourselves. Our engagement in these cases has a pronounced knock-on effect on the level of service we are able to provide in support of other developments. We therefore support the introduction of a fee for appeals for planning permission and consents including those under the Electricity Act 1989 in recognition of the resource burden associated with them. We agree that any fee should be refunded in the event of a successful appeal.

We do, however, oppose the introduction of a fee for appeals to the designation of listed buildings and scheduled monuments. Here, it should be noted that proposals for the designation of these heritage asset types are in most cases initiated by Historic Environment Scotland or interested parties that are separate from the owner/occupier. We therefore consider that, as a matter of principle, owners and occupiers should not be charged for appealing any designations decision.

47. *Retrospective Applications - Should the surcharge be set at 100%?*

Yes – We agree that a surcharge should exist for Retrospective Applications. We consider that this would compensate for additional work required to process these applications and would discourage the avoidance of appropriate processes.

50. *Do you consider that submission of an Environmental Impact Assessment (EIA) should warrant a supplementary fee in all cases?*

No – We recognise that changes to the Environmental Impact Assessment (EIA) Regulations occurring in 2017 required the engagement of competent experts in the preparation and review of EIA Reports, which potentially adds to the costs of processing. However, this is presenting information necessary for the appropriate consideration of a planning application which should be included in the fee structure that applies to these types of development.

56. *Do you agree with our conclusion that a full Strategic Environmental Assessment (SEA) is not required?*

No view – we understand that a SEA pre-screening determination under the *Environmental Assessment (Scotland) Act 2005* to this effect was made on 27th January 2020.

Historic Environment Scotland

14 February 2020